

DOCKET NO. 2006-1819-WR

**LOWER COLORADO
RIVER AUTHORITY'S
APPLICATION NO. 5731
FOR A WATER USE PERMIT**

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BEFORE THE TEXAS

COMMISSION ON

ENVIRONMENTAL QUALITY

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2007 MAR 28 PM 2:36
CHIEF CLERK'S OFFICE

**LOWER COLORADO RIVER AUTHORITY'S
RESPONSES TO HEARING REQUESTS**

TO THE HONORABLE MEMBERS OF THE COMMISSION:

COMES NOW, the Lower Colorado River Authority ("LCRA") and, pursuant to 30 TAC 55.250-55.256, files its Responses to Hearing Requests in the above-captioned matter. In support thereof, LCRA submits the following:

**REQUESTS FOR PUBLIC MEETINGS FROM MEMBERS OF
GENERAL PUBLIC IN SAN SABA AND MENARD COUNTIES AREA**

The following individuals have requested TCEQ to hold public meetings regarding LCRA's Application No. 5731 and are not affected persons. Each of these individuals do not have a personal justiciable interest related to a legal right, duty, privilege, power or economic interest affected by LCRA's Application No. 5731. Requests for public meetings filed by the individuals listed below indicate an interest common to members of the general public that does not qualify as a personal justiciable interest. A public meeting was held on September 26, 2006 in Austin, Texas and none of the following individuals attended. Additional public meetings are not warranted and all such requests should be denied.

- Elsie Millican
- Verna Hancock
- James and Carol Taylor
- Danny C. Pennington
- Nacie Kniffen
- J. Davis

SAN SABA RIVER BASIN
WATER RIGHT HOLDERS' REQUESTS FOR PUBLIC MEETINGS

The following individuals have requested TCEQ to hold public meetings regarding LCRA's Application No. 5731 and are not affected persons. Each of these individuals do not have a personal justiciable interest related to a legal right, duty, privilege, power or economic interest affected by LCRA's Application No. 5731. The water rights held by these individuals are located several hundred miles upstream of the proposed regulated activities to be authorized under LCRA's water use permit. LCRA's proposed water use permit is junior in priority and is subject to all of the water rights held by these individuals. No reasonable relationship exists between the water rights held by these individuals and LCRA's proposed water use permit will cause no impact on the health, safety and use of the water rights held by these individuals. A public meeting was held on September 26, 2006 in Austin, Texas and none of the following individuals attended. Additional public meetings are not warranted are all such requests from the following individuals should be denied.

Ray Orson
E.L. Byrd
Max Mahon
Jerry W. Johnson
Eleanor Ownen Johnson
Roy Bagley
Craigon Johnson
Dean Bagley, Jr.
Connie Adams
Sloan Livestock, Ltd.
G. Sulzemeier
Roger Edmondson
Christine Bagley Edmondson

SAN SABA RIVER BASIN
WATER RIGHT HOLDERS' REQUESTS FOR CONTESTED CASE HEARING

The following individuals have requested a contested case hearing regarding LCRA's Application No. 5731 and are not affected persons. Each of these individuals do not have a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by LCRA's Application No. 5731. The water rights held by these individuals are located several hundred miles upstream of the proposed regulated activities to be authorized under LCRA's water use permit. LCRA's proposed water use permit is junior in priority and is subject to all of the water rights held by these individuals. No reasonable relationship exists between the water rights held by these individuals and LCRA's proposed water use permit. LCRA's proposed water use permit will cause no impact on the health, safety and use of the water rights held by these individuals. All contested hearing requests from the following individuals should be denied:

Bobby M and Donald L. Huss
Carl S. Menzies
George and Jean Sultemeier
John and Katherine Kniffen
Riley C. Harkey
Jerry M. Rambo
James T. Cameron, Independent Executor for Estate of Sara Jean Cameron
Marjorie Ann Obanon Altizer
Estate of Herbert H. Mears
Roger Ricky and Susana Lambert
Willard and Christine Bessent
Sloan Pool
Jimmie L. Bray
Gary P. Land
Wanda Ellis
Patsy McConnell

SIERRA CLUB

The LCRA published notice of Application No. 5731 throughout its water service area. The latest newspaper publication was on September 11, 2001 in Fayette County. All requests for contested case hearing, in order to be timely, had to be filed on or before October 11, 2001. The Sierra Club's request for a contested case hearing was filed late on October 12, 2001 and, therefore, does not comply with 30 TAC 55.251(d), which provides that a hearing request must be filed with the Chief Clerk within the time period specified in the notice. The Chief Clerk, pursuant to 30 TAC 55.251(f)(1), shall accept a hearing request that is filed after the deadline, but the Chief Clerk shall not process it. The Sierra Club's hearing request was not timely filed and should not even be considered by the Commission. Alternatively, the Commission should deny the hearing request by Sierra Club as being not filed within the specific time set forth in the notice.

SAND SUPPLY, A DIVISION OF CAMPBELL CONCRETE AND MATERIALS, L.P.

Sand Supply filed a Motion for Denial or Dismissal of the Application and, Alternatively, Request for a Contested Case Hearing. At the time of its motion and hearing request, Sand Supply was operating a gravel quarry near Columbus, Texas. Sand Supply also had filed an application for a temporary permit (Application No. TA-8207), which, at the time, Sand Supply alleged would be adversely impacted by LCRA's Application No. 5731. Sand Supply has ceased operating its gravel quarry near Columbus, Texas and TA-8207, which was granted by TCEQ, since has expired. Sand Supply no longer has any claimed interest that is protected by law under which LCRA's Application No. 5731 will be considered. Therefore, Sand Supply's motion and request for contested case hearing should be denied.

**CITY OF AUSTIN, TPWD, STPNOC, NATIONAL WILDLIFE FEDERATION,
MATAGORDA BAY FOUNDATION AND
TEXAS CHAPTER OF THE COASTAL CONSERVATION ASSOCIATION**

LCRA does not contest the requests for hearing filed by the City of Austin, the Texas Parks and Wildlife Department, National Wildlife Federation, the STP Nuclear Operating Co., the Matagorda Bay Foundation and the Texas Chapter of the Coastal Conservation Association.

The LCRA and the STP Nuclear Operating Co. have reached a settlement that addresses the concerns raised by STP Nuclear Operating Co. in its protest, and LCRA has agreed that the STP Nuclear Operating Co. may remain a party to protect the interests obtained in the settlement.

The LCRA and the City of Austin has also reached a tentative settlement of the issues raised by Austin in its protest. LCRA expects Austin will seek to remain a party in this proceeding to protect the interests it obtains in the settlement but LCRA expects that Austin will generally be supporting LCRA's Application No. 5731.

CONCLUSION

Except for the contested case hearing requests filed by the City of Austin, the Texas Parks and Wildlife Department, National Wildlife Federation, the STP Nuclear Operating Co., the Matagorda Bay Foundation and the Texas Chapter of the Coastal Conservation Association, LCRA requests that all requests for public meetings and for contested case hearings be denied.

In addition, there are several special conditions in the Executive Director's latest draft of the proposed permit that concerns LCRA. LCRA believes that its concerns can be resolved without the need for a contested case hearing, but if the parties are unable to do so, such concerns can be addressed during a contested case hearing.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Lower Colorado River Authority's Responses to Hearing Request was served by first-class U.S. mail on this 27th day of August, 2007, to the following persons on the attached Mailing List:

Bruce Wasinger
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DOCKET NO. 2006-1819-WR, PERMIT NO. WRPERM 5731

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