

**TCEQ DOCKET NO. 2014-0913-WR
WATER RIGHTS PERMIT NO. WRPERM 12151**

APPLICATION BY NORTH	§	BEFORE THE TEXAS
TEXAS MUNICIPAL WATER	§	
DISTRICT FOR A WATER USE	§	
PERMIT; LOWER BOIS D'ARC	§	COMMISSION ON
CREEK RESERVOIR; WATER	§	
USE PERMIT NO. 12151	§	
	§	ENVIRONMENTAL QUALITY

EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUESTS

The Executive Director of the Texas Commission on Environmental Quality (TCEQ or Commission) respectfully submits this response to the hearing requests filed in the application by North Texas Municipal Water District (District) for new Water Use Permit No. 12151. Sixty-two hearing requests were received. Five hearing requests were filed late (after September 17, 2014). Twenty hearing requests were withdrawn prior to this filing. The remaining 37 hearing requests are:

1. R.P. Crawford
2. Texas Parks and Wildlife Department
3. Bois d'Arc Municipal Water District
4. Citizens to Save Bois d'Arc Creek
5. Monika Blaine
- 6 & 7. Ronnie and Rebecca Knight
8. Lem Locke
9. Cathy Ryser
10. Charles Ryser
11. Harold D. "Thump" Witcher Jr.
12. Donna Ryser
13. Mabel Holmes
14. Chad Knight
15. Renea Knight
16. Dustin Knight
17. Gordon Locke
18. John Loschke
19. John W. Welch
20. Charles M. Yarbrough
21. John Edward Yarbrough
22. Lela Foreman
23. John Gregory Hall
- 24, 25, & 26. Wes, Joseph, and John Reed
- 27 & 28. Dorothy and John Witcher
29. Larry D. Franklin

30. Glen Lee
31. Maeta Lee
32. Cathy Melson
33. Ruby Odom
34. Carlos Pardo
35. Nathan Ryser
36. William Sebastian
37. Charles Yarbrough

The Executive Director respectfully recommends that the Commission grant 21 of the hearing requests, deny 16 of the hearing requests, and refer the matter to the State Office of Administrative Hearings for a contested case hearing. If referred, the Executive Director recommends at least nine months for the hearing.

Most of the hearing requestors are landowners. Staff has prepared a map of the locations of the hearing requestors in Fannin County, based on the addresses provided in the hearing requests, and it also includes some in other counties. However, no hearing requestor gave specific locations of any land owned that was not their address. If these persons no longer own the land, the ED's recommendation would probably be to deny the request. The timely remaining hearing requests are attached as Attachment A and the staff's map is Attachment B.

I. BACKGROUND

The District has applied for authorization to construct and maintain a reservoir on the Lower Bois d'Arc Creek, tributary of the Red River, Red River Basin, Fannin County, impounding 367,609 acre-feet (AF) of water for in-place recreational use. The District seeks authorization to divert 175,000 AF of water per year from any point on the perimeter of the proposed reservoir at a maximum rate of 365.15 cubic feet per second (163,889 gallons per minute) for municipal, industrial, and agricultural purposes. The District seeks authorization to reuse the return flows generated from the diversion and use of water from the proposed reservoir. Pursuant to Tex. Water Code § 11.085, the District also seeks interbasin transfer authorization to use the water within its service area in the Red and Trinity River Basins, and within that portion of Fannin County located in the Sulphur River Basin.

The District's service area is currently located within Collin, Dallas, Denton, Fannin, Hopkins, Hunt, Kaufmann, Rains, and Rockwall Counties. The District has requested authorization to use the bed and banks of Pilot Grove Creek and the East Fork Trinity River to transport the water for subsequent diversion and use.

The District indicates that diversions may overdraft the firm yield of the proposed reservoir as part of a system operation with existing District water supplies.

II. PROCEDURAL HISTORY

The Commission received this application on December 29, 2006. The application was declared administratively complete on June 26, 2007. Notice of the application was mailed by the Commission's Chief Clerk on July 31, 2007 to water right holders of record in the Red, Sabine, Sulphur, and Trinity River Basins. The last date of publication of notice was August 17, 2007. Public meetings were held in the three river basins on September 10, 2007 in Greenville, Texas; on September 11, 2007 in Bonham, Texas; and on September 13, 2007 in McKinney, Texas.

The hearing request period for this application closed on September 17, 2007. Forty-seven requests for a contested case hearing were timely received. Five requests were not timely filed by the following : (1) James G. Blaine, 11.14.2008; (2) Paula Bennecke, 09.20.2007; (3) Ellen Melson, 09.19.2007; (4) Nathan Melson, 09.19.2007; and (5) Erich Ryser, 09.19.2007. Twenty requests from the following were unconditionally withdrawn: (1) The Texas Conservation Alliance; (2) Faye Wedell; (3) Mary Ann Strickland; (4) Karen Strickland; (5) Kenneth Russell; (6) Judy Russell; (7) Stewart Richardson; (8) Edward Mills; (9) Ellen Mills; (10) Scott Lipsett; (11) Kenneth Hassell; (12) Linda Hammett; (13) Harry Hammett; (14) Ronnie Goodwin; (15) Tommy Carson; (16) Amy Carson; (17) W.L. Carson; (18) Mary Carson; (19) National Wildlife Federation; and (20) Sierra Club, Lone Star Chapter.

The late requests and the unconditionally withdrawn requests will not be discussed further in this response.

III. LEGAL AUTHORITY

Pursuant to 30 Tex. Admin. Code § 55.251(b), the following may request a contested case hearing on water rights applications: the Commission, the Executive Director; the applicant; and affected persons when authorized by law. Affected persons are authorized to submit hearing requests for water rights applications under Tex. Water Code § 11.132(a). The Commission, on the request of any affected person, shall hold a hearing on a water rights application. The procedures for determining whether a hearing requestor is an affected person and whether the hearing request is valid are set forth in 30 Tex. Admin. Code §§ 55.250-55.256, which apply to water rights applications such as this one that were declared administratively complete after September 1, 1999.

An affected person is "one who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application." 30 Tex. Admin. Code § 55.256(a). An interest "common to members of the general public" does not qualify as a personal justiciable interest. Id.

Governmental entities with authority under state law over issues contemplated by the application may be considered affected persons. 30 Tex. Admin. Code § 55.256(b).

To determine whether a hearing requestor is an affected person, all relevant factors must be considered. 30 Tex. Admin. Code § 55.256(c). These factors include, but are not limited to:

- (1) Whether the interest claimed is one protected by the law under which the application will be considered;
- (2) Distance restrictions or other limitations imposed by law on the affected interest;
- (3) Whether a reasonable relationship exists between the interest claimed and the activity regulated;
- (4) Likely impact of the regulated activity on the health, safety, and use of property of the person;
- (5) Likely impact of the regulated activity on use of the impacted natural resource by the person; and
- (6) For governmental entities, their statutory authority over or interest in the issues relevant to the application.

A hearing request by a group or association must meet the requirements set forth in 30 Tex. Admin. Code § 55.252(a). There are three requirements. First, at least one member of the group or association would have standing to request a hearing on his or her own. Second, the interests that the group or association seeks to protect must be germane to its purpose. Third, neither the claim asserted or the relief requested by the group or association requires participation of the individual member(s) in the case.

A hearing request must substantially comply with the four requirements set forth in 30 Tex. Admin. Code § 55.251(c):

- (1) Give the name, address, and daytime telephone number of the person filing the request. If made by a group or association, the request must identify one person by who shall be responsible for receiving all official communications for the group, with the person's name, address, daytime telephone number and facsimile number if possible.
- (2) Identify the person's personal justiciable interest affected by the application, including a written statement explaining the requestor's location and distance relative to the application activity and how/ why the requestor believes he or she will be affected by the activity in a manner not common to members of the general public.
- (3) Request a contested case hearing.

(4) Provide any other information specified in the public notice of the application.

The request for a contested case hearing must be filed with the Commission's Chief Clerk during the public comment period. 30 Tex. Admin. Code § 55.251(d).

The Commission must grant a request for a contested case hearing made by an affected person if the request complies with the requirements of 30 Tex. Admin. Code § 55.251; is timely filed with the Chief Clerk; and is pursuant to a right to hearing authorized by law. 30 Tex. Admin Code § 55.255(b)(2).

IV. HEARING REQUESTS AND RECOMMENDATIONS

A total of 37 individual hearing requests were timely filed and not withdrawn. An outline of each of these hearing requests and the Executive Director's recommendation on it follows. All of the hearing requestors substantially complied with the procedural requirements of Section 55.251. However, sixteen hearing requestors did not show that they were affected persons.

