

Full Stream Ahead

With an environmental lawyer newly installed at the helm, the Lower Colorado River Authority charts a course between growth and good sense.

Joe Nick Patoski | [February 08, 2008](#) | Features

Joe Beal Jr. sat in the boardroom of the [Lower Colorado River Authority](#) headquarters in Austin talking about how impressed he was with China. A year earlier, as LCRA general manager, he had traveled to see the recently completed [Three Gorges Dam](#), the largest in the world, on the Yangtze. The construction appealed to the engineer in him, but he failed to mention the forced relocation of more than 1 million people, thousands of landslides, the pollution, and the massive environmental destruction caused by the dam. Earlier in the conversation, he had cited China to minimize the pollution threat posed by the agency's plan to build another coal-fired power plant in Central Texas. "They're building one of these *every week* in China," he said.

The conversation underscored a common complaint about Beal's tenure at LCRA, heard in particular from residents of western Travis, eastern Blanco, and northern Hays counties, that the agency has become a handmaiden to the development and sprawl consuming Central Texas. That viewpoint has been informed by LCRA's construction of water pipelines to rural areas over the past five years, and by the LCRA's new transmission lines across private property throughout the state. The water pipelines made possible recent residential developments such as Lazy 9, Sweetwater, and Ruby Ranch that are popping up around Bee Cave, along Hamilton Pool Road, and along Highways 71 and 290 toward Dripping Springs.

That the LCRA has become one of the most despised and misunderstood governmental organizations in Texas has a lot to do with its varied and sometimes conflicting responsibilities. The agency has come a long way from its New Deal mission to build dams, boost employment and control floods in a region known as Flash Flood Alley, as well as supply water and hydroelectric power to raise the Hill Country out of Appalachian-level poverty. Today, its stated mission is to provide "reliable, low-cost utility and public services in partnership with our customers and communities and to use our leadership and environmental authority to ensure the protection and constructive use of the area's natural resources."

There are no elected officials among its 3,200 employees. The agency has no taxing authority and receives no state or federal money. It is run like a business, but cannot make a profit. Decisions are made by the board of directors, relying on guidance from the general manager. In many respects, LCRA is a shining example of government efficiency, the antithesis of the [scandal-ridden Pedernales Electric Co-op](#), one of 43 electric retailers who buy power from the LCRA. Its revenues in 2006 exceeded \$1.1 billion, most of it derived from the wholesale electricity business, with a smaller amount coming from water sales. Three percent of the revenue stream is set aside for community service in the forms of grants and the maintenance of 40 parks along the Colorado River and the Highland Lakes created by the dams-Lake Buchanan, Lake LBJ, Inks Lake, Lake Marble Falls, Lake Travis, and Lake Austin. The agency is the largest purchaser of wind power in Texas, and it generates better real-time hydrological and meteorological information about the region than any other public or private entity. The LCRA [Rivers Operations Center](#) is ground zero for flood control in the Hill Country, the most flash flood-prone region in the United States. The [Highland Lakes Watershed Ordinance](#), passed in 2006, establishes standards where none existed for a 10-county region. Without question, the LCRA has

done more to raise water quality standards than any state agency. At the same time, led by a board stocked by Republican governors, it has answered a regional population boom by promoting growth without restrictions or much concern for environmental impact.



Former LCRA General Manager Joe Beal believes transmission lines are beautiful. Photo by Chris Carson

Last fall, after eight years at the LCRA's helm, Joe Beal announced his retirement. The selection of his replacement has surprised and pleased environmentalists and critics of the agency. Tom Mason is an environmental attorney with an extensive career in public service. He sued cities on behalf of the state for failing to comply with water quality ordinances, and while in private practice he represented farmers, ranchers, and citizens fighting waste sites, hazardous dumps, and power lines. That suggests that his appointment to the helm of the oddest, most influential state agency in the fastest-growing part of the state signifies a new direction for the LCRA.

