



Denis and Vivien Benjamin

10311 FM 1187 W
Fort Worth, Texas 76126
(817-443-3629 - home - evening)
(682-885-6113- work - daytime)

WR
58437



CHIEF CLERKS OFFICE
2008 AUG 14 PM 2:47

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

Office of the Chief Clerk
MC 105.,
Texas Commission on Environmental Quality
PO Box 13087
Austin
Texas 78711-3087

OPA

H AUG 14 2008

August 12, 2008 BY EB

Dear Sir/Madam

RE: Request for a contested hearing for water rights application No.12202

Continued objection to the issuance of a water use permit for the Saddle Creek Addition along FM 1187 W, Parker County, Fort Worth Texas

This letter serves as a citizen's request that the application for a water use permit be denied to the developer of approximately 65 acres of land adjacent to the Clear Fork of the Trinity River (Mr. Brett Forman, Arbor Development LLC (751 Highway 287 N., Suit 104, Mansfield Texas 76063). Water rights application number #12202.

We have received the Commissions response to some of our concerns and understand the jurisdictional issues relating to both surface and ground water. We accept the ruling on these particular issues.

However the commission created three special conditions for the permittee to comply with prior to final approval. It is our judgment that these cannot be either fulfilled or guaranteed by the permittee.

1. The approval for this dam is to the permittee (Saddle Creek Development). However once the land has been sold off the permittee will no longer have any legal oversight or obligation to fulfill the provisions mandated by the commission.
2. The permittee has not established any best management practices (BMPs) for the use of pollutants for all the properties that drain directly into this dam and watershed. This includes the volume, type and appropriate use of insecticides, herbicides, fungicides, fertilizers and other potential hazards. Run-of into this dam

MW

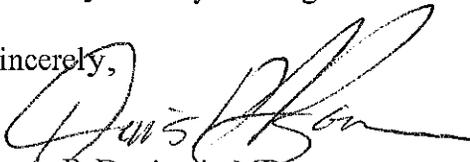
and its outflow into Brown Creek, the Clear Fork of the Trinity River and Benbrook Dam could have devastating affect on the riparian environment and its associated wildlife, the annual white bass fishery and other unintended consequences downstream.

3. There are no stipulations or regulations for the adjacent landowners or the landowners association as to whom, when and how erosion resistant barriers in areas of high velocity flow will be maintained, paid for and managed.
4. The potential purchasers of the critical properties that impact the dam must be informed at the time of their purchase of the Commissions stipulation and requirements and be mandated to sign an agreement in lieu of the permittee. This will hold them directly accountable for any damages in the future.

We respectfully request that this application be denied and we request a contested hearing to voice all our concerns and opposition to this project.

Thanks you for your diligence in enforcing the regulations of the Water rights provisions.

Sincerely,



Denis R Benjamin MD
10311 FM 1187 W
Fort Worth, Texas 76126
(Work phone 682-885-6113)
Home Phone 817-443-3629)



Dennis Benjamin
10311 Fm 1187 W
Fort Worth TX 76126

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ON ENVIRONMENTAL
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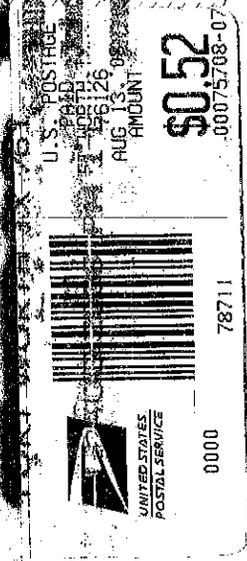
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WORTH TX BEN
AIR

OFFICE OF THE CHIEF CLERK
MC 105

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
P.O. BOX 13087
AUSTIN TX 78711-5087

AUG 14 2008

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WR
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2007 DEC 28 PM 2:20

CHIEF CLERKS OFFICE

Denis and Vivien Benjamin

10311 FM1187 W
Fort Worth, Texas 76126
(817-443-3629)

#

OPA

DEC 28 2007

BY

RY

Texas Commission on Environmental Quality
Estaban Ramos, Project Manager, MC-160
Texas Commission on Environmental Quality
PO Box 13087
Austin
Texas 78711-3087

