

⑤ Have formal oral comment.

**TCEQ Public Participation Form**  
**Brazos River Authority**  
**Public Meeting**  
**Proposed Application to Appropriate State Water**  
**Permit No. 5851**  
**Tuesday, May 17, 2005**

CHIEF CLERK'S OFFICE

2005 MAY 19 PM 4:37

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

OPA RECEIVED

MAY 17 2005

PLEASE PRINT:

AT PUBLIC MEETING

Name: JACK D. CATHEY

Address: P.O. BOX 420

City/State: WEMO TX Zip: 76070

Phone: (254) 897-3666

Are you here today representing a municipality, legislator, agency, or group?  Yes  No

If yes, which one? CANOE CO.

Persons whose names and addresses appear legibly on the sign in sheet at the public meeting and persons who submitted written comments to the TCEQ will be notified by the TCEQ's Office of Chief Clerk of the executive director's decision and provided the final technical summary on which the decision was based.

Please give this to the person at the information table. Thank you.

OPA

MAY 18 2005

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Brazo River Authority, BY g

I have managed Low Water Bridge Canoe Rental for 25 years. In this time, there were many times we could not operate because of Low River Flow, which has greatly effected our income, too often the people would arrive, only to find they could not take the trip because of Low water

CHIEF CLERK'S OFFICE

2005 MAY 18 PM 2:23

COMMISSIONER  
OF INFORMATION  
SYSTEMS

We are the closest place to the Dallas, FortWorth Area. where people can take this type of trips

Glen Rose is a tourist Town, with many Attractions and The Brazos River is one of the most popular. This section of the River is very clean, clear and very scenic when there is A small steady flow to the River, 1000 to 500 C.F.

The condition of the River Affects the economics of the entire Area Campgrounds, stores, restaurants, motels & B&B's

It would only make sense to maintain a steady flow not only for the economic's reason but for survival of the fish and wild life of the region. It would greatly reduce the risk of Amoeba outbreak which are common during the Hot Summer months. Thank-You Jack Cathey



After review and consideration of either the comments and concerns addressed in this communication, or future communications, determine that there would be no impact on our permit noted above, or like permits issued to others, a statement to that effect by the applicant and agency is also respectfully requested.

Thank you again for providing this opportunity to have concerns and requests made a part of this application process. Please contact Mr. B.N. Huddleston by phone at 254-893-2382 or by mail at 1133 North Hwy 16, DeLeon, Texas 76444 should there be any questions or comments with regard to our response.

Sincerely,

*B.N. Huddleston*

B.N. (Bob) Huddleston

7 Done formal oral comment

**TCEQ Public Participation Form**  
**Brazos River Authority**  
**Public Meeting**  
**Proposed Application to Appropriate State Water**  
**Permit No. 5851**  
**Tuesday, May 17, 2005**

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MAY 17 2005

AT PUBLIC MEETING

PLEASE PRINT:

Name: Pat Kultgen

Address: 1503 Fair Haven Cove

City/State: College Station Tx Zip: 77845

Phone: (979) 690-1503

Are you here today representing a municipality, legislator, agency, or group?  Yes  No  
If yes, which one? \_\_\_\_\_

Persons whose names and addresses appear legibly on the sign in sheet at the public meeting and persons who submitted written comments to the TCEQ will be notified by the TCEQ's Office of Chief Clerk of the executive director's decision and provided the final technical summary on which the decision was based.

Please give this to the person at the information table. Thank you.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
2005 MAY 19 PM 4:38  
CHIEF CLERKS OFFICE

dp

②<sup>nd</sup> re formal oral  
commitment.  
Filed written commitment.

**TCEQ Public Participation Form**  
**Brazos River Authority**  
**Public Meeting**  
**Proposed Application to Appropriate State Water**  
**Permit No. 5851**  
**Tuesday, May 17, 2005**

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MAY 17 2005

AT PUBLIC MEETING

PLEASE PRINT:

Name: DANIEL MEADOWS

Address: P.O. Box 7000

City/State: BRYAN, TEXAS Zip: 77805

Phone: (936) 873-1131

CHIEF CLERKS OFFICE

2005 MAY 19 PM 4:35

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

Are you here today representing a municipality, legislator, agency, or group?  Yes  No

If yes, which one? TEXAS MUNICIPAL POWER AGENCY

Persons whose names and addresses appear legibly on the sign in sheet at the public meeting and persons who submitted written comments to the TCEQ will be notified by the TCEQ's Office of Chief Clerk of the executive director's decision and provided the final technical summary on which the decision was based.

Please give this to the person at the information table. Thank you.



SERVING THE CITIES OF BRYAN, DENTON, GARLAND & GREENVILLE

44044  
WR

May 17, 2005

**OPA RECEIVED**

Office of the Chief Clerk  
TCEQ - MC 105  
P.O. Box 13087  
Austin, Texas 78711-3087

MAY 17 2005

**AT PUBLIC MEETING**

**Subject: Prepared Statement Presented by the Texas Municipal Power Agency  
May 17, 2005 Public Meeting for Application No. 5851**

To The Office of the Chief Clerk:

The attached statement (2 pages) was verbally presented by Texas Municipal Power Agency ("TMPA") to the Texas Commission on Environmental Quality ("TCEQ") at the public meeting on Tuesday, May 17, 2005 at the Brazos River Authority Headquarters in Waco, Texas. The statement is in regards to the Brazos River Authority's Application No. 5851 to appropriate state water. TMPA appreciates the opportunity provided by the TCEQ to present this statement at the public meeting and into the official record.

