Toledo Bend Project
Joint Operation

Sabine River Authority
of Texas

LOUISIANA
Sabine River Authority
State of Louisiana

Via Electronic Filing

December 14, 2016

Ms. Kimberly Bose
Federal Energy Regulatory Commission
888 First Street NE
Washington, DC 20426

RE: Toledo Bend Project, FERC Project No. 2305;
Submission of Final *Drought Contingency Plan* Under License Article 416

Dear Secretary Bose:

On April 16, 2015, the Federal Energy Regulatory Commission (FERC or Commission) issued its Order on Rehearing and Clarification in the relicensing of the Toledo Bend Project, FERC Project No. 2305 (Project).[1] As part of its April 16 rehearing order, the Commission revised the new license for the Project to include Article 416. Article 416 requires co-licensees Sabine River Authority of Texas and Sabine River Authority, State of Louisiana (collectively, the Authorities or licensees) to "file with the Commission, for approval, a drought contingency plan identifying the water conservation and reservoir public access measures that the licensees will implement during drought conditions."[2] The purpose of this filing is to submit the final Drought Contingency Plan (DCP) to the Commission for approval.[3]

As required by Article 416, the Authorities prepared the DCP in consultation with the Texas Commission on Environmental Quality, Texas Water Development Board, Texas Parks and Wildlife Department (TPWD), Louisiana Department of Environmental Quality, Louisiana Department of Wildlife and Fisheries, U.S. Fish and Wildlife Service, U.S. Forest Service, the Authorities' water supply customers, and the Toledo Bend Citizens Advisory Committee (TBCAC). On September 6, 2016, the Authorities distributed a draft DCP to these consulting entities for comment, with a request that they submit comments within 30 days (by October 6, 2016),[4] to allow the Authorities sufficient time to review comments received and prepare any

[1] *Sabine River Auth. of Tex. & Sabine River Auth, State of La.*, 151 FERC ¶ 61,037 (2015).
[2] *Id.* Ordering Paragraph (F) (adding Article 416 to the Project's new license).
[3] The final DCP appears at Attachment A.
[4] The Authorities' letter distributing the draft DCP to consulting entities appears at Attachment B.

changes to the draft DCP prior to submitting a final DCP to the Commission for approval by the original October 16, 2016 filing deadline under Article 416.[5]

Following the Authorities' distribution of the draft DCP, the TBCAC requested additional time to prepare its comment. Accordingly, by letter dated September 22, 2016, the Authorities submitted a request to extend the filing deadline for the final DCP by 60 days, to allow additional time for TBCAC to prepare its comment, and for the Authorities to review comments received and make any changes to the DCP in response to such comments.[6] By order issued on October 4, 2016, the Commission granted this extension request.[7]

Of the consulting entities identified above and in Article 416, the Authorities received comments from TPWD and TBCAC. In addition, the Authorities received a comment letter from the Toledo Bend Lake Association (TBLA) that expressed support for the comments submitted by TBCAC. A copy of each comment letter received, together with a comment/response table prepared by the Authorities, appears at Attachment D.[8]

The Authorities made significant changes to the draft DCP in response to comments received. The Authorities did not, however, adopt TBCAC's recommendations related to: (1) triggering water shortage stages at higher reservoir levels and after a shorter time period to establish the reservoir level that triggers the applicable water shortage stage; (2) imposing more aggressive goals for reducing water consumption during water shortage stages; (3) imposing mandated curtailments to the Authorities' water supply customers; and (4) increasing releases from the Sabine River of Texas' upstream reservoirs during water shortage conditions. Although the Authorities appreciate that TBCAC's comments reflect its commitment to protect recreational interests at Toledo Bend, the Authorities have concluded that these recommended changes would upset the balance that the Authorities must achieve to manage multiple public interests during periods of scare water availability, and would infringe upon requirements established under the Congressionally approved Sabine River Compact.[9]

The Authorities are committed to working with their water customers during water shortage conditions to conserve limited water resources by reducing withdrawals and releases from Toledo Bend, but the aggressive and rigid mandates sought by TBCAC for inclusion in the

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[5] Article 416 required the Authorities to file the final DCP within 18 months of the date of the Commission's April 16, 2015, Order on Rehearing and Clarification, i.e., by October 16, 2016.

[6] *See* Letter from Jim Brown, Toledo Bend Project Joint Operation, to Kimberly D. Bose, Federal Energy Regulatory Commission, Project No. 2305-000 (filed Sep. 22, 2016). The Authorities' letter requesting an extension of time appears at Attachment C.

[7] *Sabine River Auth. of Tex. & Sabine River Auth, State of La.*, Order Granting Extension of Time Pursuant to Article 416, Project No. 2305-036 (issued Oct. 4, 2016). The Commission's order granting an extension of time also appears at Attachment C.

[8] In addition, staff with co-licensee Sabine River Authority, State of Louisiana held an in-person meeting with TBCAC on December 7, 2016, to review the Authorities' response to TBCAC's comments.

[9] Pub. L. No. 83-578, 68 Stat. 690 (1954).

final DCP are inappropriate. Any decision to reduce consumption or curtail contractual water supply obligations to the many individuals, families, businesses and industries that rely on Toledo Bend for critical water supply must be made on a case-by-case basis, and in light of the individual (and complex) facts and circumstance of each customer and drought event. Such decisions also must recognize that due to the vast surface area of Toledo Bend, factors beyond the Authorities' control (e.g., evaporation and the lack of inflows) have the greatest influence on reservoir levels, and that even significant changes in water supply releases and withdrawals do very little to effect any appreciable change in reservoir levels. Moreover, as reflected in the final DCP—enhanced in response to comments received by TPWD—the Authorities' recreational facilities and programs ensure that public recreation opportunities are available during times of low reservoir conditions. The Authorities' more detailed reasons for not accepting these recommendations submitted by TBCAC appear in the comment/response table at Attachment D.

The Authorities appreciate the time and effort of TPWD, TBCAC and TBLA to submit comments on the draft DCP. If you have any questions regarding this filing, please contact me at (409) 746-2192 or jbrown@sratx.org.

Respectfully submitted,

Jim Brown, TBPJO Compliance Officer

Attachments

Attachment A

Final Drought Contingency Plan under License Article 416

SABINE RIVER AUTHORITY OF TEXAS

SABINE RIVER AUTHORITY, STATE OF LOUISIANA

TOLEDO BEND PROJECT

(FERC NO. 2305)

DROUGHT CONTINGENCY PLAN

DECEMBER 15 2016

1.0 INTRODUCTION

The Toledo Bend Project (FERC No. 2305) ("Toledo Bend Project" or "Project") is an existing, federally licensed hydroelectric project jointly owned and operated by the Sabine River Authority, State of Louisiana, and the Sabine River Authority of Texas (together, "the Authorities" or "the licensees;" individually "SRA-LA" and "SRA-TX," respectively). The Project was originally licensed to the Authorities as co-licensees in 1963 by the Federal Energy Regulatory Commission's (FERC) predecessor agency, the Federal Power Commission. The Project was conceived, licensed, and developed as, and today functions primarily as, a water supply facility for the express purpose of serving each state's long-term municipal, industrial, irrigation and other water supply needs. As a secondary purpose the Project produces hydroelectric power and provides recreational opportunities.

The Toledo Bend Project is located on the Sabine River in Panola, Shelby, Sabine, and Newton counties in Texas, and DeSoto, Sabine, and Vernon parishes in Louisiana. The existing facilities at the Project include a dam and powerhouse, three dikes, gated spillway, tailrace and excavated channel, switchyard, turbines, penstocks, and primary transmission line. The Toledo Bend Reservoir (or "Reservoir") extends approximately 132 river miles ("RM") along the Sabine River to just north of Logansport, Louisiana, from RM 147 to RM 279. Toledo Bend Reservoir is a large, irregularly shaped basin that consists of approximately 1,130 miles of shoreline and 185,000 surface acres at elevation 172 feet mean sea level ("msl"). It is the largest manmade Reservoir in the southern United States and the fifth largest in the country and is located along the boundary between Texas and Louisiana. From the Toledo Bend Dam, the Sabine River flows in a southerly direction for approximately 146 miles, where it empties into Sabine Lake, which flows into the Gulf of Mexico.

On August 29, 2014, the FERC issued an Order Issuing New License granting the Project a new 50-year license.[1] Article 416 of the new license provides, in relevant part:

> *Within 18 months of the date of this order, the licensees must file with the Commission, for approval, a drought contingency plan identifying the water conservation and reservoir public access measures that the licensees will implement during drought conditions, as defined in the plan. The plan should include: (1) the lake level that would trigger the implementation of the plan; (2) deviations, if any, to minimum releases; (3) water supply conservation measures; and (4) measures designed to maintain public recreational access to the project during the drought.*[2]

This Drought Contingency Plan ("DCP") has been prepared in accordance with the requirements specified in Article 416. In light of existing legal requirements related to "the control,

[1] *Sabine River Auth. Of Texas and Sabine River Auth., State of Louisiana*, 148 FERC ¶ 62,171. Order Issuing New License (2014).
[2] *Sabine River Auth. Of Texas and Sabine River Auth., State of Louisiana,* 151 FERC ¶ 61,037. Order on Rehearing and Clarification (2015).

appropriation, use or distribution of water" in the Sabine River basin,[3] including the Sabine River Compact,[4] water rights in both Louisiana[5] and Texas,[6] and mandatory drought and conservation planning under state law,[7] this DCP does not affect or change these existing obligations. Rather, as presented in Sections 3 through 5 below, this DCP is intended to be consistent with these other obligations by identifying certain actions the Authorities will take once Reservoir levels drop below certain levels. To the extent other legal requirements warrant a change in the requirements of this DCP, the Authorities will amend this DCP to ensure consistency with other obligations, as described more fully in Sections 7 and 8, below.

[3] 16 U.S.C. § 821.
[4] Pub. L. No. 83-578, 68 Stat. 690 (1954). In Texas, the Compact is set forth in 3 Tex. Water Code chapter 44; in Louisiana, La. Rev. Stat. Ann. § 38:2329.
[5] *E.g.*, La. Civ. Code Ann. arts. 450, 657, 658. La. Const. art. IX § 1.
[6] Tex. Water Code §§ 11.301 - 11.341.
[7] 30 TAC §§ 288.5, 288.22.

2.0 RELEVANT LICENSE ARTICLES

Although this DCP is required by Article 416 of the new license, several other license articles are relevant to the DCP, including Article 406 (*Reservoir Levels*), and Article 402 (*Continuous Releases from the Spillway*). Each of these is discussed below.

Article 406. *Reservoir Levels.*

Article 406 of the license provides for the Authorities to maintain a minimum Reservoir level of 162.2 feet msl. In imposing this obligation, however, the Commission recognized that circumstances beyond the reasonable control of the Authorities influence and control Reservoir levels. For example, prevailing drought conditions could cause water levels to drop below 162.2 feet msl—a circumstance that, while rare, has occurred several times during the Project's history and as recently as 2011. For this reason, Article 406 expressly accommodates these low reservoir level conditions by authorizing the Authorities to operate the Project when Reservoir levels drop below 162.2 feet msl "if required by operating emergencies beyond the control of the licensees," as well as during limited periods upon agreement of Texas Parks and Wildlife Department and Louisiana Department of Wildlife and Fisheries. License Article 406 states:

> **Article 406.** ***Reservoir Levels.***
>
> *The licensees must at all times maintain a minimum reservoir surface elevation of 162.2 feet above mean sea level (msl). When operating the reservoir for hydroelectric generation, the licensee must maintain the reservoir surface elevation between 168 and 172 feet msl, except that the licensees may operate the Project reservoir for hydroelectric generation outside this normal operating range, but at no lower than 162.2 feet msl:*
>
> *(1) due to storm or high water events;*
> *(2) due to reservoir drawdown necessary for inspection of public works or maintenance as required by the Commission;*
> *(3) for releases to meet continuous release requirements under Article 402;*
> *(4) for releases to satisfy the licensees' water supply or other downstream obligations; or*
> *(5) to avoid an insufficient supply of firm or non-interruptible power to the licensees' wholesale customers.*
>
> *The licensees must maintain a log of operations that outlines the instances in which hydroelectric power production occurred under the exceptions provided by this article.*
>
> *The licensees may operate outside of the operation requirements of this article if required by operating emergencies beyond the control of the licensees and for short periods upon agreement among the licensees and Texas Parks and Wildlife Department and Louisiana Department of Wildlife and Fisheries. If the limits are so modified, the licensees must notify the Commission as soon as possible, but no later than 10 days after each such incident.*