December 26, 2007

Dear Mr. Ramos,

RE; Request for a formal contested hearing; additional concerns

Saddle Creek Development
WRPERM #12202
CN603121567, RN105222970
Application No. 12202 for Water Use Permit

In addition to all our previous concerns in regard to the above application, a number of other serious issues have arisen that require resolution before such a permit could be considered. They relate to the ownership of both the dam and the well and their future maintenance. Since all the property surrounding the dam will be sold to separate individuals it is not clear who will be responsible and accountable in the event that the conditions of the permit are not met in the future. As examples the following contingencies have to be considered;

1. The well fails to produce the required amount of water, in which case Texas State waters will be impounded. This would violate the permit provisions.
2. The well is not adequately maintained.
3. How will well flow be monitored to ensure that state waters are not impounded?
4. Will the developer remain responsible for the quality of the water in the dam and its outflow once all the property has been sold?
5. Who will be held accountable in the event of dam failure or lack of maintenance?

Respectfully submitted.

Sincerely,

[Handwritten Signature]
Denis and Vivien Benjamin

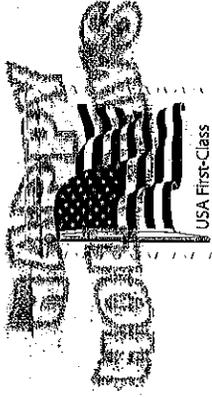
MW

DAYS Benjamin
CookChildren's

801 Seventh Avenue
Fort Worth, TX 76104-2796

FORT WORTH TX 761

26 DEC 2007 PM 5 L



OFFICE OF CHIEF COUNSEL - MC 105

TCEQ

P.O. Box 13087

AUSTIN, TX

78714-2807
FORT WORTH, TX 76104-2807

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DEC 28 2007

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Denis and Vivien Benjamin

10311 FM1187 W

Fort Worth, Texas 76126

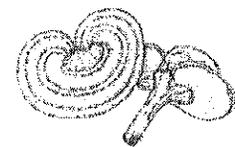
(817-443-3629)

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H DEC 21 2007

BY DL

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Texas Commission on Environmental Quality
Estaban Ramos, Project Manager, MC-160
Texas Commission on Environmental Quality
PO Box 13087
Austin
Texas 78711-3087

December 17, 2007

Dear Mr. Ramos,

RE; Request for a formal contested hearing

Saddle Creek Development

WRPERM #12202

CN603121567, RN105222970

Application No. 12202 for Water Use Permit

Thank you for the copies of the documents sent to Nave Engineering, Inc. regarding to the above Water Use Permit application.

Our original objections to this application remain. In addition, the draft permit has added significant new requirements for the developer, which makes the application even more problematic. We are not aware that any of these have been addressed. Nor are we aware of how they will be implemented, monitored or enforced. This could result in serious downstream habitat degradation for the Clear Fork of the Trinity and its downstream impoundment at Benbrook Lake. The Clear Fork has had a reliable sand bass fishery for many years and this could be adversely impacted, in addition to other critical riparian environmental features.

An additional provision requires the Permittee to maintain the area downstream of the reservoir along Brown Branch. Since the Permittee does not own this land such a provision cannot be guaranteed.

TEXAS
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2007 DEC 20 PM 3:30
CHIEF CLERKS OFFICE

MW

We respectfully request that this permit not be issued and the matter be referred for a formal contested hearing.

Thank you for your consideration and your dedicated work in protecting state waters and environmental quality.

Respectfully submitted.

Sincerely,



Denis and Vivien Benjamin

first class

B
Vivien Benjamin
10311 Fm 1187 W
Fort Worth, TX 76126

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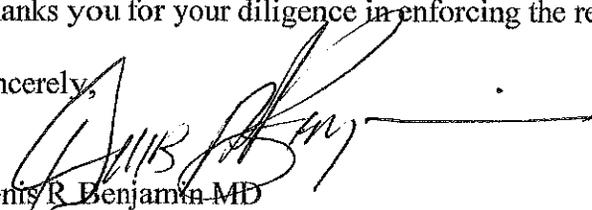
The Texas State Water code clearly states that water should be applied for human consumption and agricultural uses and should not be squandered.

