

TCEQ plan is a corruption of legislative order

David Sikes' outdoors column

By David Sikes

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CORPUS CHRISTI — The conservation community is reeling with outrage and disbelief over the unreasonable rejection of reasonable recommendations aimed at balancing the needs of man and nature with rational protections for river flow.

Environmental flows strategies for the Guadalupe, San Antonio, Mission and Aransas rivers that feed Copano, Aransas and San Antonio bays, along with the Colorado and Lavaca rivers that feed Matagorda and Lavaca bays, were mandated by the Texas Legislature as part of a larger charge involving river flow standards for every major stream and bay system in the state.

Most of you understand the importance of instream flows and freshwater inflow to our bays and estuaries, though there remains many misconceptions and misguided opinions about the difference between wasted water and sound policies that promote conservation.

Freshwater is the lifeblood of our bays, providing necessary nutrients and maintaining livable salinity levels. In turn, healthy rivers and bays are the economic engines of riverside and coastal communities, not to mention a recreational respite for locals and visitors.

Of course, rivers and reservoirs also provide water for many other necessary human uses, ranging from simple drinking water and agriculture to industrial applications. Part of the problem is that too many of these users were allowed to purchase water rights long before environmental flows were part of the equation or considered necessary for healthy rivers and estuaries.

If all the Guadalupe River water allocated to users was actually removed from the river it would run dry. In fact, the Guadalupe is over-allocated in the same way that airlines over book flights.

But among all the confusion and debate over environmental flows there is a single, undisputed and simple fact. We know rivers are intended to flow into the sea.

And also we know the Texas Legislature intended to strike a balance in this policy debate by assembling a group of interested and informed citizen volunteers with scientists to examine every possibility for an equitable solution in the face of man's growing thirst for water. These stakeholder committees were made up of representatives from river authorities, river and coastal communities,

industry, agriculture, conservation groups, recreational anglers, commercial fishermen, regional water planners and groundwater conservation districts.

The Colorado/Lavaca committee reached a unanimous compromise, while the Guadalupe/San Antonio committee endorsed its recommendations by a super majority of 21-3. Each committee offered its recommendations to the Texas Commission on Environmental Quality. The commission is charged with weighing the information and then adopting a sensible water plan.

Here is where the debate explodes.

After crafting a list of recommendations through at least 18 months of grueling deliberations the TCEQ took the document, whittled it down and spit out its own inadequate scheme, rejecting many key components of the stakeholder plan.

I say spit because metaphorically that's what the TCEQ did in the face of volunteers who displayed goodwill and faith in believing the reasonable compromise they had reached almost unanimously would be given more than a condescending glance.

"I can only surmise that they looked at making as much water available as possible for pumping out of rivers, without really assessing the impacts of those withdrawals on the health of rivers and bays," said stakeholder committee member Diane Wassenich, executive director of the San Marcos River Foundation.

Noted conservationist David Langford, former executive vice president of the Texas Wildlife Association, was on the ground floor when the Texas Legislature designed the stakeholder process for consensus-based regional solutions for environmental flows for each river and bay system. He served on the Environmental Flows Advisory Committee which made recommendations for Senate Bill 3, the latest water bill to end all water bills.

Langford believes what the TCEQ is attempting to do is a corruption of SB 3.

"The question we should be asking is whether Texas is an agency-driven state or a citizen or legislative driven state," Langford said. "This is a unilateral decision by TCEQ, showing a "they know best" attitude. It's not politics, it's arrogance and condescending toward local input."

The TCEQ in effect told us not to worry, it's going to rain and we'll get our water. Rejecting key parts of the committee's recommendations will foster greater suspicion of the process, undermine its legitimacy and discourage well-meaning citizens from participating in government, Langford said.

"They basically said 'We turned down your recommendation because you did your job of balancing the needs of man and nature,'" he said. "Nobody thought they would disparage the process to this extent. Sure, it's up to them to enforce the water rules, but it's not up to the TCEQ to ignore the process mandated by the legislature. This bruise will stay purple for a while."

Hopefully TCEQ's arrogance will not subdue what should be a spirited public comment process. And hopefully the ultimate plan will come closer to what the stakeholders envisioned.

The most egregious deviation from the recommendations involves the amount of river water that would be allowed to flow into San Antonio Bay.

Jennifer Ellis, with the National Wildlife Federation who served on the Guadalupe/San Antonio bay/basin stakeholder committee, said the TCEQ's plan does not include adequate protections of river flow fluctuations. The TCEQ rules particularly fall short of protecting the Guadalupe River basin, failing to recognize the benefits of allowing a percentage of water to remain in the river after rainfall increases its flow, even though they have protected this benefit in other rivers, Ellis said.

And rather than protecting higher-flow pulses that provide critical flushing, not to mention nourishment for the bays, the TCEQ plan would allow for new diversion channels, dams and reservoirs to remove and capture these large pulses, thereby dramatically limiting the natural ecological benefits they provide.

The TCEQ also rejected a committee recommendation to dedicate or set aside 10 percent of the water issued in new permits for the preservation and health of rivers and bays. This 10 percent rule could be satisfied by returning wastewater to the bay or by other imaginative means.

Then the agency removed even more bay protections by proposing a 10 percent reduction in the frequency of inflows for San Antonio Bay below what the committee recommended. In all, the TCEQ staff removed some of the most critical protections recommended by the Guadalupe River/San Antonio Bay committee.

Tell them this is unacceptable.

David Sikes' Outdoors columns run on Thursday and Sunday. Contact David at 361-886-3616 or sikesd@caller.com.

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