Sincerely,

Daniel Meadows  
Plant Environmental Engineer

Attachment

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
2005 MAY 19 PM 4:36  
CHIEF CLERKS OFFICE

**Prepared Statement by Texas Municipal Power Agency  
Brazos River Authority's Application for Water Use Permit No. 5851  
TCEQ Public Meeting, Brazos River Authority Headquarters (Waco, TX)  
May 17, 2005 (7:00 PM)**

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
2005 MAY 19 PM 4:27  
CHIEF CLERK

Thank you for allowing me the opportunity to speak to you this evening. My name is Daniel Meadows and I am the Plant Environmental Engineer for Texas Municipal Power Agency ("TMPA") in Grimes County, Texas. On behalf of TMPA, I'd like to present the following prepared statement regarding the pending water rights application, Application No. 5851, by the Brazos River Authority (the "BRA") to appropriate over 1 million acre feet of water in the Brazos River basin. I will also leave a copy of this presentation with you for your records.

TMPA is a political subdivision of the State of Texas and was created in 1975 for the purpose of supplying electricity on a wholesale basis to the cities of Bryan, Denton, Garland, and Greenville. In order to achieve this purpose, TMPA owns and operates the Gibbons Creek Steam Electric Station ("Gibbons Creek" or the "Power Plant") together with an associated cooling reservoir (the "Reservoir") in Grimes County, Texas. Prior to the conversion in 1996 of its fuel source to Powder River Basin coal, TMPA's fuel was lignite, mined from the Gibbons Creek Lignite Mine (the "Mine") which is also owned by TMPA. The Mine, located adjacent to the Power Plant and currently undergoing reclamation operations, contains numerous water bodies.

The purpose of this statement is to respond to the proposed action by the BRA to appropriate a majority, if not all, of the remaining water in the Brazos River basin. TMPA is affected by this application because it owns a water rights permit on the Navasota River downstream of Lake Limestone (Permit No. 3791, with a priority date of December 15, 1980). TMPA is also affected because it has present and future needs for use of water from the Brazos River basin, in relation to both the Mine and the Reservoir, which supplies cooling water for the Power Plant. TMPA is opposed to BRA's Application No. 5851 on the basis that the "System Operation Permit" proposed by the BRA could affect TMPA's senior water right and is inconsistent with the long-standing, proven and equitable water appropriation procedures of the State of Texas. This application could be detrimental to TMPA and others in the Brazos River basin in terms of cost and availability of water to meet future needs and specifically, TMPA's requirements for the Power Plant and Mine.

The existing Unit 1 of the Power Plant and a potential Unit 2 would need, in the aggregate, up to 11,000 ac-ft of additional storage capacity for cooling water. This need is consistent with the projected steam-electric demands as noted in the Brazos G Regional Water Plan proposed for 2006.

In addition to the Power Plant's need, the Mine needs about 10,000 ac-ft of water to comply with the reclamation plans which have been approved in its permits. The primary agencies with jurisdiction in this process include the Texas Commission on Environmental Quality ("TCEQ"), the Railroad Commission of Texas (RCT) and the Mine Safety and Health Administration (MSHA) of the U.S. Department of the Interior. The water is needed to maintain 46 post-mining ponds for wildlife and recreational uses. The ponds are inhabited by a variety of wildlife, including alligators, bald eagles, river otters and many others that rely on these ponds. TMPA filed Application No. 5858 with the TCEQ in October 2004 for appropriation of water in these existing impoundments, for in-place purposes of use. TMPA's application is currently being contested by BRA. BRA's opposition to this application seems contrary to BRA's stated goal of better managing water

resources in the Brazos River basin for environmental benefits. If TMPA's request for this appropriation with the TCEQ is not granted, as is threatened by BRA's protest and pending application, these ponds would have to be removed at a considerable cost or maintained with water purchased from BRA.

The State of Texas has a long-standing procedure for providing water appropriations through the TCEQ and its predecessor agencies to entities that can demonstrate a legitimate, beneficial use. This procedure ensures a fair and equitable allocation of the State's surface water resources. The BRA application, in contrast to an equitable allocation, is structured to appropriate the majority of the remaining available water in the Brazos River basin. This action by the BRA will significantly impact the yield and availability of any new water rights in the basin from here forth. BRA's actions, if given full effect, will result in BRA becoming the owner, controller, and reseller of practically all the remaining water rights in the basin.

The BRA will recoup the administrative, engineering, legal and other costs through its rates to customers such as TMPA who will then, at no choice of their own, be required to pass the cost on to their customers. In contrast, the current water appropriation procedure through the State results in minimal costs and guarantees water is made available at the lowest cost to the public.

Current water projections for the basin as determined by the Brazos G Regional Water Planning Group's technical consultant, HDR Inc, indicate a shortfall of water for steam-electric demands in Grimes County beginning in the year 2040, increasing to a severe shortfall of 6,776 acre-ft in the year 2060. The strategy recommended in the regional water plan to meet this demand is to raise the conservation level of the Gibbons Creek Reservoir. BRA's application would physically and/or financially restrict, if not prevent, this need from being met because available water rights would have been completely captured by the BRA through the application the BRA is proposing.