It turns out, it's a little more complicated than that.

"When Joe Beal told me the board was going to appoint Tom, I told him the media would see this as a left turn for the LCRA," said Robert Cullick, LCRA's communications director, at the beginning of a sit-down with Mason. "[Beal] was surprised. He said the board wouldn't see that, and I don't either."

The LCRA is a byproduct of an Enron-style failure during the Great Depression. Its first big project, Buchanan Dam, had been started by a private company headed by James Insull, who at one time controlled over 60 percent of the electricity market in the United States. The dam's chief proponent, Alvin Wirtz, was a mentor to a congressional aide named Lyndon Johnson and sought federal help to finish the dam as part of President Roosevelt's New Deal. Since the Colorado River flowed entirely within Texas, the state had to authorize the river authority. LBJ, elected as the region's congressman in 1937, was instrumental in filling the new authority's larder with federal funds for dam construction and maintenance, while simultaneously giving the heavy construction firm Brown & Root, his future political patron, a reason to exist.

Six dams were built over the following 15 years, creating the Highland Lakes. The agency was sometimes criticized for its cronyism and attention to special interests such as big landowners, rice farmers, and Brown & Root, but the charges were largely brushed off because the LCRA brought water, electricity, flood control, and economic development to a region that needed it.

Once the dams were completed in the early 1950s, priorities shifted. The hydropower the dams generated brought in the bulk of the agency's revenue, so it focused on utility functions and built power plants in Fayette and Bastrop counties. In 1971, the state Legislature gave the LCRA authority to control pollution of both surface and groundwater, operate and own wastewater and waste disposal services, develop and manage parks, and promote fish preservation. Those water pollution powers established the LCRA as the go-to state agency to pressure Austin over the raw sewage it was sending into the Colorado River because its wastewater treatment plants were inadequate. Invoking the high water-quality standards of the Highland Lakes, the LCRA forced Austin to raise its own standards. The agency also partnered with the city to build a coal-fired power plant in Fayette County, east of Austin.

In the early 1980s the LCRA was opening the Cummins Creek lignite coal mine in Fayette County to supply the nearby power plant, marking the first time a power authority in Texas got into the mining business, when it was discovered that the mine's contractor, Morrison-Knudson Corp. (now owned by URS Corp.), was running a brothel at the mine and entertaining the LCRA's directors with poker games, all-night parties, and camping trips. After sifting through reports of malfeasance, kickbacks, and prostitution, Gov. Mark White brought in S. David Freeman from the Tennessee Valley Authority to be general manager and clean up the mess in 1986.

Freeman, a 5-foot, 4-inch dynamo partial to giant cowboy hats, had served as an energy adviser to presidents Nixon and Carter before shaking up the TVA and returning it to its original mission of stewardship of the Tennessee River. "Both the TVA and LCRA were created during the Depression to build infrastructure and to bring economic development and make jobs happen," said Mark Rose, Freeman's successor at LCRA. "For decades, the TVA was about helping people and getting people back to work. Then it became an electric company. That's exactly what happened at LCRA. We didn't give a shit about the river. We didn't care about water quality. We didn't care about economic development. David Freeman came in and gave the soul back to LCRA."

Freeman demanded transparency at the agency. He canceled the Cummins Creek mine and the ethical stain that went with it, eating \$200 million worth of debt. Nonetheless, the agency earned

a rating from Standard & Poors as the best wholesale utility in the nation with some of the lowest rates.

Freeman knew that as a reformer, his time at LCRA would be brief. He found a worthy successor in Rose, a 34-year-old Austin city councilman whose father had run the [Texas Water Development Board](#). Rose upgraded the agency during his 10-year tenure as General Manager—purchasing the Garwood Irrigation Co., which held the largest block of private water users on the Colorado River, and the Pierce Ranch, the last privately owned water rights in the basin. The agency hammered out an agreement to provide adequate water for Austin over the next 50 years in exchange for \$100 million. It expanded its network of transmission lines statewide and built wastewater treatment plants on Lake Buchanan and in Bastrop.

