

The
Norman
Law Firm

Marvin J. Angle
Steven R. Guy
R. Chris Day
D. Brett Brewer
Gordon F. Thrall
(retired)

Summers A. Norman
(1905-1986)

HR OPA
FEB 27 2008

BY 

WR
61524

February 28, 2008

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2008 FEB 29 PM 3:10
CHIEF CLERKS OFFICE

**Via Facsimile 512-239-3311
and FedEx: 8610-8833-7475**
Ms. LaDonna Castanuela
Office of the Chief Clerk, MC-105
Texas Commission on Environmental Quality
12100 Park Thirty Five Circle
Austin, Texas 78753

Re: Application No. 06-441F; Lower Neches Valley Authority ("LNVA").

Dear Ms. Castanuela:

We are writing you on behalf of our client, the City of Jacksonville, Texas ("the City"). By this letter we are informing you that the City protests the above referenced application and requests a contested case hearing on it. The City requests to be named a party in the proceeding.

The above referenced application filed by Lower Neches Valley Authority appears to conflict with Texas Water Code, Section 11.134 as follows:

1. Section 11.134(b)(3) provides that the commission shall grant the application only if the proposed appropriation is not detrimental to the public welfare. The City of Jacksonville is a participant in the Lake Columbia region water supply project on Mud Creek in Cherokee County, Texas. The City has paid thousand of dollars and is contracted to pay many more for the development of Lake Columbia. If LNVA's application is granted the City's future access to water currently not appropriated by contract or otherwise is jeopardized because this would remove protections granted to water users located above the proposed Ponta Dam and the proposed Weches Dam. The City envisions the possible use of water from these sources. If LNVA's application is granted, new contracts for water for municipal purposes would be subordinate to appropriations by the Lower Neches Valley Authority.

Est. 1898

Norman, Thrall, Angle, Guy & Day, L.L.P.

215 East Commerce, 2nd Floor • P.O. Box 1870 • Jacksonville, Texas 75766 • 903.586.2595 • Fax: 903.586.0524

MW

Ms. LaDonna Castanuela
February 27, 2008

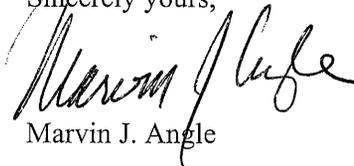
Page 2

2. Section 11.134(b)(3)(e) provides that applications should be granted only if they address a water supply needed in a matter that is consistent with the state water plan and approved regional water plan for any area for which the proposed appropriation is located. The City is not convinced that this has been done.

The name and contact information for the requesting party is

Mo Raissi, City Manager
City of Jacksonville
P. O. Box 1390
Jacksonville, Texas 75766
Phone Number: 903-586-3510

Sincerely yours,



Marvin J. Angle

cc: Mo Raissi

The Norman Law Firm

WR
61534

Marvin J. Angle
Steven R. Guy
R. Chris Day
D. Brent Brewer
Gordon F. Thrall
(retired)

Summers A. Norman
(1905-1986)

February 28, 2008

2008 FEB 28 PM 4:48
CHIEF CLERKS OFFICE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

OPA
H
FEB 29 2008
BY *AC*

Via Facsimile 512-239-3311
and FedEx: 8610-8833-7475
Ms. LaDonna Castanuela
Office of the Chief Clerk, MC-105
Texas Commission on Environmental Quality
12100 Park Thirty Five Circle
Austin, Texas 78753

Re: Application No. 06-441F; Lower Neches Valley Authority ("LNVA").

Dear Ms. Castanuela:

We are writing you on behalf of our client, the City of Jacksonville, Texas ("the City"). By this letter we are informing you that the City protests the above referenced application and requests a contested case hearing on it. The City requests to be named a party in the proceeding.

The above referenced application filed by Lower Neches Valley Authority appears to conflict with Texas Water Code, Section 11.134 as follows:

1. Section 11.134(b)(3) provides that the commission shall grant the application only if the proposed appropriation is not detrimental to the public welfare. The City of Jacksonville is a participant in the Lake Columbia region water supply project on Mud Creek in Cherokee County, Texas. The City has paid thousand of dollars and is contracted to pay many more for the development of Lake Columbia. If LNVA's application is granted the City's future access to water currently not appropriated by contract or otherwise is jeopardized because this would remove protections granted to water users located above the proposed Ponta Dam and the proposed Weches Dam. The City envisions the possible use of water from these sources. If LNVA's application is granted, new contracts for water for municipal purposes would be subordinate to appropriations by the Lower Neches Valley Authority.

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MW

Ms. LaDonna Castanuela
February 27, 2008

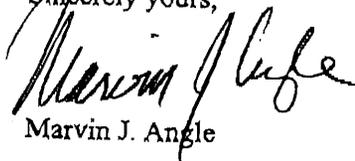
Page 2

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The name and contact information for the requesting party is

Mo Raissi, City Manager
City of Jacksonville
P. O. Box 1390
Jacksonville, Texas 75766
Phone Number: 903-586-3510

Sincerely yours,



Marvin J. Angle

cc: Mo Raissi



TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

2008 FEB 29 AM 10:31

CHIEF CLERKS OFFICE

Nacogdoches County

JOE ENGLISH
County Judge

Commissioners
Tom Bush, Pct. 1
Reggie L. Cotton, Jr., Pct. II

Danna S. Garrett
Admin. Court Assistant

Commissioners
Charles W. Simmons, Pct. III
Tom Strickland, Pct. IV

February 26, 2008

HR OPA

FEB 03 2008

BY DM

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

Re: Application to Amend Certificate of Adjudication No. 06-4411F

Dear Ms. Castañuela:

This letter is submitted on behalf of Nacogdoches County (the "County") in response to the above-referenced application (the "Application"). This letter is submitted to request a contested case hearing regarding the Application, as filed by the Lower Neches Valley Authority (the "Applicant"). By this letter, the County hereby submits the following information in support of its protest, request for party status, and request for contested case hearing regarding the Application:

Name and Contact Information for Requesting Party:

George Campbell
Land and Special Projects Agent
Nacogdoches County
101 West Main Street
Nacogdoches, Texas 75961
Phone: 936-569-6772
Facsimile: 936-560-7846

The County is a governmental agency of the State of Texas with matters of interest pertaining to the Application.

Effect of Application:

Applicant seeks to amend Certificate of Adjudication No. 06-4411, as amended (the "Certificate"), in a manner that may unduly impact the County. The County was issued Water

DM

WR
61534

Use Permit No. 5585 (the "Permit") by the Texas Commission on Environmental Quality on July 3, 1998. The Permit was issued to impound state water in MPS Site 23A, Attoyac Bayou Watershed Project, located on the Naconiche Creek in the Neches River Basin. The current purpose for the project is for flood control and in-place recreation. In addition to authorizing the impoundment, the Permit also imposes special conditions regarding environmental flows. If granted, the Application will impact the County's ability to impound state water and comply with the conditions of the Permit.

Since the release of the Attoyac Bayou Project Work Plan in 1964, the Nacogdoches County Commissioners Courts have recognized that MPS Site 23A would have the potential to supply a future dependable source of water to the region. The planning, financial commitments, long term environmental studies and monitoring, archeological, other studies, and construction of the reservoir were committed to with a future water supply source in mind. Indeed, Lake Naconiche is included in the State Water Plan as a future water supply strategy for the region. If granted, the Application would impact the County's right to fully utilize its own surface water rights.

In addition to the direct harm that may befall the County by granting the Application, the County would submit that the Application does not address a water supply need in a manner that is consistent with the State Water Plan and the approved Region I Regional Water Plan. The amendments sought by the Application are clearly in conflict with the approved Region I Regional Water Plan inasmuch as they would reduce current and future water supplies identified for the County, thereby impairing the ability of the County to meet its projected water demands.