In conclusion, BRA's application contemplates a control-and-distribute strategy that is not proven and is completely unheard of in the State of Texas. While TMPA appreciates the BRA's attempt to better manage the river system, TMPA believes that BRA's application to control the water rights will make it more difficult and more costly for TMPA and others to obtain water in the Brazos River basin to meet their present and future needs. Therefore, given the questionable benefits and the basin-wide impacts likely to result from BRA's application, TMPA strongly opposes Application No. 5851 and asks the Commission to recognize these concerns.

Thank you.

④ Have formal oral comments  
Filed written comments

**TCEQ Public Participation Form**  
**Brazos River Authority**  
**Public Meeting**  
**Proposed Application to Appropriate State Water**  
**Permit No. 5851**  
**Tuesday, May 17, 2005**

OPA RECEIVED

MAY 17 2005

AT PUBLIC MEETING

PLEASE PRINT:

Name: Stephen F Smith

Address: 111 Congress Avenue, Suite 1800

City/State: Austin TX Zip: 78701

Phone: (512) 344-6429

Are you here today representing a municipality, legislator, agency, or group?  Yes  No  
If yes, which one? Texas Mining & Reclamation Association

Persons whose names and addresses appear legibly on the sign in sheet at the public meeting and persons who submitted written comments to the TCEQ will be notified by the TCEQ's Office of Chief Clerk of the executive director's decision and provided the final technical summary on which the decision was based.

Please give this to the person at the information table. Thank you.

I WISH TO GIVE COMMENTS

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
2005 MAY 19 PM 4:36  
CHIEF CLERKS OFFICE

*[Handwritten mark]*



# TEXAS MINING AND RECLAMATION ASSOCIATION

111 Congress Avenue, Suite 1800, Austin, Texas 78701  
(512) 344-6429, Fax (512) 472-0532, E-mail: director@tmra.com  
www.tmra.com

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CHIEF CLERKS OFFICE

2005 MAY 19 PM 4:37

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

OPA RECEIVED

## Texas Mining Reclamation Association

MAY 17 2005

### Oral Comments Regarding Brazos River Authority's Application for Water Use Permit No. 5851

AT PUBLIC MEETING

Good evening. My name is Steve Smith and I am here on behalf of the Texas Mining Reclamation Association ("TMRA") to address the pending water rights application filed by the Brazos River Authority ("BRA"), which seeks to appropriate over 1 million acre-feet of surface water within the Brazos River Basin.

For those of you who don't know, TMRA is a state organization comprised of approximately 140 mining, electric utility and supplier companies, and more than 800 individuals concerned with the long-term growth and well being of an environmentally sound and economically important mining industry in Texas. TMRA supports coordinated, rational, and consistent federal, state and local policies to assure proper economic recovery of the state's minable resources in an environmentally sound manner.

TMRA's members play a vital role in Texas economics. Mining provides more than \$28 billion annually to our state and accounts for more than 50 percent of the local tax base for many of our state's rural communities. TMRA members also significantly contribute to the environmental health of the state. The Texas mining industry plants more than two million trees annually on reclaimed mined land, spends in excess of \$100 million each year on land reclamation and protection of water and air quality and archeological resources, and reclaims land for cattle grazing, crops, commercial timber, wildlife habitat, wetlands and recreational use. The industry also promotes and assists in the development and implementation of new environmental controls and technologies by working in concert with environmental and regulatory agencies and university researchers. TMRA industries have a strong environmental ethic and have received numerous state and national awards for their environmental programs.

TMRA has reviewed BRA's Application No. 5851 and would like the Commission to recognize that it has concerns for some of its members and the mining industry. TMRA requests the Commission recognize these concerns as outlined by the following comments.

- First, TMRA is concerned that BRA's application, which appears to appropriate a significant portion of the remaining surface water supplies in the basin, if not all of such supplies, may impact the obligations of various TMRA's members to comply with other regulatory permits. For example, the Railroad Commission of Texas reviews and approves all post-mining land use plans for TMRA's members. One of

the requirements of a surface coal mine permit is the timely restoration of surface water resources. Impoundments are constructed and maintained to support this pre-mine capability, and ensure replacement of surface water rights. These impoundments may range in size from a few acre-feet to well over a thousand acre-feet. TMRA is concerned that BRA's application, which appears to appropriate all interruptible surface water supplies in the basin, may make it very difficult for TMRA's members to appropriate surface water for these impoundments. Further, some of TMRA's members may have obligations to the United States Corps of Engineers related to wetlands mitigation that may require an appropriate surface water right. BRA's application, if granted, appears to preclude these TMRA's members from seeking appropriate rights from the Commission to comply with these federal obligations.

