



May 15, 2015

David Douglas, Attorney
City of Austin
P.O Box 1088
Austin, Texas 78767-1088

Dear Mr. Douglas:

I watched the presentation of Agenda Item 3D of the May 4, 2015, Public Safety Commission meeting. During that meeting, I learned that information I shared during a no wake zone meeting in Council Member Gallo's office on March 25, 2015, may have been misinterpreted. I would like to take this opportunity to clarify regulations regarding the 50-foot rule LCRA enforces on the Highland Lakes, and to explain why LCRA is not required to post "Slow, No Wake" zones signs.

LCRA Authority

The Lower Colorado River Authority (LCRA) relies on the following statutes and regulations to regulate watercraft operations on the Highland Lakes:

- 1) The Water Safety Act in Chapter 31 of the Texas Parks and Wildlife (TPWD) Code, specifically, sections 31.106 Personal Watercraft and 31.092, Local Regulations; and
- 2) LCRA's Land and Water Use Regulations.

Chapter 55 of the TPWD rules defines a "governmental board" to include the governing board of an incorporated city or town and the governing board of a political subdivision of the state created pursuant to § 59, Article XVI, of the Texas Constitution. A "regulated area" means any area on public water that is designated and posted as a "Slow, No Wake" area.

The TPWD, as reflected in Chapter 55 of its rules, has adopted regulations and criteria relating to boat speed limits and buoy standards. Section 55.303(1) of the TPWD rules authorize governing boards to establish regulated areas under procedures and rules set out in Parks and Wildlife Code, §31.092. Section 55.303(1)(A) goes on to require the designation and posting of regulated areas as "Slow, No Wake" areas. Therefore, a governing body establishing a "no wake zone" under section 55.303 of the TPWD rules is required to place buoys to mark "no wake zones." For instance, Austin would be required to place buoys along the shorelines if it chose to designate "no wake zones" on Lake Bird Lake pursuant to Section 55.303 of the TPWD rules in the administrative code.

Some people contend that LCRA is required by section 55.303((1)(D) to place buoys along the Highland Lake shores, should it want to prohibit boat traffic within 50 feet of the shoreline. However, LCRA does not regulate watercraft pursuant to section 55.303, so that particular section is not applicable to our regulations on the Highland Lakes.

LCRA regulates watercraft on the Highland Lakes pursuant to section 31.092(c), of the Parks and Wildlife Code, which states that:

(c) The governing board of a political subdivision of the state created pursuant to Article XVI, Section 59, of the Texas Constitution¹, for the purpose of conserving and developing the public water of the state, with respect to public water impounded within lakes and reservoirs owned or operated by the political subdivision, may designate by resolution or other appropriate order certain areas as bathing, fishing, swimming, or otherwise restricted areas and may make rules and regulations relating to the operation and equipment of boats which it deems necessary for the public safety. The rules and regulations shall be consistent with the provisions of this chapter.² (emphasis added).

1 LCRA is a conservation and reclamation district, created pursuant to Article XVI, section 59.

2 There are similar provisions authorizing the governing boards of cities or towns and counties to do the same. See, Sections 31.092(a) & (b), Parks and Wildlife Code.

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Section 31.092(c) provides governmental bodies with the authority to designate restricted areas by resolution and also provides them with the authority to adopt rules and regulations relating to the operation of boats. That clearly allows organizations such as LCRA to adopt safety rules such as the regulation in Paragraph 3, Subsection (e) of the LCRA Land and Water Use Regulations, which says:

No person may operate a motorized watercraft on the Highland Lakes at a speed greater than the minimum speed necessary to maintain steerage-way and headway within 50 feet of the shoreline, structures, swimmers or restricted areas.

LCRA's authority to make rules and regulations relating to the operation of boats, as set out in section 31.092(c), Texas Parks & Wildlife Code, is separate from its authority to identify and establish restricted or regulated areas that would be subject to the required postings in section 55.303(1)(D). **Because LCRA is enforcing a "boating operations regulation," and not a "no-wake zone" or "regulated area," LCRA is not required to post "Slow, No Wake" signs along the Highland Lakes.**

LCRA Statements at the March 25, 2015, Meeting

At that meeting, I distributed copies of the LCRA Land and Water Use Regulations. The regulations are LCRA-adopted regulations and include a rule that states, "No person may operate a watercraft on the Highland Lakes at a speed greater than the minimum speed necessary to maintain steerage and headway within 50 feet of the shoreline, structures, swimmers or restricted areas."