Article 416. *Drought Contingency Plan.*

Also in recognition that the Authorities do not have full control to maintain the Reservoir levels due to inflows, drought conditions, and other factors, the Commission added license Article 416 to the license, "which requires the Authorities to file, for Commission approval, a drought contingency plan, developed in consultation with stakeholders. This will allow the Authorities to develop water conservation and reservoir public access measures to be put in place in the event of drought."[8] Thus, during periods in which the Reservoir approaches and drops below 162.2 feet msl, this DCP identifies the Authorities' obligations related to Reservoir levels. License Article 416 states:

> **Article 416.** ***Drought Contingency Plan***. Within 18 months of the date of this order, the licensees must file with the Commission, for approval, a drought contingency plan identifying the water conservation and reservoir public access measures that the licensees will implement during drought conditions, as defined in the plan. The plan should include: (1) the lake level that would trigger the implementation of the plan; (2) deviations, if any, to minimum releases; (3) water supply conservation measures; and (4) measures designed to maintain public recreational access to the project during the drought.
>
> The plan must be developed after consultation with the Texas Commission on Environmental Quality, Texas Water Development Board, Texas Parks and Wildlife Department, Louisiana Department of Environmental Quality, Louisiana Department of Wildlife and Fisheries, U.S. Fish and Wildlife Service, U.S. Forest Service-Sabine National Forest, the Authorities' water supply customers, and the Toledo Bend Citizens Advisory Committee. The licensees must include with the plan documentation of consultation. The licensees must allow a minimum of 30 days for interested stakeholders to comment and to make recommendations before filing the plan with the Commission. If the licensees do not adopt a recommendation, the filing must include an explanation of the licensees' decision, based on project-specific reasons.
>
> The Commission reserves the right to require changes to the plan. Implementation of the plan must not begin until the licensees are notified by the Commission that the plan is approved. Upon Commission approval, the licensees must implement the plan, including any changes required by the Commission.

[8] *Sabine River Authority of Texas & Sabine River Authority, State of Louisiana*, 151 FERC ¶ 61,037 at P 37 (2015).

Article 402. *Continuous Releases from the Spillway.*

Continuous flow releases from the Project spillway are specified in License Article 402. Because Article 402 establishes flows at Reservoir levels ranging from above 162 feet msl to lower than 156 feet msl, the article accounts for drought conditions. Article 402 provides, in relevant part:

Reservoir Elevation (ft-msl)	**Continuous Flow Releases at Spillway (cfs)**											
	Jan	**Feb**	**Mar**	**Apr**	**May**	**Jun**	**Jul**	**Aug**	**Sep**	**Oct**	**Nov**	**Dec**
At >162 feet	150	150	300	300	300	300	200	200	200	200	200	150
From 162 feet to 156 feet	150	150	225	225	225	225	150	150	150	150	150	150
At <156 feet	150	150	150	150	150	150	150	150	150	150	150	150

In addition to establishing continuous flow requirements according to different Reservoir elevations, Article 402 provides that the Authorities are not required to provide releases at the spillway greater than the applicable continuous flow release value in the table above, but may provide greater releases at the spillway at their discretion. It further provides for temporary modification or suspension of such releases: (1) due to circumstances beyond the reasonable control of the licensees, such as equipment failure or malfunction, disruption in operations, blockage of intake structures, or operating emergencies; or (2) as necessary to protect public and project safety. Article 402 also enables the licensees to provide releases at the Project spillway that are less than the applicable continuous flow value in the table for short periods upon prior mutual agreement of the licensees and resource agencies.

3.0 RESERVOIR LEVEL TRIGGERS FOR IMPLEMENTATION

The first element of this DCP required by Article 416 involves Reservoir levels that trigger conservation actions on the part of the Authorities. Drought conditions are identified by a number of factors, including natural events and inflows to the Project, which are outside of the control of the Authorities. The Authorities will monitor water supply conditions on a monthly basis and, when conditions warrant, will: (1) initiate each drought stage; (2) implement the actions described in Section 5; and (3) terminate the drought stage level once Reservoir levels have risen above the drought level for the specified time period. When required in Section 5, all customer notifications of the initiation or termination of drought response stages described in this DCP will be made by mail, telephone, email, or the Authorities' respective websites, as appropriate. Additionally, local news media will be informed by email or other appropriate means.

The following table summarizes the lake level triggers under this DCP:[9]

Drought Stage	Drought Trigger: Water Surface Elevation (ft-msl)*	Volume in Toledo Bend Reservoir at Drought Trigger (ac-ft)	Remaining Percent Volume of Toledo Bend Reservoir[10]	Drought Response: Water Use Reduction Target
1 – Watch	168.0	3,788,901	85-percent	None
2 – Mild	165.1	3,337,011	75-percent	Voluntary
3 – Moderate	162.2	2,922,771	65-percent	10-percent
4 – Severe	156.0	2,156,343	48-percent	20-percent

* The drought stages take effect when the Toledo Bend water surface elevation at the dam falls to and remains at or below the trigger levels for 14 consecutive days. Termination of drought stages and corresponding measures will take place when conditions that initiated the drought stage no longer exist. Drought conditions are no longer considered to exist when the Toledo Bend elevation at the dam remains above the drought trigger for 14 consecutive days.

[9] The Mild, Moderate, and Severe Drought Stages are generally consistent with SRA-TX's state-approved Water Conservation and Drought Contingency Plan (WCDCP) and License Article 402. *Continuous Releases from the Spillway*. While not required by the WCDCP, SRA-TX proposes to implement a Watch Drought Stage at lake elevation 168 ft-msl for purposes of this DCP.

[10] From Guide for Spillway Gate Operations for Toledo Bend Reservoir, Toledo Bend Project Joint Operation, March 1994. Table A, Stage – Area – Volume Relation. Volume at top of conservation pool, 172.0 ft-msl, is 4,476,951 ac-ft.

4.0 DEVIATIONS TO MINIMUM RELEASES

Article 416 of the license also requires this DCP to include "deviations, if any, to minimum releases." Because Article 402 already prescribes continuous flow releases during periods of low Reservoir levels, no additional deviations to releases from the Project are needed in this DCP. The requirements of Article 402 will continue to apply during all drought stages.

5.0 WATER SUPPLY CONSERVATION MEASURES

Article 416 requires this DCP to include water supply conservation measures. Accordingly, this section establishes conservation measures that the Authorities will implement at each drought stage described in Section 3.0, above.

Stage 1 – Drought Watch Conditions (Water Surface Elevation 168.0 ft-msl)

Goal: Curtail hydropower generation.

Measures:

- Stop hydropower generation, except as authorized under Article 406 of the FERC License.

Stage 2 – Mild Water Shortage Conditions (Water Surface Elevation 165.1 ft-msl)

Goal: Inform the Authorities' customers at Toledo Bend and the general public of the situation and encourage voluntary water use reductions.

Measures:

- Stop hydropower generation, except as authorized under Article 406 of the FERC License.
- When mild water shortage conditions exist, the Authorities will notify their water supply customers at Toledo Bend of the drought condition. Additionally, the Authorities will issue an advisory to be posted on their respective websites to inform the general public of the drought condition. Customers, as well as the general public, can monitor the Toledo Bend water surface elevation on a daily basis at the National Weather Service website[11] or on a near-real-time basis on the U.S. Geological Survey Website.[12]
- The Authorities' water supply customers at Toledo Bend will be asked to activate an appropriate system for answering inquiries from the citizens, such as website postings that provide a mechanism for requesting assistance. In addition, the Authorities will request each of their water supply customers at Toledo Bend to implement their individual measures for mild water shortage conditions. At the same time, the Authorities will work with their water supply customers at Toledo Bend to initiate discussion of the drought condition and its impact on the water supply situation with the news media.
- The Authorities will inform their customers and the news media of the termination of the mild water shortage conditions in the same manner as in its initiation.

[11] Sabine River at Toledo Bend Reservoir, http://water.weather.gov/ahps2/hydrograph.php?wfo=lch&gage=bklt2, referenced 10/2/2015.
[12] USGS 08025350 Toledo Bend Reservoir near Burkeville, TX, http://waterdata.usgs.gov/tx/nwis/uv/?site_no=08025350, referenced 10/2/2015.

Stage 3 – Moderate Water Shortage Conditions (Water Surface Elevation 162.2 ft-msl)

Goals: Achieve a 10 percent reduction in total water use through implementing reductions in non-essential outdoor water use at Toledo Bend.

Measures:

- Stop hydropower generation, except as authorized under Article 406 of the FERC License.
- When moderate water shortage conditions exist, the Authorities will notify their water supply customers at Toledo Bend of the drought condition. Additionally, the Authorities will issue an advisory to be posted on the Authorities' respective websites and issue media press releases to inform the general public of the drought conditions. This information will be given at weekly intervals as long as the moderate drought condition continues. The Authorities will continue to advise their customers at Toledo Bend of the Toledo Bend Reservoir water surface elevation every business day on the Authorities' respective websites.
- During the moderate water shortage conditions, the Authorities will reduce water delivered to its water supply customers at Toledo Bend, if circumstances warrant and as may be authorized by state law and the governing water supply contract(s). The Authorities' General Manager (SRA-TX) and Executive Director (SRA-LA) shall establish the methodology for determining curtailment of the water delivery (see Water Allocation, below) for the Authorities' respective water supply customers.
- The Authorities will request their water supply customers at Toledo Bend to implement water conservation measures such as reducing non-essential outdoor uses such as lawn irrigation, vehicle washing, filling of swimming pools, or routine maintenance of facilities.
- SRA-TX will notify the Executive Director of the TCEQ and SRA-LA will notify the Secretary of LDEQ within five business days of implementing any mandatory provisions of the SRA-TX Water Conservation and Drought Contingency Plan ("WCDCP").
- The Authorities will inform their customers and the news media of the termination of the moderate water shortage conditions in the same manner as in its initiation.

Stage 4 – Severe Water Shortage Conditions (Water Surface Elevation 156.0 ft-msl)

Goal: Achieve a 20 percent reduction in total water use at Toledo Bend.

Measures:

- Stop hydropower generation, except as authorized under Article 406 of the FERC License.
- When severe water shortage conditions exist, the Authorities will notify their water supply customers at Toledo Bend of the drought condition. Additionally, the Authorities will issue a press release, to be posted on the Authorities' respective websites and delivered to local media, to inform the general public of the serious water supply drought conditions.

- Weekly update reports will be issued to the Authorities' water supply customers at Toledo Bend and the news media. The Authorities may call emergency meetings with their water supply customers at Toledo Bend to discuss major operational changes if it is determined that such action is necessary during severe drought conditions. The Authorities will continue to advise their water supply customers at Toledo Bend of the Reservoir water surface elevation every business day on the Authorities' respective websites.
- The Authorities will request their customers at Toledo Bend to consider prohibiting all non-essential outdoor water use (such as livestock watering) and to activate applicable drought measures to reduce indoor uses until the drought condition changes to a moderate condition or better.
- As authorized by state law and the governing water supply contract(s), the Authorities will further reduce water delivery to their respective customers at Toledo Bend if circumstances warrant. See Water Allocation, below.
- SRA-TX will notify the Executive Director of the TCEQ and SRA-LA will notify the Secretary of LDEQ within five business days of implementing any mandatory provisions of the SRA-TX WCDCP.
- The Authorities will inform their customers and the news media of the termination of the severe water shortage conditions in the same manner as in its initiation.

Water Allocation

As described in more detail in Section 7 below, water allocations to meet the Project's primary purpose of water supply are governed by the Sabine River Compact, Texas and Louisiana state law, water supply contracts, and the policies established by the Authorities' respective Boards of Directors. The General Manager (SRA-TX) and Executive Director (SRA-LA) have the discretion to determine water allocations pursuant to state law, contractual requirements, and their respective Board policies.

The General Manager/Executive Directory of each Authority shall establish the methodology for determining curtailment of water delivery at Toledo Bend. In the event of a stage 3 or stage 4 drought the General Manager/Executive Director will initiate appropriate measures described in this DCP, including reductions in the allocation of diversions to achieve the goals of the required drought stage.[13] When water allocation is in effect, water diversions by or deliveries to each wholesale customer shall be limited to the monthly allocation established for each customer during the designated drought condition unless explicitly modified through a variance as outlined below.

[13] For SRA-TX, these reductions to allocations will be in accordance with Texas Water Code §11.039, http://www.statutes.legis.state.tx.us/Docs/WA/htm/WA.11.htm, referenced 10/2/2015.