Conclusion

There are likely other issues of concern regarding the Application to which the County reserves the right to raise upon further review. For now, however, and by this letter, the County would submit that it clearly has a justiciable interest that may be impacted by the Application that is not common to members of the general public. The County would submit that, given the impact that granting the Application may have on the County's interests, and the preliminary concerns raised herein, which may be expanded upon as more information becomes available, the County should be named a party to all further proceedings concerning the Application, and that the Commission should grant this request for a contested case hearing.

Sincerely,



Honorable Joe English
Nacogdoches County Judge

Ms. LaDonna Castañuela

February 26, 2008

Page 3

bcc: Mr. Brian L. Sledge
Mr. Brad Castleberry

WSP
61334



Nacogdoches County

JOE ENGLISH
County Judge

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2008 FEB 27 PM 4:55
CHIEF CLERKS OFFICE

Commissioners
Tom Bush, Pct. 1
Reggie L. Cotton, Jr., Pct. II

Danna S. Garrett
Admin. Court Assistant

Commissioners
Charles W. Simmons, Pct. III
Tom Strickland, Pct. IV

February 26, 2008

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

OPA
H FEB 28 2008
BY a

Re: Application to Amend Certificate of Adjudication No. 06-4411F

Dear Ms. Castañuela:

This letter is submitted on behalf of Nacogdoches County (the "County") in response to the above-referenced application (the "Application"). This letter is submitted to request a contested case hearing regarding the Application, as filed by the Lower Neches Valley Authority (the "Applicant"). By this letter, the County hereby submits the following information in support of its protest, request for party status, and request for contested case hearing regarding the Application:

Name and Contact Information for Requesting Party:

George Campbell
Land and Special Projects Agent
Nacogdoches County
101 West Main Street
Nacogdoches, Texas 75961
Phone: 936-569-6772
Facsimile: 936-560-7846

The County is a governmental agency of the State of Texas with matters of interest pertaining to the Application.

Effect of Application:

Applicant seeks to amend Certificate of Adjudication No. 06-4411, as amended (the "Certificate"), in a manner that may unduly impact the County. The County was issued Water

101 W. Main, Suite 170
County Courthouse
Nacogdoches, Texas 75961

(936) 560-7755
Fax (936) 560-7841

WSP

Ms. LaDonna Castañuela
February 26, 2008
Page 2

Use Permit No. 5585 (the "Permit") by the Texas Commission on Environmental Quality on July 3, 1998. The Permit was issued to impound state water in MPS Site 23A, Attoyac Bayou Watershed Project, located on the Naconiche Creek in the Neches River Basin. The current purpose for the project is for flood control and in-place recreation. In addition to authorizing the impoundment, the Permit also imposes special conditions regarding environmental flows. If granted, the Application will impact the County's ability to impound state water and comply with the conditions of the Permit.

Since the release of the Attoyac Bayou Project Work Plan in 1964, the Nacogdoches County Commissioners Courts have recognized that MPS Site 23A would have the potential to supply a future dependable source of water to the region. The planning, financial commitments, long term environmental studies and monitoring, archeological, other studies, and construction of the reservoir were committed to with a future water supply source in mind. Indeed, Lake Naconiche is included in the State Water Plan as a future water supply strategy for the region. If granted, the Application would impact the County's right to fully utilize its own surface water rights.

In addition to the direct harm that may befall the County by granting the Application, the County would submit that the Application does not address a water supply need in a manner that is consistent with the State Water Plan and the approved Region I Regional Water Plan. The amendments sought by the Application are clearly in conflict with the approved Region I Regional Water Plan inasmuch as they would reduce current and future water supplies identified for the County, thereby impairing the ability of the County to meet its projected water demands.

Conclusion

There are likely other issues of concern regarding the Application to which the County reserves the right to raise upon further review. For now, however, and by this letter, the County would submit that it clearly has a justiciable interest that may be impacted by the Application that is not common to members of the general public. The County would submit that, given the impact that granting the Application may have on the County's interests, and the preliminary concerns raised herein, which may be expanded upon as more information becomes available, the County should be named a party to all further proceedings concerning the Application, and that the Commission should grant this request for a contested case hearing.

Sincerely,



Honorable Joe English
Nacogdoches County Judge

WR
61534



TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

2008 FEB 27 PM 2:15

CHIEF CLERKS OFFICE

Nacogdoches County

JOE ENGLISH
County Judge

Commissioners
Tom Bush, Pct. I
Reggie L. Cotton, Jr., Pct. II

Danna S. Garrett
Admin. Court Assistant

Commissioners
Charles W. Simmons, Pct. III
Tom Strickland, Pct. IV

February 26, 2008

OPA

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

H
FEB 27 2008
BY sl

Re: Application to Amend Certificate of Adjudication No. 06-4411F

Dear Ms. Castañuela:

This letter is submitted on behalf of Nacogdoches County (the "County") in response to the above-referenced application (the "Application"). This letter is submitted to request a contested case hearing regarding the Application, as filed by the Lower Neches Valley Authority (the "Applicant"). By this letter, the County hereby submits the following information in support of its protest, request for party status, and request for contested case hearing regarding the Application:

Name and Contact Information for Requesting Party:

George Campbell
Land and Special Projects Agent
Nacogdoches County
101 West Main Street
Nacogdoches, Texas 75961
Phone: 936-569-6772
Facsimile: 936-560-7846

The County is a governmental agency of the State of Texas with matters of interest pertaining to the Application.

Effect of Application:

Applicant seeks to amend Certificate of Adjudication No. 06-4411, as amended (the "Certificate"), in a manner that may unduly impact the County. The County was issued Water

MW

Ms. LaDonna Castañuela
February 26, 2008
Page 2

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Since the release of the Attoyac Bayou Project Work Plan in 1964, the Nacogdoches County Commissioners Courts have recognized that MPS Site 23A would have the potential to supply a future dependable source of water to the region. The planning, financial commitments, long term environmental studies and monitoring, archeological, other studies, and construction of the reservoir were committed to with a future water supply source in mind. Indeed, Lake Naconiche is included in the State Water Plan as a future water supply strategy for the region. If granted, the Application would impact the County's right to fully utilize its own surface water rights.

In addition to the direct harm that may befall the County by granting the Application, the County would submit that the Application does not address a water supply need in a manner that is consistent with the State Water Plan and the approved Region I Regional Water Plan. The amendments sought by the Application are clearly in conflict with the approved Region I Regional Water Plan inasmuch as they would reduce current and future water supplies identified for the County, thereby impairing the ability of the County to meet its projected water demands.

Conclusion

There are likely other issues of concern regarding the Application to which the County reserves the right to raise upon further review. For now, however, and by this letter, the County would submit that it clearly has a justiciable interest that may be impacted by the Application that is not common to members of the general public. The County would submit that, given the impact that granting the Application may have on the County's interests, and the preliminary concerns raised herein, which may be expanded upon as more information becomes available, the County should be named a party to all further proceedings concerning the Application, and that the Commission should grant this request for a contested case hearing.

Sincerely,



Honorable Joe English
Nacogdoches County Judge

Ms. LaDonna Castañuela
February 26, 2008
Page 3

bcc: Mr. Brian L. Sledge
Mr. Brad Castleberry

WPK
21534



TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

2008 FEB 27 PM 2:11

CHIEF CLERKS OFFICE

Nacogdoches County

JOE ENGLISH
County Judge

Commissioners
Tom Bush, Pct. I
Reggie L. Cotton, Jr., Pct. II

Danna S. Garrett
Admin. Court Assistant

Commissioners
Charles W. Simmons, Pct. III
Tom Strickland, Pct. IV

February 26, 2008

OPA

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

H FEB 27 2008
BY *[Signature]*

Re: Application to Amend Certificate of Adjudication No. 06-4411F

Dear Ms. Castañuela:

This letter is submitted on behalf of Nacogdoches County (the "County") in response to the above-referenced application (the "Application"). This letter is submitted to request a contested case hearing regarding the Application, as filed by the Lower Neches Valley Authority (the "Applicant"). By this letter, the County hereby submits the following information in support of its protest, request for party status, and request for contested case hearing regarding the Application:

Name and Contact Information for Requesting Party:

George Campbell
Land and Special Projects Agent
Nacogdoches County
101 West Main Street
Nacogdoches, Texas 75961
Phone: 936-569-6772
Facsimile: 936-560-7846

The County is a governmental agency of the State of Texas with matters of interest pertaining to the Application.