I explained that our rule does not create a no wake zone, but is a modification and extension to all watercraft of the 50-foot rule contained in the Texas Water Safety Act that applies to personal watercraft (PWC). Section 31.106 (a)(4) of the Texas Water Safety Acts states "No person shall operate a personal watercraft in the following manner or under the following circumstances...within 50 feet of any other vessel, person, stationary platform or other object, or shore, except at headway speed." Section 55.302(3) of the Texas Parks & Wildlife Department (TPWD) regulations, defines headway speed as slow, idle speed or speed only fast enough to maintain steerage on course.

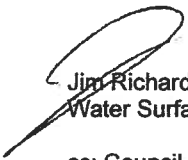
Just as no buoys are required to mark the 50-foot area surrounding the PWC under state law, neither are they required to mark the 50-foot area surrounding all watercraft on the Highland Lakes under LCRA's regulations. The 50-foot area moves with the watercraft and is not stationary.

Cody Jones, with Texas Parks and Wildlife, contended that LCRA's regulation was unenforceable under the Texas Water Safety Act. I countered by saying the LCRA enforces this regulation, but any citations issued under the Water Safety Act would be for reckless operation. There was no disagreement with this statement, and I stand by it today. Perhaps I should have added that LCRA enforces its rule under the Land and Water Use regulations adopted by the LCRA Board of Directors after extensive public input.

This is not unlike the unique rules adopted by the City of Austin for the management of Lake Austin, including the prohibition of personal watercraft on certain holiday weekends. This prohibition is not enforceable under the Texas Water Safety Act. It is, however, enforceable under Austin's adopted regulations.

If you have any questions or need additional information, please contact me at 512-730-6882.

Sincerely,



Jim Richardson, Manager
Water Surface Management

cc: Council Member Gallo
Cody Jones, TPWD

SUNRISE BEACH

alan roddy

From: "Alan Roddy" <aroddy@austin.rr.com>
To: "Alan Roddy" <aroddy@austin.rr.com>
Sent: Tuesday, July 21, 2015 3:36 PM
Subject: Fw: Sunrise Beach lake patrol

----- Original Message -----

From: policechief@cityofsunrisebeach.org
To: [Alan Roddy](#)
Sent: Monday, July 20, 2015 4:59 PM
Subject: Re: Sunrise Beach lake patrol

Mr. Roddy,

Sorry for the slow response. Yes we have a lake patrol but our boat is down until the end of the month. We enforce all the same laws as LCRA and Texas Parks and Wildlife Game Wardens. Game Wardens are on the lake most weekends and some week days. Until we are up again, I would suggest that you call in any information about boating violations to them. The Game Wardens are dispatched by Llano County Dispatch. Sunrise Beach PD is also dispatched by Llano County Dispatch at 325-247-5767.

Please let me know if I can help in any other way.

Laurie Brock
Chief of Police

Sent from Windows Mail

From: [Alan Roddy](#)
Sent: Monday, June 29, 2015 1:05 PM
To: policechief@cityofsunrisebeach.org

I've been told that Sunrise Beach has a 'lake patrol' on Lake LBJ. Does your office enforce the LCRA's Highland Lake regulations? Does your office enforce the LCRA's '50-Foot No Wake Zone' rule for boats? Thank you for your help.
Alan Roddy

alan roddy

From: "Alan Roddy" <aroddy@austin.rr.com>
To: "Alan Roddy" <aroddy@austin.rr.com>
Sent: Monday, May 04, 2015 12:36 PM
Subject: Marble Falls Boat Patrol

Marble Falls Boat Patrol Mission Statement

"The Marble Falls Police Department's Marine Safety Division protects recreational users by providing law enforcement on Lake Marble Falls. The Marine Safety Division combines enforcement and education to ensure safety and maintain quality recreational opportunities for every citizen and guest of The City of Marble Falls. The Marine Safety Patrol treats every contact during the season as an educational opportunity for the boater. The Marine Unit's primary goals are to educate the boating public, promote boating safety, and enforce marine laws. Since establishing the Marble Falls Police Department Marine Safety Patrol, the marine unit has been actively patrolling the Colorado River (Lake Marble Falls) conducting safety checks, providing free educational materials, and enforcing boating violations."

Mr. Roddy,

The Marble Falls Police Dept. officers assigned to lake patrol are trained and certified by the Texas Parks & Wildlife Department as Marine Safety Enforcement Officers which authorizes them to enforce the Texas Parks & Wildlife Rules on Lake Marble Falls.

The 50ft. Rule is enforced with or without the warning buoys at all times but if "No Wake" is enforced it must have a "No Wake" buoy advising of such.