- Second, TMRA is concerned that various members may suffer undue economic impacts if BRA's application is granted as proposed. If there is no surface water available for appropriation in the basin, and TMRA's members are forced to comply with other state and federal regulatory provisions which demand surface water, it appears that the only alternatives to appropriation are to pump groundwater or purchase surface water from BRA. Furthermore, with respect to groundwater, some of TMRA's members may have mining operations located within areas that are governed by groundwater management districts. Recognizing that pumping groundwater to maintain surface impoundments can be inefficient, groundwater district management rules may preclude the use of groundwater for this purpose. As such, TMRA is concerned that various members may be forced to purchase water from BRA, in perpetuity, with potentially significant economic costs, simply to comply with existing and future regulatory provisions associated with their authorized mining activities. This is contrary to the current process, wherein these TMRA's members secure surface water rights from the Commission in perpetuity. Alternatively, if there is no surface water available for appropriation, and there is no state or federal mandate regarding impoundments, TMRA's members may have to suffer the sizeable economic impact of filling in impoundments in lieu of leaving these valuable water resources in place. The permitting and construction costs associated with this type of activity may be unduly burdensome to TMRA's members.
- Third, TMRA is concerned that, because BRA's application appears to make it more difficult to maintain surface water impoundments, there will be no incentive to choose to keep optional impoundments in place after mining operations have ceased. In other words, the significant environmental benefit recognized from existing impoundments, which have no diversion rights, could be lost. If TMRA's members know that they will have to spend their financial resources, in lieu of public resources (in the form of available state water), to keep impoundments full, there may be little or no incentive to provide surface waters for the beneficial purposes of game preserve, wildlife management, and other environmental purposes. In fact, if there is a strong economic impact associated with keeping these impoundments full, some of TMRA's members may have reason to breach dams that are unnecessary for

compliance with state and federal land use permits, even if such dams provide water for environmental purposes.

- Fourth and finally, TMRA is somewhat concerned with the policy shift that is suggested by BRA's application. Currently, when an individual or member of TMRA needs to use state water, it applies to the Commission for a water use permit. Under BRA's approach, TMRA's members would still apply to the Commission for a water use permit, but the Commission would only be granting such an application if the applicant had already purchased a supply of water from BRA. In essence, any future surface water permit would have to first be negotiated and purchased from BRA. While TMRA recognizes that BRA has a duty pursuant to its enabling legislation to manage water resources in the Brazos River Basin, having the ability to unilaterally control public resources of the state under a purchase-sales regime seems contrary to the public interest.

In closing, TMRA appreciates the opportunity to voice its concerns with this application and is available to assist in any way in which the Commission would like to address these matters further.



# Texas Westmoreland Coal Co.

P.O. Box 915 Jewett, Texas 75846-0915 (903) 626-5485 FAX (903) 626-6826

44044  
WR

May 25, 2005

Ms. LaDonna Castañuela (MC 105)  
Office of the Chief Clerk  
P.O. Box 13087  
Austin, Texas 78711-3087

OPA

JUN 03 2005

BY \_\_\_\_\_

*(Signature)*

WR  
5851

CHIEF CLERKS OFFICE  
2005 JUN -1 PM 2:35  
TEXAS COMMISSION  
ON ENVIRONMENTAL  
QUALITY

Re: Public Comments Responding to  
Application for Water Use Permit No. 5319

Dear Ms. Castañuela:

This letter is submitted on behalf of Texas Westmoreland Coal Company ("TWCC") in response to the above-referenced application (the "Application") filed by the Brazos River Authority ("BRA"). Specifically, this letter is submitted as written comment regarding the Application. TWCC respectfully requests that this written comment be considered with other comments raised at the May 17, 2005 public meeting on the Application.

TWCC owns and operates lignite mining operations in the Brazos River Basin. In addition to mining lignite, TWCC utilizes surface water, pursuant to Water Use Permit No. 5319 (the "Permit"), to provide for dust control at its lignite mine in Leon and Freestone Counties. TWCC's mining activities are expected to continue through the year 2015. As such, TWCC will require the continued use of surface water pursuant to the Permit, and will likely have additional surface water needs associated with its mining, reclamation and post-mining operations. These additional needs include, but are not limited to, leaving certain lakes in place following mining and reclamation of the mine area, which will necessitate the permanent impoundment of state water without diversion.

TWCC is concerned that BRA's application, which we understand seeks to appropriate all interruptible supplies within the Lambs Creek, Long Branch, and Birch Creek watersheds where TWCC's lignite mine is located, may negatively impact TWCC's Permit and its ability to impound state water. Specifically, TWCC is concerned that it may not be able to comply with requirements of the Railroad Commission of Texas ("RCT"), or other state or federal agencies, regarding its post-mining land-use reclamation activities. Further, if BRA appropriates all remaining interruptible surface water supplies in the basin, TWCC may be forced to pump groundwater in order to maintain post-mining impoundment structures, or to purchase water supplies from BRA. This type of process, wherein TWCC would have to unnecessarily secure groundwater supplies or purchase water to fulfill its requirement to provide for in-place surface water supplies, is inequitable and onerous. Additionally, such a scenario would fail to recognize the environmental benefits of fish and wildlife that rely on impoundments of surface waters, and that would not exist but for TWCC's efforts in constructing and maintaining various surface

*(Handwritten mark)*

water impoundments pursuant to its post-mining reclamation activities, and in concert with requirements of the RCT and/or other state of federal agencies.