Rose reduced the work force from 3,000 to 2,200 and got into wind power. He bought land for parks that provide more than 40 access points along the Colorado, including Canyon of the Eagles on Lake Buchanan and the 1,600-acre McKinney Roughs near Bastrop, and created the Community Development Partnership Program to award grants to communities and nonprofits served by LCRA. "It troubled me that LCRA didn't pay property taxes," Rose said. "If the LCRA is sitting out here as a revenue agency and it's not paying property taxes, then it needs to be, in a tangible way beyond electric rates, putting something back into the communities in lieu of taxes through economic development, etc. And I still believe that. Is it good politics? Hell yes, it's good politics."

Rose brought Joe Beal aboard in 1996 and groomed him as his successor before leaving in 2000. Rose and Beal had worked together to facilitate development in southwest Austin during the early 1980s, when Rose was a pro-developer councilman and Beal was vice president of Espey, Huston & Associates, Inc., an environmental firm that worked with many of Austin's biggest builders. Beal was a self-described infrastructure guy who took pride in his dams, his transmission lines ("I personally think a transmission line is pretty, particularly at sunrise"), his stewardship, and anticipating what's to come, including growth.

Beal proved to be a capable leader. He guided an infrastructure upgrade of LCRA dams and recruited new blood to the agency. He opened the Matagorda Bay Nature Park at the mouth of the river and stepped up construction of wastewater plants, particularly in rapidly growing Williamson County. As part of the LCRA's 100-year water supply plan—which projects 50 years beyond the state's mandated 2050 plan—he negotiated a multibillion-dollar water sale to the [San Antonio Water System](#) (SAWS), pending the results of a 10-year, \$42 million study underwritten by SAWS.

Beal also warded off threats of lawsuits and legislative sunset hearings prompted by some of the LCRA's 43 retail electric customers who were unhappy with Beal's renegotiation of 30-year contracts 12 years ahead of schedule, a move made to secure funds to build more power plants. By the end of his tenure, he had built more transmission lines to plug into West Texas wind farms than any other Texas utility.

But also during Beal's reign, the LCRA began making deals with major developers on Austin's fringe to bring water pipelines to their projects, drawing vocal opposition from existing residents, who pointed out that without a pipeline, the planned developments could not exist. The LCRA responded by engaging opponents, listening to their complaints, forming committees, funding studies, and building consensus, then going ahead and doing pretty much what the agency was going to do in the first place.

Christy Muse learned the hard way how formidable the LCRA can be. It started one spring day in 2004 when the lanky, honey-haired mother of two was having a taco at Bee Creek B-B-Q on Highway 71, 19 miles west of downtown Austin. Muse and the taco vendor gazed across the highway at the hillside view both had come to know and love. "It's that point on 71 with the incredible vista, the one place with magnificent color in the fall," she said. As they took in the view, the taco guy told her a surveyor had said 3,000 homes were going to be built on that ranch.



Citizen activist Christy Muse in front of the development that awakened her to the power of the LCRA

Photo by Chris Carson

"Neither of us could believe it," she said. "It's an unincorporated area. There's no water, no wastewater. So I went home that evening and started learning everything I could about that property and about water service in unincorporated areas. I immersed myself in why anyone could put 3,200 homes on that land with no infrastructure or services. The LCRA was one of my starting points. I figured there had to be some water service coming that way in order to

facilitate a project like that. But everybody I talked to at LCRA said, 'No, we don't have any plans to bring water down Highway 71.' Everybody said they had no idea what I was talking about."

Simultaneously, Lick Creek in western Travis Country, polluted by construction of a pond for the new West Cypress Hills subdivision, had sparked an outcry from residents, as had a proposed water line to Hamilton Pool Road, where a new development subsequently fouled the waters of the once-pristine Hamilton Pool.