2. Parker County has recently joined a groundwater conservation district in concert with adjacent counties in order to protect this critical resource.
(www.legis.state.tx.us/tlodocs/80R/billtext/doc/SB01983H.doc) The developer has not satisfied any of the requirements of this water conservation district, nor have they satisfactorily proved that there is sufficient groundwater to sustain the flow over time. This will become especially critical when forty houses each with their own well are built on the surrounding acreage. The developer has not performed draw down studies on any other areas of his development, so the extent of the groundwater resource is completely unknown.
3. The Texas Supreme Court has already accepted restrictions being placed on groundwater overpumping. In *Barshop v Medina County Underground Water Conservation District* (925 SW2d 618, Texas 1996) by accepting that the State has the responsibility to preserve and conserve water for the benefit of all Texas (Article 16, Section 59).
4. By maintaining the water level of the pond at its maximum with this well, it removes the buffering effect of the dam during storm water surges. This raises the real potential for up stream flooding and serious downstream erosion because of the high run-off. The latter could cause significant damage to our land, including damage to two underground gas pipelines.
5. Neither we, nor to our knowledge the neighbors affected by this well (McAdams, Allen), have received any official notification of this water rights application by mail or other notice. It is my understanding that such notification is required by law.

We respectfully request that this application be denied.

Thanks you for your diligence in enforcing the regulations of the Water rights provisions.

Sincerely,



Denis R. Benjamin MD
10311 FM 1187 W
Fort Worth, Texas 76126
(Work phone 682-885-6113)
Home Phone 817-443-3629

Denis Benjamin
10311 Fm 1187 W
Fort Worth TX 76126-5156



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MC 105

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

P.O. BOX 13087

AUSTIN

TEXAS 78711-5087

RETURN RECEIPT
REQUESTED

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TELEMAILS

Dallas is the holder of numerous water rights in the Trinity River Basin, including rights in the Elm Fork Trinity River, Certificates of Adjudication Nos. 08-2455 (Lake Ray Roberts), 08-2456 (Lake Lewisville), 08-2457 ("CF 75"), and Permit No. 5414, and the East Fork Trinity River, Certificate of Adjudication No. 08-2462 (Lake Ray Hubbard), all tributaries of the Trinity River and upstream of the confluence of the Clear Fork Trinity River and the main stem of the Trinity River. These water rights are senior in priority to any water rights which could be issued pursuant to Application No. 12202, and specify the streamflow conditions under which water can be diverted lawfully.

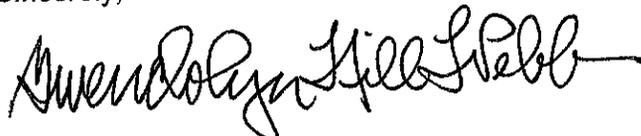
Effect of Proposed Water Right:

Applicant proposes to modify and maintain an existing dam and reservoir on Brown Branch, tributary of the Clear Fork Trinity River, tributary of the Trinity River, Trinity River Basin for in-place recreational purposes in Parker County, Texas. The reservoir has a capacity of approximately 6.7 acre-feet and a surface area of 1.32 acres. Applicant proposes to keep the reservoir at a constant level by use of an existing groundwater well. Dallas' senior water rights would be impaired in three ways if a permit is issued to Saddle Creek as proposed: (1) If the permit does not include terms and conditions which provide for monitoring and enforcing Applicant's proposal to maintain the reservoir at a constant level with groundwater, then Applicant could impound waters not available for appropriation in the Trinity River Basin; (2) If Applicant impounds water not available for appropriation, then requirements in Dallas' water rights for specific streamflows at the U.S.G.S. Gage at Commerce Street may not be met, and Dallas' rights to use water under its senior water rights would be impaired. (3) Finally, if any permit issued to Applicant does not require a contribution to downstream flows for environmental and instream uses commensurate with the burden placed on Dallas' senior water rights, then Dallas' right to use water under its senior water rights could be unreasonably limited.