Finally, the Application seeks to transfer the authority to secure surface water for individual projects in the Brazos River Basin from the Texas Commission on Environmental Quality (the "Commission") to BRA. In so doing, it appears to be replacing the state's permitting process with a process whereby entities in the basin are required to become BRA's water supply customers. This is bad public policy, and as TWCC interprets Chapter 11 of the Water Code, there is nothing that authorizes or obligates the state to transfer its authority to manage surface water supplies in this manner. In fact, since the process of appropriating surface water rights began in 1895, there has never been contemplated such a wholesale shift in water management policy.

TWCC requests that the Commission consider these comments as it fully considers the Application. Portions of the Application may have far-reaching impacts on state wide water policy, and real consequence to individual businesses, municipal corporations, and the environment. As it reviews the Application, the Commission should strongly consider the impacts that granting this application may have on TWCC and others.

Sincerely,



Joel Trouart

Vice President, Engineering and Environ. Services

cc: Mr. Martin C. Rochelle  
envser file  
Nellie Frisbee  
David Jones

J/shared/envirn/e/corresp.wtr

Texas Westmoreland Coal Co.

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P.O. Box 915, Jewett, Texas 75846-0915 (903) 626-5485

3 More formal oral  
comment.  
Filed Written  
Comments

**TCEQ Public Participation Form**  
**Brazos River Authority**  
**Public Meeting**  
**Proposed Application to Appropriate State Water**  
**Permit No. 5851**  
**Tuesday, May 17, 2005**

**OPA RECEIVED**

MAY 17 2005

PLEASE PRINT:

**AT PUBLIC MEETING**

Name: Joel Trout Trout

Address: PO 915

City/State: Jewett Tx Zip: 75846

Phone: (903) 626-6384

CHIEF CLERKS OFFICE

2005 MAY 19 PM 4:36

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

Are you here today representing a municipality, legislator, agency, or group?  Yes  No  
If yes, which one? \_\_\_\_\_

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Please give this to the person at the information table. Thank you.

44044

Texas Westmoreland Coal Co.

**OPA RECEIVED**

Oral Comments Regarding  
Brazos River Authority's  
Application for Water Use Permit No. 5851

MAY 17 2005

**AT PUBLIC MEETING**

Texas Westmoreland Coal Co. (TWCC) has owned and operated a lignite mining operation, partially located in the Brazos River Basin for 20-years. The mine provides an average of 7.0 million tons of lignite to the Limestone Electric Generating Station, a 1700-megawatt electric station owned by Texas GenCo. In addition to mining lignite, TWCC utilizes surface water, pursuant to Water Use Permit No. 5319, to provide for dust control at its lignite mine in Leon and Freestone Counties. TWCC's mining activities are expected to continue through the year 2015. As such, TWCC will require the continued use of surface water pursuant to Permit 5319, and will likely have additional surface water needs associated with its mining, reclamation and post-mining operations. These additional needs include, but are not limited to, leaving certain lakes in place following mining and reclamation of the mine area, which will necessitate the permanent impoundment of state water without diversion.

TWCC is concerned that BRA's application, which we understand seeks to appropriate all interruptible supplies within the Lambs Creek, Long Branch, and Birch Creek watersheds where TWCC's lignite mine is located, may negatively impact TWCC's Permit and its ability to impound state water. Specifically, TWCC is concerned that it may not be able to comply with requirements of the Railroad Commission of Texas ("RCT"), or other state or federal agencies, regarding its post-mining land-use reclamation activities. Further, if BRA appropriates all remaining interruptible surface water supplies in the basin, TWCC may be forced to pump groundwater in order to maintain post-mining impoundment structures, or to purchase water supplies from BRA. This type of process, wherein TWCC would have to unnecessarily secure groundwater supplies or purchase water to fulfill its requirement to provide for in-place surface water supplies, is inequitable and onerous.

In essence, the Application seeks to transfer the authority to secure surface water for individual projects in the Brazos River Basin from the TCEQ to BRA. In so doing, it appears to be replacing the state's permitting process with a process whereby entities in the basin are required to become BRA's water supply customers. TWCC feels this is bad public policy and, as TWCC interprets Chapter 11 of the Water Code, there is nothing that authorizes or obligates the state to transfer its authority to manage surface water supplies in this manner.

TWCC requests that the Commission consider these comments as it fully considers the Application. Portions of the Application may have far-reaching impacts on state wide water policy, and real consequence to individual businesses, municipal corporations, and the environment. As it reviews the Application, the Commission should strongly consider the impacts that granting this application may have on TWCC and others.

Thank you for your time and consideration.

2005 MAY 19 PM 4:36  
CHIEF CLERKS OFFICE

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

# Green's Furniture Company

606 INDIANA AVENUE  
WICHITA FALLS, TEXAS 76301

5-12-05

WR  
44044

Times Record News -

The notice of an application # 585/  
front needs to be larger.

I run a business of my contracts  
where this small it would  
be illegal. The intent on your  
part seems to be that no  
will be able to read it.

Please send application front  
newspaper size

CHIEF CLERKS OFFICE

MAY 16 PM 2:36

TEXAS  
COMMISSION  
ON EMPLOYMENT  
QUALITY

OPA

MAY 17 2005

BY gc

Deborah J  
Pres Green's Furn Corp:

10

his crime beat reporter has been receiving threats over the police radio frequency.

## Iran may have plans to enrich uranium

UNITED NATIONS (AP) — Iran will likely inform the United Nations this week of plans to enrich uranium, a move that would end negotiations with Europe over its nuclear program, a European diplomat said Wednesday.