"Not long after that there was this big public meeting at Dripping Springs High School hosted by LCRA," Muse recalled. "They were taking comments about the Hamilton Pool Road waterline. The day of that meeting, I got a call from the LCRA, I think from [Robert] Cullick. He said, 'I understand you have been calling about Highway 71. We want you to know that we do have some plans to bring water down the highway.' I went to the meeting in Dripping Springs and said, 'You guys are freaking out about Hamilton Pool Road; no one's talking about Highway 71. This isn't just Hamilton Pool Road. This is a big water expansion plan.' I met so many people at the meeting, and my phone rang all the next day. Everybody who was dealing with those issues all the way to Highway 290 started talking and sharing."

Several months later, Muse hosted a community meeting at her home, drawing angry residents of Travis, Hays, and Blanco counties. By the end of the meeting, the [Hill Country Alliance](#) had formed. "We could fight these fights individually," Muse said, "or we could come together, form a group, and try to get a proactive plan."

The LCRA reacted by postponing construction and launching a study, bringing together stakeholders with an interest in the pipeline. At the same time, the agency funded another group of interested parties to put together a [Regional Water Quality Protection Plan](#). Hamilton Pool Road residents set up the Western Travis County Growth Dialog. For most of 2005, the three study groups worked on building consensus around growth issues.



The LCRA is enabling the growth of subdivisions, like this one off Hamilton Pool Road, all over Central Texas

Photo by Chris Carson

Following the studies, the LCRA began constructing the water pipelines.

"It's not LCRA that's causing a new Kerrville to get built in this three-county area every single year," Beal said. "That's not LCRA making that happen. That's just what is happening. It's economically driven. It's environmentally driven. LCRA's job is to provide infrastructure. And when you provide infrastructure and do it efficiently, you don't do something that is only going to have capacity for the next two or three years. You build something with 20-year capacity, a 30-year capacity, 100-year capacity. That's how you efficiently build infrastructure. We are an infrastructure provider. That's what we were created to be, and be a steward of the river and of the environment.

"We have tried to walk the fine line of doing our job to be an infrastructure provider, but at the same time using our governmental capability to do what we can do to protect the environment from the growth that is going to happen," he said. "I've always considered myself to be a staunch environmentalist, and people will laugh at that if you print that because of what I've done in my career. But I am. I've made a difference at LCRA."

Beal went public with his change of heart on his way out the door, speaking at a Real Estate Council of Austin luncheon last September. He called for the Legislature to give counties more zoning authority, something builders and developers have historically opposed. The speech did not go unnoticed.

"I like to think we had something to do with that," Muse said. She recalled a different Joe Beal during her last meeting with him. "We agreed the Legislature needs to give counties more control, and he said he would introduce me to lobbyist Rusty Kelley." But a change of heart was not enough as far as she was concerned. "When they built the pipelines, they could have passed

a resolution acknowledging the need for land use controls then. That could have had significant influence on the Legislature. How could they deny land use controls when the LCRA says we need it? But they didn't. They're good with getting the input. They just don't do anything with the input."

In January, Tom Mason began his new job as general manager of the LCRA. His slight physique and lean runner's build, along with his trimmed red beard and wire-rimmed glasses, were quite a contrast to Joe Beal's good ol' boy persona that went right down to his full-quill ostrich cowboy boots. Yet Mason echoed Beal: "We don't get to choose [whom we sell water to] as long as we have raw water to sell. That's a big reason we were created, to sell that water supply. We have to do that on a nondiscriminatory basis."

In other words, Mason would not be the green knight to save the agency from itself.

"There's been a drumbeat that LCRA has a pro-development agenda," said Cullick, the LCRA spokesman. "If you see it through that window, because of that battleground, then you have Joe Beal as the ultimate engineer-developer-dealmaker, so it seems a radical turn to Tom Mason. But the board didn't make a left turn."