Conclusion:

Dallas should be named a party to further proceedings concerning Application No. 12202 on the basis of this letter. Dallas requests a contested case hearing on Application No. 12202 by Dallas as an affected party whose Trinity River Basin water rights described above are potentially impaired by the issuance of a water rights permit to Saddle Creek Development, Ltd. involving an existing dam and 6.7 acre-foot reservoir on Brown Branch, tributary of the Clear Fork Trinity River, tributary of the Trinity River, Trinity River Basin for in-place recreational purposes in Parker County, Texas pursuant to Application No. 12202. Dallas wishes to review the draft permit, and remain a party to this proceeding until all matters concerning the potential impact on Dallas' senior Trinity River Basin water rights are resolved. Dallas will keep the Commission advised of the status of this protest.

Sincerely,



Gwendolyn Hill Webb

ATTORNEY FOR THE CITY OF DALLAS

WEBB & WEBB
1270 BANK OF AMERICA CENTER, 515 CONGRESS AVENUE
P.O. DRAWER 1329
AUSTIN, TEXAS 78767-1329



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

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WEBB & WEBB
ATTORNEYS AT LAW

1270 BANK OF AMERICA CENTER, 515 CONGRESS AVENUE
P. O. DRAWER 1329
AUSTIN, TEXAS 78767-1329

OPA

HR

SEP 17 2007

BY _____

[Signature]

STEPHEN P. WEBB
GWENDOLYN HILL WEBB

TELEPHONE: 512/472-9990
FACSIMILE: 512/472-3183

September 14, 2007

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

CHIEF CLERKS OFFICE

2007 SEP 14 PM 4:34

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

**RE: Application No. 12202 by Saddle Creek Development, Ltd.
Request for Contasted 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. 12202 by Saddle Creek Development, Ltd. ("Applicant" or "Saddle Creek"). Based on the notice of Application No. 12202 issued by the Texas Commission on Environmental Quality ("Commission") on August 14, 2007, Dallas protests the issuance of a water right to Applicant and submits the following information in support of its request for party status and 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
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

WEBB & WEBB
Attorneys at Law
1270 Bank of America Center
P.O. Box 1329
Austin, Texas 78701

Stephen P. Webb
Gwendolyn Hill Webb

Telephone: 512/472-9990
Fax: 512/472-3183

TELECOPIER COVER SHEET

Please deliver the following facsimile pages to:

NAME: LaDonna Castañuela **Fax:** 512/239-3311
Chief Clerk
Texas Commission on Environmental Quality

FROM: Gwendolyn Hill Webb

DATE: September 14, 2007

3 pages including cover page

2007 SEP 14 PM 4:34
CHIEF CLERKS OFFICE
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Application No. 12202 by Saddle Creek Development, Ltd. City of Dallas requests a contested case hearing on the above referenced matter. A copy of this letter will be sent via First Class Mail to the Applicant.

- Please Note:** The original of this document will be sent via:
- First Class Mail
 - Certified Mail, Return Receipt Requested
 - Overnight Mail/Federal Express
 - Courier
 - This will be the only form of delivery of this document

The information contained in this facsimile message is privileged and confidential and is intended only for the use of the individual/entity named. Dissemination, duplication, or other use of this communication by anyone besides the intended recipient is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return the original message to us by mail at the above address. Thank you.

WEBB & WEBB
ATTORNEYS AT LAW
1270 BANK OF AMERICA CENTER, 515 CONGRESS AVENUE
P.O. DRAWER 1329
AUSTIN, TEXAS 78767-1329

OPA
AUG 28 2008
BY

STEPHEN P. WEBB
GWENDOLYN HILL WEBB

August 25, 2008

TELEPHONE: (512) 472-9990
FACSIMILE: (512) 472-3183

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

WR
58437

TEXAS COMMISSION
ON ENVIRONMENTAL
QUALITY
AUG 27 PM 3:15
CHIEF CLERKS OFFICE

**Re: Water Rights Application No. 12202 Saddle Creek Development, Ltd.
Withdrawal of City of Dallas Protest**

Dear Ms. Castañuela:

On behalf of my client, the City of Dallas ("Dallas"), please accept this letter as notice that Dallas withdraws its request for a contested case hearing and protest of the above-referenced application, subject to the minor change on the draft permit as set out in the paragraph below.

