

Balance sought in water policy

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A fundamental change in Texas water policy - one designed to ensure that sufficient amounts of water are set aside to meet the environmental needs of rivers, bays and estuaries and the fish and wildlife that inhabit them - is being recommended by the Study Commission on Water for Environmental Flows.

The Flows Commission was established by the state Legislature last year to look for a way to balance the growing human demands for Texas water resources with environmental concerns.

The committee held its first public hearing in February and, earlier this month, issued the draft proposal outlining its strategy for providing that balance.

In its proposal, the committee recommends a procedure that would result in legislation which, for the first time in Texas history, would require specific amounts of flows to be set aside for the environmental needs of the Guadalupe River, for San Antonio Bay and for each of the state's river basins and bay-and-estuary systems.

The proposal will go to the Legislative Council, which will draft it into a bill that will be taken before the House and Senate for consideration.

If the bill passes and environmental flow requirements are established, no new state water-rights permit could be issued to any city or other permit seeker proposing to take water from a river unless the new environmental flow requirement could be maintained.

Bill West of Seguin, general manager of the Guadalupe-Blanco River Authority and a member of the Flows Commission, said there appears to be a "fair amount of consensus" for the proposal among representatives of the water development community and environmental interests.

West said the commission's proposal "represents a major compromise."

Two major environmental organizations, the National Wildlife Federation and the Sierra Club, were key negotiators on the proposal, he said.

Those two groups worked with others, such as the Coastal Conservation Association, to ensure that the wider environmentalist community's concerns were taken into consideration, West said.

"We certainly hope (the consensus) will result in some type of legislation being passed that will set the stage for the identification of the environmental flows basin by basin," he said. "There is a tremendous amount riding on this process. This is a major statewide policy issue."

Environmentalists have argued that the state is allocating too much river water to traditional water-rights-permit holders, including cities and industries, while ignoring the water needs of wild species.

That concern led one conservation group, the San Marcos River Foundation, to submit a first-of-its-kind permit application asking the state to issue a water-rights permit to set aside Guadalupe River water specifically for the environmental needs of the river and its bays and estuaries.

Similar applications followed from other groups seeking to earmark environmental flows for Galveston Bay, Caddo Lake, the Lavaca River, the Colorado River and others.

Representatives of cities - including Victoria - and other interests hoping to secure water rights for human needs protested the permit applications, saying that if they were to be granted there would be little unclaimed water left to supply future growth and development.

Sen. Ken Armbrister of Victoria, chairman of the Senate Natural Resources Committee, didn't like the idea of the state handing over its responsibility and authority for the protection of rivers, bays and estuaries to non-governmental groups such as SMRF.

The SMRF application was eventually denied and the others were put on hold to allow the Legislature to study the issue.

Legislation authored by Armbrister established the Study Commission on Water for Environmental Flows.

Here are the major points of the Flows Commission's proposal:

- The Flows Commission or the Texas Water Development Board would appoint a Special Advisory Group, or SAG, for each river basin. The SAG would be made up of representatives of the various interest groups that hold a stake in the matter, including cities, environmentalists, agriculture, industry, state water planning groups and others.
- Each basin's SAG would appoint its own Science Advisory Committee, or SAC. The SAC would gather the best available scientific information and use it to develop recommendations for what are termed "flow regimes," which include the environmental flow requirements for the rivers, bays and estuaries in that basin.
- The SAC's flow regime recommendations would be submitted to the basin's SAG and to the Flows Commission, neither of which would be empowered to change the SAC's recommendations.

The Flows Commission and the SAG would review the flow regimes and submit them, with comments, to the Texas Commission on Environmental Quality.

West said the idea behind having input from the SAG, the SAC and the Flows Commission is to ensure that a consensus is established.

Like the process under which the current state water plan was fashioned, the development of environmental flows recommendations is meant to be "a grass-roots-level up stakeholder process, so that once the product gets to the state level, there will be consensus on the local level to support the process," West said.

He said certain special interest groups, such as SMRF and CCA, which didn't have a direct place at the table in the Flows Commission's deliberations, will be able to have a presence on SAGs.

- TCEQ would review the recommendations from the SAC, the SAG and the Flows Commission and establish the basin's environmental flow requirements in the form of a "floor," or base amount of water that must be set aside and below which additional water could not be appropriated.

The set-asides would be reviewed every 10 years in order to accommodate scientific advances.

- The Flows Commission is recommending developing the environmental requirements in a three-step process, with flows first being established for the Galveston and Sabine bays-basins systems. That work is scheduled in the proposal to begin in the fall of '05 and be completed in 2007.

Next would come flow regimes for the Colorado and Guadalupe river basins in round two; then the Nueces, Brazos and Rio Grande river basins in phase three.

West said the timeframes are "somewhat aggressive. I'm sure we'll have some more dialog as this concept works its way through the legislative process."

He said the timing of the Guadalupe Basin study was planned to parallel the completion of ongoing studies on the Lower Guadalupe Water Supply Project.

Those study results, he said, can be used in the Scientific Advisory Committee process that will involve gathering available scientific information to establish environmental flow requirements for the Guadalupe Basin.

- Water-rights permits already issued by the state would not be affected. The commission left open, however, the question of how amendments sought to existing permits would be treated once the environmental flow requirements are in place.

The recommendations also allow water-rights permits now being sought to be downsized if necessary after the environmental flows requirements are established.

"The commission could not come to a consensus on what that adjustment limit should be," said West. The proposal includes a range from 10 to 15 percent. "I'm sure that will be another element that will be addressed in the legislative process."

- The Flows Commission also recommends using a "full range of options" to develop environmental flow set-asides in rivers that already have all of their water allocated.