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MAY 24 2006

WATER RIGHTS PERMITTING

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May 24, 2006

Via Messenger

Kellye Rila, Team Leader
Water Rights Permitting Team
Water Uses & Availability Section
Texas Commission on Environmental Quality
12100 Park 35 Circle, 3rd Floor, Building F
Austin, Texas 78753

OPA
JAN 12 2007
BY [Signature]

CHIEF CLERK'S OFFICE

JAN 11 PM 2:30

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

RE: San Angelo Water Supply Corporation's Proposed Amendment to Certificate of Adjudication No. 14-1318, as amended; Application No. 14-1318C

Dear Ms. Rila:

The Lower Colorado River Authority (LCRA) recently received notice of the above-referenced application.

LCRA and the San Angelo Water Supply Corporation (WSC) have a long-standing existing subordination agreement wherein LCRA agreed to subordinate certain LCRA water rights to allow the WSC to impound and store waters in the Twin Buttes Reservoirs.

Because of these existing agreements, LCRA is not opposed to the particular amendment being requested by the WSC. LCRA, however, does have concern about the precedent that the draft permit language could set for other water right holders.

Many existing water rights include a standard condition that provides that the water right is "subject to all senior and superior rights." Historically, this condition has been interpreted and held to mean that junior water rights have the burden to ensure that the junior water right is not storing and/or diverting water in contravention of the seniors' water demands and rights to the water. The proposed amendment language would shift this burden to the senior water right holder to enforce the seniors' rights against the junior water right holder.

[Handwritten initials]

Ms. Kellye Rila
May 24 2006
Page 2

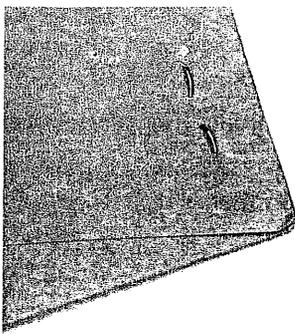
LCRA believes the better approach, consistent with LCRA's filings in other proceedings, is to require junior water right holders to develop and implement an operating plan that ensures that water use by the junior water right holder does not impair the rights of senior water right holders.

LCRA requests that TCEQ consider this concern in its review of the WSC's pending application and, if ultimately approved, limit the availability of this type of amendment to others. Should you have any questions, feel free to call me at (512) 473-3378. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Lyn Dean", with a horizontal line extending to the right.

Lyn Dean
Associate General Counsel



OPA

OCT 9 11

BY

Handwritten initials

WCID

Tom Green Co. Water Control Improvement District # 1

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Veribest, Texas 76886

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Bruce Gully, President
Ken Phinney, Vice-President
Ralph Matschek, Secretary

W.R. Schwartz, member
Russ Weatherford, member
Yantis Green, District Manager

September 24, 2008

Ms. LaDonna Castanuela, MC-105
Office of Chief Clerk
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
P.O. Box 13087
Austin, TX 78711-3087

CHIEF CLERKS OFFICE

2008 SEP 29 AM 10:03

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

Subject: Position on Motion to the Executive Director to Correct Clerical Error
In Certificate of Adjudication No. 14-1318 (Motion) San Angelo Project, Texas

Dear Ms. Castanuela:

The Tom Green Co. Water Control Improvement District No. 1 (District) received a copy of the above Motion from the City of San Angelo, operating partner in the federally owned San Angelo project. The Board of Directors would like to provide additional information not contained in the Motion from Concho River Basin Water Conservancy Association attorney Mr. Glenn Jarvis.

The United States Department of the Interior, Bureau of Reclamation constructed and owns the San Angelo Project including Twin Buttes Dam and Reservoir and the Irrigation canal system. The San Angelo Water Supply Corporation, City of San Angelo (City) and the District acquired the water permits and the City operates and maintains the municipal and industrial facilities while the District operates and maintains the irrigation canal system.

