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BY KY

CLERKS OFFICE

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Mr. Rochelle's Direct Line: (512) 322-5810
mrochelle@lglawfirm.com

July 19, 2006

Ms. LaDonna Castañuela (MC 105)
Office of the Chief Clerk
Texas Commission on Environmental Quality
Building F, Room 1101
Austin, Texas 78711-3087

VIA HAND DELIVERY

Re: In the Matter of the Water Use Application of Alvin, Pamela and Nathan Starr,
Application No. 5920 (446-12)

Dear Ms. Castañuela:

Enclosed please find the original and one copy of a Request for Contested Case Hearing filed by my client, the North Texas Municipal Water District, in the above-referenced matter. Please file stamp the extra copy and return it to me via my messenger.

If you have any questions regarding this matter, please do not hesitate to contact me.

Sincerely,

Martin C. Rochelle

MCR/ldp
446\12\Starr\ltr060717mcr
ENCLOSURES

- cc: Mr. Alvin Starr
- Ms. Pamela Starr
- Mr. Nathan Starr
- Mr. Mike Rickman
- Mr. Robert McCarthy
- Mr. Brad B. Castleberry

IN THE MATTER OF THE WATER § BEFORE THE TEXAS COMMISSION
USE APPLICATION NO. 5920 OF § ON
ALVIN, PAMELA & NATHAN STARR § ENVIRONMENTAL QUALITY

CHIEF CLERK'S OFFICE
MAY 13 10 22 AM '01
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

REQUEST FOR CONTESTED CASE HEARING

COMES NOW, the North Texas Municipal Water District ("the District" or "Requestor"), through its undersigned counsel, and files this request for a contested case hearing concerning the above-referenced application with the Texas Commission on Environmental Quality (the "Commission"), and pursuant to 30 TAC §295.171 the District would show the following:

1. The full name and address of the Requestor is the North Texas Municipal Water District, P.O. Box 2408, Wylie, Texas 75098.
2. The application being contested is Application No. 5920 (the "Application"), filed by Alvin, Pamela and Nathan Starr ("Applicant"). The Application seeks to divert and use not to exceed 320 acre-feet of water per year from the East Fork Trinity River, tributary of the Trinity River, Trinity River Basin (the "Basin"), at a maximum diversion rate of 2,01 cfs (900 gpm) for agricultural purposes to irrigate 200 acres in Kaufman County, Texas.
3. Because the District may be affected by the granting of the Application, it hereby requests a hearing on the Application, at least until such time as the District is able to review a draft permit that may be prepared in response to the Application, in order that it may determine if its interests will be affected by the granting of the Application.
4. The District currently holds a number of water rights within the Trinity River Basin. Additionally, the District has several pending water rights applications, including but not limited to its application to amend Certificate of Adjudication No. 08-2410F, also known as the East Fork Reuse Project application. The East Fork Reuse Project application seeks to divert

historical and future District return flows by reclaiming water produced by wastewater treatment plants that discharge unconsumed District water supplies into the East Fork Trinity River watershed. The East Fork Reuse Project application seeks the right to divert water directly from the East Fork Trinity River. In light of the fact that the proposed diversion and use will affect the water available in the watershed that would otherwise flow to the East Fork Trinity River, water that would otherwise be available to help meet the environmental flows that may be specified in any water right issued in response to the District's application to amend Certificate of Adjudication No. 08-2410F, the District's East Fork Reuse Project may be impacted by the granting of the Application.

In connection with its East Fork Reuse Project, the District has also received a temporary water use permit, Temporary Permit No. 5871, to facilitate the development of constructed wetlands associated with the East Fork Reuse Project. Pursuant to the Temporary Permit, the District is authorized to divert and use 2,250 acre-feet of water over a three-year period, but its diversion rights are limited to times when stream flow at USGS Gage No. 08062000 is no less than 64 cfs on the East Fork Trinity River. As filed, the Application may adversely affect the District's rights under the Temporary Permit inasmuch as the Application contemplates proposed diversion and use will affect the water available in the watershed that would otherwise flow into the East Fork Trinity River, and, thus, reducing the river's natural stream flow. Therefore, granting the Application may inhibit the District's ability to divert water, given the stream flow limitations contained in the Temporary Permit.