Variances

Upon request, the General Manager/Executive Director of the respective Authority may grant a temporary variance to water allocation policies provided herein if it is determined that failure to grant such variance would cause conditions adversely affecting an entity's public health, welfare, safety, or economy.

6.0 MEASURES DESIGNED TO MAINTAIN PUBLIC RECREATIONAL ACCESS

Reservoir Access

Article 416 requires this DCP to include measures designed to maintain public recreational access during drought conditions. The Authorities own and operate sixteen Toledo Bend Recreation Facilities ("TBRF") that provide recreational access to the Project.[14] Additionally, four Sabine National Forest (SNF) recreation areas maintained by SRA-TX have boat ramps. Of these 20 recreation boat ramps, a total of 13 provide public boat launch accessibility during drought conditions, as shown in the following table:

Provide Access Down to Drought Stage	Recreation Facility	Owner/Manager	Accessible to ft-msl
Above Mild Drought Stage (> 165.1 ft-msl)	Blue Lake Landing Recreation Area	SRA-LA	165.5
	Bubba Cowser Recreation Facility[15]	SRA-TX	165.2
Moderate Drought Stage to Mild Drought Stage (162.2 ft-msl – 165.1 ft-msl)	Ragtown	SRA-TX (SNF)	165.0
	Converse Bay Recreation Area	SRA-LA	164.0
Severe to Moderate Drought Stage (156 ft-msl – 162.2 ft-msl)	Pleasure Point Park	SRA-LA	161.5
	San Miguel Park	SRA-LA	160.0
	Oak Ridge Park	SRA-LA	159.0*
	East Hamilton	SRA-TX (SNF)	159.0*
	Indian Mounds Camping	SRA-TX (SNF)	159.0*
	Cypress Bend Park	SRA-LA	158.0*
	Sam Force Collins Recreation Area	SRA-TX	158.0*
	Swede Johnson Recreation Area	SRA-TX	157.0*
	Indian Mounds	SRA-TX (SNF)	155.0*

*TBRF and SNF boat ramps that were accessible at the historic low post-impoundment lake level of 159.51 ft-msl on November 19, 2011,[16] during the most severe drought conditions experienced on Toledo Bend Reservoir.

[14] Refer to the Authorities Recreation Management Plan Table 2.0-1 pg. 5.
[15] Bubba Cowser Recreation Area boat launch is situated on the banks of Tenaha Creek, a shallow cove; access limitations are not related to the boat launch, but rather to the depth of the creek it is situated on.
[16] USGS 08025350 Toledo Bend Res nr Burkeville, TX, Daily data, http://waterdata.usgs.gov/tx/nwis/dv/?site_no=08025350&agency_cd=USGS&referred_module=sw, referenced 10/5/2016.

Reservoir Navigation

Toledo Bend Reservoir has approximately 290 miles of navigable buoyed boat lanes that were created before and after impoundment. Through the years these lanes have been improved by removing problem areas either by cutting stumps, removing obstructions or dredging shallow areas. This process has been accomplished or verified normally during times of low reservoir levels. Additional work or mapping of problem areas will continue during low reservoir conditions to make this work efficient and when maximum results can be achieved. Under normal conditions the vast majority of the buoyed boat lanes are safe to navigate. When reservoir levels drop below normal lows, the Authorities issue press releases informing the public, post signs at parks and boat ramps, and post updates on their websites to inform the public of the adverse conditions existing, not only in the boat lanes but all over the reservoir as well. Public information provided, including posting of signage at boat ramps, emphasizes the need to use extreme caution while navigating on Toledo Bend.

7.0 RELATIONSHIP WITH OTHER LAWS

Because this DCP involves measures to be taken by the Authorities during drought conditions, including conservation measures and temporary allocation reductions of existing water supply agreements, other federal and state laws may apply when implementing this DCP. While the Authorities will make every reasonable effort to comply with all governing requirements, in the event of any irreconcilable conflict between this DCP and other governing law, the Authorities will seek an amendment to this DCP as provided in Section 8.0, below.

Federal and state laws related to this DCP include, but are not limited to, the authorizing legislation for both SRA-TX and SRA-LA; the Sabine River Compact; water rights laws of both states; and Texas water planning requirements. Each of these existing authorities is discussed below.

Authorizing Legislation for the Authorities

SRA-TX was created by the Legislature in 1949 as an official agency of the State of Texas.[17] SRA-TX was created as a conservation and reclamation district with responsibilities to control, store, preserve, utilize, and distribute the waters of the Sabine River and its tributary streams in the Texas portion of the Sabine River Basin, and provide for the control and regulation of such waters for beneficial public uses.[18]

SRA-LA was formed in 1950 by the Louisiana Legislature to "conserve, store, control, preserve, utilize, and distribute the waters of the rivers and streams of the Sabine watershed."[19] Its authorizing legislation also enables SRA-LA to provide for the control and coordination of the regulation of the Sabine River and its tributaries in Louisiana for the beneficial use of these waters for industrial, commercial, municipal, and agricultural purposes and for economic utilization and preservation of the waters of the Sabine River and its tributaries.[20]

Sabine River Compact

The Sabine River Compact, an interstate compact between Texas and Louisiana and approved by Congress, allocates the waters of the Sabine River Basin between the two states, downstream from the point in which the Sabine River becomes the boundary between the two states.[21] Among other things, the Compact created the Sabine River Compact Administration, which is charged to work with the state officials that administer water rights in Texas and Louisiana in, making findings related to Texas' deliveries of flows at the point where the Sabine River becomes the state line, determining quantities of reservoir storage and releases allocable to the states, and approving points of diversion in the Sabine River basin (after such diversions are approved by the applicable state authority).[22]

[17] Act of April 27, 1949, 51st Leg., R.S., Ch. 110, 1949 Tex. Gen. Laws 193.
[18] 1949 Tex. Gen. Laws 193 (Secs. 1, 14(a)).
[19] La. Rev. Stat. Ann. § 38:2325(A)(10).
[20] *Id.* §§ 38:2325(A)(10)(a), (h).
[21] Pub. L. No. 83-578, 68 Stat. 690 (1954). In Texas, the Compact is set forth in 3 Tex. Water Code chapter 44 (2013); in Louisiana, La. Rev. Stat. Ann. § 38:2329 (2014).
[22] Compact, 68 Stat. at 693 (Art. VII(g)).

State Water Rights Laws

In Texas, surface water is owned by the state and made available for use by appropriation. Water rights are administered by the Texas Commission on Environmental Quality (Texas Water Code Chapter 11).. Pursuant to its authorizing legislation, SRA-TX grants authorizations to municipalities, individuals, and businesses to take and use water from the Sabine River for the beneficial uses of municipal, domestic, commercial, agricultural, and industrial water supply.

Louisiana's system of water law is similar to a riparian system.[23] As the manager of Louisiana's share of Sabine River waters, SRA-LA authorizes uses, diversions, and appropriation of Sabine River water for a variety of beneficial uses on behalf of the state.

Texas Water Planning Requirements

As a Texas wholesale water supplier, SRA-TX is required to have a Drought Contingency Plan by Title 30, Texas Administrative Code ("TAC") §288.22.[24] SRA-TX also has a Water Conservation Plan as required by Title 30, TAC §288.5.[25] These two required plans are combined into SRA-TX's WCDCP. Among other things, the WCDCP establishes criteria and actions required for specified drought response stages for Toledo Bend Reservoir in order to conserve available water supply. It is required to be reviewed and updated, if appropriate, every five years. SRA-TX's latest Texas Commission on Environmental Quality-approved WCDCP is dated May 2014 and was adopted by SRA-TX's Board of Directors on July 10, 2014.[26]

[23] *E.g.*, La. Civ. Code Ann. arts. 450, 657, 658. La. Const. art. IX § 1.
[24] Drought Contingency Plans for Wholesale Water Suppliers. Louisiana state law does not require SRA-LA to have a drought contingency plan.
[25] Water Conservation Plans for Wholesale Water Suppliers.
[26] Water Conservation and Drought Contingency Plan, Sabine River Authority of Texas (Revised May 2014, Adopted July 10, 2014), http://www.sratx.org/basin/water_conservation/Conservation_and_Drought_Contingency_Plan/, referenced May 27, 2015.

8.0 PERIODIC REVIEW AND AMENDMENT TO PLAN

The Authorities will review this DCP every ten years during the license term, and as needed following any relevant changes to other laws described in Section 7, in an effort to maintain the DCP's consistency with such laws and the Authorities' other responsibilities with respect to drought management and water conservation. In the event that changes to the DCP are required, whether upon routine review or to conform the DCP to reflect a change in relevant legal requirements, the Authorities will file an amended DCP for Commission review and approval.

Attachment B

Distribution of Draft Drought Contingency Plan for Comment

Jim Brown

From: Jim Brown <jbrown@sratx.org>
Sent: Tuesday, September 06, 2016 12:04 PM
To: A. J. Vale (arturo_vale@fws.gov); Colette Barron Bradsby; Elizabeth Johnson (elizabeth.johnson@la.gov); Gregg Easley (gregg.easley@tceq.texas.gov); Jeffrey D. Weller (jeff_weller@fws.gov); Jerry Ziewitz (Jerry_Ziewitz@fws.gov); John Botros (john.botros@tpwd.texas.gov); Kevin Mayes; Kimpton Cooper (kmcooper@fs.fed.us); Mark Wentzel Ph. D. (mark.wentzel@twdb.texas.gov); Nolan Raphelt (Nolan.Raphelt@twdb.texas.gov); Reed, Bobby (breed@wlf.la.gov); Sean Kinney; Seth Bordelon (seth_bordelon@fws.gov)
Cc: 'twilliams@sratx.org'; carl.chance@la.gov
Subject: Request for consultation on TBPJO Draft Drought Contingency Plan
Attachments: FERC-2305-Draft-DCP.pdf

Consulting Parties on Toledo Bend Project (FERC No. 2305) Drought Contingency Plan (Article 416):

Please find attached our request to review and comment on the Draft Drought Contingency Plan pursuant to Article 416 of the Toledo Bend Hydroelectric Project (FERC No. 2305).

Thank you very much,

Jim Brown
TBPJO Compliance Officer

Sabine River Authority of Texas
P.O. Box 579
Orange, TX 77631-0579
409-746-2192
409-746-9695 (Fax)
www.sratx.org
jbrown@sratx.org

Toledo Bend Project Joint Operation

Sabine River Authority of Texas

SRA LOUISIANA Sabine River Authority State of Louisiana

September 6, 2016

Consulting Parties for Drought Contingency Plan:

RE: Draft Drought Contingency Plan, Article 416, Toledo Bend Project (FERC No. 2305)

On August 29, 2014, the Federal Energy Regulatory Commission (FERC or Commission) issued a new 50-year license to co-licensees Sabine River Authority of Texas (SRA-TX) and Sabine River Authority, State of Louisiana (SRA-LA) (collectively, the "Authorities" or "licensees") for the continued operation of the Toledo Bend Project, FERC Project No. 2305 (Project).[1] On April 16, 2015, the Commission issued an Order on Hearing and Clarification that revised the license issued August 29, 2014, to include a new Article 416 *Drought Contingency Plan*.[2]

Article 416 requires the Authorities to file a drought contingency plan for Commission approval within 18 months of the April 16, 2015, Order on Rehearing and Clarification. The drought contingency plan must identify the water conservation and reservoir public access measures that the licensees will implement during drought conditions, as defined in the plan. The plan should include: (1) the lake level that would trigger the implementation of the plan; (2) deviations, if any, to minimum releases; (3) water supply conservation measures; and (4) measures designed to maintain public recreational access to the project during the drought.

The plan must be developed after consultation with the Texas Commission on Environmental Quality, Texas Water Development Board, Texas Parks and Wildlife Department, Louisiana Department of Environmental Quality, Louisiana Department of Wildlife and Fisheries, U.S. Fish and Wildlife Service, U.S. Forest Service-Sabine National Forest, the Authorities' water supply customers, and the Toledo Bend Citizens Advisory Committee. The licensees must include with the plan documentation of consultation. The licensees must allow a minimum of 30 days for interested stakeholders to comment and to make recommendations before filing the plan with the Commission. If the licensees do not adopt a recommendation, the filing must include an explanation of the licensees' decision, based on project-specific reasons.

---

[1] *Sabine River Auth. of Texas and Sabine River Auth., State of Louisiana,* 148 FERC ¶ 62,171, Order Issuing New License (2014).

[2] *Sabine River Auth. of Texas and Sabine River Auth., State of Louisiana,* 151 FERC ¶ 61,037, Order on Rehearing and Clarification (2015).