As the entity contractually obligated to operate and maintain the irrigation canal system and recipient of permitted irrigation water, the District recognizes the downstream water rights holders' right to the natural flow of the river. The water stored in the Reservoir is storm and flood water. The City has permitted municipal water while the District has permitted irrigation water stored in the reservoir.

The District concurs with the United States Bureau of Reclamation in that the interpretation in the Motion by the downstream water right holders to require the release

of stored water to meet their needs is inconsistent with the language written in the original Permit. Stored water is for San Angelo project purposes only as identified in the authorizing legislation for the San Angelo Project.

The District and the City have entered into contractual agreements with the United States Bureau of Reclamation which include repaying the federal government for construction costs. The District and the City also pay for operation and maintenance of the project. The Concho River Basin Water Conservancy Association and its members do not have a contract with the United States, the District or the City to store water in the reservoir.

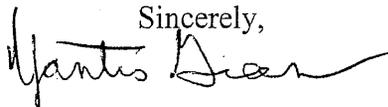
The District concurs with the United States Bureau of Reclamation that Conservancy Association members do not have a legal right to request a release of stored water permitted to the District and the City.

It is the understanding of the District that Conservancy members would be required to enter contracts with the United States, the District and the City including a proportional amount of Operation and Maintenance costs and repaying the federal government for construction of the project if they were to receive stored water from the project.

Please add the District to the mailing list for any and all correspondence related to the San Angelo project and water rights associated with it.

Thanks for your attention and assistance.

Sincerely,

A handwritten signature in black ink that reads "Yantis Green". The signature is written in a cursive style with a long, sweeping underline.

Yantis Green
District Manager

CC: Ms. Iliana Delgado, MC-160
Permits and Resource Management Division
Texas Commission on Environmental Quality
P.O. Box 13087 – Capital Station
Austin, Texas 78711-3087

Mr. Tom C. Massey, Attorney at Law
202 W. Twohig, Suite 200
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San Angelo, Texas 76902-2809

OPA

DEC 08 2008

BY

KY

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Law Offices

of

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ADS
49322

December 2, 2008

~~Mr. Mark R. Vickery, P.G., MC-109
Executive Director
Texas Commission on Environmental Quality
P. O. Box 13087
Austin, TX 78711~~

CHIEF CLERKS OFFICE

2008 DEC -8 AM 10:27

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

RE: Motion to the Executive Director / Concho River Basin Water Conservancy Association

Dear Mr. Vickery:

Please allow this letter to serve as the Association's (Movants) Reply to the City of San Angelo's (the "City") letter Response dated November 25, 2008, with respect to the above-captioned matter.

The City argues that the Association's statement that §297.61 is its exclusive remedy for correcting and clarifying the City's water rights pursuant to Certificate of Adjudication No. 14-1318 (the "Certificate") has no legal or factual foundation. The City cites §11.334 of the Water Code as the Association's exclusive remedy. This provision provides as follows:

Any person who is injured by an act of the commission under [the Adjudication Act] may bring suit against the commission to review the action or to obtain an injunction. If the water right involved has been adjudicated as provided in [the Adjudication Act], the court shall issue an injunction only if it is shown that the commission has failed to carry into effect the decree adjudicating the water right.

This argument is flawed because §11.334 is in the Adjudication Act and only applies to cases where the Commission is "acting" under the Adjudication Act. As previously noted in their Motion, the Movants have shown that the only authority "under the Adjudication Act" with reference to the issuance of the Certificate of Adjudication is §11.323 which only authorizes the Commission to carry forward the findings of fact and conclusions of law in the court's "decree." Admittedly, there is no finding of fact or conclusion of law in the Court decree here involved which addresses the omitted provision of Permit 1949. So the Commission's omission of the omitted provision of Permit 1949 was not done under "the Adjudication Act" to which §11.334 applies. The Commission's omission

CMW

of this provision was not a failure to carry into effect the decree adjudicating the water right because as shown, the Court's decree here involved did not contain any provision dealing with the omitted provision.