In summary, the Application may adversely affect the District's use of water pursuant to its existing water rights and pending applications by reducing stream flow in the East Fork Trinity River and hindering the District's ability to divert and use its own water rights.

Moreover, it is unclear as to whether the Application adequately addresses conservation, protects and effectively utilizes groundwater resources, or is in the public welfare. As such, the District is concerned that the Application, if granted without appropriate special conditions, may impact the District's ability to meet the current and future water supply needs of its member cities and customers.

WHEREFORE, PREMISES CONSIDERED, the District requests that the Commission forward the Application to the State Office of Administrative Hearings for a contested case hearing, and for such other and further relief to which it may be entitled.

Respectfully submitted,

**LLOYD GOSSELINK BLEVINS
ROCHELLE & TOWNSEND, P.C.**

816 Congress Avenue
Suite 1900

Austin, Texas 78701

(512) 322-5810

FAX: (512) 472-0532

By:



MARTIN C. ROCHELLE

State Bar No. 17126500

BRAD B. CASTLEBERRY

State Bar No. 24036339

**ATTORNEYS FOR NORTH TEXAS
MUNICIPAL WATER DISTRICT**

Law Offices of
Joseph E. Ashmore, Jr. P.C.

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OPA

HR

Patti Patak
Office Manager

NOV 13 2006

BY DM

CHIEF CLERK'S OFFICE

NOV 10 PM 2:55

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

November 8, 2006

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VIA CERTIFIED MAIL NO. 7006 0100 0001 5737 3868
RETURN RECEIPT REQUESTED

Ms. LaDonna Castañuela
Office of the Chief Clerk
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

Re: Alvin, Pamela and Nathan Starr
WRPERM 5920
CN602935058
CN602935066
CN602935074
RN104788062
Application No. 5920 for a Water Use Permit
TWC §11.121, Requiring Mailed and Published Notice
East Fork Trinity River, Trinity River Basin
Kaufman County

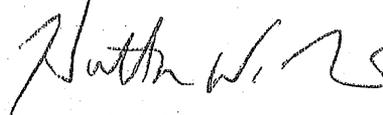
Dear Ms. Castañuela:

As I previously advised by letter dated August 31, 2006, this firm has been retained to represent Alvin, Pamela and Nathan Starr ("Starrs") in the above matter. In response to David N. Koinm's letter of October 17, 2006, on behalf of the Starrs I hereby **demand a contested case hearing regarding the above referenced matter - Application No. 5920 for a Water Use Permit.** Once this request for a contested case hearing has been assigned in accordance with your customary procedures, please have the staff attorney contact me directly. Please direct any and all future correspondence regarding the above-referenced matter, including all notices, to my attention.

Ms. LaDonna Castañuela
November 8, 2006
Page 2 of 2

By copy of this letter, I am notifying all interested parties of record. Please contact me should you have any questions or comments regarding this matter.

Sincerely,



Hutton W. Sentell

cc: City of Dallas – Dallas Water Utilities
c/o Gwendolyn Hill Webb, Esq.
Webb & Webb, Attorneys
515 Congress Avenue, Ste. 1270
P.O. Box 1239
Austin, Texas 78767
Via Facsimile No. 512.472.3183 and First Class Mail

North Texas Municipal Water District
c/o Martin C. Rochelle, Esq.
Lloyd Gosselink, Attorneys at Law
816 Congress Avenue, Ste. 1900
Austin, Texas 78701
Via Facsimile No. 512.472.0532 and First Class Mail

David N. Koinm, Projects Manager – MC 160
Water Rights Permitting Team
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
Via Facsimile No. 512.239.4770 and First Class Mail