Effect of Application:

Applicant seeks to amend Certificate of Adjudication No. 06-4411, as amended (the "Certificate"), in a manner that may unduly impact the County. The County was issued Water

MW

Ms. LaDonna Castañuela
February 26, 2008
Page 2

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Since the release of the Attoyac Bayou Project Work Plan in 1964, the Nacogdoches County Commissioners Courts have recognized that MPS Site 23A would have the potential to supply a future dependable source of water to the region. The planning, financial commitments, long term environmental studies and monitoring, archeological, other studies, and construction of the reservoir were committed to with a future water supply source in mind. Indeed, Lake Naconiche is included in the State Water Plan as a future water supply strategy for the region. If granted, the Application would impact the County's right to fully utilize its own surface water rights.

In addition to the direct harm that may befall the County by granting the Application, the County would submit that the Application does not address a water supply need in a manner that is consistent with the State Water Plan and the approved Region I Regional Water Plan. The amendments sought by the Application are clearly in conflict with the approved Region I Regional Water Plan inasmuch as they would reduce current and future water supplies identified for the County, thereby impairing the ability of the County to meet its projected water demands.

Conclusion

There are likely other issues of concern regarding the Application to which the County reserves the right to raise upon further review. For now, however, and by this letter, the County would submit that it clearly has a justiciable interest that may be impacted by the Application that is not common to members of the general public. The County would submit that, given the impact that granting the Application may have on the County's interests, and the preliminary concerns raised herein, which may be expanded upon as more information becomes available, the County should be named a party to all further proceedings concerning the Application, and that the Commission should grant this request for a contested case hearing.

Sincerely,



Honorable Joe English
Nacogdoches County Judge

Ms. LaDonna Castañuela
February 26, 2008
Page 3

bcc: Mr. Brian L. Sledge
Mr. Brad Castleberry

Mr. Castleberry's Direct Line: (512) 322-5856
Email: bcastleberry@lglawfirm.com

WR
61534
H

OPA

FEB 19 2008

February 14, 2008

BY EB
VIA FACSIMILE AND
FIRST-CLASS MAIL

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

Re: Application to Amend Certificate of Adjudication No. 06-4411F

Dear Ms. Castañuela:

This letter is submitted on behalf of the Upper Neches River Municipal Water Authority ("UNRMWA") in response to the above-referenced application (the "Application"). This letter is submitted to request a contested case hearing regarding the Application, as filed by the Lower Neches Valley Authority (the "Applicant"). By this letter, UNRMWA hereby submits the following information in support of its protest, request for party status, and request for contested case hearing regarding the Application:

Name and Contact Information for Requesting Party:

Monty D. Shank
General Manager
Upper Neches River Municipal Water Authority
P.O. Box 1965
Palestine, Texas 75802
Phone: 903-876-2237
Facsimile: 903-876-5200

Brad B. Castleberry
Lloyd Gosselink Blevins Rochelle & Townsend, P.C.
816 Congress Avenue, Suite 1900
Austin, Texas 78701
Phone: 512-233-5800
Facsimile: 512-472-0532

UNRMWA is a conservation and reclamation district, authorized pursuant to Art XVI §59 of the Texas Constitution and established pursuant to TEX. REV. CIV. STATS. ANN. art 8280-157. UNRMWA is a governmental agency of the State of Texas with matters of interest pertaining to the Application.

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2008 FEB 15 AM 11:53
CHIEF CLERKS OFFICE

MW

Effect of Application:

Applicant seeks to amend Certificate of Adjudication No. 06-4411, as amended (the "Certificate"), in a manner that may unduly impact UNRMWA. UNRMWA is authorized to divert and use state water pursuant to the provisions of Certificate of Adjudication No. 06-3254, as amended, which authorizes the impoundment of state water in Lake Palestine and the diversion and use of up to 238,100 acre-feet of water per year for domestic, municipal, industrial, irrigation, mining and recreation purposes subject to a range of priority dates. Blackburn Crossing Dam, which forms Lake Palestine, is located in Anderson and Cherokee Counties approximately 240 river miles upstream of Town Bluff Dam which forms B.A. Steinhagen Lake, which is the subject of the Application. If granted, the Application may impact UNRMWA's rights to divert and use state water pursuant to Certificate of Adjudication No. 06-3254, as amended.

Pursuant to its statutory powers, rights, privileges and functions, UNRMWA also expects to apply for additional water use permits in portions of the Neches River Basin at or above the Weches Dam site, and intends to construct additional facilities as necessary to satisfy the growing demands of its present and future water supply customers. Such facilities include the Fastrill Reservoir, a water management strategy recommended to meet projected needs in the 2006 Region C Regional Water Plan, the 2006 Region I Regional Water Plan, and the 2007 State Water Plan. Senate Bill 3, passed by the 80th Texas Legislature, designates the Fastrill Reservoir site as being of unique value for the construction of a reservoir. A preliminary review of the Neches WAM shows that granting the Application would adversely impact the water supply available from the Fastrill Reservoir, which would impact UNRMWA in its ability to develop this water supply reservoir.

In addition to the direct harm that may befall UNRMWA by granting the Application, UNRMWA would submit that the Application does not address a water supply need in a manner that is consistent with the State Water Plan and the approved Region I Regional Water Plan. Data supporting the 2007 State Water Plan show that Applicant has existing supplies, without the requested amendment, that are 578,020 acre-feet per year in excess of its year 2060 obligations based on water demand projections approved by the Texas Water Development Board. According to the 2007 State Water Plan, Applicant does not have a water supply need within the planning period and the Application does not meet the statutory requirements of TEX. WATER CODE § 11.134. The five potential water management strategies evaluated for Applicant in the Region I Regional Water Plan do not include the amendments requested in the Application. In fact, the amendments sought by the Application are clearly in conflict with the approved Region I Regional Water Plan inasmuch as they would reduce current and future water supplies identified for UNRMWA, thereby impairing the ability of UNRMWA to meet its projected water demands.

Ms. LaDonna Castañuela

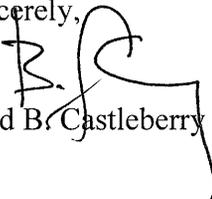
February 14, 2008

Page 3

Conclusion

There are likely other issues of concern regarding the Application to which UNRMWA reserves the right to raise upon further review of the Application. For now, however, and by this letter, UNRMWA would submit that it clearly has a justiciable interest that may be impacted by the Application that is not common to members of the general public. UNRMWA would submit that, given the impact that granting the Application may have on UNRMWA's interests, and the preliminary concerns raised herein, which may be expanded upon as more information becomes available, UNRMWA should be named as a party to all further proceedings concerning the Application, and that the Commission should grant this request for a contested case hearing.