Recommendation to Grant

Texas Parks and Wildlife Department (TPWD), filed by attorney Colette J. Barron. TPWD is a statutory party to a water right permit application. Tex. Water Code § 11.147(f). Although Tex. Water Code § 5.115(b) provides that a state agency may not oppose a water right permit application, that section does not apply to an application filed before September 11, 2011. The hearing request should be granted.

R.P. Crawford. R.P. Crawford is the holder of water right Permit No. 4288 on the Bois d'Arc Creek downstream of the proposed reservoir. His hearing request states that the proposed reservoir may restrict water flow and cause an insufficiency in supply for irrigation pumps during the summer growing season. The request demonstrates that R.P. Crawford is an affected person. The request should be granted because it meets the requirements of 30 Tex. Admin. Code Chapter 55, Subchapter G.

Bois d'Arc Municipal Water District. The municipal water district is a governmental entity with authority under state law over an issue contemplated by the application. The request states that the proposed reservoir will inundate at least 35% of the Municipal Water District's service area and several miles of its easements and facilities. The requestor has demonstrated that it is an affected person under 30 Tex. Admin. Code § 55.256(b). The request should be granted because it meets the requirements of 30 Tex. Admin. Code Chapter 55.

Citizens to Save Bois d'Arc Creek, filed by Harold D. Witcher, Jr., president. Though it does not specifically identify an individual member of the organization who would have standing to request a hearing in his or her own right as required by 30 Tex. Admin. Code

§ 55.252, Mr. Witcher, a.k.a. H.D. “Thump” Witcher, is a requestor as an individual and is an affected person (see below). The hearing request therefore satisfies the requirements of 30 Tex. Admin. Code Chapter 55 for groups or associations and should be granted.

The following individuals state that they own land, or appear to own land based on the address that was provided.

Individuals who state that they own land:

Monika Blaine. Ms. Blaine states that she will lose all of her property and be forced to move. According to Staff’s map, her land is in or near the proposed reservoir’s footprint. The primary mitigation site is a downstream ranch that was purchased by the applicant. However, some of the land around the reservoir could be taken for mitigation. Therefore her land could be inundated or taken for mitigation. The request demonstrates that she is an affected person. The request should be granted because it meets the requirements of 30 Tex. Admin. Code Chapter 55, Subchapter G.

Ronnie Knight, Rebecca Knight. The request states that the Knights own property on the creek and that the proposed reservoir will inundate it. Their land is in or near the proposed reservoir’s footprint. They complain about harm to wildlife, harm to their dairy business, shallow lake, and economic harm to the agricultural industry in Fannin County that will increase taxes. Though the request was not formally filed with the Commission’s Chief Clerk, it was filed with the TCEQ and it demonstrates that they are affected persons because their land could be inundated or taken for mitigation. The request should be granted because it substantially meets the requirements of 30 Tex. Admin. Code Chapter 55, Subchapter G.

Lem Locke, a.k.a. L.R. Locke. Lem Locke states that he/ she is a long-time property owner within the designated reservoir area, and will lose land if the proposed reservoir is constructed. According to Staff’s map, his/ her land is in or near the proposed reservoir’s footprint. The request demonstrates that Lem Locke is an affected person. The request should be granted because it meets the requirements of 30 Tex. Admin. Code Chapter 55, Subchapter G.

Cathy Ryser. Ms. Ryser states that she will lose her highly productive bottomland farm property to the proposed reservoir, and she is concerned about the environmental impact of the project. She also comments that it is not fair for NTMWD to take their water and then sell it back to them. According to Staff’s map, her land is in the footprint of the reservoir. The request demonstrates that she is an affected person because her land could be inundated or taken for mitigation. The request should be granted because it meets the requirements of 30 Tex. Admin. Code Chapter 55, Subchapter G.

Charles Ryser. Mr. Ryser states that he has the most fertile agricultural land in the

county, and that it is irreplaceable. According to Staff's map, his land is in or near the proposed reservoir's footprint. The request demonstrates that he is an affected person because his land could be inundated or taken for mitigation. The request should be granted because it meets the requirements of 30 Tex. Admin. Code Chapter 55, Subchapter G.

Harold D. "Thump" Witcher, Jr. Mr. Witcher states that he will lose his house and 485 acres to the proposed reservoir. He is concerned about the environment, the quality of the reservoir site, and the need for water in the Trinity Basin. His land is in or near the proposed reservoir's footprint. The request demonstrates that he is an affected person. The request should be granted because it meets the requirements of 30 Tex. Admin. Code Chapter 55, Subchapter G.

John Edward Yarbrough. Mr. Yarbrough is concerned about a taking of his and other people's land and expresses concern about economic loss, wildlife, loss of agriculture, waste of water, and that the reservoir will be shallow. His land is in or near the proposed reservoir's footprint. The request demonstrates that he is an affected person. The request should be granted because it meets the requirements of 30 Tex. Admin. Code Chapter 55, Subchapter G.

Charles M. (Michael) Yarbrough. Mr. Yarbrough is concerned about a taking of his and other people's land and expresses concern about economic loss, wildlife, loss of agriculture, waste of water, and that the reservoir will be shallow. His land is in or near the proposed reservoir's footprint. The request demonstrates that he is an affected person. The request should be granted because it meets the requirements of 30 Tex. Admin. Code Chapter 55, Subchapter G.

Individuals who do not specifically state that they own land but who are near footprint of the reservoir:

Donna Ryser. Ms. Ryser states that productive farm land will be taken away by the proposed reservoir, and that land that has been in families for over 100 years will be taken away. She is also concerned that the water is going to Dallas. According to Staff's map, her land is in or near the proposed reservoir's footprint. The request demonstrates that she is an affected person because her land could be inundated or taken for mitigation. The request should be granted because it meets the requirements of 30 Tex. Admin. Code Chapter 55, Subchapter G.

Mabel Holmes. The request states that the proposed reservoir will be a shallow lake; that the site is historical, serving as a food and water resource for people and animals; there will be an economic impact from loss of revenue and increased taxes; and that "much of the property is in the fourth generation." She does not say that she owns land in the area. However, based on Staff's map, her land is about 3 miles from the proposed reservoir's footprint. Since her land could be inundated or taken for mitigation, the hearing request should be granted.

Chad Knight. The request states that the proposed reservoir would take away the most productive and richest soil in the county; There would be an economic impact from the reservoir, would have a negative impact on wildlife; that a dynamite plant had contaminated the creek in the past and the site had not been cleaned up, therefore there would be a threat to public health to use the site for drinking water. He is also concerned about the water going to the Trinity Basin and Dallas. He does not discuss land ownership, however, Staff's map indicates he owns land in or near the proposed reservoir's footprint. The hearing request should be granted because his land could be inundated or taken for mitigation.

Renea Knight. The requestor states concern about the county commissioners' court's treatment of landowners in the area, and that the landowners in the area are losing their rights. The requestor does not discuss land ownership, however, Staff's map indicates he owns land in or near the proposed reservoir's footprint. The hearing request should be granted because the requestor's land could be inundated or taken for mitigation.

Dustin Knight. Mr. Knight is concerned about the reservoir taking away hardwoods and bottomlands, and agriculture, in the area. The water quality will be poor, the reservoir will be too shallow with too much diversion. There will be flooding. The requestor does not discuss land ownership, however, Staff's map indicates he owns land in or near the proposed reservoir's footprint. The hearing request should be granted because the requestor's land could be inundated or taken for mitigation.

Gordon Locke. The request states that the site was previously rejected by the Army Corps of Engineers as a proposed lake site because the shallow nature of the reservoir would create the possibility for poor water quality, and that the proposed reservoir would be a 4800 acre mudflat – lost acreage. According to Staff's map, his land is in or near the proposed reservoir's footprint. The request demonstrates that he is an affected person because his land could be inundated or taken for mitigation. The request should be granted because it meets the requirements of 30 Tex. Admin. Code Chapter 55, Subchapter G.

John Loschke. The request states that Mr. Loschke is concerned about water quality. There are large earthworms in the area; inundation would kill them; their decomposition would impact disinfection of the water for drinking, which in turn would cause production of disinfectant byproducts. He does not claim land in the area, but according to Staff's map, his land is in or near the proposed reservoir's footprint. The request demonstrates that he is an affected person because their land could be inundated or taken for mitigation. The request should be granted because it meets the requirements of 30 Tex. Admin. Code Chapter 55, Subchapter G.

John W. Welch. The request states that Mr. Welch believes that the proposed reservoir will not produce a sufficient quantity of potable water, and that the proposed reservoir will destroy the agriculture industry in the county. He is also concerned that the water

will all go to the Dallas Metroplex. According to Staff's map, his land is in or near the proposed reservoir's footprint. Although his request does not demonstrate that he is an affected person, his land could be inundated or taken for mitigation. The request should be granted because it meets the requirements of 30 Tex. Admin. Code Chapter 55, Subchapter G.