The last sentence of SPECIAL CONDITIONS D. should be changed to read as follows:

Permittee shall notify the Commission immediately if the groundwater well(s) will not be used as the alternate source of water for permit.

This change clarifies the Permittee's responsibility to notify the Commission. If, as anticipated, neither Commission staff nor Applicant object to these changes, then Dallas will immediately withdraw its protest of the referenced water use permit.

A copy of this letter is served on all parties and interested persons. Please feel free to contact me if I can provide any additional information or assistance.

Sincerely,



Gwendolyn Hill Webb
ATTORNEY FOR THE CITY OF DALLAS

cc: Attached Service List

MW

Keller Springs Estates, Ltd., Application No. 12153 Service List

Esteban (Steve) Ramos, Project Manager, MC 160
Water Rights Permitting Team
Water Rights Permitting and Availability Section
Texas Commission on Environmental Quality
P. O. Box 13087
Austin, Texas 78711-3087

City of Dallas - Dallas Water Utilities
Jo. M. (Jody) Puckett, P.E. Interim Director
Dallas City Hall, Room 4AN
1500 Marilla Street
Dallas, TX 75201

Shannon L. Nave P.E., CFM
Nave Engineering, Inc.
110 W. Josephine Street
Weatherford, Texas 76086-5245

WEBB & WEBB

1270 BANK OF AMERICA CENTER, 515 CONGRESS AVENUE

P.O. DRAWER 1328

AUSTIN, TEXAS 78767-1328

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
2008 AUG 27 PM 3:14
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AUG 27 2008

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MM**

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



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Keller Springs Estates, Ltd., Application No. 12153 Service List

Esteban (Steve) Ramos, Project Manager, MC 160
Water Rights Permitting Team
Water Rights Permitting and Availability Section
Texas Commission on Environmental Quality
P. O. Box 13087
Austin, Texas 78711-3087

City of Dallas - Dallas Water Utilities
Jo. M. (Jody) Puckett, P.E. Interim Director
Dallas City Hall, Room 4AN
1500 Marilla Street
Dallas, TX 75201

Shannon L. Nave P.E., CFM
Nave Engineering, Inc.
110 W. Josephine Street
Weatherford, Texas 76086-5245

WEBB & WEBB
Attorneys at Law
1270 Bank of America Center
P.O. Box 1329
Austin, Texas 78701

Stephen P. Webb
Gwendolyn Hill Webb

Telephone: 512/ 472-9990
Fax: 512/ 472-3183

TELECOPIER COVER SHEET

Please deliver the following facsimile pages to:

NAME: Ms. LaDonna Castañuela **Fax:** 512/239-3311
FIRM: Texas Commission on Environmental Quality,
Water Permitting Division

NAME: Mr. Esteban (Steve) Ramos **Fax:** 512/239-4770
FIRM: Texas Commission on Environmental Quality,
Water Permitting Division

FROM: Gwendolyn Hill Webb

DATE: August 25, 2008

3 pages including cover page

Application No. 12202 by Saddle Creek Development, Ltd. Attached, please find the City of Dallas' Conditional Withdrawal on the above-referenced application.

- Please Note:** The original of this document will be sent via:
- First Class Mail
 - Certified Mail, Return Receipt Requested
 - Overnight Mail/Federal Express
 - Courier
 - This will be the only form of delivery of this document

The information contained in this facsimile message is privileged and confidential and is intended only for the use of the individual/entity named. Dissemination, duplication, or other use of this communication by anyone besides the intended recipient is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return the original message to us by mail at the above address. Thank you.

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2008 AUG 25 AM 10:35
CHIEF CLERKS OFFICE