

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**

**REPLY OF TEXAS CONSERVATION ALLIANCE (FORMERLY KNOWN
AS TEXAS COMMITTEE ON NATURAL RESOURCES)
TO RESPONSES TO HEARING REQUESTS**

Texas Conservation Alliance (TCA) 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, Texas Conservation Alliance describes its name change from Texas Committee on Natural Resources, supplements the information provided in the earlier request for contested case hearing filed in this matter under that earlier name, and responds to certain arguments raised by the Applicant in its response to hearing requests.

II. Texas Conservation alliance Is Texas Committee On Natural Resources

Texas Committee on Natural Resources changed its name to Texas Conservation Alliance on February 10, 2007. The undersigned served as the Executive Director of Texas Committee on Natural Resources prior to the name change and has continued to serve as the Executive Director of Texas Conservation Alliance since that time. The purposes of the organization have remained unchanged. [An affidavit is attached affirming the name change and that the organization's goals are unchanged.]

III. Supplemental Information

Consistent with Sections 55.252 (b) and 55.254 of the Commission's rules, Texas Conservation Alliance provides this supplemental information in support of its hearing request. TCA is a Texas, non-profit organization dedicated, among other things, to protecting water resources, parklands, and other natural resources. TCA's membership is composed of people and organizations who share those goals.

Leslie A. Adams is one such member of TCA. 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 because of, among other things, inadequate efficiency of use of water, and believes that the project will result in unnecessary adverse effect on fish and wildlife resources. [An affidavit by Ms. Adams is attached.]

Kenneth M. (Mike) and Evelyn Flesher also are members of TCA. They 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 because of, among other things, inadequate efficiency of use of water, and believe that the project will result in unnecessary adverse effect on fish and wildlife resources. [An affidavit by Mrs. Flesher is attached.]

Because Ms. Adams and Mr. and Mrs. Flesher meet the test for standing in their own right and because they are members of the Texas Conservation Alliance and are concerned about issues germane to the purposes of the TCA, TCA has met the test for a valid hearing request.

IV. Response To Argument Of Applicant Regarding Legal Status of TCONR

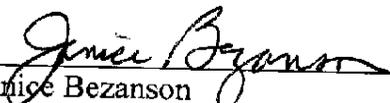
The Applicant, in its response to hearing requests, takes the extreme position that no individual or entity, even those whose property would be directly inundated by the proposed reservoir, is entitled to affected person status in order to require the Applicant to prove its case. Particularly in an application involving a proposed non-exempt interbasin transfer of water, such a position is grossly unreasonable.

In responding to the request by TCONR, the Applicant begins by questioning the existence of the Texas Committee on Natural Resources as “a legitimate organization.” It is unclear what test the Applicant seeks to apply in determining legitimacy, but there is no requirement in applicable rules that a “group or association” requesting a hearing must be recognized by the Secretary of State. Regardless, Texas Conservation Alliance, the name under which TCONR currently operates, is duly recognized.

Through the supplemental information set out above, TCA has responded to the other arguments made in opposition to its hearing request. By the very nature of this proceeding, it is clear that "neither the claim asserted nor the relief requested requires the participation of the individual members" in order for TCA to participate in the proceeding.

ACCORDINGLY, Texas Conservation Alliance requests that the Commission grant its request for a contested case hearing which was filed under its previous name.

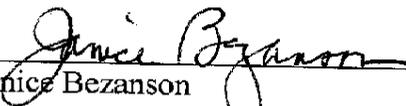
Respectfully submitted,


Janice Bezanson
Executive Director

Texas Conservation Alliance
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Ph: 254-947-5572
bezanson@texas.net

CERTIFICATE OF SERVICE

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


Janice Bezanson

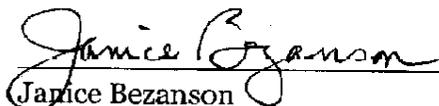
AFFIDAVIT OF JANICE BEZANSON

STATE OF TEXAS §

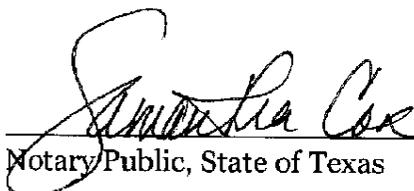
COUNTY OF BELL §

BEFORE ME, the undersigned notary, on this day personally appeared Janice Bezanson, who, being by me duly sworn on her oath, state 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 Janice Bezanson. 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 the Executive Director of Texas Conservation Alliance (TCA), which was formerly known as Texas Committee on Natural Resources. I also served as the Executive Director of Texas Committee on Natural Resources before it changed its name in 2007. TCA's goals, which are unchanged from those under its former name, include protection of water resources in Texas, support for parks and other natural areas, and conservation of natural resources for future generations.
3. I live at 1605 Mission Trail, Salado, TX 76571-6107. I can be contacted there or by phone at 254-947-5572.