TOLEDO BEND PROJECT JOINT OPERATION

If you have any questions regarding this request for consultation, please contact me at (409) 746-2192 or jbrown@sratx.org.

Respectfully submitted,

Jim Brown, TBPJO Compliance Officer

Enclosures

- Consultation Distribution List
- Draft Drought Contingency Plan, Toledo Bend Project (FERC No. 2305)

Toledo Bend Water Supply Customers
Sabine River Authority, State of Louisiana

SOUTH TOLEDO BEND WATER DISTRICT
3260 LITTLE FLOCK ROAD
MANY, LA 71449

CITY OF MANSFIELD
P.O. BOX 773
MANSFIELD, LA 71052

CLECO
ACCOUNTING
963 POWER PLANT ROAD
MANSFIELD, LA 71052

INTERNATIONAL PAPER COMPANY
ATTENTION: ACCOUNTING
P.O. BOX 999
MANSFIELD, LA 71052

TOWN OF MANY
P.O. BOX 1330
MANY, LA 71449

PENDLETON WATER ASSOCIATION
62 QUEENS ROAD
MANY, LA 71449

DESOTO WATER DISTRICT
PO BOX 1409
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TOWN OF LOGANSPORT
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Sabine River Authority of Texas

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CITY OF HEMPHILL
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HEMPHILL, TX 75948

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SHELBYVILLE, TX 75973

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SENIOR VP, EAST TEXAS OPERATIONS
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Toledo Bend Citizens Advisory Committee

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SABINE RIVER AUTHORITY OF TEXAS

SABINE RIVER AUTHORITY, STATE OF LOUISIANA

<< DRAFT PRINTED 9/2/2016 3:15 PM >>

TOLEDO BEND PROJECT

(FERC NO. 2305)

DROUGHT CONTINGENCY PLAN

OCTOBER 16, 2016

1.0 INTRODUCTION

The Toledo Bend Project (FERC No. 2305) ("Toledo Bend Project" or "Project") is an existing, federally licensed hydroelectric project jointly owned and operated by the Sabine River Authority, State of Louisiana, and the Sabine River Authority of Texas (together, "the Authorities" or "the licensees;" individually "SRA-LA" and "SRA-TX," respectively). The Project was originally licensed to the Authorities as co-licensees in 1963 by the Federal Energy Regulatory Commission's (FERC) predecessor agency, the Federal Power Commission. The Project was conceived, licensed, and developed as, and today functions primarily as, a water supply facility for the express purpose of serving each state's long-term municipal, industrial, irrigation and other water supply needs. As a secondary purpose the Project produces hydroelectric power and provides recreational opportunities.

The Toledo Bend Project is located on the Sabine River in Panola, Shelby, Sabine, and Newton counties in Texas, and DeSoto, Sabine, and Vernon parishes in Louisiana. The existing facilities at the Project include a dam and powerhouse, three dikes, gated spillway, tailrace and excavated channel, switchyard, turbines, penstocks, and primary transmission line. The Toledo Bend Reservoir (or "Reservoir") extends approximately 132 river miles ("RM") along the Sabine River to just north of Logansport, Louisiana, from RM 147 to RM 279. Toledo Bend Reservoir is a large, irregularly shaped basin that consists of approximately 1,130 miles of shoreline and 185,000 surface acres at elevation 172 feet mean sea level ("msl"). It is the largest manmade Reservoir in the southern United States and the fifth largest in the country and is located along the boundary between Texas and Louisiana. From the Toledo Bend Dam, the Sabine River flows in a southerly direction for approximately 146 miles, where it empties into Sabine Lake, which flows into the Gulf of Mexico.

On August 29, 2014, the FERC issued an Order Issuing New License granting the Project a new 50-year license.[1] Article 416 of the new license provides, in relevant part:

> *Within 18 months of the date of this order, the licensees must file with the Commission, for approval, a drought contingency plan identifying the water conservation and reservoir public access measures that the licensees will implement during drought conditions, as defined in the plan. The plan should include: (1) the lake level that would trigger the implementation of the plan; (2) deviations, if any, to minimum releases; (3) water supply conservation measures; and (4) measures designed to maintain public recreational access to the project during the drought.*[2]

This Drought Contingency Plan ("DCP") has been prepared in accordance with the requirements specified in Article 416. In light of existing legal requirements related to "the control,

[1] *Sabine River Auth. Of Texas and Sabine River Auth., State of Louisiana*, 148 FERC ¶ 62,171. Order Issuing New License (2014).
[2] *Sabine River Auth. Of Texas and Sabine River Auth., State of Louisiana,* 151 FERC ¶ 61,037. Order on Rehearing and Clarification (2015).

appropriation, use or distribution of water" in the Sabine River basin,[3] including the Sabine River Compact,[4] water rights in both Louisiana[5] and Texas,[6] and mandatory drought and conservation planning under state law,[7] this DCP does not affect or change these existing obligations. Rather, as presented in Sections 3 through 5 below, this DCP is intended to be consistent with these other obligations by identifying certain actions the Authorities will take once Reservoir levels drop below certain levels. To the extent other legal requirements warrant a change in the requirements of this DCP, the Authorities will amend this DCP to ensure consistency with other obligations, as described more fully in Sections 7 and 8, below.

[3] 16 U.S.C. § 821.
[4] Pub. L. No. 83-578, 68 Stat. 690 (1954). In Texas, the Compact is set forth in 3 Tex. Water Code chapter 44; in Louisiana, La. Rev. Stat. Ann. § 38:2329.
[5] *E.g.*, La. Civ. Code Ann. arts. 450, 657, 658. La. Const. art. IX § 1.
[6] Tex. Water Code §§ 11.301 - 11.341.
[7] 30 TAC §§ 288.5, 288.22.

2.0 RELEVANT LICENSE ARTICLES

Although this DCP is required by Article 416 of the new license, several other license articles are relevant to the DCP, including Article 406 (*Reservoir Levels*), and Article 402 (*Continuous Releases from the Spillway*). Each of these is discussed below.

Article 406. *Reservoir Levels.*

Article 406 of the license provides for the Authorities to maintain a minimum Reservoir level of 162.2 feet msl. In imposing this obligation, however, the Commission recognized that circumstances beyond the reasonable control of the Authorities control Reservoir levels. For example, prevailing drought conditions could well cause water levels to drop below 162.2 feet msl. For this reason, Article 406 expressly authorizes Reservoir levels to drop below 162.2 feet msl "if required by operating emergencies beyond the control of the licensees," as well as during limited periods upon agreement of Texas Parks and Wildlife Department and Louisiana Department of Wildlife and Fisheries. License Article 406 states:

> **Article 406.** ***Reservoir Levels.***
>
> *The licensees must at all times maintain a minimum reservoir surface elevation of 162.2 feet above mean sea level (msl). When operating the reservoir for hydroelectric generation, the licensee must maintain the reservoir surface elevation between 168 and 172 feet msl, except that the licensees may operate the Project reservoir for hydroelectric generation outside this normal operating range, but at no lower than 162.2 feet msl:*
>
> *(1) due to storm or high water events;*
> *(2) due to reservoir drawdown necessary for inspection of public works or maintenance as required by the Commission;*
> *(3) for releases to meet continuous release requirements under Article 402;*
> *(4) for releases to satisfy the licensees' water supply or other downstream obligations; or*
> *(5) to avoid an insufficient supply of firm or non-interruptible power to the licensees' wholesale customers.*
>
> *The licensees must maintain a log of operations that outlines the instances in which hydroelectric power production occurred under the exceptions provided by this article.*
>
> *The licensees may operate outside of the operation requirements of this article if required by operating emergencies beyond the control of the licensees and for short periods upon agreement among the licensees and Texas Parks and Wildlife Department and Louisiana Department of Wildlife and Fisheries. If the limits are so modified, the licensees must notify the Commission as soon as possible, but no later than 10 days after each such incident.*

Article 416. *Drought Contingency Plan.*

Also in recognition that the Authorities do not have full control to maintain the Reservoir levels under Article 406, such as inflows and drought conditions, the Commission added license

Article 416 to the license, "which requires the Authorities to file, for Commission approval, a drought contingency plan, developed in consultation with stakeholders. This will allow the Authorities to develop water conservation and reservoir public access measures to be put in place in the event of drought."[8] Thus, during periods in which the Reservoir approaches and drops below 162.2 feet msl, this DCP identifies the Authorities' obligations related to Reservoir levels. License Article 416 states:

> **Article 416.** ***Drought Contingency Plan***. Within 18 months of the date of this order, the licensees must file with the Commission, for approval, a drought contingency plan identifying the water conservation and reservoir public access measures that the licensees will implement during drought conditions, as defined in the plan. The plan should include: (1) the lake level that would trigger the implementation of the plan; (2) deviations, if any, to minimum releases; (3) water supply conservation measures; and (4) measures designed to maintain public recreational access to the project during the drought.
>
> The plan must be developed after consultation with the Texas Commission on Environmental Quality, Texas Water Development Board, Texas Parks and Wildlife Department, Louisiana Department of Environmental Quality, Louisiana Department of Wildlife and Fisheries, U.S. Fish and Wildlife Service, U.S. Forest Service-Sabine National Forest, the Authorities' water supply customers, and the Toledo Bend Citizens Advisory Committee. The licensees must include with the plan documentation of consultation. The licensees must allow a minimum of 30 days for interested stakeholders to comment and to make recommendations before filing the plan with the Commission. If the licensees do not adopt a recommendation, the filing must include an explanation of the licensees' decision, based on project-specific reasons.
>
> The Commission reserves the right to require changes to the plan. Implementation of the plan must not begin until the licensees are notified by the Commission that the plan is approved. Upon Commission approval, the licensees must implement the plan, including any changes required by the Commission.

Article 402. *Continuous Releases from the Spillway.*

Continuous flow releases from the Project spillway are specified in License Article 402. Because Article 402 establishes flows at Reservoir levels ranging from above 162 feet msl to lower than 156 feet msl, the article accounts for drought conditions. Article 402 provides, in relevant part:

[8] *Sabine River Authority of Texas & Sabine River Authority, State of Louisiana*, 151 FERC ¶ 61,037 at P 37 (2015).

Reservoir Elevation (ft-msl)	**Continuous Flow Releases at Spillway (cfs)**											
	Jan	**Feb**	**Mar**	**Apr**	**May**	**Jun**	**Jul**	**Aug**	**Sep**	**Oct**	**Nov**	**Dec**
At >162 feet	150	150	300	300	300	300	200	200	200	200	200	150
From 162 feet to 156 feet	150	150	225	225	225	225	150	150	150	150	150	150
At <156 feet	150	150	150	150	150	150	150	150	150	150	150	150

In addition to establishing continuous flow requirements according to different Reservoir elevations, Article 402 provides that the Authorities are not required to provide releases at the spillway greater than the applicable continuous flow release value in the table above, but may provide greater releases at the spillway at their discretion. It further provides for temporary modification or suspension of such releases: (1) due to circumstances beyond the reasonable control of the licensees, such as equipment failure or malfunction, disruption in operations, blockage of intake structures, or operating emergencies; or (2) as necessary to protect public and project safety. Article 402 also enables the licensees to provide releases at the Project spillway that are less than the applicable continuous flow value in the table for short periods upon prior mutual agreement of the licensees and resource agencies.

3.0 RESERVOIR LEVEL TRIGGERS FOR IMPLEMENTATION

The first element of this DCP required by Article 416 involves Reservoir levels that trigger conservation actions on the part of the Authorities. Drought conditions are identified by a number of factors, including natural events and inflows to the Project, which are outside of the control of the Authorities. The Authorities will monitor water supply conditions on a monthly basis and, when conditions warrant, will: (1) initiate each drought stage; (2) implement the actions described in Section 5; and (3) terminate the drought stage level once Reservoir levels have risen above the drought level for the specified time period. When required in Section 5, all customer notifications of the initiation or termination of drought response stages described in this DCP will be made by mail, telephone, email, or the Authorities' respective websites, as appropriate. Additionally, local news media will be informed by email or other appropriate means.

The following table summarizes the lake level triggers under this DCP:[9]

Drought Stage	Drought Trigger: Water Surface Elevation (ft-msl)*	Remaining Volume of Toledo Bend Reservoir
1 – Watch	168.0	85-percent
2 – Mild	165.1	75-percent
3 – Moderate	162.2	66-percent
4 – Severe	156.0	50-percent

* The drought stages take effect when the Toledo Bend water surface elevation falls to and remains at or below the trigger levels for 14 consecutive days.

