

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

January 11, 2011

John and Marianne Loveless
7106 - 32nd Street
Lubbock, Texas 79407
(806) 796 - 0124

2011 JAN 13 AM 10:07

CHIEF CLERKS OFFICE

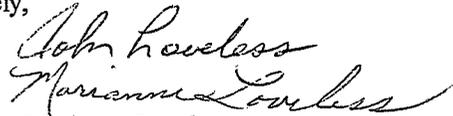
Ms. LaDonna Castañuela
Chief Clerk
Texas Commission on Environmental Quality
ATTN: Agenda Docket Clerk
Mail Code 105
P. O. Box 13087
Austin, Texas 78711-3087

Re: Docket no.2010-0837-WR
City of Lubbock Water Rights Permit No. WRPERM 3985

Dear Ms. Castañuela,

Enclosed for filing is our response and requests in regard to the above permit. We are also enclosing 7 copies as requested. . Thank you for your attentions to this matter.

Sincerely,



John and Marianne Loveless

Enclosures

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John and Marianne Loveless
7106 - 32nd Street
Lubbock, Texas 79407
(806) 796 - 0124

Re: TCEQ Docket no.2010-0837-WR
Application No. 4340A to amend
City of Lubbock Water Rights Permit No. WRPERM 3985

Dear Commissioners of the Texas Commission of Environmental Quality,

I am very blessed to have been born and raised in a unique part of the world, Lubbock, Texas. The earth is very flat here, with one exception, a canyon. We are perched on the edge of the Caprock Escarpment where a drop off of the Plains falls from approximately 3200 feet to around 2800 feet and from there continues down across the state to sea level. There is one river through our area, the North Fork of the Double Mountain Fork of the Brazos River, hereafter referred to as "The River".

Beginning in the 1920's, my family began ranching and farming operations in and on the rim of Yellowhouse Canyon north of Slaton, Texas, which lies about twelve miles southeast of Lubbock. This is our area of concern. We have used and still use our riparian rights to The River. The River flows through Lubbock down the canyon through the town of Buffalo Springs Lake and the town of Lake Ransom Canyon. Both of these towns have lakes formed by dams in The River. They both lie between Lubbock's proposed Lake 7 and our ranch property. Below these two current dams is where the city of Lubbock has Outfall 001, which now has permit to pour approximately 9 MGD of treated effluent straight into The River. We are approximately two and one half miles downstream from that point.

I have seen, in my lifetime of 55 years, The River change from water we swam and fished in, to a river of pollutants. The fish which are present there now are unclean, but very few survive below the dams in the water that runs through our ranch, partially because of the water quality and partially because of their controls over water flow. I have never had the opportunity to have the pleasures of fishing with my children and having a meal from the river with them as I had with my parents and grandparents as a child. The River has changed dramatically and become polluted over the years since then.

There are many sources of pollution to The River. The City of Lubbock's Outfall 001 is, by far, not the only source of pollutants to The River. As per Lubbock's Plan dated 2007, 1 the first source of pollutants was began in the 1930's with disposal of sewage at land application sites commonly known as "Gray Farms", named after the former landowner Mr. Gray. 2 There have been long standing problems with these because of huge prairie dogs towns. Their hundreds of burrows allow the leaching of nitrates and other pollutants straight into the water system. There have been many plans tried and failed to remedy this problem.

The second major source of developed water is storm water. The city of Lubbock has constructed and continues to construct storm drainage systems to take water from playa lakes to the North Fork in order to eliminate flooding problems inside the city. Playa Lakes are indentions in the earth where water flows off the flat plains to any low areas. They are not part of any river or lake system. These storm drainage systems bring all the street emissions and other chemicals, fertilizers and numerous other pollutants that are in and on the ground in the city directly to The River. Just this past year, we had two days of rain which came close to our annual rainfall of 18 - 19 inches. One day in April, we had 9 inches, and July 4 we had 4

inches of rain. All of that water from Lubbock was directly routed via the storm drainage system straight into the canyon and The River. This caused extensive damage and flooding covering County Road 3600 and County Road 7300, which are two of our main roadways. Flooding usually occurs here after rains. This is also the point requested for the diversion point.

Further dividing our ranch is the erosion caused by the extra flow through the riverbanks making parts of our ranch extremely difficult or impossible to access. Much of the canyon floods when we have rain in Lubbock. The ground is so flat and hard that very little soaks in. Most of the water goes downhill, through our ranch adding more pollution to our water, then goes on downstream not leaving much water behind in The River. Over the years of Lubbock's increased building of the storm drainage system, this happens in a shorter period of time after the rains. This also rushes water through our pastures, tearing down fences for miles leaving mass destruction and the need for us to repair damages caused by this onslaught of water from Lubbock. Much time and expense goes into these repairs. Because of our low average rainfall and very dry climate, the water disappears and evaporates rapidly.

The third source of developed water is the groundwater that is being pumped from under the Lubbock Land Application Site (LLAS) and discharged at the head of the Canyon Lake System. This groundwater is large underground water "bubbles" caused by the "Gray Farms". This is above our property, so therefore also ends up in our part of The River.

I have taken the majority of these facts from Lubbock's 2007 Plan which concludes with the fact that the North Fork is the natural drainage stream for Lubbock.