Sincerely,


Brad B. Castleberry

BBC/jg

2694\00\ltr080214bbc

cc: Mr. Monty Shank



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

2008 FEB 14 PM 3:26

816 Congress Avenue, Suite 1900
Austin, Texas 78701
Telephone: (512) 322-5800
Facsimile: (512) 472-0532

www.lglawfirm.com

Mr. Castleberry's Direct Line: (512) 322-5856
Email: bcastleberry@lglawfirm.com

CHIEF CLERKS OFFICE

OPA

FEB 15 2008

WR
61534

H

February 14, 2008

BY

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

VIA FACSIMILE AND
FIRST-CLASS MAIL

Re: Application to Amend Certificate of Adjudication No. 06-4411F

Dear Ms. Castañuela:

This letter is submitted on behalf of the Upper Neches River Municipal Water Authority ("UNRMWA") in response to the above-referenced application (the "Application"). This letter is submitted to request a contested case hearing regarding the Application, as filed by the Lower Neches Valley Authority (the "Applicant"). By this letter, UNRMWA hereby submits the following information in support of its protest, request for party status, and request for contested case hearing regarding the Application:

Name and Contact Information for Requesting Party:

Monty D. Shank
General Manager
Upper Neches River Municipal Water Authority
P.O. Box 1965
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Phone: 903-876-2237
Facsimile: 903-876-5200

Brad B. Castleberry
Lloyd Gosselink Blevins Rochelle & Townsend, P.C.
816 Congress Avenue, Suite 1900
Austin, Texas 78701
Phone: 512-233-5800
Facsimile: 512-472-0532

UNRMWA is a conservation and reclamation district, authorized pursuant to Art XVI §59 of the Texas Constitution and established pursuant to TEX. REV. CIV. STATS. ANN. art 8280-157. UNRMWA is a governmental agency of the State of Texas with matters of interest pertaining to the Application.

MW

Ms. LaDonna Castañuela
February 14, 2008
Page 2

Effect of Application:

Applicant seeks to amend Certificate of Adjudication No. 06-4411, as amended (the "Certificate"), in a manner that may unduly impact UNRMWA. UNRMWA is authorized to divert and use state water pursuant to the provisions of Certificate of Adjudication No. 06-3254, as amended, which authorizes the impoundment of state water in Lake Palestine and the diversion and use of up to 238,100 acre-feet of water per year for domestic, municipal, industrial, irrigation, mining and recreation purposes subject to a range of priority dates. Blackburn Crossing Dam, which forms Lake Palestine, is located in Anderson and Cherokee Counties approximately 240 river miles upstream of Town Bluff Dam which forms B.A. Steinhagen Lake, which is the subject of the Application. If granted, the Application may impact UNRMWA's rights to divert and use state water pursuant to Certificate of Adjudication No. 06-3254, as amended.

Pursuant to its statutory powers, rights, privileges and functions, UNRMWA also expects to apply for additional water use permits in portions of the Neches River Basin at or above the Weches Dam site, and intends to construct additional facilities as necessary to satisfy the growing demands of its present and future water supply customers. Such facilities include the Fastrill Reservoir, a water management strategy recommended to meet projected needs in the 2006 Region C Regional Water Plan, the 2006 Region I Regional Water Plan, and the 2007 State Water Plan. Senate Bill 3, passed by the 80th Texas Legislature, designates the Fastrill Reservoir site as being of unique value for the construction of a reservoir. A preliminary review of the Neches WAM shows that granting the Application would adversely impact the water supply available from the Fastrill Reservoir, which would impact UNRMWA in its ability to develop this water supply reservoir.

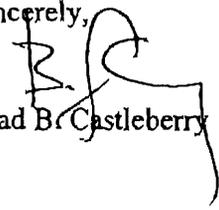
In addition to the direct harm that may befall UNRMWA by granting the Application, UNRMWA would submit that the Application does not address a water supply need in a manner that is consistent with the State Water Plan and the approved Region I Regional Water Plan. Data supporting the 2007 State Water Plan show that Applicant has existing supplies, without the requested amendment, that are 578,020 acre-feet per year in excess of its year 2060 obligations based on water demand projections approved by the Texas Water Development Board. According to the 2007 State Water Plan, Applicant does not have a water supply need within the planning period and the Application does not meet the statutory requirements of TEX. WATER CODE § 11.134. The five potential water management strategies evaluated for Applicant in the Region I Regional Water Plan do not include the amendments requested in the Application. In fact, the amendments sought by the Application are clearly in conflict with the approved Region I Regional Water Plan inasmuch as they would reduce current and future water supplies identified for UNRMWA, thereby impairing the ability of UNRMWA to meet its projected water demands.

Ms. LaDonna Castañuela
February 14, 2008
Page 3

Conclusion

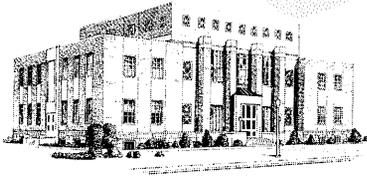
There are likely other issues of concern regarding the Application to which UNRMWA reserves the right to raise upon further review of the Application. For now, however, and by this letter, UNRMWA would submit that it clearly has a justiciable interest that may be impacted by the Application that is not common to members of the general public. UNRMWA would submit that, given the impact that granting the Application may have on UNRMWA's interests, and the preliminary concerns raised herein, which may be expanded upon as more information becomes available, UNRMWA should be named as a party to all further proceedings concerning the Application, and that the Commission should grant this request for a contested case hearing.

Sincerely,


Brad B. Castleberry

BBC/jg
2694100Utr080214bbc

cc: Mr. Monty Shank



Cherokee County
RUSK, TEXAS
75785

*WR
61534*

CHRIS DAVIS
COUNTY JUDGE

February 21, 2008

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

OPA
H
FEB 27 2008
BY *DL*

CHIEF CLERKS OFFICE

2008 FEB 26 AM 10:49

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

In re: Application No. 06-4411E by Lower Neches Valley Authority

Dear Ms. Castanuela:

We continue to protest the above referenced application with its modifications and request a contested case hearing on it. We also request to be named a party to the proceeding. We are a participant in the Lake Columbia regional water supply project by virtue of a contract with the Angelina and Neches River Authority which holds Permit to Appropriate State Water No. 4228. We have paid many thousands of dollars, and are contracted to pay many more, for the development of Lake Columbia and will be significantly affected by the LNVA application. Our rights for a surface water supply will be affected.

There are many reasons why the application should be denied among them is that the LNVA currently has a surplus of water available to it. Even though the LNVA had a representative on the Regional Planning Group, the recently adopted Region I Water Plan does not show that the LNVA has a need for more water.

The name and contact information for the requesting party is:

Cherokee County
Judge Chris Davis
135 South Main Street
Rusk, Texas 75785

Sincerely,

Judge Chris Davis

MW



City of Whitehouse

P.O. Box 776

Whitehouse, Texas 75791-0776

Ronny Fite
City Manager

Office (903) 839-4914
Fax (903) 839-4915

February 18, 2008

WR
61534

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

H
OPA
FEB 21 2008
BY EB

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2008 FEB 21 AM 10:59
CHIEF CLERKS OFFICE

Re: Application No. 06-4411F by Lower Neches Valley Authority

Dear Ms. Castanuela:

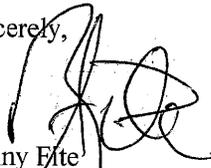
We protest the above reference application and request a contested case hearing on it. We also request to be named a party to the proceeding. We are a participant in the Lake Columbia regional water supply project by virtue of a contract with the Angelina and Neches River Authority which holds Permit to Appropriate State Water No. 4228. We have paid many thousands of dollars, and are contracted to pay more, for the development of Lake Columbia and will be significantly affected by the LNVA application. Our rights for a surface water supply will be affected.

We would also like to take this opportunity to voice our concerns about another project with which we are involved. We are also currently engaged in contract negotiations with the Angelina - Neches County Water Control and Improvement Dist # 1 for the purchase of surface water from Lake Striker. We are greatly concerned how this application will impact the yield on this project as well. We have also spent thousands of dollars in development of this water source for the City of Whitehouse and are contracted to pay more for this project as well; therefore the impact of this application may be two-fold for us.