Nathan Starr
Via First Class Mail

WEBB & WEBB

ATTORNEYS AT LAW

1270 BANK OF AMERICA CENTER, 515 CONGRESS AVENUE

P.O. DRAWER 1329

AUSTIN, TEXAS 78767-1329

HR
OPA
AUG 04 2006
BY *[Signature]*

TELEPHONE: (512) 472-9990
FACSIMILE: (512) 472-3183

STEPHEN P. WEBB
GWENDOLYN HILL WEBB

August 3, 2006

Ms. LaDonna Castañuela
Office of the Chief Clerk - MC 105
Texas Commission on Environmental Quality
P. O. Box 13087
Austin, Texas 78711-3087

*WR
5/9/45*

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2006 AUG - 3 PM 3:02
CHIEF CLERKS OFFICE

RE: Request for Contested Case Hearing by the City of Dallas on Application No. 5920 by Alvin Starr, Pamela Starr, and Nathan Starr

Dear Ms. Castañuela:

The City of Dallas ("Dallas") requests to be named a party and requests a contested case hearing in Application No. 5920 by Alvin Starr, Pamela Starr, and Nathan Starr ("Applicants"). Based on the notice of Application No. 5920 issued by the Texas Commission on Environmental Quality ("Commission") on July 3, 2006, Dallas protests the issuance of a water right to Applicant and submits the following information in support of its request for party status and for a contested case hearing:

Name and Contact Information for Requesting Party:

City of Dallas - Dallas Water Utilities
Jo M. "Jody" Puckett, P. E., Director
Dallas City Hall, Room 4AN
1500 Marilla Street
Dallas, Texas
Phone: 214-670-3144
Fax: 214-670-3154

Gwendolyn Hill Webb
Webb & Webb, Attorneys
515 Congress Avenue, Suite 1270
P. O. Box 1239
Austin, TX 78767
Phone: 512-472-9990
Fax: 512-472-3183

[Handwritten mark]

Dallas is the holder of Certificate of Adjudication No. 08-2462 for Lake Ray Hubbard, which is located on the East Fork Trinity River approximately three (3) miles upstream of Applicants' proposed diversion point, but in the same Trinity River Basin watershed, with the same source of surface water as Applicants. Dallas' Lake Ray Hubbard water rights are senior in priority to any water rights permit which could be issued to Applicants pursuant to Application No. 5920. No draft permit is available for Dallas' review at this time.

Effect of Proposed Water Right:

According to the notice issued by TCEQ on July 3, 2006, the Applicants propose to divert and use not to exceed 320 acre-feet of water per year at a maximum diversion rate of 2.01cfs (900gpm). The proposed diversion and use seeks to appropriate water which may need to be used to satisfy Dallas' senior water right; in other words, there may not be sufficient water available in the watershed for Applicants' appropriation. Appropriate terms and conditions for Applicants' use of watershed inflows has not been resolved so as not to impair Dallas' existing senior water right and not to prejudice Dallas' pending water reuse permit in Lake Ray Hubbard. Both Dallas' senior water right and its pending water reuse application could be impaired by the granting of a permit to Applicants in accordance with Application No. 5920, without sufficient protections for Dallas' senior water rights.

Conclusion:

Dallas should be named a party to further proceedings concerning Application No. 5920 on the basis of this letter. Dallas requests a contested case hearing on Application No. 5920 by Applicants as an affected party whose water rights in the East Fork Trinity River are potentially impaired by the issuance of a permit to appropriate State water to convey such water to irrigate 200 acres out of a 576.283-acre tract in Kaufman County as requested in Application No. 5920. Dallas wishes to initiate discussions with Applicants, review the draft permit, and remain a party to this proceeding until all matters resolving the potential impact on Lake Ray Hubbard are resolved. Dallas will keep the Commission advised and will notify the Commission promptly at such time as the parties reach agreement such that this letter of protest and request for contested case hearing is no longer valid.

Sincerely,



Gwendolyn Hill Webb
ATTORNEY FOR THE CITY OF DALLAS

PROTEST LETTER RE: WR APPLICATION No. 5920
ALVIN STARR, PAMELA STARR, AND NATHAN STARR
AUGUST 3, 2006

PAGE 3

cc: Mr. Alvin Starr
Ms. Pamela Starr
Mr. Nathan Starr
15651 E. US 80
Sunnyvale, Texas 75182