Recommendation to Deny

Requestors who claim that they own land, but who are not close to footprint of reservoir:

Lela Foreman. The request does not substantially comply with the requirements of 30 Tex. Admin. Code § 55.251. The request states that Ms. Foreman is a landowner whose farm land has been in the family for over 100 years. According to Staff's map, her land is about 10 miles from the reservoir's footprint. The request does not demonstrate that she is an affected person because her land will not be inundated or taken for mitigation. The request should be denied because it does not meet the requirements of 30 Tex. Admin. Code Chapter 55, Subchapter G.

John Gregory Hall. The request does not substantially comply with the requirements of 30 Tex. Admin. Code § 55.251. The request states that Mr. Hall is a landowner with 570 acres in the Caney Creek watershed in northwest Fannin County. According to Staff's map, his land is not in or near the proposed reservoir's footprint, but is about ten miles from the proposed reservoir. The request does not demonstrate that he is an affected person and should be denied because it does not meet the requirements of 30 Tex. Admin. Code Chapter 55, Subchapter G.

Wes, Joseph, and John Reed. Requestors state that they will lose their land but address given is not close to the reservoir. According to staff's map, the Reeds' land (address) is not close to the proposed reservoir. The request should be denied because it does not meet the requirements of 30 Tex. Admin. Code Chapter 55, Subchapter G.

Dorothy L. Witcher, and John Rex Witcher, trustees for Witcher Family Texas Property Trust. Ms. Witcher's request states that the land they own was bought by their great-grandfather and is not in or near the proposed reservoir's footprint. They are concerned about compensation being fair. The request does not demonstrate that they are affected persons. According to Staff's map, their land is not in or near the proposed reservoir.

Requestors who claim no land and are not on staff's map or too far from footprint:

Larry D. Franklin. Though the request substantially complies with the technical requirements of 30 Tex. Admin. Code § 55.251, Mr. Franklin does not demonstrate that he meets the legal requirement of being an affected person. He identifies interests common to the general public – the shallow depth of the proposed reservoir; the impact

on ecoregions in the area; the loss of fertile agricultural land; the previous rejection of the site by the Army Corps of Engineers; and water quality problems. According to Staff's map, Mr. Franklin does own land in the area, but it is about five miles away. Because he did not establish that he is an affected person, the hearing request should be denied.

Glen Lee. Though the request substantially complies with the technical requirements of 30 Tex. Admin. Code § 55.251, Mr. Lee does not demonstrate that he meets the legal requirement of being an affected person. He identifies interests common to the general public – the previous rejection of the proposed reservoir site by the U.S. Army Corps of Engineers; the impact on natural resources such as timber, ranch land, and water; water quality; and the impact on the economy in Fannin County. According to Staff's map, the Lees own land in the area but it is about 5 miles away. His hearing request should be denied.

Maeta Lee. Though the request substantially complies with the technical requirements of 30 Tex. Admin. Code § 55.251, Maeta Lee does not demonstrate that she meets the legal requirement of being an affected person. Only interests common to the general public are identified – the loss of valuable farmland; the loss of part of Fannin County's tax base; the previous rejection of the site by the Army Corps of Engineers. According to Staff's map, the Lees own land in the area but it is about 5 miles away. Her hearing request should be denied.

Cathy J. Melson. Though the request substantially complies with the technical requirements of 30 Tex. Admin. Code § 55.251, Ms. Melson does not demonstrate that she meets the legal requirement of being an affected person. She identifies interests common to the general public – loss of hardwoods; loss of wildlife habitat; loss of agricultural land; economic loss from land being taken, displacement of families whose land has been in their possession for generations; landfills that contaminated the site. Because the request does not establish that Ms. Melson owns land in the area and is an affected person, the hearing request should be denied.

Ruby F. Odom. Though the request substantially complies with the technical requirements of 30 Tex. Admin. Code § 55.251, Ms. Odom does not demonstrate that she meets the legal requirement of being an affected person. She identifies interests common to the general public – the impact on the Confederate soldier camp site and the soldiers buried there. According to Staff's map, however, Ms. Odom owns land in the area, but it is about 5 miles from the footprint of the reservoir. Because the request does not establish that Ms. Odom is an affected person, the hearing request should be denied.

Carlos A. Pardo. Though the request substantially complies with the technical requirements of 30 Tex. Admin. Code § 55.251, Mr. Pardo does not demonstrate that he meets the legal requirement of being an affected person. He identifies interests common to the general public – the ecological impact on the area; the impact on wildlife; the loss of prime farmland and trees; the shallowness of the reservoir. Because

the request does not establish that Mr. Pardo owns land in the area and is an affected person, the hearing request should be denied.

Nathan Ryser. Though the request substantially complies with the technical requirements of 30 Tex. Admin. Code § 55.251, Mr. Ryser does not demonstrate that he meets the legal requirement of being an affected person. He identifies interests common to the general public – water quantity in the proposed reservoir; the loss of the most productive agricultural land in the region; the impact on wildlife and eco regions. Because the request does not establish that Mr. Ryser owns land in the area and is an affected person, the hearing request should be denied.

William J. Sebastian. Though the request substantially complies with the technical requirements of 30 Tex. Admin. Code § 55.251, Mr. Sebastian does not demonstrate that he meets the legal requirement of being an affected person. He identifies interests common to the general public – destruction to the environment and quality of life; the loss of natural wildlife habitats; the loss of county tax revenue from land lost to the reservoir. According to Staff’s map, Mr. Sebastian owns land in the area but it is about ten miles from the footprint of the reservoir. He has not shown that he is an affected person, and the hearing request should be denied.

Charles Yarbrough. Though the request substantially complies with the technical requirements of 30 Tex. Admin. Code § 55.251, Mr. Yarbrough does not demonstrate that he meets the legal requirement of being an affected person. He identifies interests common to the general public – water quality; the shallow depth of the proposed reservoir; the impact on wildlife; the loss of the most productive land in the county; the economic impact on county schools, businesses, and landowners. He has not shown that he is an affected person, and the hearing request should be denied.

V. CONCLUSION

The Executive Director recommends that the Commission grant the hearing requests of R.P. Crawford, Texas Parks and Wildlife Department, Bois d’Arc Municipal Water District, Citizens to Save Bois d’Arc Creek, Monika Blaine, Ronnie and Rebecca Knight, Lem Locke, Cathy Ryser, Charles Ryser, Harold D. “Thump” Witcher Jr., Donna Ryser, Mabel Holmes, Chad Knight, Renea Knight, Dustin Knight, Gordon Locke, John Loschke, John W. Welch, Charles M. Yarbrough, and John Edward Yarbrough.

The Executive Director recommends that the Commission deny the hearing requests of Lela Foreman, John Gregory Hall, Wes, Joseph, and John Reed, Dorothy and John Witcher, Larry D. Franklin, Glen and Maeta Lee, Cathy Melson, Ruby Odom, Carlos Pardo, Nathan Ryser, William Sebastian, and Charles Yarbrough.

The Executive Director recommends that the Commission refer this matter to the State Office of Administrative Hearings for a contested case hearing based upon the reasons set forth in the Executive Director’s recommendations herein, in addition to any

determination by the Commission that a hearing would be in the public interest. 30
Tex. Admin. Code § 55.255(c).

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on the 29th day of August 2014, the foregoing *Executive Director's Response to Hearing Request* was filed electronically with the Chief Clerk of the Texas Commission on Environmental Quality in Austin, Texas, and that a true and correct copy was delivered by electronic mail, by facsimile, or by first-class mail to the persons on the attached Mailing List.