Iran suspended reprocessing — and the more advanced step of enriching uranium — in November amid fragile negotiations with European nations, which are trying to reach a deal ensuring that Iran's nuclear program is peaceful and doesn't produce nuclear weapons. Those talks are now deadlocked.

# YOU ALLS!

for your support and patronage of most successful musicals by theatre, we rely almost entirely on our set builders, our costumers, our hair and makeup people to bring this family musical to

provides a venue not only for adults in the craft of theatre this summer we will have two

the *Fiddler on the Roof*, and to help support us through your purchase of season tickets, which is

exciting to be involved behind the scenes, working backstage, or making suggestions for you to help our Backdoor Theatre are welcome in the direction and growth of our Wichita Falls and want to work with our Board of Directors.

added two final performances

only!

buy tickets  
322-5000

## NOTICE OF AN APPLICATION TO APPROPRIATE STATE WATER APPLICATION NO.

**SUMMARY.** The Brazos River Authority has applied for a permit, designated its "System Operation Permit," to authorize: 1) appropriation of state water for multiple use purposes; 2) appropriation of current and future return flows; 3) an exempt interbasin transfer of the water requested; 4) operational flexibility; 5) recognition that the System Operation Permit will prevail over inconsistent provisions in its existing water rights; and 6) the use of the bed and banks of the Brazos River, its tributaries, and BRA's reservoirs for the storage, conveyance and subsequent diversion of state water appropriated pursuant to this application and from other sources. More information on the application and how to participate in the permitting process is given below.

**PUBLIC COMMENT / PUBLIC MEETINGS.** The TCEQ will hold a public meeting to receive comments on the application filed by the Brazos River Authority. The public meeting will consist of two parts, an Informal Discussion Period and a Formal Comment Period. During the Informal Discussion Period, the public is encouraged to ask questions of the applicant and TCEQ staff concerning the application, but comments made during the Informal Discussion Period will not be considered by the Commissioners before reaching a decision on the application and no formal response will be made. During the Formal Comment Period, members of the public may state their comments into the official record. The Executive Director will summarize the formal comments and prepare a written response. The written response will be considered by the Commissioners in their decision-making process and upon request will be available to the public.

**Public Meeting is to be held:**  
Tuesday, May 17, 2005 at 7:00 p.m.  
Brazos River Authority Headquarters  
4600 Cobbs Drive, Waco, Texas 76714

Citizens are encouraged to submit written comments anytime during the meeting or by mail before the meeting to the Office of the Chief Clerk, TCEQ, MC 105, P.O. Box 13087, Austin, Texas, 78711-3087. If you need more information, please call the TCEQ Office of Public Assistance, toll free at 1-800-687-4040.

**APPLICATION.** The Brazos River Authority (BRA), P.O. Box 7655, Waco, Texas 76714-7655, applicant, seeks a permit to appropriate state water pursuant to Texas Water Code (TWC) §§ 11.121, 11.042, and 11.085(v), and Texas Commission on Environmental Quality (TCEQ) Rules 30 Texas Administrative Code (TAC) §§ 295.1 et seq. and 30 TAC § 297.1 et seq. Published and mailed notice of the application is given to the water rights owners of record in the Brazos River Basin pursuant to 30 TAC § 295.151.

The BRA owns the following water rights, which comprise BRA's system of reservoirs for the purposes of this application: Certificate of Adjudication (Certificate No. 12-5155 (Possum Kingdom Lake), Certificate No. 12-5156 (Lake Granbury), Certificate No. 12-5165 (Lake Limestone), Certificate No. 12-5157 (Lake Whitney), Certificate No. 12-5160 (Lake Belton), Certificate No. 12-5158 (Lake Proctor), Certificate No. 12-5164 (Lake Somerville), Certificate No. 12-5161 (Lake Stillhouse Hollow), Certificate No. 12-5163 (Lake Granger), Certificate No. 12-5162 (Lake Georgetown) and Certificate No. 12-5158 (Lake Aquilla). The BRA, along with the Texas Water Development Board and the City of Houston, owns Water Use Permit 2925A (Allens Creek Reservoir). The BRA also owns Certificate Nos. 5166 and 5167, which authorize various uses of water within the applicant's other certificates and permits.

The applicant is currently authorized, pursuant to a TCEQ order, to manage and operate its tributary reservoirs as elements of a system, coordinating releases and diversions from the tributary reservoirs with releases and diversions from the applicant's main-stem reservoirs to minimize waste, and to conserve water in reservoirs in which the supply is short by making releases from tributary reservoirs in which the supply is more abundant.

The applicant seeks a Water Use Permit to authorize:  
• A new appropriation of state water in the amount of 421,449 acre-feet per year for multiple use purposes, including domestic, municipal, agricultural, industrial, mining, and other beneficial uses on a firm basis in the Brazos River Basin. The amount of this new appropriation of water includes the current and future return flows requested in this application. BRA indicates that the entire amount of 421,449 acre-feet of water per year is available only if all of it is diverted at the mouth of the Brazos River, and can only be made available by the BRA through the system operation of its water rights. To the extent water is diverted upstream, the remaining unappropriated water downstream is reduced and will itself vary depending upon the location of its diversion and use. Out of the 421,449 acre-feet per year of unappropriated water being requested, the maximum amount of unappropriated water that will be available if such water is diverted upstream at USGS gage No. 08091000 near Glen Rose, Texas is 150,536 acre-feet per year firm, and if such unappropriated

of unappropriated water that will be available at that location is 144,306 acre-feet per year firm.