[9] The Mild, Moderate, and Severe Drought Stages are dictated by SRA-TX's state-approved Water Conservation and Drought Contingency Plan (WCDCP). While not required by the WCDCP, SRA-TX proposes to implement a Watch Drought Stage at lake elevation 168 ft-msl for purposes of this DCP.

4.0 DEVIATIONS TO MINIMUM RELEASES

Article 416 of the license also requires this DCP to include "deviations, if any, to minimum releases." Because Article 402 already prescribes continuous flow releases during periods of low Reservoir levels, no deviations to releases from the Project are needed in this DCP. The requirements of Article 402 will continue to apply during all drought stages.

5.0 WATER SUPPLY CONSERVATION MEASURES

Article 416 requires this DCP to include water supply conservation measures. Accordingly, this section establishes conservation measures that the Authorities will implement at each drought stage described in Section 3.0, above.

Stage 1 – Drought Watch Conditions (Water Surface Elevation 168.0 ft-msl)

Goal: Curtail hydropower generation.

Measures:

- Curtail hydropower generation, except as authorized under Article 406 of the FERC License.

Stage 2 – Mild Water Shortage Conditions (Water Surface Elevation 165.1 ft-msl)

Goal: Inform the Authorities' customers and the general public of the situation and encourage voluntary water use reductions.

Measures:

- Curtail hydropower generation, except as authorized under Article 406 of the FERC License.
- When mild water shortage conditions exist, the Authorities will notify their water supply customers of the drought condition. Additionally, the Authorities will issue an advisory to be posted on their respective websites to inform the general public of the drought condition. Customers, as well as the general public, can monitor the Toledo Bend water surface elevation on a daily basis at the National Weather Service website[10] or on a near-real-time basis on the U.S. Geological Survey Website.[11]
- The Authorities' water supply customers will be asked to activate an appropriate system for answering inquiries from the citizens, such as website postings that provide a mechanism for requesting assistance. In addition, the Authorities will request each of their water supply customers to implement their individual measures for mild water shortage conditions. At the same time, the Authorities will work with their water supply customers to initiate discussion of the drought condition and its impact on the water supply situation with the news media.
- The Authorities will inform their customers and the news media of the termination of the mild water shortage conditions in the same manner as in its initiation.

Stage 3 – Moderate Water Shortage Conditions (Water Surface Elevation 162.2 ft-msl)

[10] Sabine River at Toledo Bend Reservoir, http://water.weather.gov/ahps2/hydrograph.php?wfo=lch&gage=bklt2, referenced 10/2/2015.
[11] USGS 08025350 Toledo Bend Reservoir near Burkeville, TX, http://waterdata.usgs.gov/tx/nwis/uv/?site_no=08025350, referenced 10/2/2015.

Goal: Achieve a 10 percent reduction in total water use through implementing reductions in non-essential outdoor water use.

Measures:

- Curtail hydropower generation, except as authorized under Article 406 of the FERC License.
- When moderate water shortage conditions exist, the Authorities will notify their water supply customers of the drought condition. Additionally, the Authorities will issue an advisory to be posted on the Authorities' respective websites to inform the general public of the drought conditions. This information will be given at weekly intervals as long as the moderate drought condition continues. The Authorities will continue to advise their customers of the Toledo Bend Reservoir water surface elevation every business day on the Authorities' respective websites.
- During the moderate water shortage conditions, the Authorities may curtail water delivered to its water supply customers, if necessary and as may be authorized by the governing water supply contract(s). The Authorities' General Manager (SRA-TX) and Executive Director (SRA-LA) shall establish the methodology for determining curtailment of the water delivery (see Water Allocation, below) for the Authorities' respective water supply customers.
- Using local news media or direct contact, the Authorities may request their water supply customers to curtail non-essential outdoor uses such as lawn irrigation, vehicle washing, filing of swimming pools, or routine maintenance of facilities.
- SRA-TX will notify the Executive Director of the TCEQ within five business days of implementing any mandatory provisions of the SRA-TX Water Conservation and Drought Contingency Plan ("WCDCP").
- The Authorities will inform their customers and the news media of the termination of the mild water shortage conditions in the same manner as in its initiation.

<u>Stage 4 – Severe Water Shortage Conditions (Water Surface Elevation 156.0 ft-msl)</u>

Goal: Achieve a 20 percent reduction in total water use.

Measures:

- Curtail hydropower generation, except as authorized under Article 406 of the FERC License.
- When severe water shortage conditions exist, the Authorities will notify their water supply customers of the drought condition. Additionally, the Authorities will issue a press release, to be posted on the Authorities' respective websites and delivered to local media, to inform the general public of the serious water supply drought conditions.
- Weekly update reports will be issued to the Authorities' water supply customers and the news media. The Authorities may call emergency meetings with their water supply customers to discuss major operational changes if it is determined that such action is necessary during severe drought conditions. The Authorities will continue to advise their water supply customers of the Reservoir water surface elevation every business day on the Authorities' respective websites.

- The Authorities may request their customers prohibit all outdoor water use (except for livestock watering) and to activate applicable drought measures to reduce indoor uses until the drought condition changes to a moderate condition or better.
- As authorized by the governing water supply contract(s), the Authorities may reduce water delivery to their respective customers as the situation dictates. See Water Allocation, below.
- SRA-TX will notify the Executive Director of the TCEQ within five business days of implementing any mandatory provisions of the SRA-TX WCDCP.
- The Authorities will inform their customers and the news media of the termination of the mild water shortage conditions in the same manner as in its initiation.

Water Allocation

As described in more detail in Section 7 below, water allocations to meet the Project's primary purpose of water supply are governed by the Sabine River Compact, Texas and Louisiana state law, water supply contracts, and the policies established by the Authorities' respective Boards of Directors. The General Manager (SRA-TX) and Executive Director (SRA-LA) have the discretion to determine water allocations pursuant to state law, contractual requirements, and their respective Board policies.

The General Manager/Executive Directory of each Authority shall establish the methodology for determining curtailment of water delivery. In the event of a stage 3 or stage 4 drought the General Manager/Executive Director will initiate appropriate measures described in this DCP, including reductions in the allocation of diversions to achieve the goals of the required drought stage.[12] When water allocation is in effect, water diversions by or deliveries to each wholesale customer shall be limited to the monthly allocation established for each customer during the designated drought condition unless explicitly modified through a variance as outlined below.

Variances

Upon request, the General Manager/Executive Director of the respective Authority may grant a temporary variance to water allocation policies provided herein if it is determined that failure to grant such variance would cause conditions adversely affecting an entity's public health, welfare, safety, or economy.

[12] For SRA-TX, these reductions to allocations will be in accordance with Texas Water Code §11.039, http://www.statutes.legis.state.tx.us/Docs/WA/htm/WA.11.htm, referenced 10/2/2015.

6.0 MEASURES DESIGNED TO MAINTAIN PUBLIC RECREATIONAL ACCESS

Finally, Article 416 requires this DCP to include measures designed to maintain public recreational access during drought conditions. The Authorities own and operate sixteen Toledo Bend Recreation Facilities ("TBRF") that provide recreational access to the Project.[13] Several TBRFs provide public boat launch accessibility during drought conditions, as shown in the following table:

Provide Access Down to Drought Stage	Recreation Facility	Owner/Manager	Accessible to ft-msl
Above Mild Drought Stage (> 165.1 ft-msl)	Blue Lake Landing Recreation Area	SRA-LA	165.5
	Bubba Cowser Recreation Facility[14]	SRA-TX	165.2
Moderate Drought Stage to Mild Drought Stage (162.2 ft-msl – 165.1 ft-msl)	Converse Bay Recreation Area	SRA-LA	164.0
Severe to Moderate Drought Stage (156 ft-msl – 162.2 ft-msl)	Pleasure Point Park	SRA-LA	161.5
	San Miguel Park	SRA-LA	160.0
	Oak Ridge Park	SRA-LA	159.0*
	Cypress Bend Park	SRA-LA	158.0*
	Sam Force Collins Recreation Area	SRA-TX	158.0*
	Swede Johnson Recreation Area	SRA-TX	157.0*

*TBRF boat ramps were accessible at the historic low post-impoundment lake level of 159.51 ft-msl on November 11, 2011, during the most severe drought conditions experienced on Toledo Bend Reservoir.

[13] Refer to the Authorities Recreation Management Plan Table 2.0-1 pg. 5.
[14] Bubba Cowser Recreation Area boat launch is situated on the banks of Tenaha Creek, a shallow cove; access limitations are not related to the boat launch, but rather to the depth of the creek it is situated on.

7.0 RELATIONSHIP WITH OTHER LAWS

Because this DCP involves measures to be taken by the Authorities during drought conditions, including conservation measures and temporary allocation reductions of existing water supply agreements, other federal and state laws may apply when implementing this DCP. While the Authorities will make every reasonable effort to comply with all governing requirements, in the event of any irreconcilable conflict between this DCP and other governing law, the Authorities will seek an amendment to this DCP as provided in Section 8.0, below.

Federal and state laws related to this DCP include, but are not limited to, the authorizing legislation for both SRA-TX and SRA-LA; the Sabine River Compact; water rights laws of both states; and Texas water planning requirements. Each of these existing authorities is discussed below.

Authorizing Legislation for the Authorities

SRA-TX was created by the Legislature in 1949 as an official agency of the State of Texas.[15] SRA-TX was created as a conservation and reclamation district with responsibilities to control, store, preserve, utilize, and distribute the waters of the Sabine River and its tributary streams in the Texas portion of the Sabine River Basin, and provide for the control and regulation of such waters for beneficial public uses.[16]

SRA-LA was formed in 1950 by the Louisiana Legislature to "conserve, store, control, preserve, utilize, and distribute the waters of the rivers and streams of the Sabine watershed."[17] Its authorizing legislation also enables SRA-LA to provide for the control and coordination of the regulation of the Sabine River and its tributaries in Louisiana for the beneficial use of these waters for industrial, commercial, municipal, and agricultural purposes and for economic utilization and preservation of the waters of the Sabine River and its tributaries.[18]

Sabine River Compact

The Sabine River Compact, an interstate compact between Texas and Louisiana and approved by Congress, allocates the waters of the Sabine River Basin between the two states, downstream from the point in which the Sabine River becomes the boundary between the two states.[19] Among other things, the Compact created the Sabine River Compact Administration, which is charged to work with the state officials that administer water rights in Texas and Louisiana in, making findings related to Texas' deliveries of flows at the point where the Sabine River becomes the state line, determining quantities of reservoir storage and releases allocable to the states, and approving points of diversion in the Sabine River basin (after such diversions are approved by the applicable state authority).[20]

[15] Act of April 27, 1949, 51st Leg., R.S., Ch. 110, 1949 Tex. Gen. Laws 193.
[16] 1949 Tex. Gen. Laws 193 (Secs. 1, 14(a)).
[17] La. Rev. Stat. Ann. § 38:2325(A)(10).
[18] *Id.* §§ 38:2325(A)(10)(a), (h).
[19] Pub. L. No. 83-578, 68 Stat. 690 (1954). In Texas, the Compact is set forth in 3 Tex. Water Code chapter 44 (2013); in Louisiana, La. Rev. Stat. Ann. § 38:2329 (2014).
[20] Compact, 68 Stat. at 693 (Art. VII(g)).

State Water Rights Laws

Texas has a dual system of water rights that recognizes both riparian and appropriative rights, and has adopted a comprehensive system for administering both classes of water rights.[21] Pursuant to its authorizing legislation, SRA-TX grants authorizations to municipalities, individuals, and businesses to take and use water from the Sabine River for the beneficial uses of municipal, domestic, commercial, agricultural, and industrial water supply.

Louisiana's system of water law is similar to a riparian system.[22] As the manager of Louisiana's share of Sabine River waters, SRA-LA authorizes uses, diversions, and appropriation of Sabine River water for a variety of beneficial uses on behalf of the state.

Texas Water Planning Requirements

As a Texas wholesale water supplier, SRA-TX is required to have a Drought Contingency Plan by Title 30, Texas Administrative Code ("TAC") §288.22.[23] SRA-TX also has a Water Conservation Plan as required by Title 30, TAC §288.5.[24] These two required plans are combined into SRA-TX's WCDCP. Among other things, the WCDCP establishes criteria and actions required for specified drought response stages for Toledo Bend Reservoir in order to conserve available water supply. It is required to be reviewed and updated, if appropriate, every five years. SRA-TX's latest Texas Commission on Environmental Quality-approved WCDCP is dated May 2014 and was adopted by SRA-TX's Board of Directors on July 10, 2014.[25]

[21] Tex. Water Code §§ 11.301 - 11.341.
[22] *E.g.*, La. Civ. Code Ann. arts. 450, 657, 658. La. Const. art. IX § 1.
[23] Drought Contingency Plans for Wholesale Water Suppliers. Louisiana state law does not require SRA-LA to have a drought contingency plan.
[24] Water Conservation Plans for Wholesale Water Suppliers.
[25] Water Conservation and Drought Contingency Plan, Sabine River Authority of Texas (Revised May 2014, Adopted July 10, 2014), http://www.sratx.org/basin/water_conservation/Conservation_and_Drought_Contingency_Plan/, referenced May 27, 2015.

