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Toby Baker, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

June 09, 2022

### **CERTIFIED MAIL**

Mr. Edmond R. McCarthy, Jr.  
McCarthy & McCarthy, L.L.P.  
1122 Colorado Street, Suite 2399  
Austin, Texas 78701

Re: Priority Call: Certificate of Adjudication Nos. 14-2472, 14-2549, 14-2550, and 14-2563, Colorado River Basin

Dear Mr. McCarthy:

On June 1, 2022, O.P. Leonard, Jr. Investment Company, Ltd., et al. submitted the complete information required for a priority call for Certificate of Adjudication (COA) Nos. 14-2472, 14-2549, 14-2550, and 14-2563 (Leonard Water Rights) in the Colorado River Basin to the Texas Commission on Environmental Quality (TCEQ). Initial information was provided on May 20, 2022 and additional information to support this priority call was provided on May 23, 2022, May 25, 2022, and June 1, 2022. TCEQ conducted an evaluation of the priority call and is not suspending water rights in response to this priority call because there is water at the priority call location. Additionally, evaluation of the request revealed that diversions under the Leonard Water Rights were not in compliance with the identified COAs.

The evaluation of this priority call included field assessments, which TCEQ conducted on May 24, 2022 at the location of the Leonard Water Rights and eight (8) sites located along the Colorado River from below O.H. Ivie Reservoir downstream to the location of the Leonard Water Rights. Flow measurements and photographs were taken at the time of the assessments. No illegal diversions were identified. Investigators found low flow conditions from below O.H. Ivie Reservoir, with flows declining with travel downstream. The assessments also identified large pools with areas of no flow at the Leonard Water Rights location.

This evaluation also included a review of streamflow data, COA Nos. 14-2472, 14-2549, 14-2550, and 14-2563; the *Order of Modified Final Determination of Claims of Water- Rights in the Middle Colorado Segment of the Colorado River Basin*; and additional information submitted to support the priority call, as listed above. Streamflow data shows that recent rainfall in the area increased flow in the river since TCEQ's March 24, 2022 field assessments. Current flows are sufficient to meet the stated water needs for the Leonard Water Rights.

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In a May 25, 2022 email, Leonard provided information about each of the points where water is diverted under the Leonard Water Rights. As discussed in our May 26, 2022 video call, several of these points are not authorized under the Leonard Water Rights. TCEQ cannot suspend water rights in response to a priority call by a water right holder that is not operating in compliance with their water rights. The TCEQ Water Rights Permitting program is available to assist you in amending these water rights so that the water rights reflect the current locations of your diversion points. You may contact Kim Nygren at 512-239-4644 or [kim.nygren@tceq.texas.gov](mailto:kim.nygren@tceq.texas.gov) for assistance with the water rights amendment process.

If you have questions or need additional information, please contact Kim Nygren at 512-239-4644 or [kim.nygren@tceq.texas.gov](mailto:kim.nygren@tceq.texas.gov) or David VanSoest at 512-239-0468 or [david.vansoest@tceq.texas.gov](mailto:david.vansoest@tceq.texas.gov) for assistance.

Sincerely,

A handwritten signature in black ink, appearing to read 'Toby Baker', written in a cursive style.

Toby Baker  
Executive Director  
Texas Commission on Environmental Quality