Still, considering all 15 board members were appointed by either Gov. George W. Bush or Gov. Rick Perry, both vocal deniers of humanity's role in global warming, the appointment of Mason was a radical move, especially in light of LCRA's growing importance as a major player—perhaps *the* player—in water, power-generation, and development and planning issues from San Angelo to the Gulf. Mason's credentials as assistant general counsel for the Texas Department of Water Resources, director of the Water Quality Division of the Texas Water Commission, and his private practice with Rick Lowerre and Stuart Henry, two of the most effective environmental litigators in Texas, are fairly impressive green bona fides. Mason *hikes*, for goodness' sake. Surely he has a different take on global warming, new dams, and how new development affects existing residents, especially in rural areas.

"I'd like to think the board hired me because I have institutional knowledge and they trust me as a lawyer," Mason said. "I know a lot about the organization and what we're capable of, and where there's need for improvement, and I've been the general counsel for the last nine years." As counsel, his job entailed trying to understand any adversary's position and delivering both good news and bad news, as an attorney should. The mere fact the board would hear both sides of an issue was reason enough to have hope for the most powerful governmental body (short of the Legislature) in the fastest-growing part of Texas.

So where does Mason fit? Is he lipstick on a pig—a green guy in charge of a powerful agency—or the face of real change, belated acknowledgement by the business interests on the LCRA board that there are—and should be—limits to growth.

Mason wasn't saying. But he did make clear he will continue his lawyerly diligence. "To the world at large, we need to say, here's the reason we're doing something," he said. "You may not like it, but people need water to live. Energy demands are outpacing the power supply. We have to get it from somewhere. If we can't articulate that, in my opinion, we're not doing our job."

Mason relishes the challenge. "I'm not sure we always get it right, but compared to other jobs I've had, we deal more directly with issues. That doesn't make everybody happy, but that's the real world. A city council tries to be Solomon-like and give everybody what they want. Usually, that's not the best solution. Making a hard choice and standing by it, being able to articulate why you did it, why it's best for the region—it's pretty hard stuff."

Developers will continue to be supplied with water, he said, and transmission lines will continue being strung across the region. "Not everybody was happy when we built the dams either," Mason said, taking an historical view. "Some people didn't want to lose their ranch. That's one of the unfortunate consequences. Similarly, those transmission lines from renewable energy have to go through someone's property."

Should the Legislature direct the LCRA to do otherwise, the agency would happily comply, Mason said. "If the Legislature ever gives us the freedom or the direction at the policy level to say, here's the hierarchy; you cannot sell to these people, or you can put greater limits here-we'll do it. But we're not allowed to not sell the raw water."

And if the Legislature fails to act? What is the endgame to growing population and diminishing resources? "People have to have water to live," Mason said. "We're going to see, I predict, tremendous changes in water conservation. The city of San Antonio's gone from being perceived as one of the state's biggest water hogs to being the poster child of what you can do with water conservation. People don't like change. But once it's in place, guess what? It's like going to a compact fluorescent light bulb. I can still read. Yeah, I had to go buy the new bulb, and it was expensive. But the light bill's less, I get just as good light, and you reduce the amount of electric generation you have to have dramatically."

Mason said sustainability has entered the conversation at LCRA, but the agency won't take the initiative unless a higher authority instructs it to do so. "That's for the state to decide," he said. "The state water code sets priorities of uses, how you can use the water, under what circumstances you get a permit. The Legislature tends to lag behind people's needs, and they respond to constituents' concerns. That's where I think we'll see changes in water conservation. It needs to be done on a statewide basis. Groundwater and surface water are separated by law, but in reality, they are connected. There's a finite amount of water around. When water gets so expensive, if you can't construct a reservoir-many water planners will tell you there's very few reservoir sites left in the state of Texas, for all sorts of reasons. That leaves conservation, conjunctive use of groundwater and surface water, desalination, which right now is very expensive because of energy costs, and changing human behavior. At some point, as it has in the past, the Legislature is going to change laws and direct us in a certain way because it is inevitable we need to manage a finite resource in a slightly different way."

