

TCEQ DOCKET NO. 2012-0065-WR

**APPLICATION BY UPPER TRINITY § BEFORE THE
REGIONAL WATER DISTRICT FOR § TEXAS COMMISSION ON
WATER RIGHTS PERMIT NO. 5821 § ENVIRONMENTAL QUALITY**

**NATIONAL WILDLIFE FEDERATION'S REPLY
TO RESPONSES TO HEARING REQUESTS**

The National Wildlife Federation (NWF) files this reply to the responses to hearing requests filed on the above-referenced application and would respectfully show the Commissioners the following.

I. Introduction

In this Reply, the National Wildlife Federation designates a new contact person for future filings; supplements the information provided in the earlier request for contested case hearing; and notes certain special circumstances regarding the issues raised by the above-referenced application for an interbasin transfer of water that raise issues of broad precedential importance.

II. Designation of New Contact Person

The National Wildlife Federation requests that Myron J. Hess be formally listed as the appropriate contact person for the National Wildlife Federation for purposes of this application. Christopher Brown no longer represents NWF. The contact information for Mr. Hess is as follows:

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III. Supplemental Information

Consistent with Sections 55.252 (b) and 55.254 of the Commission's rules, the National Wildlife Federation provides this supplemental information in support of its hearing request. As noted in its hearing request in this matter, the National Wildlife Federation is a national, non-profit organization dedicated, among other things, to protecting natural resources and the right of people to use and enjoy those resources. NWF's membership is composed of people who share the goals of protecting fish and wildlife resources and the right of people to enjoy those resources.¹ NWF has approximately 38,000 members in Texas, many of whom use and enjoy those resources, including the resources of the Sulphur River Basin.

Leslie A. Adams is one such member of NWF. She owns property that is partially within the footprint of the proposed reservoir. Ms. Adams is opposed to the construction of the reservoir because she does not want to lose her use and enjoyment of her property as a result of the project, does not believe that the need for the project has been demonstrated adequately, and believes that the project will result in unnecessary adverse effect on fish and wildlife resources. Affidavit attached.

Kenneth (Mike) Flesher also is a member of NWF. He and his wife own property that is within the footprint of the proposed reservoir. They are opposed to the construction of the reservoir because they do not want to lose their use and enjoyment of that property as a result of the project, do not believe that the need for the project has been demonstrated adequately, and believe that the project will result in unnecessary adverse effect on fish and wildlife resources.

Because these members meet the test for standing individually and because they are members of the National Wildlife Federation and are concerned about issues germane to the purposes of the National Wildlife Federation, NWF has met the test for a valid hearing request. Participation of those members in the hearing, beyond establishing standing, is not required for NWF to pursue the claims asserted or relief requested through participation in this hearing.

¹ The formal mission of the National Wildlife Federation is to inspire Americans to protect wildlife for our children's future.

IV. Special Circumstances Raised by This Application

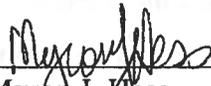
The application at issue in this proceeding involves a non-exempt interbasin transfer of water. The Texas Legislature has recognized that such applications raise important considerations beyond those normally at issue in an application for a water right. Those additional considerations include increased scrutiny of water conservation and drought contingency measures within the receiving basin, of methods and efforts to put the water to beneficial use in the receiving basin, and of economic impacts in both the basin of origin and the receiving basin. More specifically, the Legislature has established specific statutory prerequisites to approval of such a transfer including a specific balancing of detriment to the basin of origin against the benefit to the receiving basin and an additional substantive test for drought contingency and water conservation plans.

Without a contested case hearing in which a variety of potentially affected interests participate, the Commission will not have a complete record on which to base its determinations on those issues. In addition, because this application is the first to be considered under those specific interbasin transfer statutory provisions, the Commission's decisions on the application likely will have significant precedential effect. Accordingly, a contested case hearing that will allow for the development of a complete record is in the public interest and such a hearing should benefit from the input of persons with a variety of potentially affected interests.

V. Conclusion

ACCORDINGLY, the National Wildlife Federation requests that the Commission grant its request for a contested case hearing and that the Commission direct the Administrative Law Judge to ensure that, to the extent potentially affected persons request party status, party status is granted broadly enough to ensure that a full and broad perspective on relevant issues is considered in the hearing.

Respectfully submitted,

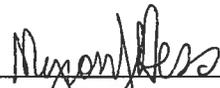


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CERTIFICATE OF SERVICE

I hereby certify by my signature below that a true and correct copy of the above document was sent via electronic delivery or First Class Mail on February 13, 2012 to the persons on the attached mailing list.



Myron J. Hess

AFFIDAVIT OF LESLIE A. ADAMS

STATE OF TEXAS

COUNTY OF FANNIN

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BEFORE ME, the undersigned notary, on this day personally appeared Leslie A. Adams, who, being by me, duly sworn on her oath stated that she has read the following, that every statement below is true and correct, and that every statement below is within her personal knowledge.

1. My name is Leslie A. Adams. I am over the age of 21 and am competent to testify to the following facts based on my own personal knowledge.
2. I am a member of Texas Conservation Alliance (TCA), formerly known as Texas Committee on Natural Resources. I understand TCA's goals include protection of significant natural resources, including rivers. I support TCA's efforts and intend to work with TCA in participating in the decision making process of the Texas Commission on Environmental Quality on Application No. 5821 by Upper Trinity Regional Water District for a water right and to construct a dam and reservoir on the Sulphur River in Fannin County, Texas
3. I live at 1459 County Road 3365, Ladonia, TX 75449. My mailing address is P.O. Box 174, Ladonia, TX 75449. I can be contacted there or by phone at (972) 571-6519.
4. I own land in Fannin County that will be adversely affected by the waters of Ralph Hall Reservoir if it is built. I own and live on approximately 69 acres which was purchased in 1997. Should Ralph Hall Reservoir be constructed, Davis Creek, which runs along the back of my property, will rise from it's banks and flood approximately 20 to 30 areas of my land. Additionally, should Ralph Hall Reservoir be built, there will be restrictions to the future use of my remaining property.
5. I oppose the issuance of the permit sought by the Upper Trinity Regional Water District for the Ralph Hall Lake because it would result in the partial loss of my land and severely limit the future use of my land. Water conservation and efficient use by customers of Upper Trinity Regional

Water District, as well as sufficient local alternative water sources available to them, eliminate any need for this new reservoir. The construction of the dam and lake will also destroy important habitat for fish and wildlife.

6. I have a strong interest that is shared by TCA. I am not seeking money, or anything except what TCA is seeking, denial of the permit as proposed. I want to participate as a party myself. The executive director of TCEQ has stated that I have met the technical requirements for hearing requests. I am also seeking party status for Texas Conservation Alliance as a member of TCA so we can work together.
7. I am also a member of the National Wildlife Federation and support its efforts in this matter.

Leslie A. Adams

Leslie A. Adams

SWORN TO AND SUBSCRIBED before me on the 10th day of February, 2012.

R. A. Bates

Notary Public, State of Texas

Rachel Ashley Bates

Notary's printed name:

My commission expires: NOVEMBER 23, 2015



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TCEQ DOCKET NO. 2012-0065-WR

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