

TCEQ DOCKET NO. 2005-1490-WR

**APPLICATION BY BRAZOS
RIVER AUTHORITY
PERMIT NO. 5851**

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**BEFORE THE
TEXAS COMMISSION
ON
ENVIRONMENTAL QUALITY**

**CITY OF BRYAN'S AND CITY OF COLLEGE STATION'S
REPLY TO RESPONSES TO HEARING REQUESTS**

The City of Bryan ("Bryan") and the City of College Station ("College Station") file this reply to the responses to hearing requests filed by Brazos River Authority ("BRA"), the Executive Director, and the Office of Public Interest Counsel (OPIC) and in support thereof would show as follows:

1. The City of Bryan and the City of College Station have conditionally withdrawn their hearing requests based on the terms of their respective settlement agreements with BRA.
2. Bryan and College Station request the opportunity to participate in a contested case hearing, if such hearing is granted, in order to ensure compliance with the terms of their respective settlement agreements with BRA.
3. The Executive Director recommends granting Bryan's and College Station's hearing requests. BRA does not oppose the granting of Bryan's and College Station's hearing requests. OPIC was silent on granting Bryan's and College Station's hearing requests. However, counsel for OPIC has verbally advised the undersigned counsel that OPIC's silence on Bryan's and College Station's hearing requests was based on counsel's misunderstanding that those requests were withdrawn conditionally. Counsel for OPIC has advised that he plans to file a supplemental response that recommends granting Bryan's and College Station's hearing requests.
4. The Executive Director's and OPIC's responses to hearing requests describes BRA's permit application as originally filed. As filed, BRA's application sought to appropriate current and future return flows 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. By letter dated December 22, 2009, BRA amended its application by clarifying that it is not applying to appropriate or divert any return flows that are subject to a bed and banks authorization granted now or hereafter by TCEQ pursuant to Texas Water Code §11.042(b). This amendment of BRA's application was a requirement of the settlement agreements between BRA and Bryan and College Station. Any description of BRA's current application should note the December 22, 2009 amendment.

WHEREFORE, Bryan and College Station request that they be included as parties referred to the contested case hearing if the Commission chooses to grant any of the hearing requests on BRA's application.

Respectfully submitted,

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By:


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**ATTORNEYS FOR THE CITY OF BRYAN
AND THE CITY OF COLLEGE STATION**

CERTIFICATE OF SERVICE

I hereby certify that on this the 19th day of April 2010 a true and correct copy of the foregoing document was served by email with a follow-up by U.S. Mail:

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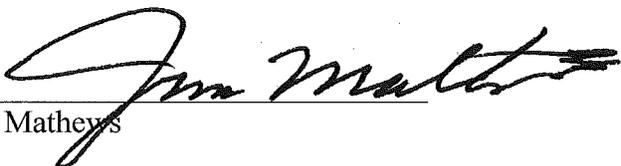
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