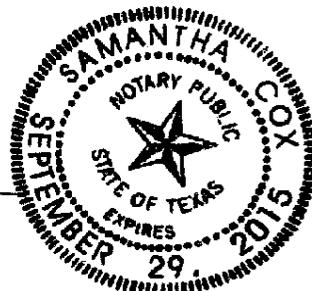

Janice Bezanson

SWORN TO AND SUBSCRIBED before me on the 13th day of February, 2012.


Notary Public, State of Texas


Notary's printed name

My commission expires: _____



AFFIDAVIT OF LESLIE A. ADAMS

STATE OF TEXAS

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§

COUNTY OF FANNIN

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

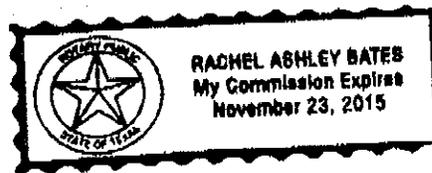
Leslie A. Adams

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

R. ABATE
Notary Public, State of Texas

Rachel Ashley Bates
Notary's printed name:

My commission expires: November 23, 2015



AFFIDAVIT OF EVELYN FLESHER

STATE OF TEXAS

COUNTY OF FANNIN

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BEFORE ME, the undersigned notary, on this day personally appeared Evelyn Flesher, 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 Evelyn Flesher. I am over the age of 21 and am competent to testify to the following facts based on my own personal knowledge.
2. My husband, Mike Flesher, and I are members of Texas Conservation Alliance (TCA), formerly known as Texas Committee on Natural Resources. Mike is currently working overseas and asked me to attest to his membership in TCA. He and I understand TCA's goals include protection of significant natural resources, including rivers. We 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. Mike and I live at 2853 FM 2990, Ladonia, TX 75449. I can be contacted there or by phone at (903) 367-7174.
4. Mike and I own land in Fannin County that will be flooded by the waters of Ralph Hall Reservoir if it is built. Our property is located north of Ladonia on FM 2990, roughly 800 yards north of the intersection of that road with the Sulphur River. We own 81 acres. We occupied that land in 1996 and converted undeveloped land into a thriving ranch. Our property is shared with wildlife such as woodpeckers of several varieties, deer, and numerous others, all of which will lose their habitats if this project is approved. No one has ever taken the time to identify the kinds of wildlife on our property. My husband and I are both in our sixties, and the permit applicant's compensation will not consider the intangible costs of relocating. The law requires only a fair market value compensation for

the land & improvements. We will lose all of our property, improvements to the land, and our home if this permit is approved.

5. Mike and I oppose the issuance of the permit sought by the Upper Trinity Regional Water

Evelyn Flesher

Evelyn Flesher

Feb 9, 2012

District for the Ralph Hall Lake because it would result in the loss of my land and because the Lake would not be needed if those who propose it would use the water they have more efficiently. The construction of the dam and lake will also destroy important habitat for fish and wildlife.

6. We have a strong interest that is shared by TCA. We are not seeking money, or anything except what TCA is seeking, denial of the permit as proposed. Mike has requested to participate as a party. The executive director of TCEQ has stated that he has met the technical requirements for hearing requests. He and I are also seeking party status for Texas Conservation Alliance as a member of TCA so we can work together.

Evelyn Flesher

Evelyn Flesher

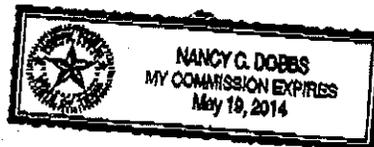
Feb 9, 2012

SWORN TO AND SUBSCRIBED before me on the 9th day of February, 2012.

Nancy C. Dobbs
Notary Public, State of Texas

NANCY C. DOBBS

Notary's printed name:



My commission expires: MAY 19, 2014

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TCEQ DOCKET NO. 2012-0065-WR

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