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WINDOM TX 75492-3615

JOHN LOSCHKE
874 COUNTY ROAD 2750
HONEY GROVE TX 75446-5202

CATHY J MELSON
3385 E STATE HIGHWAY 56
DODD CITY TX 75438-3853

ELLEN MELSON
3385 E STATE HIGHWAY 56
DODD CITY TX 75438-3853

NATHAN MELSON
CORE
3385 E STATE HIGHWAY 56
DODD CITY TX 75438-3853

EDWARD & ELLEN MILLS
4B RHEA MILLS CIR
PROSPER TX 75078-9137

SKIP NEWSOM
6806 BEE CAVE RD STE 1A
AUSTIN TX 78746-5036

RUBY F ODOM
PO BOX 354
WINDOM TX 75492-0354

CARLOS A PARDO
4085 PRESTON HILLS CIR
CELINA TX 75009-5541

WES REED
4519 W LOVERS LN
DALLAS TX 75209-3131

STEWART RICHARDSON
9086 FM 100
HONEY GROVE TX 75446-3434

JUDY RUSSELL
790 COUNTY ROAD 2900
DODD CITY TX 75438-3060

KENNETH RUSSELL
790 COUNTY ROAD 2900
DODD CITY TX 75438-3060

CATHY RYSER
4097 COUNTY ROAD 2765
HONEY GROVE TX 75446-5211

CHARLES RYSER
4097 COUNTY ROAD 2765
HONEY GROVE TX 75446-5211

DONNA RYSER
4227 COUNTY ROAD 2765
HONEY GROVE TX 75446-5212

ERICH RYSER
404 WENTWORTH DR
MCKINNEY TX 75070-2801

NATHAN RYSER
602 OAK ST
HONEY GROVE TX 75446-2138

WILLIAM SEBASTIAN 1476
COUNTY ROAD 2130
TELEPHONE TX 75488-5238

KAREN A & MARY ANN STRICKLAND
7720 COUNTY ROAD 1135
LEONARD TX 75452-6044

MARY ANN STRICKLAND
7720 COUNTY ROAD 1135
LEONARD TX 75452-6044

ELIZABETH FAYE WEDELL
PO BOX 812
BONHAM TX 75418-0812

JOHN W WELCH
1588 COUNTY ROAD 2655
TELEPHONE TX 75488-6804

DOROTHY L & JOHN REX WITCHER
8729 SOUTHWESTERN BLVD APT 1513
DALLAS TX 75206-8277

HAROLD DEAN WITCHER, JR
972 CR 2705
TELEPHONE TX 75488

HAROLD DEAN WITCHER, JR
PO BOX 36
HONEY GROVE TX 75446-0036

CHARLES MICHAEL YARBROUGH
2325 COUNTY ROAD 2765
HONEY GROVE TX 75446-5210

CHARLES YARBROUGH
404 PECAN ST
HONEY GROVE TX 75446-1821

JOHN YARBROUGH
3576 COUNTY ROAD 2765
HONEY GROVE TX 75446-5215

WITHDRAWAL OF REQUEST(S)

JANICE BEZANSON
TCA - TEXAS CONSERVATION ALLIANCE
1605 MISSION TRL
SALADO TX 76571-6107

PUBLIC OFFICIALS - INTERESTED PERSON(S)

THE HONORABLE LARRY PHILLIPS
TX HOUSE OF REPRESENTATIVE
PO BOX 2910
AUSTIN TX 78768-2910

THE HONORABLE STEPHEN TERRELL
CITY OF ALLEN
305 CENTURY PKWY
ALLEN TX 75013-8042

INTERESTED PERSON(S)