This argument is also flawed because the "... act of the commission ..." in issuing the Certificate was either due to a clerical error and oversight or, if intentionally omitted, is not based on any issue raised, finding of fact or conclusion of law contained in the Final Determination of the Commission or Final Decree by the District court of Tom Green County in the Adjudication Case. It is now not disputed that the Adjudication Case did not include any issue raised, or include any findings of fact or conclusion of law pertaining to the omitted provision in Permit 1949, except for the reference to "flows" of a stream pertaining only to riparian rights and not Special Conditions in the underlying water right (Permit 1949) under adjudication. This statement in the Commission's Final Determination and Court Decree has no relation to the issue here involved as shown in the Association's Motion. It is now undisputed that this statement by Commission and Court Decree is the only legal basis for the City's position with respect to the Adjudication Case. Thus, there is no record in the Adjudication Case which controls in this case.

The Commission must be given an opportunity to correct the oversight or to set out the basis of the omission of the omitted provision before there is an "act" of the Commission giving rise to court action provided for in §11.334 even if it applies. There is nothing in the record evidencing an "act" of the Commission in omitting the omitted provision which gives rise to jurisdiction in court "... to review the action ..." because there is nothing in the record in the Adjudication Case or elsewhere that describes why, or on what basis the Commission failed to include the omitted provision of Permit 1949 in the Certificate.

The City argues that the Association "... downplays the fact that they have relied on this 'storm flows' argument as "... the very basis for its protest of the City's pending applications to amend COA 14-1318." The Association asserts that this is not the only basis of its protest in the pending Amendment case but only 1 basis included in its protest. It is the only one that the Movants raised when they discovered that the omitted provision was not contained in the Certificate. During the course of the amendment process, it was discovered that all other provisions of the Permit were carried forward in the Certificate except the omitted provision.

The City suggests that the Association is requesting that you become "... its proxy ..." On the contrary, §297.61 clearly applies in this situation, and is the only remedy to raise this issue before the Commission to correct the previous oversight or clarify the Commission's omission of the omitted provision in the Certificate. This is a legitimate request to you with no intent to place you as its "proxy" in correcting a Commission oversight or clarifying the basis of omitting the omitted provision from the Certificate.

Mr. Mark Vickery
December 2, 2008
Page 3 of 4

The City further suggests that other water right holders could have requested judicial action under §11.334. However, again, this argument is flawed as noted above because there is no record of any issue raised, finding of fact, or conclusion of law that supports the Commission's omission of the omitted provision in the Certificate except for the statement about riparian rights which does not apply here. There was no due process notice, hearing, or any other process by which other water right holders would become aware of this omission, which again, was only discovered in the course of the evaluation of the water rights under the Certificate in the course of the pending Amendment process.

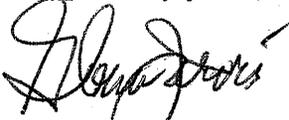
The City further suggests that the Association could have pursued court review under §11.334, but, now, it is barred by the four-year limitation. Even though a District Court action at this point would not lie because there is no identified "act" of the Commission under the Adjudication Act as to the omission of the omitted provision of the Permit, but obviously, if the Association sought court action, the City would suggest that it had no jurisdiction because this issue had not been submitted to the Commission to correct an oversight or define the basis of its omission of the omitted provision. That is, that the Association has not exhausted its administrative remedies. Water rights holders downstream of Twin Butte did not have due process notice or opportunity required by due process and could not seek relief until it discovered that the omitted provision of Permit 1949 was not included in the Certificate.

The City's argument begs the question presented. It clearly illustrates the need to correct either an oversight in the drafting of the Certificate or clarify that this was indeed an intentional act by the Commission and the basis for such action. It is an issue, which now the City agrees, is a substantial provision of the City's water rights under Permit 1949 as granted, which was not affected by the Adjudication Case, and which has been relied upon by other water right holders downstream of Twin Buttes Reservoir.