8.0 PERIODIC REVIEW AND AMENDMENT TO PLAN

The Authorities will review this DCP every ten years during the license term, and as needed following any relevant changes to other laws described in Section 7, in an effort to maintain the DCP's consistency with such laws and the Authorities' other responsibilities with respect to drought management and water conservation. In the event that changes to the DCP are required, whether upon routine review or to conform the DCP to reflect a change in relevant legal requirements, the Authorities will file an amended DCP for Commission review and approval.

Attachment C

Extension of Time for Submitting Final Draft Contingency Plan

Toledo Bend Project Joint Operation

Sabine River Authority of Texas

Sabine River Authority State of Louisiana

Via Electronic Filing

September 22, 2016

FERC Project No. 2305

Ms. Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street NE
Washington, DC 20426

RE: Toledo Bend Project, FERC Project No. 2305;
Request for Extension of Time to Submit Drought Contingency Plan Under Article 416

Dear Secretary Bose:

On August 29, 2014, the Federal Energy Regulatory Commission (FERC or Commission) issued a new 50-year license to co-licensees Sabine River Authority of Texas (SRA-TX) and Sabine River Authority, State of Louisiana (SRA-LA) (collectively, the "Authorities" or "licensees") for the continued operation of the Toledo Bend Project, FERC Project No. 2305 (Project).[1] On April 16, 2015, the Commission issued an Order on Hearing and Clarification that revised the license issued August 29, 2014, to include Article 416 *Drought Contingency Plan*.[2]

Article 416 requires the Authorities to file a drought contingency plan for Commission approval within 18 months of the April 16, 2015, Order on Rehearing and Clarification (by October 16, 2016). The drought contingency plan must identify the water conservation and reservoir public access measures that the licensees will implement during drought conditions, as defined in the plan. The plan should include: (1) the lake level that would trigger the implementation of the plan; (2) deviations, if any, to minimum releases; (3) water supply conservation measures; and (4) measures designed to maintain public recreational access to the project during the drought.

The plan must be developed after consultation with the Texas Commission on Environmental Quality, Texas Water Development Board, Texas Parks and Wildlife Department, Louisiana Department

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[1] *Sabine River Auth. of Texas and Sabine River Auth., State of Louisiana,* 148 FERC ¶ 62,171, Order Issuing New License (2014).

[2] *Sabine River Auth. of Texas and Sabine River Auth., State of Louisiana,* 151 FERC ¶ 61,037, Order on Rehearing and Clarification (2015).

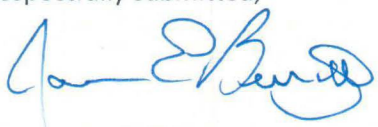
TOLEDO BEND PROJECT JOINT OPERATION

of Environmental Quality, Louisiana Department of Wildlife and Fisheries, U.S. Fish and Wildlife Service, U.S. Forest Service-Sabine National Forest, the Authorities' water supply customers, and the Toledo Bend Citizens Advisory Committee. The licensees must include with the plan documentation of consultation. The licensees must allow a minimum of 30 days for these stakeholders to comment and to make recommendations before filing the plan with the Commission. If the licensees do not adopt a recommendation, the filing must include an explanation of the licensees' decision, based on project-specific reasons.

To meet Article 416 consultation requirements, the Authorities provided a Draft Drought Contingency Plan to the stakeholders listed in Article 416 by letter dated September 6, 2016. The Authorities have received communication from the Toledo Bend Citizens Advisory Committee (TBCAC) requesting additional time to comment on the Draft Drought Contingency Plan. The Authorities are agreeable to allowing additional time for TBCAC to comment, contingent upon FERC granting an extension to the October 16, 2016 filing date. Accordingly, the Authorities request a 60-day extension to the filing deadline so that additional consultation time can be allowed to TBCAC as well as provide the Authorities time to address their comments. With the extension, the new deadline to file the drought contingency plan would be December 15, 2016.

If you have any questions regarding this request for consultation, please contact me at (409) 746-2192 or jbrown@sratx.org.

Respectfully submitted,



Jim Brown, TBPJO Compliance Officer

Document Content(s)

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Sabine River Authority of Texas
Sabine River Authority of Louisiana

Project No. 2305-036

ORDER GRANTING EXTENSION OF TIME PURSUANT TO ARTICLE 416

(October 4, 2016)

1. On September 22, 2016, Sabine River Authority of Louisiana and Sabine River Authority of Texas (licensees or Authorities) filed a request with the Federal Energy Regulatory Commission (Commission) for an extension of time for the Toledo Bend Hydroelectric Project No. 2305. The licensees are requesting a 60 day extension of time, until December 15, 2016, to file the Drought Contingency Plan (plan) pursuant to Article 416. The project is located on the Sabine River on the Texas-Louisiana border in Panola, Shelby, Sabine, and Newton counties in Texas and DeSoto, Sabine, and Vernon Parishes in Louisiana. The project occupies federal land within the Sabine National Forest (3,650 acres) and the Indian Mounds Wilderness Area (147 acres), administered by U.S. Department of Agriculture, Forest Service (Forest Service).

Background

2. Article 416 was included in the project license[1] by the Order on Rehearing and Clarification (Rehearing).[2] Article 416 requires the Authorities to file a drought contingency plan for Commission approval within 18 months of the April 16, 2015, Rehearing (by October 16, 2016). The drought contingency plan must identify the water conservation and reservoir public access measures that the licensees will implement during drought conditions, as defined in the plan. The plan should include: (1) the lake level that would trigger the implementation of the plan; (2) deviations, if any, to minimum releases; (3) water supply conservation measures; and (4) measures designed to maintain public recreational access to the project during the drought.

[1] Order Issuing New License (148 FERC ¶ 62,171) issued August 29, 2014.

[2] Order on Rehearing and Clarification (151 FERC ¶ 61,037) issued April 16, 2015.

3. The plan must be developed after consultation with the Texas Commission on Environmental Quality, Texas Water Development Board, Texas Parks and Wildlife Department, Louisiana Department of Environmental Quality, Louisiana Department of Wildlife and Fisheries, U.S. Fish and Wildlife Service, U.S. Forest Service-Sabine National Forest, the Authorities' water supply customers, and the Toledo Bend Citizens Advisory Committee (collectively, resource agencies). The licensees must include with the plan documentation of consultation. The licensees must allow a minimum of 30 days for these stakeholders to comment and to make recommendations before filing the plan with the Commission. If the licensees do not adopt a recommendation, the filing must include an explanation of the licensees' decision, based on project specific reasons.

Licensees' Request

4. The licensees provided a Draft Drought Contingency Plan to resource agencies on September 6, 2016. The Toledo Bend Citizens Advisory Committee subsequently requested additional time to comment on the draft. The licensees are requesting a 60 day extension of time in order to allow the Toledo Bend Citizens Advisory Committee additional time to comment on the draft.

Discussion

5. The licensee is requesting a 60 day extension of time in order to allow the Toledo Bend Citizens Advisory Committee additional time to comment on the draft. Commission staff reviewed reservoir elevation data for the U.S. Geological Service Gage 08025350 Toledo Bend Reservoir near Burkeville, Texas[3] and determined that the lowest elevation experienced in the last 4 years at the project was approximately 165.0 above NGVD 1929 feet. The minimum allowable reservoir elevation without enacting the drought contingency plan is 162.2 feet. Based on this information, Commission staff determined that it was unlikely the Plan would need to be enacted during the 60 day extension of time that the licensee has requested. However the licensee should continue to operate their project with 162.2 feet as the minimum allowable reservoir elevation until the Plan is approved by the Commission. Furthermore, the licensee prepared the Plan within a reasonable timeframe, and the request is intended to accommodate the Toledo Bend Citizens Advisory Committee request for additional time to comment on the Plan; therefore the licensee's request is reasonable and should be approved.

[3] http://nwis.waterdata.usgs.gov/tx/nwis/uv?cb_62614=on&format=gif_default&site_no=08025350&period=&begin_date=2012-09-23&end_date=2016-09-30

The Director orders:

(A) Sabine River Authority of Louisiana and Sabine River Authority of Texas' September 22, 2016, request for a 60 day extension of time until December 15, 2016, to file the Drought Contingency Plan with the Federal Energy Regulatory Commission (Commission) for the Toledo Bend Hydroelectric Project No. 2305, is approved.

(B) This order constitutes final agency action. Any party may file a request for rehearing of this order within 30 days from the date of its issuance, as provided in § 313(a) of the FPA, 16 U.S.C. § 825*l* (2012), and the Commission's regulations at 18 C.F.R. § 385.713 (2016). The filing of a request for rehearing does not operate as a stay of the effective date of this order, or of any other date specified in this order. The licensee's failure to file a request for rehearing shall constitute acceptance of this order.

Thomas J. LoVullo
Chief, Aquatic Resources Branch
Division of Hydropower
Administration and Compliance

Document Content(s)

Attachment D

Comment/Response Table and Comments Received on Draft Drought Contingency Plan

SABINE RIVER AUTHORITY OF TEXAS
SABINE RIVER AUTHORITY, STATE OF LOUISIANA

Toledo Bend Project
(FERC NO. 2305)

Responses to Comments on Drought Contingency Plan

Commenter	Comment	Response
Section 3.0 – Reservoir Trigger Levels for Implementation		
Texas Parks and Wildlife Department (TPWD)	TPWD recommends that the table presented in Section 3.0 be modified to include reservoir triggers and volumes plus a column with the actual water conservation targets.	This comment is accommodated in the final Drought Contingency Plan (DCP) by modifying the table in Section 3.0 to add columns for "Volume in Toledo Bend Reservoir at Drought Trigger (ac-ft)" and "Drought Response: Water Use Reduction Target".
TPWD	TPWD recommends the DCP be modified to include drought stage termination criteria with adequate time durations built in to prevent excessive toggling between stages. Termination criteria of the DCP can be similar to the requirements in the Water Conservation and Drought Contingency Plan, Sabine River Authority of Texas (Revised May 2014, Adopted Jul 10, 2014) since the plans are structured similarly.	This comment is accommodated in the final DCP by language added to the note below the lake level trigger table on page 7.

Commenter	Comment	Response
Toledo Bend Citizens' Advisory Committee (TBCAC)	TBCAC commented that the drought stage table has a footnote that "The Mild, Moderate, and Severe Drought Stages are dictated by SRA-TX's state-approved Water Conservation and Drought Contingency Plan (WCDCP). The word "dictated" is the issue." TBCAC also comments that "the state-approved Texas WCDCP only applies to the state of Texas and not to the state of Louisiana. Since Toledo Bend Reservoir has shoreline in both Texas and Louisiana, the proposed drought contingency plan for Toledo Bend Reservoir is subject to negotiation by agencies in both states and the Texas WCDCP should not be arbitrarily applied to Toledo Bend Reservoir. Revisions to the plan that are not in agreement with the Texas (WCDCP) can certainly be made."	This comment is accommodated in the final DCP by changing the word "dictated" in footnote 9 to clarify that the triggers are "generally consistent with" the Sabine River Authority of Texas' (SRA-TX) state-approved WCDCP. Co-licensees SRA-TX and Sabine River Authority, State of Louisiana (SRA-LA) (collectively, the Authorities) recognize that the WCDCP applies only in areas of Texas managed by SRA-TX. The drought triggers listed in the table in Section 3.0 Reservoir Level Triggers for Implementation were carefully agreed upon by the two Authorities to meet the requirements of both states, and to remain consistent with other requirements of the FERC license. For example, Article 402 of the license already establishes different flow releases during low reservoir levels of 162 ft-msl and 156 ft-msl, and these thresholds were agreed to by federal and state resource agencies and approved by FERC when issuing the new license.