- Diversion of the water authorized by this amendment, if granted, from: (i) the existing diversion points authorized by BRA's existing water rights; (ii) the Brazos River at the USGS gage No. 08091000 near Glen Rose, Texas; (iii) the Brazos River at USGS gage No. 08098290 near Highbank, Texas; (iv) the Brazos River at the Gulf of Mexico; and (v) at such other diversion points that may be identified and included in BRA's proposed Water Management Plan which is subject to TCEQ's approval.
- Use of up to 90,000 acre-feet of water per year of its firm supply (part of the 421,449 acre-feet of firm water requested above) to produce, along with other unappropriated flows, an interruptible water supply of 670,000 acre-feet per year and the appropriation of that interruptible water supply. BRA indicates that the entire amount of 1,001,449 acre-feet of water (331,449 acre-feet of firm water and 670,000 acre-feet of interruptible water) is available only if all of it is diverted at the mouth of the Brazos River, and can only be made available by the BRA through the system operation of its water rights. To the extent water is diverted upstream, the remaining unappropriated water downstream is reduced and will itself vary depending on the location of its diversion and use. This new appropriation of water includes the current and future return flows requested in this application. Out of the 1,001,449 acre-feet of firm and interruptible water being requested, the maximum amount of firm and interruptible water that will be available if such water is diverted upstream at USGS Gage No. 08091000 near Glen Rose, Texas is 60,536 acre-feet of firm water per year and 157,000 acre-feet of interruptible water per year and if such water is diverted upstream at USGS Gage No. 08098290 near Highbank, Texas, the maximum amount of firm water is 54,306 acre-feet of water per year and 303,000 acre-feet of interruptible water per year.
- An exempt interbasin transfer authorization to transfer and use, on a firm and interruptible basis, such water in the adjoining San Jacinto-Brazos Coastal Basin and the Brazos-Colorado Coastal Basin, and to transfer such water to any county or municipality or the municipality's retail service area that is partially within the Brazos River Basin for use, on a firm and interruptible basis, in that part of the county or municipality and the municipality's retail service area not within the Brazos River Basin.
- An appropriation of current and future return flows (treated sewage effluent and brine bypass/return) to the extent that such return flows continue to be discharged or returned into the bed and banks of the Brazos River, its tributaries, and applicant's reservoirs. BRA indicates that such appropriation of return flows would be subject to interruption by direct use or indirect use within the discharging entity's city limits, extraterritorial jurisdiction, or contiguous water certificate of convenience and necessity boundary. Specified discharge points and amounts of water will be accounted for on a monthly basis as part of BRA's Water Management Plan which is subject to TCEQ's approval.
- Operational flexibility to (1) use any source of water available to the applicant to satisfy the diversion requirements of senior water rights to the same extent that those water rights would have been satisfied by passing inflows through the applicant's reservoirs on a priority basis; and (2) release, pump and transport water from any of the applicant's reservoirs for subsequent storage, diversion and use throughout the applicant's service area.
- Recognition that the System Operation Permit approved pursuant to this application will prevail over inconsistent provisions in the applicant's existing water rights regarding system operation.
- Use of the bed and banks of the Brazos River, its tributaries and the applicant's reservoirs for the conveyance, storage, and subsequent diversion of (i) water that the applicant seeks to appropriate under this application; (ii) waters that are being conveyed via pipelines and subsequently discharged into the Brazos River, its tributaries or stored in the applicant's reservoirs; (iii) surface water imported from areas located outside the Brazos River Basin for subsequent use; (iv) in-basin surface water and groundwater subject to the applicant's control; (v) waters developed from future applicant projects; and (vi) current and future reuse of surface and groundwater based effluent requested by this application. This bed and banks authorization is subject to applicant, after identifying specific points of discharge and diversion and conveyance and other losses, obtaining future authorizations to satisfy the requirements of TWC § 11.042. Such points of discharge and diversion and conveyance and other losses may also be identified and included in BRA's proposed Water Management Plan which is subject to TCEQ's approval.

Until the construction of Allens Creek Reservoir is completed, the applicant requests that the System Operation Permit include special conditions which authorize:

- The applicant to appropriate state water in the amount of 425,099 acre-feet per year for multiple use purposes, including domestic, municipal, agricultural, industrial, mining, and other beneficial uses on a firm basis in the

This amount is available if all of the water is diverted at the mouth of the Brazos River, and can only be made available by the BRA through the system operation of its water rights. To the extent water is diverted upstream, the remaining unappropriated water downstream is reduced and will itself vary depending upon the location of its diversion and use. Out of the 425,099 acre-feet per year of unappropriated water being requested, the maximum amount of unappropriated water that will be available if such water is diverted upstream at USGS Gage 08091000 near Glen Rose, Texas is 150,536 acre-feet per year firm and if such unappropriated water is diverted upstream at USGS Gage 08098290 near Highbank, Texas the maximum amount of unappropriated water that will be available is, at that location, 175,306 acre-feet per year firm;