CORBY ALEXANDER
301 E 5TH ST
BONHAM TX 75418-4002

HARRY ALLEN
14891 E FM 1396
WINDOM TX 75492-3624

TED BARRON
MESQUITE TEXAS
PO BOX 850137
MESQUITE TX 75185-0137

ANN BOYD
1996 COUNTY ROAD 2765
HONEY GROVE TX 75446-5208

JIM BOYLE
HERRERA & BOYLE, PLLC
816 CONGRESS AVE STE 1250
AUSTIN TX 78701-2476

DONNIE BREWER
3280 FM 897
DODD CITY TX 75438-3231

JOE BREWER
14159 E FM 1396
WINDOM TX 75492-3618

LINDA BREWER
292 COUNTY ROAD 2610
BONHAM TX 75418-8269

THOMAS R BREWER
126 CARPENTER LOOP
BONHAM TX 75418-4049

LARRY D BROACH
CITIZENS AGAINST
1215 CR 2901
DODD CITY TX 75438

JOHN BURNETT
402 MOCKINGBIRD ST
BONHAM TX 75418-2213

CURTIS W CAMPBELL
RED RIVER AUTHORITY OF TEXAS
PO BOX 240
WICHITA FALLS TX 76307-0240

CURTIS E CARLSON, JR
PO BOX 292364
LEWISVILLE TX 75029-2364

LEE ROY CIRKLES
FANNIN COUNTY WATER AGENCY ALTERNATE
1717 ORIENTAL ST
BONHAM TX 75418-2619

CONCERNED CITIZEN
111 SANTE FE TRL
WHITEWRIGHT TX 75491

MARTHA CONYERS
13774 E FM 1396
WINDOM TX 75492-3613

ROBERT F CONYERS
13774 E FM 1396
WINDOM TX 75492-3613

D H CRANFORD, SR
7095 COUNTY ROAD 2537
QUINLAN TX 75474-5424

PATTI CURRY CHUN
PO BOX 154
HONEY GROVE TX 75446-0154

MICHAEL J DURBIN
906 COUNTY ROAD 2770
HONEY GROVE TX 75446-5220

JAMES ECHEANDIA
PO BOX 388
SAVOY TX 75479-0388

LISBETH ECHEANDIA
PO BOX 388
SAVOY TX 75479-0388

MELODY EMADIAZAR
11300 RESEARCH RD
FRISCO TX 75033-2047

PEGGY ESTES
232 COUNTY ROAD 2650
TELEPHONE TX 75488-6658

SEAN FARRELL
816 CONGRESS AVE STE 1250
AUSTIN TX 78701-2476

ROY FLOYD
MAYOR
408 RAINEY ST
BONHAM TX 75418-2108

JAMES M FORTENBERRY
CASH SUD
7086 FM 513 S
LONE OAK TX 75453-5110

JANE GEHALO
10101 E FM 1396
TELEPHONE TX 75488-6039

GILBERT GESSETT
661 COUNTY ROAD 2670
TELEPHONE TX 75488-6817

RICHARD GLASER
383 COUNTY ROAD 1452
BONHAM TX 75418-7946

ROBERT GRAHAM
4005 TRACY LN
GREENVILLE TX 75402-5438

PHIL HACEY
1596 COUNTY ROAD 4215
BONHAM TX 75418-9378

CASEY HALL
13632 E FM 1396
WINDOM TX 75492-3649

GREGORY HALL
328 COUNTY ROAD 1035
RAVENNA TX 75476-3017

RENITTA HALL
13632 E FM 1396
WINDOM TX 75492-3649

HARRY S HAMMETT
1494 COUNTY ROAD 2917
DODD CITY TX 75438-3204

ALVIN HARTWELL
1996 COUNTY ROAD 2765
HONEY GROVE TX 75446-5208

CHARLOTTE HARTWELL
1996 COUNTY ROAD 2765
HONEY GROVE TX 75446-5208

GARY HARTWELL
8560 SHAKESPEARE LN
FRISCO TX 75034-8268

DENNIS & SUSAN HARWELL
18015 E FM 273
TELEPHONE TX 75488-3625

BUTCH HENDERSON
PO BOX 710
LEONARD TX 75452-0710

BILL JONES
327 N MAIN ST
BONHAM TX 75418-4320

JANET & MR KENNETH JONES
3054 COUNTY ROAD 2730
HONEY GROVE TX 75446-4211

BRAD KELLAR
HERALD-BANNER NEWSPAPER
PO BOX 5000
GREENVILLE TX 75401

REBECCA KNIGHT
317 COUNTY ROAD 2950
DODD CITY TX 75438-3209

JERRY LANE
4517 CROWN RIDGE DR
PLANO TX 75024-5221

JERRY LEINART
CADDO BASIN SUD
1994 PR 1183
GREENVILLE TX 75401-7995

RA "LINK" LINKENAUER
SABINE RIVER AUTHORITY
2325 E BEACH DR
GREENVILLE TX 75402-8649

JENNIFER LORD
525 COUNTY ROAD 2780
HONEY GROVE TX 75446-5226

SANDRA LOSCHKE
874 COUNTY ROAD 2750
HONEY GROVE TX 75446-5202

STEPHEN B MASSEY
607 COMANCHE DR
ALLEN TX 75013-8501

JACK L MAY
1709 OAK BEND LN
GARLAND TX 75040-8900

MIKE MICHAUD
2315 COUNTY ROAD 3105
BONHAM TX 75418-9107

LARRY MIDDLEBROOKS
COUNTY COMMISSIONER, HUNT COUNTY
PO BOX 1097
GREENVILLE TX 75403-1097

ED MILLS
4B RHEA MILLS CIR
PROSPER TX 75078-9137

BLAKE MOORE
STATE REP LARRY PHILLIPS OFFICE
421 N CROCKETT ST
SHERMAN TX 75090-0019

CLAY MYRE
PO BOX 276
ROYSE CITY TX 75189-0276

JIMMY NEWHOUSE
2438 COUNTY ROAD 2730
HONEY GROVE TX 75446-4208

MARK NEWHOUSE
BOIS D'ARC MUD
2704 COUNTY ROAD 2730
HONEY GROVE TX 75446-4209

STANLEY OWEN
2011 COUNTY ROAD 2765
HONEY GROVE TX 75446-5260

LARRY N PATTERSON
UPPER TRINITY RWD
PO BOX 305
LEWISVILLE TX 75067-0305

JOE REED
116 HILLTOP LN
POTTSBORO TX 75076-4852

JODIE & KEVIN RILEY
500 US HIGHWAY 385
SPRINGLAKE TX 79082-6201

LLOYD B ROBERTSON
7104 ARAGLIN CT
DALLAS TX 75230-2097

LAWRENCE W ROBINSON
PO BOX 517
MCKINNEY TX 75070-8013

RICK RYKER
1524 FM 2029
TELEPHONE TX 75488-6050

PHYLLIS RYSER
16909 E FM 1396
WINDOM TX 75492-3627

PHYLLIS RYSER
PO BOX 149
HONEY GROVE TX 75446-0149

WAYNE RYSER
16909 E FM 1396
WINDOM TX 75492-3627

PHILIP SEGER
19 TOURNAMENT BLVD
PALM BEACH GARDENS FL 33418-6843

ROBIN SHUCK
600 PINE BLUFF ST
CLEBURNE TX 76031-0354

DAVID SIERRA
TXPWD
11942 FM 848
TYLER TX 75707-5234

ROGER SKIPPER
3243 COUNTY ROAD 2955
DODD CITY TX 75438-3236

HOWARD S SLOBODIN
TRINITY RIVER AUTHORITY OF TEXAS
5300 S COLLINS ST
ARLINGTON TX 76018-1710

LARRY SPRADLIN
PO BOX 518
SULPHUR SPRINGS TX 75483-0518

JUSTIN K STATON
281 COUNTY ROAD 2650
TELEPHONE TX 75488-6659

JOE STRONG
BONHAM CHAMBER
1593 S FM 2077
BONHAM TX 75418-7363

KATHY STRONG
1593 S FM 2077
BONHAM TX 75418-7363

THOMAS JWAGMAN
433 PR 125
SAVOY TX 75479-5135

GWENDOLYN HILL WEBB
ATTORNEY AT LAW, WEBB & WEBB
PO BOX 1329
AUSTIN TX 78767-1329

JIM & JUDY WEBSTER
7200 PRESTON RD APT 1311
PLANO TX 75024-3221

DEBBIE WEDDLE
14385 E FM 1396
WINDOM TX 75492-3621

LARRY WEDDLE
14385 E FM 1396
WINDOM TX 75492-3621

RON WEISZ
264 COUNTY ROAD 2650
TELEPHONE TX 75488-6658

ADAMWHISENANT
TXPWD
11942 FM 848
TYLER TX 75707-5234

JAMIE WILLIAMS
15690 E FM 1550
HONEY GROVE TX 75446-7608

ANNA BELLE WINNINGHAM
1359 COUNTY ROAD 2715
HONEY GROVE TX 75446-3402

ROBERT WINNINGHAM
100 ALLENTOWN PKWY STE 211
ALLEN TX 75002-4200

CATHY & LARRY WOLFE
11922 FM 100
HONEY GROVE TX 75446-3004

MATT WOLFF
2500 STONEWALL ST #805
GREENVILLE TX 75401-4209

JASON WOOD
1259 COUNTY ROAD 2945
DODD CITY TX 75438-3036

LLOYD WOODKE
2096 COUNTY ROAD 2980
WINDOM TX 75492-3430

CONCERNED CITIZEN
365 PR 520
BLUE RIDGE TX 75424

JERRY LEHEW
5405 LANSINGFORD TRL
ARLINGTON TX 76017

ROZELLE FOWLER
BONHAM JOURNAL
520 W 9TH ST
BONHAM TX 75418

ATTACHMENT A

2:07 SEP 14 AM 10: 06

Contested Case Hearing Request

WR
56919

Name: R.P. Crawford Group Name: Red 'Arc Farm CHIEF CLERKS OFFICE

Mailing Address: 690 CR 37500 SUMMIT, TX 75486
Phone: 903.739.8136 Fax _____
Email: _____

OPA
SEP 14 2007

Applicant & Permit Number: NTMWD permit number 12151

BY [Signature]

I, R.P. Crawford, wish to request a contested case hearing on the project to build a dam on Lower Bois d' Arc Creek because:

our family farm has a permit (no. 4228)
from T.C.E.Q. to divert 320 acre-ft of water
per year from the Bois d' Arc Creek for irrigation.
My concern is that if a dam is constructed on Lower
Bois d' Arc Creek, that restricts water flow, sufficient
water to supply the irrigation pumps during the
summer growing season will not be available.

In addition, if water from Bois d' Arc Creek does
not flow to the Red River during dry periods, then our
wildlife populations along the creek will be severely
affected. Red 'Arc Farm currently has wildlife
improvement contracts with USDA-CRP, USDA-FQHIP
and US Fish and Wildlife - Partners in Wildlife.

R.P. Crawford
Signature

date 9/11/07



September 17, 2007

WR
56919

OPA HR

SEP 17 2007

BY *[Signature]*

CHIEF CLERKS OFFICE

2007 SEP 17 AM 9:39

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

Ms. LaDonna Castanuela
Office of the Chief Clerk
Texas Natural Resource Conservation Commission
MC 105
P.O. Box 13087
Austin, TX 78711-3087

Re: North Texas Municipal Water District Water Use Permit Application No. 12151; Lower Bois d'Arc Creek Reservoir

Dear Ms. Castanuela:

Texas Parks and Wildlife Department (TPWD) respectfully requests a contested case hearing regarding the North Texas Municipal Water District (NTMWD) Water Right Application No. 12151. Because the notice period for water right applications comes very early in the TCEQ review process, often there is not enough specific technical information available to fully evaluate a proposed project. To protect TPWD's ability to participate in the development of permit conditions to protect fish and wildlife resources, TPWD files this hearing request.

Pursuant to Texas Parks and Wildlife Code § 12.0011, TPWD is the state agency charged with the primary responsibility for protecting the state's fish and wildlife resources. Under Texas Water Code § 11.147, the Texas Commission on Environmental Quality (TCEQ), in making a final decision on any application to store, take or divert water, shall consider all information, evidence and testimony presented by TPWD. Under the same provision, TPWD has the right to be named a party in hearings on water use permit applications.

NTMWD seeks authorization to construct and maintain the Lower Bois d'Arc Creek Reservoir in the Red River Basin on Lower Bois d'Arc Creek in Fannin County. Authorization is sought to divert, store and use water from the reservoir for municipal, industrial and agricultural purposes and to use water within the reservoir for recreation. NTMWD also requests interbasin transfer authorization to use the reservoir water within the district's service area in the Red, Sabine, and Trinity River Basins and within Fannin County in the Sulphur River Basin. The applicant proposes to use the bed and banks of Pilot Grove Creek and the East Fork Trinity River to transport water diverted from the reservoir to Lake Lavon for subsequent diversion and use. The applicant further seeks authorization to reuse return flows generated from the diversion and use of water from the Lower Bois d'Arc Creek Reservoir. NTMWD also intends to manage the reservoir as part of a system operation with existing and future supplies. The reservoir is proposed to have a maximum normal operating

To manage and conserve the natural and cultural resources of Texas and to provide hunting, fishing and outdoor recreation opportunities for the use and enjoyment of present and future generations.

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FORT WORTH

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EXECUTIVE DIRECTOR



Take a kid
hunting or fishing

* * *

Visit a state park
or historic site

capacity of 367,609 acre-feet of water and a surface area of 16,526 acres, and the applicant seeks to divert and use not to exceed 175,000 acre-feet of water annually. The final project will require additional acreage to address reservoir flood pool elevations and the significant mitigation required for such a reservoir.

The TCEQ must consider the impacts of NTMWD's application on water quality, instream uses and freshwater inflows and all water use permits may be conditioned to protect those flows. (Tex. Water Code §§ 11.147, 11.150, 11.152; 30 Tex. Admin. Code §§ 297.54-56.) TPWD's statutory obligation and ability to protect the fish and wildlife resources of the state are affected by the actions proposed under the current NTMWD application. The diversion and impoundment of flows from Lower Bois d'Arc Creek and the interbasin transfer of water to the Sabine, Trinity, and Sulphur River Basins directly impact the water quality and existing instream uses of Lower Bois d'Arc Creek, Pilot Grove Creek, the East Fork Trinity River, and Lake Lavon. Additionally, the use of the bed and banks of Pilot Grove Creek for transporting water may alter the geomorphology of that stream and has the potential to cause a loss of aquatic habitat. Maintaining adequate instream flows and habitat to protect fish and wildlife resources is critical to the duties of TPWD.