Commenter	Comment	Response
TBCAC	TBCAC commented that the historic low lake level had a devastating impact on tourism and seriously impacted the business community that relies on that tourism. According to TBCAC, the Sabine Parish Tourist and Recreation Commission reported that, in Sabine Parish alone, sales tax revenue was down 33% or about $13 million year over year due to the very low reservoir level. Other Louisiana parishes and Texas counties surrounding Toledo Bend had similar business and sales tax revenue decreases.	The Authorities recognize that drought conditions can have an adverse effect on the local economy, as well as all individuals, families, and businesses that rely on water resources in the Sabine River basin. By way of clarification of TBCAC's comment, sales tax collections in Sabine Parish did decline approximately $13 million in 2012. However, sales tax had increased approximately 40% (about $10 million) in 2010 and again approximately 40% (about $15 million) in 2011. Thus, sales tax collections had increased from an average of $14 million to over $39 million in just two years. This dramatic increase was attributed to the Haynesville Shale play (natural gas exploration). The drop from $39 million to $26 million in 2012 was during the time when the natural gas exploration activity in the area came to a near halt due to the price of natural gas. Sales tax collections have been in the $18 million range for the past three years. Thus, the reduction in local sales taxes cited by TBCAC, while unfortunate, are not the result of drought conditions. The reduction in natural gas exploration during this same time period was far more impactful on local tax revenue.
TBCAC	TBCAC commented that the city of Many had to rely on their underground wells for water supply since their intake conduits from the reservoir were unusable. Several other water customers that rely on the reservoir also had intake problems.	The records from 2011, during the lowest elevation of record for Toledo Bend (159.51 ft-msl), indicate that all metered water customers took and paid for water in amounts similar to their normal use from previous years.
TBCAC	TBCAC recommends revising the Severe Drought Stage to a trigger level of 160.0 ft-msl.	The final DCP does not adopt this recommendation. The Severe Drought Trigger in the final DCP (156 ft-msl) is consistent with Article 402 of the FERC license for the project, which was negotiated and agreed to by federal and state resource agencies and approved by FERC when issuing the new license.

Commenter	Comment	Response
TBCAC	TBCAC recommends revising the asterisk below the table on page 7 to change the drought stages to take effect when the water surface elevation falls to and remains at or below the trigger levels for 7 consecutive days instead of 14 consecutive days.	The final DCP does not adopt this recommendation. A 14-day requirement (both with regard to entering in and emerging from a drought stage) is a more accurate indication of a change in drought stage, as it allows for variable fluctuations in the water surface elevation of Toledo Bend—a reservoir that has a very large surface area that can be impacted by various factors such as wind, boating wakes, evaporation, usage, and inflows.
Section 5.0 – Water Supply Conservation Measures		
TBCAC	TBCAC recommends revising the wording in each Drought Phase to read "stop" rather than "curtail" hydropower generation, except as authorized under Article 406 of the FERC License.	The final DCP adopts this recommendation by making the requested change in the "Measures" section for each drought stage in the DCP.
TBCAC	TBCAC recommends revising the Moderate and Severe Drought Stages to require that media press releases should be circulated to multiple media outlets upon the initiation of each phase to better inform the public.	This comment is accommodated in the final DCP by adding a requirement to issue media releases at the initiation of a Stage 3 moderate water shortage condition. A corresponding requirement for media releases was included in the draft DCP for a Stage 4 severe water shortage condition, and this requirement was retained in the final DCP.
TBCAC	TBCAC recommends revising the wording in the Moderate and Severe Drought Stages from "the Authorities may" to read "the Authorities WILL" take action to curtail water delivery.	The final DCP does not adopt this recommendation. The Authorities' decision of whether to curtail a water customer requires a complex assessment of contractual legal requirements, state laws and regulations, the policies of each Authority, and the facts and circumstances of each drought circumstance and customer. As such, it would be inappropriate for the DCP to include a blanket mandate to curtail water deliveries each time a Stage 3 or Stage 4 circumstance occurs at the Project. For these reasons, the final DCP provides only that the Authorities "will reduce" water deliveries only if circumstances warrant, and only as authorized by state law, the specific contract in question, and the facts as warranted in each circumstance.

Commenter	Comment	Response
TBCAC	TBCAC recommends revising the wording in the Moderate and Severe Drought Stages to require that SRA-TX and SRA-LA notify their respective state agencies within five business days of implementation of this Drought Contingency Plan. Current language only refers to the notification of the TCEQ.	The final DCP adopts this recommendation by making the requested change.
TBCAC	TBCAC recommends adding language that requires consultation with SRA-TX at each Drought Stage to determine if out-flows from Lakes Tawakoni, Fork and Cherokee can be increased to provide drought relief to Toledo Bend.	The final DCP does not adopt this recommendation, as it would interfere with requirements of the Sabine River Compact, which already apportions waters between the states of Louisiana and Texas and dictates flows that Texas must provide at the point where the Sabine River becomes the boundary between the states of Louisiana and Texas.
TBCAC	TBCAC recommends the wording in paragraph 2 of the "Water Allocation" section to read "The General Manager/Executive Director of each Authority have jointly established the methodology for determining curtailment of water delivery at the Moderate and Severe Drought Phases. This methodology is described herein and reflects the actions to be taken by both Authorities.	The final DCP does not adopt this recommendation. The DCP already provides sufficient detail of how the SRA-TX General Manager and SRA-LA Executive Director will decide whether to curtail water delivery during Stage 3 and Stage 4 drought conditions. As noted above and in the DCP, these decisions will involve an evaluation of state law and contractual obligations, the facts and circumstances of each drought condition and customer, and individual governing policies of the applicable Authority's Board.

Commenter	Comment	Response
TBCAC	TBCAC recommends a Moderate Drought Phase goal to achieve a 25% reduction in total water use through restrictions on both outdoor and indoor use.	The final DCP does not adopt this recommendation. Because water rights allocations in the State of Texas are developed based upon establishing a firm yield during the drought of record, water supply contracts already reflect the potential reduction in available water during drought conditions. Moreover, a 25% reduction is both unrealistic and inflexible, and TBCAC provides no basis for imposing an arbitrary goal that would have a substantially adverse impact on the individuals, families, businesses and industries that rely on the reliable source of water provided by Toledo Bend. Moreover, TBCAC provides no analysis demonstrating that a 25% reduction would have any discernable improvement to water levels at Toledo Bend during a Stage 3 water shortage condition. The Authorities recognize that they should strive to achieve some reductions in total water use during a Stage 3 water shortage condition, but a 10% reduction is more realistic and achieves a better balance between water supply customers and the recreating public at Toledo Bend.

Commenter	Comment	Response
TBCAC	TBCAC recommends the Severe Drought Phase goal to achieve a 50% reduction in total water use through restrictions on both outdoor and indoor use.	The final DCP does not adopt this recommendation. In addition to the reasons stated in the response immediately above, the Authorities would point out that a 50% reduction would be extreme and completely unrealistic in light of the thousands of individuals, families, businesses, and industries that directly rely on Toledo Bend as a reliable source of water—and particularly during drought conditions. In addition, TBCAC has not established that such deep reductions would result in a meaningful improvement in reservoir levels at Toledo Bend during extreme drought conditions, and in analyzing this issue the Authorities have determined that given the large surface area of the reservoir, deep curtailments (even for prolonged periods) would not improve reservoir levels. The Authorities recognize that they should strive to achieve additional reductions in total water use during a Stage 4 water shortage condition, but a 20% reduction is more realistic and achieves a better balance between water supply customers and the recreating public at Toledo Bend.
Section 6.0 –Measures Designed to Maintain Public Recreational Access		
TPWD	TPWD points out that SRA-TX also operates and maintains numerous U.S. Forest Service access points at Toledo Bend Reservoir, and recommends that the DCP should include this information as well.	The final DCP adopts this recommendation by including the U.S. Forest Service boat ramps in the discussion of access points in Section 6.0.
TPWD	TPWD recommends that a measure during drought periods be included in the DCP to clear hazards (i.e., standing timber) from navigation lanes to improve recreational access and safety.	The final DCP adopts this recommendation by adding a new subsection, “Reservoir Navigation,” in Section 6.0.

Section 7.0 –Relationship with Other Laws		
TPWD	TPWD recommends a change in how the DCP describes Texas' water rights system by replacing a passage in the draft DCP with the following sentence: "In Texas, surface water is owned by the state and made available for use by appropriation. Water rights are administered by the Texas Commission on Environmental Quality (Texas Water Code Chapter 11)."	The final DCP adopts this recommendation by making the requested change.

From: Vale, Arturo
To: jbrown@sratx.org
Subject: Re: Request for consultation on TBPJO Draft Drought Contingency Plan
Date: Thursday, September 29, 2016 10:24:25 AM

Mr. Brown,

Thank you for the opportunity to review the Draft Drought Contingency Plan pursuant to Article 416 of the Toledo Bend Hydroelectric Project (FERC No. 2305). The U.S. Fish and Wildlife Service has no comments at this time.

Please let me know if you have any questions or need any additional information.

On Tue, Sep 6, 2016 at 11:04 AM, Jim Brown <jbrown@sratx.org> wrote:

> Consulting Parties on Toledo Bend Project (FERC No. 2305) Drought Contingency Plan (Article 416):
>
> Please find attached our request to review and comment on the Draft Drought Contingency Plan pursuant to Article 416 of the Toledo Bend Hydroelectric Project (FERC No. 2305).
>
> Thank you very much,
>
> Jim Brown
>
> TBPJO Compliance Officer
>
> Sabine River Authority of Texas
>
> P.O. Box 579
>
> Orange, TX 77631-0579
>
> 409-746-2192
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> jbrown@sratx.org

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A.J. Vale
U.S. Fish and Wildlife Service
Fish and Wildlife Biologist
17629 El Camino Real
Houston, TX 77058
281-286-8282 ext. 223
fax. 281-481-5882

From:	John Botros
To:	jbrown@sratx.org
Cc:	A.J. Vale; Stephan Magnelia; Kevin Mayes; Colette Barron Bradsby; Timothy Birdsong; Todd Driscoll
Subject:	RE: Request for consultation on TBPJO Draft Drought Contingency Plan
Date:	Monday, October 3, 2016 10:23:04 AM

Dear Jim,

Thank you for the opportunity to review the Draft Drought Contingency Plan (DCP) prepared for the Toledo Bend Hydroelectric Project (Project) as per Article 416 of License No. 2305 issued by the Federal Energy Regulatory Commission. Texas Parks and Wildlife Department (TPWD) is the state agency charged with the primary responsibility for protecting the state's fish and wildlife resources, providing outdoor recreation opportunities and making recommendations to local, state, and federal agencies that approve, permit, license, or construct developmental projects. We respectfully submit comments and recommendations on the following sections of the Draft DCP.

Section 3.0 – Reservoir Levels Triggers for Implementation

TPWD recommends that the table presented in Section 3.0 be modified to include reservoir triggers and volumes plus a column with the actual water conservation targets. In other words, the table should include how much water would actually be conserved under each stage of the DCP if the conservation target is fully realized.

Section 5.0 – Water Supply Conservation Measures

Section 5.0 presents water conservation goals and measures to be implemented at each stage of drought. Four drought stages or triggers are defined in the DCP according to certain water surface elevations of the reservoir (i.e., elevations between 168.0 and 156.0 feet msl). At each stage of the DCP, adequate initiation measures are identified. However, termination criteria at each stage are lacking. TPWD recommends the DCP be modified to include drought stage termination criteria with adequate time durations built in to prevent excessive toggling between stages. Termination criteria of the DCP can be similar to the requirements in the Water Conservation and Drought Contingency Plan, Sabine River Authority of Texas (Revised May 2014, Adopted Jul 10, 2014) since the plans are structured similarly.

Section 6.0 – Measures Designed to Maintain Public Recreational Access

The content of Section 6.0 merely includes a table of some of the recreational facilities operated on Toledo Bend Reservoir and the corresponding reservoir elevation at which boat launch accessibility exists.

Regarding recreational use and drought, TPWD staff see two related issues – lack of accessible boat ramps during low reservoir levels and boating hazards due to submerged timber. Per the DCP, only two SRA-TX boat ramps are accessible below 165' msl - Sam Force (at the dam) and Swede Johnson (in the river at Joaquin, above the reservoir). At reservoir levels below 165' msl there are approximately 70 miles of reservoir between these two ramps with no SRA-owned access on the Texas side. SRA-TX also operates and maintains numerous US Forest Service access points at Toledo Bend Reservoir. Low water access information on these sites should be included in the DCP as well.