- The applicant to use up to 90,000 acre-feet of water per year of its firm supply to produce, along with other unappropriated flows an interruptible water supply of 669,000 acre-feet per year. This amount includes the current and future return flows requested in this application. BRA indicates that the entire amount of 1,204,099 acre-feet of water (335,099 acre-feet of firm water and 869,000 acre-feet of interruptible water) is only available if all of it is diverted at the mouth of the Brazos River, and can only be made available by the BRA through the system operation of its water rights. To the extent water is diverted upstream, the remaining unappropriated water downstream is reduced and will itself vary depending upon the location of its diversion and use. Out of the 1,204,099 acre-feet of firm and interruptible water being requested, the maximum amount of firm and interruptible water that will be available if such water is diverted upstream at USGS Gage No. 08091000 near Glen Rose, Texas, will be 60,536 acre-feet of firm water per year and 190,000 acre-feet of interruptible water per year and if such water is diverted upstream at USGS Gage No. 08098290 near Highbank, Texas the maximum amount of firm water will be 65,306 acre-feet of water per year and 284,000 acre-feet of interruptible water per year, and
- Exempt interbasin transfer authorization to transfer and use, on a firm and interruptible basis, such water in the adjoining San Jacinto-Brazos Coastal Basin and the Brazos-Colorado Coastal Basin, and to transfer such water to any county or municipality or the municipality's retail service area that is partially within the Brazos River Basin for use, on a firm and interruptible basis, in that part of the county or municipality and the municipality's retail service area not within the Brazos River Basin.

This application is subject to the Texas Coastal Management Program (CMP) and must be consistent with the CMP goals and policies.

The TCEQ will review the application as submitted by the applicant and may or may not grant the application as requested.

The application was received on June 25, 2004, and additional information was received on October 8 and October 12, 2004. The application was declared administratively complete and accepted for filing on October 15, 2004.

**CONTESTED CASE HEARING.** The TCEQ may grant a contested case hearing on this application if a written hearing request is filed within 30 days from the date of newspaper publication of this notice. The Executive Director may approve the application unless a written request for a contested case hearing is filed within 30 days after newspaper publication of this notice.

To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) applicant's name and permit number; (3) the statement "I/we request a contested case hearing;" (4) a brief and specific description of how you would be affected by the application in a way not common to the general public; and (5) the location and distance of your property relative to the proposed activity. You may also submit your proposed adjustments to the application/permit which would satisfy your concerns. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below.

If a hearing request is filed, the Executive Director will not issue the permit and will forward the application and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

**INFORMATION.** Written hearing requests, public comments or requests for a public meeting should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, TX 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public should contact the Office of Public Assistance at 1-800-687-4040. General information regarding the TCEQ can be found at our web site at [www.tceq.state.tx.us](http://www.tceq.state.tx.us)



WR Perm 585  
TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

OPA

MAY 27 2005

2005 MAY 27 PM 4:30

CHIEF CLERKS OFFICE

To Office of Chief Clerk, M C 105

Re. Brazos River Authority Application #5851

WR  
44044

To Whom It May Concern:

My name is Nancy Stackhouse Wilson! My husband, Larry, and I have owned property on the Brazos River in Somervell County twenty five years or more. During part of that time, we have had the pleasure of enjoying our property that is on the River. Our home is a gathering place for children, grandchildren, and friends. We have had in the past many happy memories of fishing, canoeing, picnicing, wading, hotdog roasts etcl, on our beautiful river! This has become a memory not a reality in recent years due to lack of water in the River. As John Graves said, "Goodbye to our River"! Therefore, I want you to be aware of why I oppose the reference application for the Systems Application Permit by the Brazos River Authority. At the present time, the Brazos River is too often not fit for any of the recreational activities mentioned above. It is difficult to understand and accept why we have stagnant , highly polluted water with little or no flow when the people at Lake Granbury are enjoying water skiing, boating, etc.

The almost continuous, failure to properly manage the flow of water in the river is causing others problems as well. We have had an excellent stand of pecan trees in the bottom near the river. During the past five or six years a number of these trees have died.

The Brazos River is one of the greatest resources of the State but tragically, it is dying because too much waste is being dumped into it and not providing an adquate flow in the stream. It is my hope that the Brazos River Authority will take responsibility for this problem and see that it is corrected in the immediate future!

I am confident that the Brazos River Authority has good intentions and has been an asset to the State of Texas in many ways! My hope and plea is that they will address the above problems and manage the Brazos River in the best interest of all adjoining land owners and not just a few special initerest groups. Therefore, my request is that the Brazos River Authority be denied their requests for any new rights including the PROPOSED SYSTEMS OPERATIONS PERMIT.

Thank you for your consideration , Nancy Stackhouse Wilson, May 16, 2005

Nancy Stackhouse Wilson  
4500 Roland #303

Dallas, Texas 75219

2145215604 - phone number

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44044

OPA

MAY 31 2005

BY

*[Signature]*

CHIEF CLERKS OFFICE

2005 MAY 27 PM 4:30

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

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Thank you for your consideration, Nancy Stackhouse Wilson, May 16, 2005

*Nancy Stackhouse Wilson*

*4500 Roland #303*

*Dallas, Texas 75219*

*2145215604 - phone number*

*duy*