TPWD is concerned about the impact to fish and wildlife habitats caused by construction of the reservoir and the inundation of lands. The Commission must assess the effects of the issuance of NTMWD's proposed permit on fish and wildlife habitats and may require an applicant to mitigate adverse impacts on the habitats. (Tex. Water Code §§ 11.147, 11.152; 30 Tex. Admin. Code § 297.53.) A large variety of wildlife species and terrestrial habitats are found in or near the reservoir location and may be adversely impacted or destroyed by inundation. Several endangered or threatened species have known habitat in Fannin County. The Least Tern and American Burying Beetle are federally listed endangered species, and the Louisiana black bear is a federally listed threatened species in Fannin County. There are also state listed threatened species of birds, reptiles, and fishes in Fannin County.

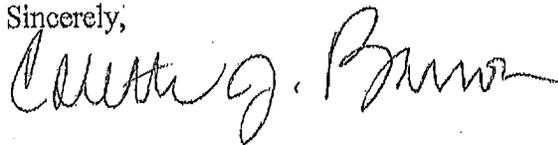
TPWD has expressed concerns about this proposed reservoir in both the first and second rounds of regional water planning. The proposed reservoir would inundate a 3,911 acre tract identified by the United States Fish and Wildlife Service as a Priority 4 preservation site in the Texas Bottomland Hardwood Preservation Program (1985). The proposed reservoir may also negatively impact 13,370 acres of habitat downstream at the Bois d'Arc Unit of the Caddo National Grasslands which is managed by TPWD as the Caddo National Grasslands Wildlife Management Area. Additionally, Bois d'Arc Creek from its headwaters in eastern Grayson County to its confluence with the Red River in Fannin County represents a valuable riparian conservation area. The proposed reservoir would inundate about 25% of the stream's length, and the downstream portion of the stream may be negatively impacted by the altered flow regime as a result of reservoir operations. Preliminary work involving TPWD staff has begun to identify habitat mitigation requirements but no work has been initiated yet to identify environmental flow needs.

A final TPWD concern is the reuse portion of the application. At the present time, the TCEQ does not appear to have a clear and consistent policy for evaluating and permitting indirect reuse applications, and therefore TPWD cannot discern the analysis that TCEQ will apply to evaluate the reuse project's impact on instream flows. The availability of return flows to meet environmental needs may be an important factor in determining impacts to fish and wildlife.

In its Report Supporting an Application for a Texas Water Right for Lower Bois d'Arc Creek Reservoir, NTMWD expresses a commitment to perform environmental studies and analyses that may address some or all of TPWD's concerns. The TCEQ will also perform a detailed technical review of the application and develop draft permit conditions that may alleviate some or all of TPWD's concerns. TPWD will continue to evaluate the merits of the proposed project as additional technical information becomes available. TPWD may withdraw its hearing request if its concerns can be met by the inclusion of special protective conditions in the permit or by other appropriate means.

Please use the information below to place TPWD on the official mailing list for this application. Should you have any questions, please call me at 512 389 8899. Thank you for your attention to this matter.

Sincerely,



Colette J. Barron, Attorney
State Bar of Texas No. 00783607
Texas Parks and Wildlife Department
Legal Division
4200 Smith School Road
Austin, TX 78744
512 389 8899 Phone
512 389 4482 Fax

cc: Dr. Larry McKinney, TPWD
Phil Durocher, TPWD
Ann Bright, TPWD

SKIP NEWSOM

ATTORNEY AT LAW

6806 BEE CAVES ROAD, SUITE 1A
AUSTIN, TEXAS 78745
(512) 477-4121
FAX (512) 477-2860

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

WR
56919

2007 SEP 17 AM 10:14

Board Certified - Administrative Law
Texas Board of Legal Specialization

CHIEF CLERKS OFFICE

September 14, 2006

OPA HR

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

SEP 17 2007

BY *[Signature]*

Re: Protest and Request for Contested Case Hearing by Bois D'Arc Municipal Utility District on Application No. 12151 by North Texas Municipal Water District

Dear Ms. Castañuela,

Bois D'Arc Municipal Utility District ("Bois D'Arc MUD) was created by H.B. 2171 of the 66th Legislature, June 6, 1979 and includes a TCEQ certificated water service area of approximately 305 square miles under water CCN No. 11753. Approximately 85 to 90% of the reservoir proposed by the referenced application is to be located within the Bois' D'Arc MUD. The proposed reservoir will inundate at least 35% of the District's service area and several miles of District easements and facilities to the detriment of the District, its customers and constituents. The application additionally seeks to transfer surface water out of the basin of origin for use in other water basins to the great detriment of Bois D'Arc MUD, its customers and constituents and the present and future needs and welfare of Fannin County and surrounding areas..

Please consider this letter as Bois D'Arc MUD's official protest to and request for contested case hearing in Application No.12151 by North Texas Municipal Water District ("Applicant"). Based on the notice of the Application published per Texas Commission on Environmental Quality ("Commission") requirements, Bois D'Arc protests the issuance of the requested water right and reservoir permit to Applicant and submits the following contact information in support of its protest and request for party status and contested case hearing:

Name and Contact Information for Requesting Party:

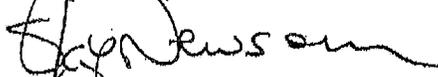
Bois D'Arc Municipal Utility District
14101 E. FM 1396
Honey Grove TX 75446
(903) 378-7361

John Rapier, General Counsel
Bois D'Arc Municipal Utility District
Rapier, Wilson & Wendland, P.C.
103 W. McDermott
Allen, Texas 75013
Tel: 972.727.9904
Fax: 972.727.4273

Skip Newsom
Law Offices of Skip Newsom
8606 Bee Cave Road, Suite 1A
Austin, Texas 78746
Tel: 512.477-4121
Fax: 512.477-2860

Please include each of the above contacts on your mailing list in connection with all communications concerning this Application. Because Bois D'Arc's interests and those of its constituents will be adversely affected by the granting of the Application, it respectfully requests that the Commission set this matter for contested case hearing to determine the impacts of granting the Application and whether the Application is in the public interest and otherwise authorized by law.

Respectfully submitted,



Skip Newsom
Special Counsel to Bois D'Arc

cc:

John Rapier

some one would stay in the woods long enough and listen to the wildlife, they would become aware of all the various species that make up the ecology of Bois d' Arc Creek bottom.

I do not want to give up my land for the greed of a few others.

My husband and I worked all of our lives so we could retire in the country. We love this land and all of the creatures that live on it. When I asked what would happen to all of the animals, I was told that all we had was a few deer and wild hogs. This is not true. I have seen black panthers, cougars, turkeys, red wolves, gray wolves, otters, beavers, bobcats, foxes, and many more. Our ponds serve as habitat for many species of migratory ducks and geese.

I do not feel that Dallas has tried any conservation methods. Their usage is far higher than Austin or San Antonio.

I feel that an environmental impact study should be done before any decision should be made.

Our land is beautiful and should remain that way.

Sincerely,

A handwritten signature in cursive script that reads "Monika Blaine".

Monika Blaine

WR
36919

Contested Case Hearing Request

2007 SEP 10 AM 11:25

Name: Monika Blaine Group Name: Citizens to save Bois d'Arc Creek

Mailing Address: 3011 C.R. 2730 Honey Shore Ln. 75446

Phone: 903-378-3884 fax

Email: _____

OPA

H SEP 10 2007

Applicant & Permit Number: NTMWD permit number 12151

BY MB

I, Monika Blaine, wish to request a contested case hearing on the project to build a dam on Lower Bois d' Arc Creek because:

The Bois d'Arc river bottom is the main thoroughfare for wildlife through the county. Once severed the wildlife through, the county will suffer tremendously.
Speculative rumors of development all Fannin County has been proposed from this reservoir. I don't believe that I should lose my land that we worked for all of our lives. Many people depend on their lovely food from this land.

Monika Blaine date 9/9/07
Signature

Contested Case Hearing Request

*WR
56919*

August 26, 2007

Land Owners: Ronnie Knight
Rebecca Knight

Concerning: Lower Bois d'Arc Reservoir Project
Application: NTMWD #12151 to build a dam on
Lower Bois d'Arc Creek

Address:
317 CR 2950
Dodd City, Texas 75438
Home: 903-623-4665
Cell: 903-227-4588
Email: rebeccaknight@academicplanet.com

*OPA
H AUG 29 2007
BY JK*

We are requesting a contested case hearing on the projected building of a dam on the Lower Bois d'Arc Creek. We own property on this creek and have had a dairy business in the area since 1980. Prior to that Richard Knight, Ronnie's father, had the land and he was raised there. Presently, we are raising dairy heifers on the property, growing hay and grazing the land.

