

OPS Contract Q&A

Contract Questions

Why is the City entertaining a New contract for water sales when it is in drought conditions?

This is NOT a New contract. It is a revised, renewal of an existing contract, which is a normal business practice. The citizens of Wichita Falls will gain several benefits from the revisions incorporated into the contract once it is renewed.

The City of Wichita Falls under the 1977 contract, which was transferred to Frontier/OPS when they purchased AEP, is obligated to supply 20,000 acre-feet of water annually. The 1977 contract did not have water restriction components within it, but the revised contract will restrict OPS at the same rates as the citizens of Wichita Falls when drought restrictions are implemented.

Why is a new contract in order if the power plant is closed and not using water under the old contract? Why isn't the contract void?

The 1977 contract is transferable to any new owner of the property, which improves the power plant's ability to sell its property/plant.

Will expanding the contractual uses from just electric production to include new uses like hydrogen production increase how much water is used?

No, the 1977 contract obligated the City of Wichita Falls to provide 20,000 acre feet of water to the customer, annually. This renewed contract continues to only obligate the City to 20,000 acre-feet of water annually to this customer. The only thing that has changed will be how the customer uses it.

Why wasn't the City Council's Water Resource Committee consulted about this contract?

Contract negotiations are beyond the scope of what the City Council formed the Water Resource Committee to perform.

City staff has briefed the Water Resources Committee on the OPS contract renewal at their 8/28/23 meeting, and the majority of the attending Water Resource Committee members indicated that they supported the contract renewal and associated revised contract language.

Water Availability / Drought Questions

Wichita Falls should be the primary customer for water, Why are we selling water to others? Do we have the water resources to sell?

Will this dilute our water potential?

Since the early 1900s, Wichita Falls has developed the majority of the major reservoirs in the region, making it the regional water supplier for most citizens, businesses, and industries in Wichita, Archer, Young, and Clay counties.

Additionally, the State of Texas has granted adjudicated rights to Wichita Falls for different purposes out of Lake Kemp, which include Municipal, Industrial, Irrigation, Mining, and Recreational. The majority of those adjudicated rights are for Irrigation (120,000 acre-feet) and Industrial (40,000 acre-feet). Any water not used in one of the other adjudicated rights, like Industrial, cannot be reallocated for Municipal use. The City of Wichita Falls only has adjudicated rights from the State of Texas to 25,000 acre-feet of water for Municipal uses from the Lake Kemp system.

During the last drought, were we selling water to this group?

Yes, during the last drought, the City had a contract with AEP for 20,000 acre-feet of water, the same as the proposed renewal contract.

During the drought, AEP used up to 7,700 acre-feet of the contractually obligated 20,000 acre-feet.

Did that sale of water during the drought affect our water supply?

No, during the last drought the water taken by AEP did not affect the City's use of water from Lake Kemp. The only thing during the last drought that affected the City's use of water from Lake Kemp was the dramatic increase of salt concentration due to evaporation and the loss of diluting freshwater runoff from precipitation. In fact, during the last two years of the drought (2013-2015), the City did not use water from Lake Kemp for municipal drinking water due to the inability to sufficiently treat the water.

Is there a point that drought restrictions cut off sales?

Yes, the last 50,000 acre feet of water in Lake Kemp is reserved for Wichita Falls.

What's the difference if another company wants to use that same water?

The renewal contract will be for the same amount of water, 20,000 acre-feet, that has been in place since 1977. That is only half of the 40,000 acre-feet of water that the State of Texas has adjudicated to Wichita Falls for Industrial use from Lake Kemp.

If another company came to Wichita Falls looking for water from Lake Kemp, we would still have 20,000 acre feet of adjudicated industrial water to sell. Additionally, the Industrial water does not come out of the 25,000 acre-feet of Municipal water adjudicated to Wichita Falls.

Will Lake Ringgold help address the water shortage detailed in the 2021 Region B Water Plan. Lake Ringgold is the last major reservoir that can be constructed in this region. Its construction will help alleviate water shortages related to future droughts and future growth in the region.

Lake Kemp Questions

Do we use Lake Kemp for our treated water supply?

Yes, we have used Lake Kemp as a supply of water since 2008. However, the City uses less than 20% of Lake Kemp water for municipal purposes and is required to blend that water with water from Lake Arrowhead or Lake Kickapoo.

How long have we used Lake Kemp?