The recreational issue at levels below 163-164' msl involves boating hazards due to submerged timber. Greater than 80% of the reservoir basin is flooded timber. Many of the marked navigational

lanes were cut after the lake filled to a depth of 10' or so. Submerged timber in the navigation lanes is a major hazard as water levels drop below 164' msl, which drastically reduces the recreational use of the reservoir. During 2006 and 2011, water levels were less than 164' msl for extended periods and TPWD local offices received numerous public complaints regarding timber hazards in the boat lanes. TPWD staff recommend that a measure during drought periods be included in the DCP to clear hazards (i.e., standing timber) from navigation lanes to improve recreational access and safety.

Section 7.0 Relationship with Other Laws

State Water Rights Laws

TPWD recommends deleting the following sentence on page 14, and replacing it with subsequent the sentence below:

"Texas has a dual system of water rights that recognizes both riparian and appropriative rights, and has adopted a comprehensive system for administering both classes of water rights."

"In Texas, surface water is owned by the state and made available for use by appropriation. Water rights are administered by the Texas Commission on Environmental Quality (Texas Water Code Chapter 11)."

Thank you,

John Botros
Hydropower Coordinator
TPWD – Inland Fisheries
River Studies Program
Po Box 1685
San Marcos, TX 78667
(512) 754-6844 x258

Life's better outside.®

From: Jim Brown [mailto:jbrown@sratx.org]
Sent: Tuesday, September 06, 2016 12:04 PM
To: A. J. Vale <arturo_vale@fws.gov>; Colette Barron Bradsby <Colette.Barron@tpwd.texas.gov>; Elizabeth Johnson <elizabeth.johnson@la.gov>; Gregg Easley <gregg.easley@tceq.texas.gov>; Jeffrey D. Weller <jeff_weller@fws.gov>; Jerry Ziewitz <Jerry_Ziewitz@fws.gov>; John Botros <John.Botros@tpwd.texas.gov>; Kevin Mayes <Kevin.Mayes@tpwd.texas.gov>; Kimpton Cooper <kmcooper@fs.fed.us>; Mark Wentzel Ph. D. <mark.wentzel@twdb.texas.gov>; Nolan Raphelt <Nolan.Raphelt@twdb.texas.gov>; Reed, Bobby <breed@wlf.la.gov>; Sean Kinney <skinney@wlf.la.gov>; Seth Bordelon <seth_bordelon@fws.gov>

Cc: twilliams@sratx.org; carl.chance@la.gov
Subject: Request for consultation on TBPJO Draft Drought Contingency Plan

Consulting Parties on Toledo Bend Project (FERC No. 2305) Drought Contingency Plan (Article 416):

Please find attached our request to review and comment on the Draft Drought Contingency Plan pursuant to Article 416 of the Toledo Bend Hydroelectric Project (FERC No. 2305).

Thank you very much,

Jim Brown
TBPJO Compliance Officer

Sabine River Authority of Texas
P.O. Box 579
Orange, TX 77631-0579
409-746-2192
409-746-9695 (Fax)
www.sratx.org
jbrown@sratx.org

Comments and Recommendations from the Toledo Bend Citizens' Advisory Committee Regarding the TBPJO Draft Drought Contingency Plan Distributed on September 6, 2016

The Toledo Bend Citizens' Advisory Committee strongly urges serious consideration of the following comments and recommendations.

3.0 Reservoir Level Triggers for Implementation – Page 7

Comments

The drought stage table has a footnote that "The Mild, Moderate, and Severe Drought Stages are **dictated** by SRA-TX's state-approved Water Conservation and Drought Contingency Plan (WCDCP)". The word **"dictated"** is the issue.

In fact, the state-approved Texas WCDCP only applies to the state of Texas and not to the state of Louisiana. Since Toledo Bend Reservoir has shoreline in both Texas and Louisiana, the proposed drought contingency plan for Toledo Bend Reservoir is subject to negotiation by agencies in both states and the Texas WCDCP should not be arbitrarily applied to Toledo Bend Reservoir. Revisions to the plan that are not in agreement with the Texas (WCDCP) can certainly be made.

We have recent evidence of the severe impacts of a 50-year record low level for the reservoir. On November 11, 2011, the lake level was 159.51 msl. On that date, SRA-LA's website showed that 20 of 24 boat launches, on the Louisiana side alone, were unusable. Pictures taken at that level showed a forest of stumps in the main north-south boat lane making navigation very hazardous. In addition, hundreds of homeowners with boat houses/docks found their boats hanging above dry land and docks/walkways with grass growing beneath.

The historic low lake level had a devastating impact on tourism and seriously impacted the business community that relies on that tourism. The Sabine Parish Tourist and Recreation Commission reported that, in Sabine Parish alone, sales tax revenue was down 33% or about $13 million year over year due to the very low reservoir level. Other Louisiana parishes and Texas counties surrounding Toledo Bend had similar business and sales tax revenue decreases.

The city of Many had to rely on their underground wells for water supply since their intake conduits from the reservoir were unusable. Several other water customers that rely on the

reservoir also had intake problems. Volunteer fire departments were unable to use their water intake piping due to the low water level. That situation created a significant fire hazard threat that could have been devastating to the area had there been a wildfire, home fire or other fire-related incident during that time.

All of these **SEVERE** impacts occurred at a reservoir level of **159.51 msl.** The draft document proposes a Severe Drought Phase trigger level of **156.0 msl**. No one in Texas or Louisiana wants to even imagine an elevation of 156.0 msl or 3.49 feet lower than that experienced on November 11, 2011.

Article 416 requires that the drought contingency plan should include "measures designed to maintain public recreational access to the project during the drought". If the Severe Drought Stage trigger is not raised considerably from the recommended 156.0 msl level, we know from actual experience that safe access or, in the case of the proposed **SEVERE** Drought Stage trigger, **ANY ACCESS** to the reservoir will not happen.

Recommendations

1. Revise the **Severe Drought Stage** to a **trigger level of 160.0 msl.**
2. Revise the asterisk below the table on page 7 to change the drought stages to take effect when the water surface elevation falls to and remains at or below the trigger levels for **7 consecutive days** instead of 14 consecutive days.

4.0 Deviations to Minimum Releases – Page 8

No comments or recommendations.

5.0 Water Supply Conservation Measures – Pages 9-11

Comments

The Sabine River and its watershed are impacted certainly by natural phenomena, beyond man's control, along its entire length and width. However, other variables also come into play. No mention is made in the plan concerning those facets of the river system above the mouth of Toledo Bend Reservoir that can impact in-flows and can, to some degree, be controlled. Lakes Tawakoni, Fork and Cherokee are reservoirs upstream that can, depending on their level, affect in-flows to Toledo Bend. Since they are a real impact, consultation with those authorities for in-flow increases to Toledo Bend should be considered in all the water supply conservation measures.

In all four drought stages, curtailment of hydropower generation is the first measure that is listed. To curtail means to shorten or lessen, when the real intent is to **STOP** generation, except

as authorized under article 406 of the FERC License. The wording should be changed from "curtail to "stop".

Water supply out of Toledo Bend Reservoir is currently not a large volume nor a large impact to water levels, since there are no large contracts in place. However, this proposed plan is an appendage to the new 50-year FERC License. Both the SRA-LA and the SRA-TX are entitled to sell 1 million acre feet per year. It is only a matter of time before one or both of the states has a very large water sale agreement. Therefore, the Water Supply Conservation Measures must be stringent enough to really stabilize the lake level in drought conditions. We do not believe that a 10% reduction at the Moderate Stage and 20% reduction at the Severe Stage is sufficient to maintain public recreational access to the reservoir.

At Stage 3 (Moderate Drought Phase), the second bullet point says "the Authorities **may** curtail water delivered to its water supply customers", which means they may or may not enact controls. Reacting to drought conditions at that seriously low level of 162.2 msl should require that the Authorities enact water curtailment. The language in the document should read "**WILL** curtail water delivered" when the reservoir reaches that level.

At Stage 4 (Severe Drought Phase) bullet five has similar wording saying that "the Authorities **may** curtail water delivered to its water supply customers", which means they may or may not enact controls. The language in the document should read "**WILL** curtail water delivered" when the reservoir reaches the recommended revision to the Severe level of 160.0.

In the Moderate (162.2 msl) and Severe (recommended 160.0 msl) Drought Phases, one of the measures is to post the phase being put into effect on the Authorities respective web sites. That is not sufficient notification to the public. It is mentioned that press releases to multiple media outlets will be sent upon the termination of each phase. Press releases to multiple media outlets should also be issued upon the **initiation** of the Moderate and Severe Drought Phases to be sure the water customers realize the importance of adhering to water conservation requirements.

In the "Water Allocation" section (Page 10), it reads that "the General Manager/Executive Director of each Authority **shall** establish the methodology for determining curtailment of water delivery." That methodology is critical to the possible impacts of implementation of the Moderate and Severe Drought Stages and should be established and delineated as part of this Drought Contingency Plan.

Recommendations

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5. Revise the wording in the Moderate and Severe Drought Stages to require that SRA-TX and SRA-LA notify their respective state agencies within five business days of implementation of this Drought Contingency Plan. Current language only refers to the notification of the TCEQ.
6. Add language that requires consultation with SRA-TX at each Drought Stage to determine if out-flows from Lakes Tawakoni, Fork and Cherokee can be increased to provide drought relief to Toledo Bend.
7. Revise the wording in paragraph 2 of the "Water Allocation" section to read "The General Manager/Executive Director of each Authority **have** jointly established the methodology for determining curtailment of water delivery at the Moderate and Severe Drought Phases. This methodology is described herein and reflects the actions to be taken by both Authorities.
8. Revise the Moderate Drought Phase (162.2 msl) goal to **achieve a 25% reduction in total water use through restrictions on both outdoor and indoor use.**
9. Revise the Severe Drought Phase (recommended 160.0 msl) goal to **achieve a 50% reduction in total water use through restrictions on both outdoor and indoor use.**

6.0 <u>Measures Designed to Maintain Public Recreational Access – Page 12</u>

<u>Comments</u>

The lake level table in this section only shows facilities owned and operated by the SRA-LA and SRA-TX. Visitors to the lake use many other facilities that are privately owned. Most of those private facilities' boat launches were of no use during the drought of 2011 when the lake level dropped to 159.51 msl. In fact, many private marinas and boat launches went out of business during the last drought.

The footnote to the table says that "TBRF boat ramps were accessible at the historic low post-impoundment lake level of 159.51 ft-msl on November 11, 2011, during the most severe drought conditions experienced on Toledo Bend Reservoir". **The accessibility levels in the table indicate that 5 of the 9 facilities listed would, in fact, not have been accessible at the level of 159.51 ft-msl.**

None of the SRA facilities, mentioned in the table, would be able to launch boats if the lake went to the proposed Severe level of 156.0 msl.

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Comments

As mentioned earlier in comments to section 3.0, the state of Texas water planning requirements and related legislation in and of themselves alone are not solely binding on the state of Louisiana.

The Texas Water Conservation and Drought Contingency Plan (WCDCP) does not prohibit recommended revisions to this draft Drought Contingency Plan, if the SRA-TX, SRA-LA and FERC feel recommended changes should be made to accomplish the requirements of Article 416 of the FERC Operating License.

8.0 Periodic Review and Amendment to Plan – Page 15

No comments or recommendations.

Toledo Bend Lake Association
P.O. Box 1031, Many, Louisiana 71449
www.toledobendlakeassociation.com
"Dedicated to Serving Toledo Bend Lake"

Jim Brown, Compliance Officer, Toledo Bend Project Joint Operations - jbrown@sratx.org
Thomas J. Lovullo, Chief of Aquatic Resources, Federal Energy Regulatory Commission - Thomas.Lovullo@ferc.gov
Jim Pratt, Executive Director, SRA-LA - jim.pratt@la.gov
David Montagne, General Manager, SRA-TX - dmontagne@sratx.org
Gerald Long, Louisiana State Senator - longg@legis.la.gov

Dear Sirs,

Please be advised that the Board of Directors of the Toledo Bend Lake Association (TBLA) is in agreement with and support the comments and recommendations submitted below by TBCAC regarding the Toledo Bend Project Joint Operation's Draft Drought Contingency plan for Toledo Bend Reservoir. Our organization represents more than 1000 individual Louisiana and Texas members, many of whom are business and property owners who live on and around Toledo Bend. Our organization's mission is to improve the quality of Toledo Bend Reservoir and the amenities surrounding the Lake. We believe that the proposed changes recommended by TBCAC President Jim Mifflin are substantial and important changes to the proposed Drought Contingency Plan and will better protect this important area resource in the event of a future drought like that experienced in 2011. We urge you to seriously consider and adopt TBCAC's recommendations as they will only improve the plan for all stake holders around Toledo Bend.

Respectfully,

Gary Moore,

President

Toledo Bend Lake Association

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