This project will effectively put us out of business and will destroy the life we have enjoyed since childhood. This area is filled with wild animals and birds which will be displaced or die. The animals that will be negatively affected will include deer, turkey, pheasant, rabbits, cougars, bob cats, raccoons, grey and black squirrels, opossums, armadillos, quail, woodpeckers, hummingbirds and wild canaries. The good insects including lady bugs and bees will be gone. The plant life affected will be many, many trees lost including oak, ash, pecan, elm, bois d'arc, maple and willows. Pasture land, crops, and cattle will not be available.

Our land will be on the shallow part of the proposed lake and will in essence be only a shallow mosquito infested mud hole with copperhead and water moccasin snakes everywhere. Our children have always been able to hunt on the land but this will destroy the area once used for that purpose.

Fannin County is a rural, agricultural area that produces farm products and cattle. This is what supports the population here and produces the jobs and tax dollars needed for our schools and community. Without the land, what are we to do to support ourselves economically? What can we pass on to our children? This project will cripple our families and community permanently.

For the above reasons, we sincerely ask that this permit be denied. Our futures are in your hands and your decision will change our lives forever.

Sincerely,

Ronnie Knight
Ronnie Knight
Rebecca Knight
Rebecca Knight

2007 AUG 30 PM 3 58
RECEIVED
TOED
WATER SUPPLY DIV.

WR
56919

Contested Case Hearing Request

2007 SEP 10 AM 11:25

Name: Lem Locke Group Name: Citizens of Bois d'Arc Creek CHIEF CLERKS OFFICE

Mailing Address: 13849 E FM 1396, Windom, TX 75442
Phone: 903-378-2440 Fax _____
Email: _____

OPA

H SEP 10 2007

Applicant & Permit Number: NTMWD permit number 12151

BY DL

I, L.R. Locke, wish to request a contested case hearing on the project to build a dam on Lower Bois d' Arc Creek because:

As a long time property owner within the designated lake area, I have first hand knowledge of the adverse results the proposed lake would cause - such as:

1. Loss of the thousands of acres of the most productive agricultural land in this County.

2. The destruction of the natural habitat for numerous wildlife we have had in this area these many years.

3. The needless destruction and loss of valuable native timber that is in abundance in this area.

4. The extreme hardships that would be placed on the many displaced property owners - with little or no benefits from the water accumulated.

5. The proposed lake site is an undesirable location relative to the excessive acreage involved will not (for many reasons) provide comparable water supply - along with the excessive harmful reaction to the overall environment.

L.R. Locke date 9-7-07
Signature

WR
56919

Contested Case Hearing Request

Name: Cathy Ryser Group Name: Citizens to Save Lower Bois d' Arc 2007 SEP 17 AM 10:1
Mailing Address: 4097 CR 2765 Honey Grove 75446 CHIEF CLERKS OFFICE
Phone: 903-378-2726 Fax: _____
Email: _____

OPA
HR
SEP 17 2007

Applicant & Permit Number: NTMWD permit number 12151

I, Cathy Ryser, wish to request a contested case hearing on the project BY Jay
to build a dam on Lower Bois d' Arc Creek because:

1. Price of land is not acceptable.
2. Hardwood timber will be destroyed.
3. Wildlife eco will be ruined.
4. Fluctuation of the lake level will cause a stinky, unsightly and mosquitoey bog, or a grown up weed and grassed with dead trees and I'll have to, look right at it and smell it!
5. Loss of shoreline mitigated acres will lower the value of my property.
6. Loss of our highly productive bottom land (farm) land.
7. It's just not ^{morally} right to take over our land and then eventually make us buy our own water from NTMW just to furnish the Dallas area with water when it can economically be piped from willing sources.

Cathy Ryser date 9-13-07
Signature

Contested Case Hearing Request

WR
5/26/9/19

Name: Charles Ryser Group Name: Group to save Bois d' Arc Creek

2007 SEP 14 AM 10:10
CHIEF CLERK'S OFFICE

Mailing Address: 4097 CR 2765 Honey Grove

Phone: 940-378-2726 Fax: _____

Email: _____

H OPA
SEP 14 2007

Applicant & Permit Number: NTMWD permit number 12151

I, Charles Ryser, wish to request a contested case hearing on the project
to build a dam on Lower Bois d' Arc Creek because:

1. Tarrant Co. Will retain water rights.
2. Lower Bois d' Arc Reservoir is situated at the point of two different eco regions. I have the most fertile ag. land in the county making it unique in value and irreplaceable.
3. Army Corps of Eng. states it is a poor lake site.
4. The Bois d' Arc river bottom is a stream thoroughfare for wildlife throughout the county.

Charles Ryser date 9-6-07
Signature

the reservoir. Who in their right mind would buy a lake front lot knowing the reservoir is going to be half empty two and a half months out of every year? And guess when those months will be. That's right. June, July, and August. People wanting access to the water will have to dredge out a long channel before the reservoir is filled.

Exhibit C, comprised by the Corps of Engineers, Tulsa District, initiated January 17, 2000, determined as shown on page 7, sub paragraph (b) that all dam sites within NTMWD plan were dropped from further consideration.

Exhibit D, page 4D. 4, Table 4D.2, shows that total impacts from getting water from Toledo Bend Reservoir to be low. Wright Patman would be low to medium, impact compared to Bois d'Arc Reservoir, page 4D.5, which is medium high.

According to an article I read in the National Geographic several years ago the firefly population had dropped extensively and no one could determine why. In the last three years the appearance of fireflies has increased greatly in Bois d'Arc bottom, but not on the adjacent hills. Therefore, something is conducive with the bottomland ecosystem that is helping their return. If these insects are an important part of our ecosystem, then we need to protect them. Tree frogs are also suffering from habitat losses. If this reservoir is built the Eastern Wild Turkey, White Tailed Deer, and other wild life will suffer. In Exhibit B, page 3-94, NTMWD has projected having to purchase an additional 22,000 acres for mitigated lands. This is the same amount of land that would be acquired for the reservoir. This tells you that there will be a large amount of wildlife displaced if Bois d'Arc Creek Reservoir is built.

H. D. Wither Jr.

17 Sept. 2007

WR
36919

OPA

H SEP 12 2007

BY DL

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

SEP 11 11 2 05

CHIEF CLERK'S OFFICE

Contested Case Hearing Request

Name: H. D. "Thump" Witcher, Jr. Group Name: Citizens to Save Bois d' Arc Creek
Mailing Address: 972 CR 2705 Telephone, Texas 75488
Phone: 903-664-2714 Fax: N/A
E-mail: twitcher@estesinc.com

Applicant & Permit Number: NTMWD permit number 12151

I want to request a contested hearing case on the project to build a dam on Lower Bois d' Arc Creek because:

First I would like to say the building of a dam on Bois d' Arc Creek is not about the need for water, but the control of all potential water sources in Northeast Texas. This is shown in Exhibit A, pages 1 and 2, entitled 2007 State Water Plan for NTMWD, which are highlighted showing existing lakes that NTMWD plan to acquire water from in the future. The existing reservoirs should be utilized first before anymore are built. It will be more economical to build pipelines now than in the future if inflation is figured into the cost. I know pipelines are as controversial as the building of lakes, but they don't totally remove a person from his home, his land or lively hood. They don't wreck ecosystems, displace wildlife or other issues that reservoirs do. A pipeline from Wright Patman to Cooper Lake (Lake Chapman) is approximately 60 miles, which is as close or closer than a pipeline from Bois d' Arc to Lake Lavon. A pipeline from Cooper Lake to Lake Lavon all ready exists.

Bois d' Arc Reservoir will be a extremely shallow reservoir, which will produce poor quality water due to the growth of aquatic vegetation that causes off colors and taste. Evaporation losses will be extreme due to the large surface area and the shallow nature of the reservoir. At conservation level of 534 ft-msl the deepest part of the reservoir will only be 50 to 55 foot at the dam. This is not the depth at the bottom of Bois d' Arc Creek channel. I don't believe the channel depth should be consider because it is only 30 to 40 yards wide. The fall of the land from Highway 82 north is 3 to 5 foot per mile. As shown in Exhibit B, page 3-89, the reservoir will only be at 534 ft-msl 13 percent of the time and below 50 percent full less than 20 percent of the months. With these estimates there will be extensive mud flats every year. People driving along Highway 82 won't even know there is a reservoir.

Exhibit C, comprised by the Corps of Engineers, Tulsa District, initiated January 17, 2000, determined as shown on page 7, sub paragraph (b) that all dam sites within NTMWD plan were dropped from further consideration.

Exhibit D, page 2 Table 4D.2, shows that total impacts from getting water from Toledo Bend Reservoir to be low compared to Bois d' Arc Reservoir, page 3, which is medium to medium high.