Mason proceeded to answer his own rhetorical questions in lawyerly fashion. "Will it be dramatic? I suspect not. It will be incremental because it's hard to get people to change that much. But will it change? I'm absolutely convinced that it will. I don't see how we can sustain the growth we've had with a finite water supply." Meantime, compared with other rapidly growing areas of the American West, Central Texas is doing fine. Water remains relatively cheap, while development is rampant, and growth relentless.

"A lot of smart planning people will tell you, and more and more it's being accepted, that if at least counties around rapidly growing urbanized areas had some additional authority, you could plan for growth," Mason said. "It would probably be cheaper, more efficient in terms of providing infrastructure, whether it's roads, water lines, sewer lines. Can we control that? No. Can we go to the Legislature and lobby? Only if our board of directors says we need to do that. I don't think that's very likely. Will we participate in planning groups and talk to our communities about how they can do that? We do that already."

Mason said he wanted to borrow from each of the three general managers who preceded him. "David Freeman was very much a change agent, and there are some changes we need to make here-I call them midcourse corrections, not huge changes. Mark Rose reinstilled the notion of

public service and an employee culture where people were energized and open to new ideas; I hope to get some of that back. I'm not an engineer, but Joe Beal recognized infrastructure needs."

About the only good news Mason can deliver without hedging is hope. "Austin's not other places," he said, "but we're a bellwether in this state. "When I was with Rick [Lowerre] and Stuart [Henry], I sued the city of Austin over its sewage treatment plants. Sewage treatment plants, transmission lines, refurbished dams do not capture people's attention. But when you have that kind of growth, you have to do it. Austin didn't build those sewage treatment plants, and there was raw sewage going downstream to Bastrop. If you don't stay up with growth, bad things happen, and it costs a lot more to fix it. I've seen that as a resident and as a lawyer in Austin."

Hope probably won't placate activists like Muse for long. "What we're trying to tell them is, we're in an environment right now in Texas where we do not have planned-use tools. We don't have a plan. We don't have zoning. We don't have density limits. None of the tools are in place to deal with the density you are creating with your water lines. Our message was, slow down. Put off subdivisions until we can get a regional plan. The Regional Water Quality Plan is a plan that could have been implemented. But [the LCRA] chose not to."

Despite the disappointments and the sense that Hill Country Alliance members have received the runaround, Muse continues to see the LCRA as part of the solution as well as part of the problem. If a regional plan can be implemented to direct high-density growth and infrastructure to desired areas, she is convinced the LCRA is the agency to get it done. "They have huge amounts of political influence. They have a very powerful lobbying team. How come they're not at the Capitol, telling the Legislature that we need to give counties land use authority? That would be the responsible thing to do since they're the environmental stewards of the watershed.

"I think we've reached this point where they're going to have to pick which mission they're going to follow. Can they really be the environmental stewards of the watershed and aggressively sell water? We've realized they're the water utility and the environmental steward part is something they try to do on the side. If we can acknowledge first and foremost they're a water utility provider, maybe we can figure out who's going to be the environmental steward. We've reached the time where they've got to pick who they are."

Muse understands the general manager is accountable to the board of directors and that the board answers to a governor whose biggest contributor, Bob Perry of Perry Homes, has zero interest in planning and zoning in the unincorporated, unregulated suburbs where he builds homes throughout the state. But enough is enough.

"The LCRA is a developer's machine," Muse said. "It needs to belong to all the people."

Joe Nick Patoski is a fan of the LCRA's real-time hydrology gauges for Central Texas rivers. His biography, Willie Nelson: An Epic Life, will be published by Little, Brown and Co. in April.

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