The City, in its letter, also requests that it be given notice of a meeting with you on this issue and an opportunity to attend. Obviously, the Association's suggested meeting was intended to include all representatives of affected parties.

Should you have any questions, please do not hesitate to contact me at your earliest convenience.

Respectfully yours,



Glenn Jarvis

GJ:llc

Mr. Mark Vickery
December 2, 2008
Page 4 of 4

xc:

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ATTORNEY FOR CITY OF SAN ANGELO

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San Antonio, TX 78233

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Concho River Basin Water Conservancy Assn.
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Mr. Mark A. Treviño - Area Manager
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BUREAU OF RECLAMATION
Oklahoma Texas Area Office
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Austin, TX 78735-8931

Mr. Yantis Green - Manager
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United States Department of the Interior

BUREAU OF RECLAMATION
OKLAHOMA-TEXAS AREA OFFICE
5316 Highway 290 West, Suite 510
Austin, Texas 78735-8931



IN REPLY REFER TO:

WTR-4.10

SEP 19 2008

OPA

SEP 23 2008

BY EB

CHIEF CLERKS OFFICE

2008 SEP 22 AM 11:12

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

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

Subject: Concerns Regarding the Motion to the Executive Director to Correct Clerical Error in Certificate of Adjudication No. 14-1318 (Motion), San Angelo Project, Texas

Dear Ms. Castanuela:

The Bureau of Reclamation received a copy of the above subject Motion through our San Angelo Project operating partners. Reclamation would like to provide our concerns regarding the subject action.

Reclamation constructed and currently owns the San Angelo Project which includes Twin Buttes Dam and Reservoir and the Tom Green Irrigation distribution system. The San Angelo Water Supply Corporation/City of San Angelo (City) acquired the water permits and operates and maintains the municipal and industrial facilities while the Tom Green County Water Improvement District No. 1 (District) operates and maintains the irrigation project works.

Reclamation recognizes the right of the downstream water right holders to the base flow of the river and that the original Permit No. 1949 limited the storage in Twin Buttes Reservoir to storm and flood waters.

The interpretation in the Motion by the downstream water right holders to require the release of stored waters to meet their needs is inconsistent with the language written in the original Permit 1949. Stored water is for the project purposes as identified in the authorizing legislation for the San Angelo Project (Public Law 85-152 as amended by PL 103-434, attached for reference) and as written in the permit(s) held by the City. The project is being operated in accordance with the provisions of the Certificate of Adjudication No. 14-1318. Reclamation understands that a Watermaster, assigned by the Texas Commission on Environmental Quality, has been actively involved in the City's operations by requiring water to be released under the adjudication process that is based on the current area water conditions.

The City and the District have entered into contractual agreements with Reclamation and as such are repaying the federal government for construction of the project. The parties of the Motion do not have a contract with the United States. They also do not have a contract with the City to

store water in the reservoir. Therefore they do not have a legal right to request a release of stored water. Reclamation's concern is that if this Motion is granted, the parties' interpretation would be that the City is required to release stored water.

If TCEQ decides to reinstate the paragraph which the parties claim was erroneously left out of the Adjudication, please ensure that such a paragraph does not grant any rights to storage or water stored under the authority of the City's adjudicated right.

In the future, please add our office to the mailing list for any and all correspondence related to this Motion and any other issues related to the San Angelo Project water rights.

Thank you for the opportunity to comment on the Motion. If you have any questions or need additional information please contact Mr. Thomas Michalewicz at(512) 899-4166.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark A. Trevino". The signature is fluid and cursive, with a large initial "M" and a long, sweeping underline.

Mark A Trevino
Area Manager

Enclosures (2)

Cc: Ms. Iliana Delgado, MC-160
Permits and Resource Management Division
Texas Commission on Environmental Quality
P.O. Box 13087 – Capital Station
Austin, Texas 78711-3087

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