There are many reasons why the application should be denied among them is that the LNVA currently has a surplus of water available to it. Even though the LNVA has a representative on the Regional Planning Group, the recently adopted Region I Water Plan does not show that the LNVA has a need for more water.

The name and contact information for the requesting party is:

Ronny Fite, City Manager
City of Whitehouse
P. O. Box 776
Whitehouse, Texas 75791

Sincerely,


Ronny Fite
City Manager

cc: Whitehouse City Council

Handwritten initials

MATHEWS & FREELAND, L.L.P.

ATTORNEYS AT LAW

JIM MATHEWS
JOE FREELAND

P.O. Box 1568
AUSTIN, TEXAS 78768-1568

(512) 404-7800
FAX: (512) 703-2785

WR
61534

February 20, 2008

Via Fax & Mail

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

H OPA
FEB 22 2008
BY GB

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2008 FEB 22 AM 10:07
CHIEF CLERKS OFFICE

RE: Application No. 06-4411F, Lower Neches Valley Authority

Attention Chief Clerk:

This letter is submitted on behalf of the City of Tyler, Texas, and Tyler Water Utilities ("Tyler"). Tyler requests a contested case hearing on, Application No. 06-4411F as filed by the Lower Neches Valley Authority (LNVA).

The City of Tyler owns water rights and is party to water contracts that could be adversely affected if the referenced application is granted. These rights and contracts include Certificate of Adjudications Nos. 06-3254 (Lake Palestine), 06-4853 (Lake Tyler) and 06-3237 (Lake Bellwood). Tyler's rights and contracts are upstream of the proposed Weches Dam on the Neches River, and could be adversely affected if Special Conditions 5.C. and 5.D. are modified as proposed. Such action would have a detrimental effect on the citizens of Tyler. Additionally, Tyler is the largest municipality in the Neches River Basin above Sam Rayburn Reservoir. Tyler's future, as well as the future of all of the Upper Neches Basin, could be hampered by the proposed modification to LNVA's water right.

With regards to this matter, Tyler's contact information is:

Gregory M. Morgan, P.E.
Director of Utilities & Public Works
City of Tyler
P.O. Box 2039
Tyler, Texas 75710
903.531.1234 (office)
903.531.1259 (fax)

MW

Mr. Joe Freeland
Mathews & Freeland, LLP
327 Congress
Austin, Texas 78768
512.404.7800 (office)
512.703.8275 (fax)

Thank you for your consideration. Please do not hesitate to contact me regarding this matter.

Sincerely



Joe Freeland

c: Greg Morgan

MATHEWS & FREELAND, L.L.P.

ATTORNEYS AT LAW

JIM MATHEWS
JOE FREELAND

P.O. Box 1568
AUSTIN, TEXAS 78768-1568

(512) 404-7800
FAX: (512) 703-2785

WR
61534

February 20, 2008

Via Fax & Mail

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

OPA
H FEB 20 2008
BY EB

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
2008 FEB 20 AM 11:35
CHIEF CLERKS OFFICE

RE: Application No. 06-4411F, Lower Neches Valley Authority

Attention Chief Clerk:

This letter is submitted on behalf of the City of Tyler, Texas, and Tyler Water Utilities ("Tyler"). Tyler requests a contested case hearing on, Application No. 06-4411F as filed by the Lower Neches Valley Authority (LNVA).

The City of Tyler owns water rights and is party to water contracts that could be adversely affected if the referenced application is granted. These rights and contracts include Certificate of Adjudications Nos. 06-3254 (Lake Palestine), 06-4853 (Lake Tyler) and 06-3237 (Lake Bellwood). Tyler's rights and contracts are upstream of the proposed Weches Dam on the Neches River, and could be adversely affected if Special Conditions 5.C. and 5.D. are modified as proposed. Such action would have a detrimental effect on the citizens of Tyler. Additionally, Tyler is the largest municipality in the Neches River Basin above Sam Rayburn Reservoir. Tyler's future, as well as the future of all of the Upper Neches Basin, could be hampered by the proposed modification to LNVA's water right.

With regards to this matter, Tyler's contact information is:

Gregory M. Morgan, P.E.
Director of Utilities & Public Works
City of Tyler
P.O. Box 2039
Tyler, Texas 75710
903.531.1234 (office)
903.531.1259 (fax)

MW

Office of the Chief Clerk
February 20, 2008
Page 2

Mr. Joe Freeland
Mathews & Freeland, LLP
327 Congress
Austin, Texas 78768
512.404.7800 (office)
512.703.8275 (fax)

Thank you for your consideration. Please do not hesitate to contact me regarding this matter.

Sincerely



Joe Freeland

c: Greg Morgan

Nacogdoches

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TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

2008 FEB 29 PM 3:10

CHIEF CLERKS OFFICE

February 27, 2008

Via Telecopy 512/239-3311 and US Mail

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

WP
61534

HR OPA
L. 03
BY

Re: Application to Amend Certification of Adjudication No. 06-4411

Dear Ms. Castañuela:

The City of Nacogdoches ("City") requests a contested case hearing regarding the referenced application filed by the Lower Neches Valley Authority ("LNVA"). The City's contact person for purposes of this request is Jim Mathews, Mathews & Freeland, 327 Congress Ave. Ste. 300, Austin, Texas 78701, 404-7800. The City is an "affected person" as described below.

The City is a home rule city that provides water utility service to approximately 16,000 retail customers and to a number of wholesale customers. The City presently has authorization to divert and use water from Lake Nacogdoches under water right number 2560. The City also relies on groundwater supplies from the Carrizo-Wilcox Aquifer. The City plans on developing additional supplies of surface water upstream from the proposed Ponta Dam on the Angelina River.

Presently, there are two special conditions in LNVA's Certificate of Adjudication that subordinate certain of LNVA's water rights to other water rights. If LNVA's application is granted, LNVA's water rights will no longer be subordinate to any water right the City may hereafter need in order to meet projected demand for water.

Special Condition 5C

Under Special Condition 5C, LNVA's 1963 right to divert and use water from Lake Sam Rayburn and B.A. Steinhagen Lake for agricultural and industrial purposes is subordinate "to *any* present or *future* domestic and/or municipal water needs or requirements." Emphasis added. When the TCEQ's predecessor agency issued LNVA's 1963 water rights it did so in a manner that protected all future domestic and/or municipal water rights regardless of when those rights are obtained. LNVA proposes to revise that

MW

Special Condition so that its 1963 agricultural and industrial water rights are subordinate to only those existing municipal water rights with a priority date between November 13, 1963 and December 19, 2007 rather than subordinate to *any* future municipal water right as is the case under the existing Special Condition.

If the LNVA's proposed revisions to Special Condition 5C are approved, any water right the City obtains to divert water for municipal purposes would be junior to LNVA's 1963 agricultural and industrial water rights in Lake Sam Rayburn and B.A. Steinhagen Lake. Granting LNVA's application would remove the protections currently found in LNVA's 1963 water right in favor of all of those who obtain a municipal water right after LNVA's 1963 water right was issued.

The City provides water to its customers for municipal purposes and, as such, is a member of the class of entities whose rights are protected under LNVA's 1963 water right. If LNVA's application is granted, the protection afforded the City under LNVA's 1963 water right will be removed and the City will be adversely affected in a manner not common to the general public.

Special Condition 5D

Under Special Condition 5D LNVA's 1963 municipal, agricultural and industrial water rights are subordinate "to *any* rights for storage and/or use of waters in and above the proposed Ponta Dam on the Angelina River and the proposed Weches Dam on the Neches River." Emphasis added. When the TCEQ's predecessor agency issued LNVA's 1963 water rights it did so in a manner that protected all future water supply projects to be located upstream of those two proposed dams. LNVA proposes to revise Special Condition 5D so that its 1963 water rights are subordinate to only those water rights with a priority date between November 13, 1963 and December 19, 2007 that are associated with water supply projects located upstream from the proposed dams.