We started treating Lake Kemp water in 2008, using Reverse Osmosis to remove the high salt concentration.

Where are we on paying off the indebtedness of the reverse osmosis equipment to treat Lake Kemp water for drinking water?

The \$118 Million bond that was approved in 2001 for the development of the Lake Kemp water with reverse osmosis, as well as other water system improvements, will be completely paid off in 2027.

Value of Water

Has the value of water as a commodity not gone up in 60 years?

Yes, it has and is reflected in the price that residents, businesses and industries pay for this commodity. The new contract with OPS has an annual adjustment for that price based on the CPI, which the last contract did not possess allowing the commodity to be undervalued until now.

Is there an escalation clause in cost between now and 2067?

Yes, the price of water will be adjusted annually by the CPI. The 1977 contract does not do this.

Are we receiving a percentage of the company's profits down the line?

The City of Wichita Falls, utilizing a third-party consulting firm, has evaluated the pricing of water across the State of Texas for this type of Industrial use and has established an appropriate rate for selling water to this company, which will come from their profits.

What other companies are looking for water so we can leverage (competitors)?

There are currently no other “competitors” seeking water from the Lake Kemp system.

Can we leverage the relationship for a deposit to pay off a chunk of the city’s debt?

The leverage in the renewal of this contract is an appropriate water rate that in turn will be used to pay off Utilities debt, as well as, support infrastructure replacement, and water conservation efforts and offset higher rate increases in the future.

Timeline

When the Hydrogen Plant start using water?

The hydrogen plant is not anticipated to be functional until 2027.

Adjudicated Rights Questions

Who owns the water in the Lake Kemp/Diversion system?

Under Section 11.021 of the Texas Water Code,

The water of the ordinary flow, underflow, and tides of every flowing river, natural stream, and lake, and of every bay or arm of the Gulf of Mexico, and the stormwater, floodwater, and rainwater of every river, natural stream, canyon, ravine, depression, and watershed in the state is the property of the state.

So, the State of Texas owns the water in Lake Kemp and Lake Diversion, as well as Lakes Wichita, Kickapoo and Arrowhead.

What is an “Adjudicated Right?”

Since the State of Texas owns all of the water impounded in surface water reservoirs, in 1967 the Texas Legislature passed the Texas Water Rights Adjudication Act, to regulate the conservation of natural resources of surface water by determining the amount of use, place of use, purpose of use, point of diversion, rate of diversion and the appropriate situation, including the acreage to be irrigated.

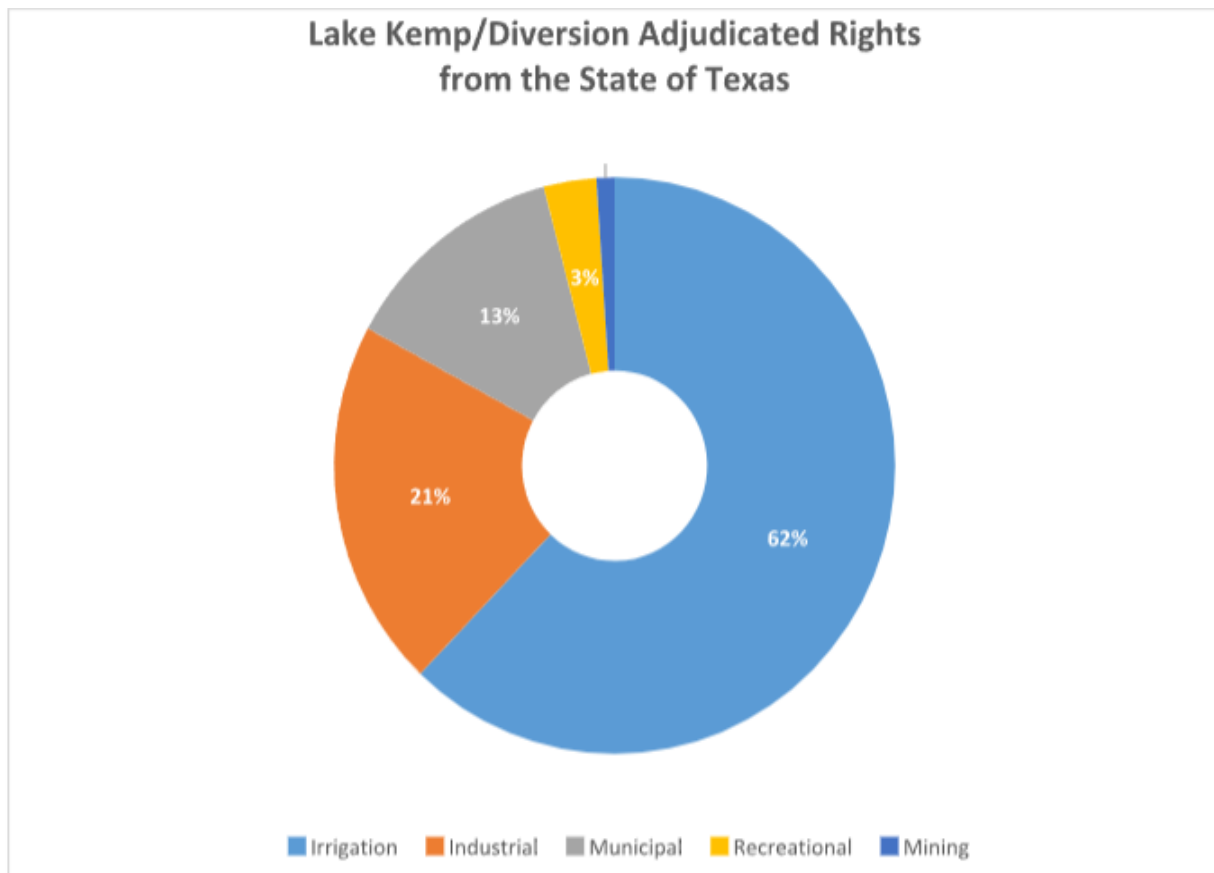
To use water from a reservoir in the State of Texas, you must have an Adjudicated right, or purchase water from someone who does.