Our experience has been the 50ft. Rule is the largest offense we deal with on Lake Marble Falls and we ask the boater if they have ever heard of the 50 ft. Rule, 95% of the boaters give us the "Deer in the Headlight" look. Our next question is whether they have completed a Boater Safety Course and once again 95% of them answer "No".

Our Department will give one (1) warning and if we see or receive another complaint the offenders will be escorted off the lake and banned for the rest of the weekend.

We want everyone to enjoy our Lake but in a safe manner.

Thank you for your inquiry, I hope this will help you in the long run. Contact me if you have any further questions.

Be safe,

	<p><i>Ted Young</i></p> <p>Captain – Police Department</p> <p>City of Marble Falls – 209 Main Street - Marble Falls, TX 78654</p> <p>Office: 830-693-3611</p> <p>Fax: 830-693-5481</p> <p>Cell: 512-755-3425</p> <p><i>Visit us on the web at www.ci.marble-falls.tx.us</i></p>
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TRAVIS COUNTY

alan roddy

From: "Alan Roddy" <aroddy@austin.rr.com>
To: "Alan Roddy" <aroddy@austin.rr.com>
Sent: Tuesday, July 21, 2015 3:34 PM
Subject: Fw: {EXTERNAL} Lake Patrol

----- Original Message -----

From: [Kasben Harris](#)
To: [Alan Roddy](#)
Sent: Tuesday, July 21, 2015 2:52 PM
Subject: RE: {EXTERNAL} Lake Patrol

YES...THE ONLY ENFORCEMENT AGENCY IN LAKE TRAVIS

From: Alan Roddy [mailto:aroddy@austin.rr.com]
Sent: Tuesday, July 21, 2015 2:17 PM
To: Kasben Harris
Subject: {EXTERNAL} Lake Patrol

Does the Travis County Lake Patrol enforce all of the LCRA's Highland Lake rules when it patrols Lake Travis, including the LCRA's '50-Foot No Wake Zone' rule for all boats?
Alan Roddy

TPWD - no Buoy Requirement

alan roddy

From: "Alan Roddy" <aroddy@austin.rr.com>
To: "Alan Roddy" <aroddy@austin.rr.com>
Sent: Sunday, June 28, 2015 4:12 PM
Subject: Fw: LCRA's '50-Foot No Wake Zone'

----- Original Message -----

From: [Larry Young](#)
To: [Carter Smith](#)
Cc: [Alan Roddy](#) ; [Cody Jones](#) ; [Les Casterline](#) ; [Kerry Spears](#) ; [Ann Bright](#)
Sent: Monday, May 25, 2015 11:57 AM
Subject: Re: LCRA's '50-Foot No Wake Zone'

Mr. Roddy,

Thank you for your email.

Enforcement of TPWD Code 31.106 (a) (4) does not require placement of buoys.

Larry E. Young
Major Game Warden - Headquarters Staff
Larry.Young@tpwd.texas.gov

On May 25, 2015, at 11:42 AM, Carter Smith <Carter.Smith@tpwd.texas.gov> wrote:

Mr. Roddy,

Thank you for your note. I will make sure someone responds to your inquiry tomorrow. All our law enforcement personnel are occupied today with flooding events in the area. We will get back with you.

Thank you.

Best,

C. Smith

Sent from my iPhone

On May 25, 2015, at 11:36 AM, Alan Roddy <aroddy@austin.rr.com> wrote:

Will you please clarify rule 31.106 (personal watercraft) in the Texas Water Safety Act? Does 31.106 (4) require buoys to be placed in a lake to enforce this rule?

31.106 (Personal Watercraft) (a) No person shall operate a personal watercraft in the following manner or under the following circumstances:

(4) within 50 feet of any other vessel, person, stationary platform or other object, or shore, except at headway speed.

TPWD -31.106 (Personal Watercraft) (a) No person shall operate a personal watercraft in the following manner or under the following circumstances: (4) within 50 feet of any other vessel, person, stationary platform or other object, or shore, except at headway speed. (No Buoys Required)

LCRA's '50-Foot Rule' -No person may operate a motorized watercraft on the Highland Lakes at a speed greater than the minimum speed necessary to maintain steerage - way and headway within 50 feet of the shoreline, structures, swimmers or restricted areas. (No Buoys Required)

Lake Austin Rule (suggested) - No person may operate a motorized watercraft on Lake Austin at a speed greater than the minimum speed necessary to maintain steerage - way and headway within 50 feet of the shoreline or restricted areas. (No Buoys Required)