The proposed revision to Special Condition 5D would adversely affect the City. The City plans to develop additional water supplies located upstream of the proposed Ponta Dam on the Angelina River. If the City were to obtain a water right to divert water from a location upstream of the proposed Ponta Dam, its water right will be junior to LNVA's 1963 water rights if LNVA's application is granted. Accordingly, granting LNVA's application would remove the protections currently found in LNVA's 1963 water right in favor of those who obtain supplies upstream from the proposed Ponta Dam.

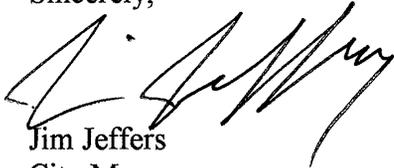
The City envisions using water from sources located upstream of the proposed Ponta Dam and, as such, is a member of the class of entities whose rights are protected under LNVA's 1963 water right. If LNVA's application is granted, the protection afforded the City under LNVA's 1963 water right will be removed and the City will be adversely affected in a manner not common to the general public.

Proposed Conditions

The City would be prepared to withdraw its request for a contested case hearing if LNVA were to revise its application in a manner that affords the City the same protection it has under the current version of Special Conditions 5C and 5D.

Please let me know if you have any questions regarding this request for a contested case hearing.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Jeffers", written over a light blue horizontal line.

Jim Jeffers
City Manager
City of Nacogdoches

CC: Jim Mathews
Roger Van Horn, Mayor
Victoria LaFollett-Koenig, Deputy City Manager
City of Nacogdoches Commissioners

Nacogdoches

the oldest town in Texas

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

2008 FEB 29 AM 10:32

CHIEF CLERKS OFFICE

HR OPA

FEB 03 2008

BY DM

February 27, 2008

Via Telecopy 512/239-3311 and US Mail

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

Re: Application to Amend Certification of Adjudication No. 06-4411

Dear Ms. Castañuela:

The City of Nacogdoches ("City") requests a contested case hearing regarding the referenced application filed by the Lower Neches Valley Authority ("LNVA"). The City's contact person for purposes of this request is Jim Mathews, Mathews & Freeland, 327 Congress Ave. Ste. 300, Austin, Texas 78701, 404-7800. The City is an "affected person" as described below.

The City is a home rule city that provides water utility service to approximately 16,000 retail customers and to a number of wholesale customers. The City presently has authorization to divert and use water from Lake Nacogdoches under water right number 2560. The City also relies on groundwater supplies from the Carrizo-Wilcox Aquifer. The City plans on developing additional supplies of surface water upstream from the proposed Ponta Dam on the Angelina River.

Presently, there are two special conditions in LNVA's Certificate of Adjudication that subordinate certain of LNVA's water rights to other water rights. If LNVA's application is granted, LNVA's water rights will no longer be subordinate to any water right the City may hereafter need in order to meet projected demand for water.

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MW

Special Condition so that its 1963 agricultural and industrial water rights are subordinate to only those existing municipal water rights with a priority date between November 13, 1963 and December 19, 2007 rather than subordinate to *any* future municipal water right as is the case under the existing Special Condition.

If the LNVA's proposed revisions to Special Condition 5C are approved, any water right the City obtains to divert water for municipal purposes would be junior to LNVA's 1963 agricultural and industrial water rights in Lake Sam Rayburn and B.A. Steinhagen Lake. Granting LNVA's application would remove the protections currently found in LNVA's 1963 water right in favor of all of those who obtain a municipal water right after LNVA's 1963 water right was issued.

The City provides water to its customers for municipal purposes and, as such, is a member of the class of entities whose rights are protected under LNVA's 1963 water right. If LNVA's application is granted, the protection afforded the City under LNVA's 1963 water right will be removed and the City will be adversely affected in a manner not common to the general public.

Special Condition 5D

Under Special Condition 5D LNVA's 1963 municipal, agricultural and industrial water rights are subordinate "to *any* rights for storage and/or use of waters in and above the proposed Ponta Dam on the Angelina River and the proposed Weches Dam on the Neches River." Emphasis added. When the TCEQ's predecessor agency issued LNVA's 1963 water rights it did so in a manner that protected all future water supply projects to be located upstream of those two proposed dams. LNVA proposes to revise Special Condition 5D so that its 1963 water rights are subordinate to only those water rights with a priority date between November 13, 1963 and December 19, 2007 that are associated with water supply projects located upstream from the proposed dams.

The proposed revision to Special Condition 5D would adversely affect the City. The City plans to develop additional water supplies located upstream of the proposed Ponta Dam on the Angelina River. If the City were to obtain a water right to divert water from a location upstream of the proposed Ponta Dam, its water right will be junior to LNVA's 1963 water rights if LNVA's application is granted. Accordingly, granting LNVA's application would remove the protections currently found in LNVA's 1963 water right in favor of those who obtain supplies upstream from the proposed Ponta Dam.

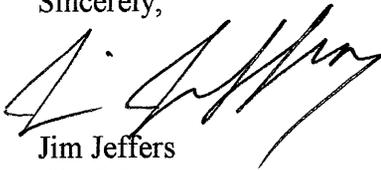
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Proposed Conditions

The City would be prepared to withdraw its request for a contested case hearing if LNVA were to revise its application in a manner that affords the City the same protection it has under the current version of Special Conditions 5C and 5D.

Please let me know if you have any questions regarding this request for a contested case hearing.

Sincerely,



Jim Jeffers
City Manager
City of Nacogdoches

CC: Jim Mathews
Roger Van Horn, Mayor
Victoria LaFollett-Koenig, Deputy City Manager
City of Nacogdoches Commissioners

WR
61534

Nacogdoches

the oldest town in Texas



TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2008 FEB 27 AM 11:37
CHIEF CLERKS OFFICE

February 27, 2008

Via Telecopy 512/239-3311 and US Mail

OPA
H
FEB 27 2008
BY ell

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

Re: Application to Amend Certification of Adjudication No. 06-4411

Dear Ms. Castañuela:

The City of Nacogdoches ("City") requests a contested case hearing regarding the referenced application filed by the Lower Neches Valley Authority ("LNVA"). The City's contact person for purposes of this request is Jim Mathews, Mathews & Freeland, 327 Congress Ave. Ste. 300, Austin, Texas 78701, 404-7800. The City is an "affected person" as described below.

The City is a home rule city that provides water utility service to approximately 16,000 retail customers and to a number of wholesale customers. The City presently has authorization to divert and use water from Lake Nacogdoches under water right number 2560. The City also relies on groundwater supplies from the Carrizo-Wilcox Aquifer. The City plans on developing additional supplies of surface water upstream from the proposed Ponta Dam on the Angelina River.

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The proposed revision to Special Condition 5D would adversely affect the City. The City plans to develop additional water supplies located upstream of the proposed Ponta Dam on the Angelina River. If the City were to obtain a water right to divert water from a location upstream of the proposed Ponta Dam, its water right will be junior to LNVA's 1963 water rights if LNVA's application is granted. Accordingly, granting LNVA's application would remove the protections currently found in LNVA's 1963 water right in favor of those who obtain supplies upstream from the proposed Ponta Dam.

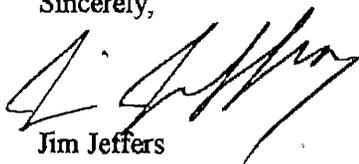
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Proposed Conditions

The City would be prepared to withdraw its request for a contested case hearing if LNVA were to revise its application in a manner that affords the City the same protection it has under the current version of Special Conditions 5C and 5D.

Please let me know if you have any questions regarding this request for a contested case hearing.