Who has the adjudicated right to water in Lake Kemp/Diversion system, from the State of Texas. The City of Wichita Falls shares and adjudicated right to water in Lake Kemp with the Wichita County Water Improvement District #2.

What are the amounts adjudicated to Wichita Falls and Wichita County Water Improvement District #2, for beneficial use?

Wichita Falls and Wichita County Water Improvement District #2 are “authorized” to divert and use not to exceed 193,000 acre-feet of water annually from the Lake Kemp/Diversion system, for the following beneficial uses:

- Irrigation Purposes..... 120,000 acre feet
- Industrial Purposes..... 40,000-acre feet
- Municipal Purposes..... 25,150-acre feet
- Recreational Purposes.....5,850 acre feet
- Mining Purposes..... 2,000-acre feet



The State of Texas has only adjudicated 13% of the total rights out of Kemp/Diversion for Municipal purposes. The vast majority are for Irrigation and Industrial use. (83% total)

Why do I keep hearing about Wichita County Water Improvement District #2 in this contract and adjudicated rights conversation?

The City of Wichita Falls and Wichita County Water Improvement District #2 jointly hold the adjudicated rights to the water in Lake Kemp. Therefore, both parties must approve the agreement with the customer (OPS). The Wichita County Water Improvement District #2 Board has already approved this contract.

Lake Wichita Questions

Why didn't the City dredge Lake Wichita when the Corps of Engineers or highway contractors offered?

Neither the Corps of Engineers nor a highway contractor offered to dredge Lake Wichita for free. The City does not use the lake as a water source.

Why doesn't the City use Lake Wichita as a water source?

Wichita Falls doesn't use Lake Wichita as a water source for several reasons.

Lake Wichita is shallow and more prone to the effects of drought due to its size and small watershed. During an extended drought, this lake dries up first, so why would the city want to count on it as a long-term water supply.

All of the infrastructure to get Lake Wichita water from the lake to the plants for treatment was removed in the 1990s, so all of that would have to be rebuilt.

Because Lake Wichita is also only 1/60th the size of Lake Arrowhead if used as a water source under peak demand conditions, the lake would be empty in 36 days.

Additionally, the water in Lake Wichita comes from Lake Kemp, so the water would be too salty to use unless it was run through the RO (Reverse Osmosis) Plant.

Why can't we use more of the water that is adjudicated from Lake Kemp/Diversion?

Once the Lake Kemp/Diversion water is treated through the Reverse Osmosis plant, the water is highly corrosive because it contains hardly any ions, so it has to be restabilized by blending with water from the other conventional treatment plants to ensure that the water does not leach lead and copper from your home plumbing.