The City of Lubbock is asking to increase the flows of effluent from 9 MGD to 31.5 MGD. They do not take into account the flooding and pollutions already caused by all of the above things. This river cannot hold this tremendous increase in pollution or water. We raise and graze beef cattle and lease our property for the same purpose. The source of water for them to drink is The River. We drink from wells that are nearby and do not want our groundwater contaminated. We also need to protect the quality and availability of water for the wildlife that lives there and those that migrate through our ranch. 3 "Faunal species include those suited to a semi-arid environment. Riparian zones along the Brazos River and streams and their tributaries contain important wildlife habitat for the region and support populations of white-tailed deer (*Odocoileus virginianus*) and Rio Grande turkeys (*Meleagris gallopavo intermedia*). Bobwhites (*Colinus virginianus*), scaled quail (*Callipepla squamata*), mourning dove (*Zenaida macroura*), and a variety of song birds, small mammals, waterfowl, shorebirds, reptiles, and amphibians are found in this region. Large to medium-size mammals include the coyote (*Canis latrans*), ringtail (*Bassariscus astutus*), ocelot (*Felis pardalis*), and collared peccary (*Tayassu tajacu*). Typical smaller herbivores include desert cottontail (*Sylvilagus auduboni*), hispid pocket mouse (*Perognathus hispidus*), Texas kangaroo rat (*Dipodomys elator*), Texas mouse (*Peromyscus attwateri*), desert shrew (*Notiosorex crawfordi*), and rock squirrel (*Spermophilus variegatus*), Bison (*Bos bison*), and black-footed ferret (*Mustela nigripes*) are historically associated with this area." Also, this is home to protected horned lizards.

Our cattle are raised for beef to sell for public and personal consumption. We strive to raise healthy animals. This proposal also affects our personal consumption of wild game. With so many toxins in the water, there is question as to the safety of eating wild game. Treated effluent water is not healthy for us, our family or any other people or animals. We live there, we derive our livelihood and our pleasure from The River and the land around it. My family has been good stewards of this earth for the past 4 generations, going on the 5th with our children. We enjoy sharing our home and ranch with friends. Recently, we had some people from Austin that came to visit. They wanted to swim in our river as they are accustomed to in the Austin area. Again, one of those things we have had to do without because of the treated effluent in The River.

Since this current project was began, all the ranchers and people who are included in this issue that live on The River are still the same people. Many of the City's management personnel have come and gone in the last six years of dealing with this issue. They have not stayed in position long enough to have even seen this project through. This is just a job for some of them. For us, it is life, a living, our pleasure and Home.

Yes, we are greatly affected by what the city wants to do and what the State of Texas allows to be done. We ask the State of Texas to be considerate of us as permanent citizens of this state and community, to help keep our ranch and home from being overrun by pollution. Please deny this permit request by the City of Lubbock to increase the treated effluent discharges into The River.

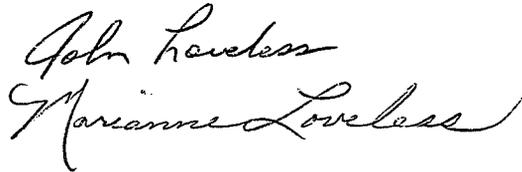
The City of Lubbock's request for diversion of waters discharged into The River directly affects our Riparian rights and all life downstream of the requested diversion point. There is great potential for damage to our property and our livelihood if this water is diverted out of The River. This water is imperative to life for us, our livestock and wildlife. Our ranch and my brother's are the first properties below the requested diversion point at County Road 7300. They seek not only the amount of return flows they put in, but also an additional amount that would never make it to the diversion point, as what they call "transportation losses". Their request includes the right to historical and evaporated waters. Historical waters, evaporated waters or waters lost in transport are not claimable by anyone. Those waters are gone. We cannot squeeze the sky and make evaporated water come back. Historical waters cannot reappear in a place they passed before. Those things are impossible and should never have been included in their request.

Diversion of waters from this point would leave a great possibility of drying up The River below the diversion point. This could leave us without any water at all in The River. It is already an ongoing problem for us. We have seen our water shut off before, even in times of drought. We are responsible ranchers in our rotating from pasture to pasture to keep from overgrazing. But, there is only one river. In years of drought (which are many), it is difficult to keep them where water is available for them to drink. It is not uncommon for The River to go dry in the summertime. Please do not give the City of Lubbock this permit to divert water from The River.

We respectfully request denial of the City of Lubbock's requests for amendment to Water Rights Permit 3985.

Respectfully submitted,

John and Marianne Loveless

Handwritten signatures of John and Marianne Loveless. The signature for John Loveless is written in a cursive style above the signature for Marianne Loveless, also in cursive.

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<http://webcache.googleusercontent.com/search?q=cache:hT5iz9YxOMEJ:water.ci.lubbock.tx.us/pdf/strategic/swspsec18-20.pdf+tpdes+10353-002&cd=1&hl=en&ct=clnk&gl=ushttp://webcach3>

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http://www.txpeer.org/downloads/lubbock_pdog_plan.pdf

3

<http://webcache.googleusercontent.com/search?q=cache:D6jIBUspKT8J:water.ci.lubbock.tx.us/pdf/strategic/swspsec12n13.pdf+riparian+zones+along+brazos+river+turkeys+bob+whites&cd=10&hl=en&ct=clnk&gl=us>