Sincerely,



Jim Jeffers
City Manager
City of Nacogdoches

CC: Jim Mathews
Roger Van Horn, Mayor
Victoria LaFollett-Koenig, Deputy City Manager
City of Nacogdoches Commissioners



ZELESKEY

*WR
6/15/34*

OPA

H FEB 26 2008

BY *pu*

2008 FEB 25 PM 3:00
CHIEF CLERKS OFFICE

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

February 21, 2008

- Steve Roper
- Jack D. Hicks
- William R. Ricks
- Robert T. Cain, Jr.
- Robert Alderman, Jr.
- Joseph M. McElroy
- Todd L. Kassaw
- Scott C. Skelton
- Jeff S. Chance
- Aimee C. Slusher
- Jeff "Marty" Barnhill
- Brent L. Watkins
- Amy D. Long
- Judi C. Wells

VIA TELECOPIER (512)239-3311
AND CMRRR NO. 7007 0710 0003 9940 4184

Ms. LaDonna Castanuela
Chief Clerk, TCEQ
MC-105
Building F
1210 Park 35 Circle
Austin, Texas 78753

In re: Application No. 06-4411F, Lower Neches Valley
 Authority

Dear Ms. Castanuela:

This letter is submitted to you on behalf of the Angelina and Neches River Authority ("ANRA") which requests a contested case hearing on Application 06-4411F, filed by the Lower Neches Valley Authority.

Of Counsel:
John D. Stover

Linda O. Poland

NAME OF CONTESTING PARTY:
Angelina and Neches River Authority
P.O. Box 387
Lufkin, Texas 75902
(936) 632-7795
(936) 632-2564 Fax

Ralph M. Zeleskey
(1922-2000)

James R. Cornelius
(1920-2006)

Kenzy D. Hallmark
(1928-2007)

COUNSEL OF RECORD:
John D. Stover
P.O. Drawer 1728
Lufkin, Texas 75902-1728
(936) 632-3130
(936) 632-6545 Fax

APPLICANT'S NAME AND PERMIT NO.:
Lower Neches Valley Authority
Application No. 06-4411F to Amend Certificate of
Adjudication

ZELESKEY CORNELIUS HALLMARK ROPER HICKS PLLC
Attorneys and Counselors

PO Drawer 1728
1616 South Chestnut
Lufkin, Texas 75902-1728
tel: 936.632.3381 fax: 936.632.6545
www.zeleskey.com
Additional office: Nacogdoches, Texas

MW

Ms. Castanuela
February 21, 2008
Page Two

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

2008 FEB 25 PM 3:00

CHIEF CLERKS OFFICE

BRIEF AND SPECIFIC DESCRIPTION OF HOW ANRA WOULD BE EFFECTED THE APPLICATION:

The Angelina and Neches River Authority is a conservation and reclamation district created by the State of Texas with the powers to conserve, store, control, preserve, use, and distribute the storm and flood water of the Neches River and its tributaries. The Act creating ANRA can now be found in the Texas Special District Local Laws Code Chapter 8501. The Application involves state water stored in Sam Rayburn Reservoir which lies within the territory of ANRA.

ANRA holds Permit to Appropriate State Water No. 4228 which authorizes the construction and operation of reservoir on Mud Creek, a tributary of Angelina River which is upstream of Lake Sam Rayburn.

The Application raises questions as to factors listed in Texas Water Code Section 11.134. Prior to granting the Application, the Commission must conclude, among other things, that the Application "...addresses a water supply need in a manner that is consistent with the state water plan and an approved regional water plan..." It must also conclude "...the applicant has provided evidence that reasonable diligence will be used to avoid waste and achieve water conservation..." ANRA is concerned about the Application meeting those criteria as well as environmental flow standards.

For the reasons briefly stated above, ANRA respectfully requests that a contested case hearing be held on the Application and that ANRA be named a party to it.

Very truly yours,



John D. Stover

JDS/rc

@PFDeakt.dp1: :ODMA/PCDOCS/DOCS1/283299/1

cc: Mr. Hubert Oxford, III
Ms. Molly Cagle
Mr. Jim Matthews
Mr. Joe Freeland
Mr. Brad Castleberry
Mr. Ken Reneau



ZELESKEY

H OPA
FEB 22 2008

BY EB

WR
61534

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

2008 FEB 21 AM 11:32
CHIEF CLERKS OFFICE

February 21, 2008

- Steve Roper
- Jack D. Hicks
- William R. Ricks
- Robert T. Cain, Jr.
- Robert Alderman, Jr.
- Joseph M. McElroy
- Todd L. Kassaw
- Scott C. Skelton
- Jeff S. Chance
- Aimee C. Slusher
- Jeff "Marty" Barnhill
- Brent L. Watkins
- Amy D. Long
- Judi C. Wells

VIA TELECOPIER (512)239-3311
AND CMRRR NO. 7007 0710 0003 9940 4184
 Ms. LaDonna Castanuela
 Chief Clerk, TCEQ
 MC-105
 Building F
 1210 Park 35 Circle
 Austin, Texas 78753

In re: Application No. 06-4411F, Lower Neches Valley Authority

Dear Ms. Castanuela:

This letter is submitted to you on behalf of the Angelina and Neches River Authority ("ANRA") which requests a contested case hearing on Application 06-4411F, filed by the Lower Neches Valley Authority.

Of Counsel:
John D. Stover

Linda O. Poland

Ralph M. Zeleskey
(1922-2000)

James R. Cornelius
(1920-2006)

Kenzy D. Hallmark
(1928-2007)

NAME OF CONTESTING PARTY:
 Angelina and Neches River Authority
 P.O. Box 387
 Lufkin, Texas 75902
 (936) 632-7795
 (936) 632-2564 Fax

COUNSEL OF RECORD:
 John D. Stover
 P.O. Drawer 1728
 Lufkin, Texas 75902-1728
 (936) 632-3130
 (936) 632-6545 Fax

APPLICANT'S NAME AND PERMIT NO.:
 Lower Neches Valley Authority
 Application No. 06-4411F to Amend Certificate of Adjudication

ZELESKEY CORNELIUS HALLMARK ROPER HICKS PLLC
Attorneys and Counselors

PO Drawer 1728
 1616 South Chestnut
 Lufkin, Texas 75902-1728
 tel: 936.632.3381 fax: 936.632.6545
 www.zeleskey.com
 Additional office: Nacogdoches, Texas

MW

Ms. Castanuela
February 21, 2008
Page Two

BRIEF AND SPECIFIC DESCRIPTION OF HOW ANRA WOULD BE EFFECTED THE APPLICATION:

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Very truly yours,



John D. Stover

JDS/rc
\\FFS02Ktop\11\ODMA\FCDocs\DOC51\283299\1

- cc: Mr. Hubert Oxford, III
- Ms. Molly Cagle
- Mr. Jim Matthews
- Mr. Joe Freeland
- Mr. Brad Castleberry
- Mr. Ken Reneau

WEBB & WEBB

ATTORNEYS AT LAW

1270 BANK OF AMERICA CENTER, 515 CONGRESS AVENUE

P.O. DRAWER 1329

AUSTIN, TEXAS 78767-1329

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

2008 FEB 19 AM 10:39

STEPHEN P. WEBB
GWENDOLYN HILL WEBB

WR
61534

CHIEF CLERKS OFFICE
TELEPHONE: (512) 472-9990
FACSIMILE: (512) 472-3183

February 15, 2008

H OPA
FEB 19 2008
BY *EB*

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

**RE: Application No. 06-4411F by Lower Neches Valley Authority
Request for Contested Case Hearing by the City of Dallas**

Dear Ms. Castañuela:

The City of Dallas ("Dallas") requests to be named a party and requests a contested case hearing in Application No. 06-4411F by Lower Neches Valley Authority, hereinafter referred to as "Applicant" or "LNVA." Based on the notice of Application No. 06-4411F issued by the Texas Commission on Environmental Quality ("Commission") on January 18, 2008, Dallas protests the issuance of an amendment to Certificate of Adjudication No. ("CoA") 06-4411F as proposed by Applicant. Dallas requests a contested case hearing and submits the following information in support of its protest, request for party status, and request 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 75201
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

MW

Dallas is a home rule city, surface water rights holder and regional water supplier in Texas water planning Region C. Dallas' water supply needs and water management planning are set forth in the 2006 Region C Water Plan (approved by the Texas Water Development Board ["the Board"] on April 18, 2006.) Fastrill Reservoir is a recommended water management strategy to meet projected needs for Dallas as well as water user groups in Anderson, Cherokee, Henderson, and Smith Counties in Region I. Further, Dallas has entered into a long term contract with the Upper Neches River Municipal Water Authority ("UNRMWA") for water from Lake Palestine and the Downstream Diversion Dam authorized under CoA 06-3254 and located upstream of the water B. A. Steinhagen Lake authorized by CoA 06-4411, as amended.

Effect of Proposed Water Right:

Applicant seeks to Amend Special Conditions 5.C. and 5.D. from its Certificate of Adjudication No. 06-4411, which currently state:

Special Condition 5.C. states: Excepting municipal purposes, all of owner's right to divert and use public water, under the priority date of November 12, 1963, is subordinate to any present or future domestic and/or municipal water needs or requirements.

Special Condition 5.D. states: Owner's rights, under the priority date of November 12, 1963, authorized by this certificate of adjudication, shall be subordinate to any rights hereafter granted by the Commission for storage and/or use of waters in and above the proposed Ponta Dam on the Angelina River and the proposed Weches Dam on the Neches River.

Applicant seeks for Special Conditions 5.C. and 5.D. to read as follows:

Special Condition 5.C. Excepting municipal purposes, all of owner's right to divert and use public water, under the priority date of November 12, 1963, is subordinate to any existing municipal water rights granted by the Commission with a priority date of November 12, 1963 and December 19, 2007

Special Condition 5.D. Owner's rights, under the priority date of November 12, 1963, authorized by this certificate of adjudication, shall be subordinate to all existing rights granted by the Commission with a priority date between November 13, 1963 and December 19, 2007 for storage and/or use of waters in and above the proposed Ponta Dam on the Angelina River and the proposed Weches Dam on the Neches River.

Fastrill Reservoir is a proposed reservoir in the Neches River Basin with a proposed dam location upstream of the Weches Dam site listed in Special Condition 5.D. Senate Bill 3, passed by the 80th Texas Legislature, designates the Fastrill Reservoir site as one of 19 reservoir sites of unique value for the construction of a reservoir. Amendment of Certificate of Adjudication No. ("CoA") 06-4411E, as proposed

by Applicant, will significantly reduce the yield of Fastrill Reservoir as determined in the Reservoir Site Protection Study performed by HDR Engineering, Inc., Freese & Nichols, Inc., and R.J. Brandes Company on behalf of the Board. This study analyzed the yield available from Fastrill Reservoir based on studies performed on behalf of Upper Neches River Municipal Water Authority (UNRMWA) and Dallas (HDR September 2006).

The Board and Dallas have moved to protect their interests in the Fastrill Reservoir site in two separate lawsuits: Civil Action No. 6:07-CV-10, *The Texas Water Development Board vs. The United States Department of the Interior; Dirk Kempthorne, Secretary of the Interior; the United States Fish and Wildlife Service; and H. Dale Hall, Director of the U.S. Fish and Wildlife Service*, and in a separate cause, *City of Dallas, Texas vs. H. Dale Hall, in his official capacity as Director of the United States Fish and Wildlife Service; Dirk Kempthorne, in his official capacity as Secretary of the United States Department of Interior; Benjamin N. Tuggle, in his official capacity as Regional Director of the Southwest Region 2 of the United States Fish and Wildlife Service; and United States Department of the Interior*. Under the Board approved Water Plan for Texas, 2007, Fastrill Reservoir is part of the plan for water resources to be developed to meet Dallas' water supply needs.

Applicant's proposed amendment of Special Conditions 5.C. and 5.D. would decrease the feasibility of the proposed Fastrill reservoir as a water supply to meet the needs of Dallas and Region I entities in both the Region C Plan and the 2007 Texas Water Plan approved by the Board. Accordingly, Dallas believes that no amendment should be granted to Applicant as proposed, because the amendment does not meet Texas Water Code §11.134(b) criteria in that removal of the Special Conditions would harm Dallas in its plans for future water supply to meet its customer's needs. Consequently, amendment of the Special Conditions would be detrimental to the public welfare, and would not address a water supply need in a manner that is consistent with the State water plan. The Special Conditions Applicant seeks to amend are the very Special Conditions which made Sam Rayburn Reservoir and B.A. Steinhagen Lake consistent with the public welfare and to statewide water development plans.

Finally, LNVA's Application No. 06-4411F does not address a water supply need in a manner that is consistent with the State Water Plan and an approved regional water plan. Data supporting the 2007 State Water Plan show that LNVA has existing supplies, without the requested amendment, that are 578,020 acre-feet per year in excess of year 2060 obligations, based on water demand projections approved by the Board. According to the 2007 State Water Plan, LNVA does not have a water supply need within the planning period. The five potential water management strategies evaluated for LNVA in the 2006 East Texas Regional Water Plan do not include the changes to CoA 06-4411 sought in this application.

Conclusion:

Dallas should be named a party to further proceedings concerning Application No. 06-4411F on the basis of this letter. Dallas requests a contested case hearing on Application No. 06-4411F, because Dallas is an affected party under the Texas Water Plan, 2007 whose rights and interests described above are potentially impaired by the issuance of a water rights permit to Applicant, pursuant to Application No. 06-4411F. Dallas wishes to remain a party to this proceeding until all matters resolving the potential impact on Dallas' water rights and public interests are resolved. Dallas will keep the Commission advised of the status of this protest and request for contested case hearing.

Sincerely,



Gwendolyn Hill Webb
ATTORNEY FOR THE CITY OF DALLAS

cc: Lower Neches Valley Authority
P.O. Box 5117
Beaumont, Texas 77726-8117

Jo M. "Jody" Puckett, P. E., Director
Dallas Water Utilities

WEBB & WEBB

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February 15, 2008

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

H OPA
FEB 19 2008
BY EB

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
2008 FEB 15 PM 12:50
CHIEF CLERKS OFFICE

**RE: Application No. 06-4411F by Lower Neches Valley Authority
Request for Contested Case Hearing by the City of Dallas**

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MW

**REQUEST FOR CONTESTED CASE HEARING BY THE CITY OF DALLAS ON
APPLICATION NO. 06-4411F BY LOWER NECHES VALLEY AUTHORITY
FEBRUARY 15, 2008**

PAGE 2

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**REQUEST FOR CONTESTED CASE HEARING BY THE CITY OF DALLAS ON
APPLICATION NO. 06-4411F BY LOWER NECHES VALLEY AUTHORITY
FEBRUARY 15, 2008**

PAGE 3

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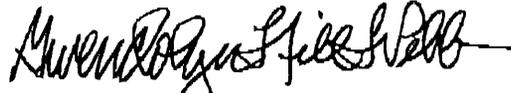
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**REQUEST FOR CONTESTED CASE HEARING BY THE CITY OF DALLAS ON
APPLICATION NO. 06-4411F BY LOWER NECHES VALLEY AUTHORITY
FEBRUARY 15, 2008**

PAGE 4

Sincerely,



Gwendolyn Hill Webb
ATTORNEY FOR THE CITY OF DALLAS

cc: Lower Neches Valley Authority
P.O. Box 5117
Beaumont, Texas 77726-8117

Jo M. "Jody" Puckett, P. E., Director
Dallas Water Utilities