According to an article I read in the National Geographic several years ago the fire fly population had dropped extensively and no one could determine why. In the last three years the appearance of fire flies has increased greatly in Bois d' Arc bottom, but not on the adjacent hills,

therefore something is conducive with the bottom land ecosystem that is helping in their return. If these insects are an important part of our eco system then we need to protect them. Tree frogs are an important part that needs to be taken under consideration. World wide frogs are suffering from their habitat losses. If this reservoir is built the Eastern Wild Turkey, White Tailed Deer and other wildlife will suffer. In Exhibit B, page 3-94, NTMWD has projected having to purchase an additional 22,000 acres for mitigated lands. This is the same amount of land that would be acquired for the reservoir. This tells you that there will be a large amount of wildlife displaced if Bois d' Arc Creek Reservoir is built.

I personally will lose my new home that, as of today, I have only lived in for 6 years and every acre I own. I have approximately 485 acres total, 120 in cultivation, 150 improved pasture, 185 of hardwood bottom and 30 of ditches, creeks and marginal land. I can move to a new home, but I can't pickup 485 acres that I have worked my whole life to acquire and the improvements and move it. I will have to start over if this reservoir is built and I will be in my mid 60's when I have to move.

H.D. "Lump" Witherff. date 6 September 2007
Signature

WR
36919

Contested Case Hearing Request

2007 SEP 17 AM 10:11

Name: Donna Ryser Group Name: Citizens to Save Lower Bois d' Arc

CLERK'S OFFICE

Mailing Address: 4227 CR 2765 Honey Grove, Tx 75446

Phone: (903) 378-7010 Fax (903) 378-7010

OPA WR

Email: donnaryser@yahoo.com

SEP 17 2007

Applicant & Permit Number: NTMWD permit number 12151

BY [Signature]

I, Donna Ryser, wish to request a contested case hearing on the project to build a dam on Lower Bois d' Arc Creek because:

- (1) Productive farm land will be taken away.
- (2) Even though the lake will be in Fannin County, Fannin County will not retain the water rights. NTMWD will be the ones to determine the quality, quantity and price of the water.
- (3) Since the water will be piped to the Dallas area, the "lake" will not maintain a consistent level and will become a "mud hole" especially in the summer months.
- (4) Land that has been in families for over 100 years will be taken away. The worst part about that is that NTMWD is going to steal the land by making sure they don't have to pay a reasonable amount for the land.
- (5) There is a lot of wild life in this part of the country. If the lake is built, all that wild life will be displaced.
- (6) Since there would be stipulations for developing the shoreline there would be very little chance of growth & development that is being promised by NTMWD.

Donna Ryser
Signature

date 9-13-07

Contested Case Hearing Request

WR
56919

SEP 12 Name: MABEL HOLMES Group Name: CITIZEN TO SAVE BOIS d'ARC CREEK

CHIEF CLEA: Mailing Address: 15924E FM 1396, WINDOM, TX 75492
Phone: 903-388-7294 Fax NA
Email: NA OPA

H SEP 13 2007

Applicant & Permit Number: NTMWD permit number 12151

BY M

I want to request a contested hearing case on the project to build a dam on Lower Bois d' Arc Creek because:

The water distribution is not fair. Tarrant County needs a portion of the income to lower the cost plus free water.

This will be a shallow lake; therefore not producing sufficient water during average rainfall seasons.

The loss of (crop) income will be great and the county income will suffer more due to no income from water and crops.

All of the residents should not suffer because a few elected officials of the county act and not consider the Monoguen rest of them.

Bois d' Arc Creek is not only rich for Tarrant; Carson Community and Green Chapel community but it is a historical creek that is rich with history. It provided a living of food and water for American natives, Americans and early pioneer settlers.

Most of the property is in the fourth generation. Yet a lot of areas have this history!

Mabel Holmes date 9-9-2007
Signature

WR
56919

Contested Case Hearing Request

2007 AUG 27 PM 2:39

Name: Chad Knight Group Name: _____ CHIEF CLERKS OFFICE

Mailing Address: 791 CR 2945 Dodd City, TX 75438

Phone: 903-227-0201 Fax 903-623-4221

Email: cknight@fanninelectric.com

OPA

H. AUG 28 2007

Applicant & Permit Number: NTMWD permit number 12151

BY pk

I want to request a contested hearing case on the project to build a dam on Lower Bois d' Arc Creek because:

This reservoir would have a negative impact on Fannin County. The number one source of revenue for the county is farming and ranching. This reservoir would take away the most productive and richest soil in the county. It would also have a negative impact on the wildlife. The area that would be covered by the reservoir is home to the highest population of wildlife in Fannin County. Species rare to north Texas are found here. The ocelot and black bear have been seen here. Another negative of the reservoir is the toxic waste that was dumped into Bullard's creek by a previous dynamite plant. The plant was condemned and shut down as a result of the waste they were putting into the creek. The creek was not cleaned up. This would be a threat to public health if this were used as drinking water. Take a look at a Texas map and see all of the lakes and reservoirs in North Texas. How many more do they need. Toledo Bend will sell water to North Texas. This is on the agenda, but it is far down the line. Why can they not use the water that is already there first and build reservoirs which destroy land, economics, families, and history only after there is no other choice. Why can they not raise the water level on current lakes by only six inches and have more than the reservoirs on the agenda will provide. The Trinity River water is a source that is not being utilized as well. This reservoir is not about the need for water!

Chad Knight date 8-22-07
Signature

Contested Case Hearing Request

Name: Renea Knight Group Name: _____

Mailing Address: 791 CR 2945, Dodd City, TX 75438

Phone: 903-623-3601 Fax _____

Email: renea.knight@yahoo.com

Applicant & Permit Number: NTMWD permit number 12151

I, Renea Knight, wish to request a contested case hearing on the project to build a dam on Lower Bois d' Arc Creek because:

Landowners are not being treated fairly by our County Commissioners. The commissioners are supposed to do what is in the best interest of the people in their precinct. In this case, the commissioners voted in early 2005 to support the lake without even consulting the landowners. They even told North Texas Municipal Water District that there was no opposition to the reservoir. This is totally false and they are giving away landowners rights. Landowners need a contested-case so they can let their concerns be heard. The commissioners will not voice the concerns of the landowners.

OPA RECEIVED

SEP 11 2007

AT PUBLIC MEETING

Renea Knight
Signature

date 9-11-07

Contested Case Hearing Request

Name: Dustin Knight Group Name: Citizens to Save Lower Bois D'arc

Mail Address: 1037 CR 2950 Dodd City, TX 75438

Phone: 903 227 0964 Fax: 1

Email: dustin-knight99@yahoo.com

Applicant & Permit Number: NTMWD permit number 12151

I, Dustin Knight, wish to request a contested case hearing on the project to build a dam on Lower Bois d' Arc Creek because:

all water rights will go to North Texas in NTMWD. The wildlife in our area will be hurt taking away ~60-70% of all hardwoods and bottom lands from the county. The loss of Fannin County's agricultural fields and grazing from the ~~loss~~ native grasses. This lake will also affect the taxes for the citizens of Fannin County. ~~Fannin~~ The water quality will be poor. This is a very shallow lake. The permits asked for taking 175,000 acre feet of water annually. That is about half of the lakes water. This lake will not provide new housing districts around the lake because it will not have a constant lake level year round. Bonham sewer and the old land field will also drain into the lake. Bois Dark Creek also carries large amounts of sediment from the drainage areas around Whiteright, TX. This lake will silt in within a few years of construction making the lake shallower. There is also a flooding issue for Bonham. NTMWD said there would be very little flooding. However, it already floods now. If you build a dam on one side of the creek flooding will not get better. If we have a 12" rain over the drainage area within a short time you will be adding ~300,000 acre feet of water to the lake. The total lake level is ~366,000 acre feet. If you double the amount of water coming into the lake the water has to go somewhere. This is going to cause more frequent flooding to the Fannin County region.

OPA RECEIVED

SEP 1 2007

AT PUBLIC MEETING

Dustin Knight
Signature

date 9/11/07

WR
56919

Contested Case Hearing Request

2007 SEP 10 AM 11:25

Name: Gordon Locke Group Name: citizens to save Bois CHIEF CLERK'S OFFICE

Mailing Address: 13849 E FM 1396 Windom TX 75492

Phone: _____ Fax _____

Email: locke@fanninelectric.com

OPA

H SEP 10 2007

Applicant & Permit Number: NTMWD permit number 12151 BY DL

I, Gordon Locke, wish to request a contested case hearing on the project to build a dam on Lower Bois d' Arc Creek because:

The Army Corps of Engineers, Tulsa District made a study of the area as a proposed lake site.

According to the study 905(b)(WKDA86) for the Bois d' Arc Basin, the site was rejected for several reasons.

Among the other reasons was that the shallow nature of the reservoir would create the possibility for poor water quality.

North Texas Municipal Water District has applied for a permit to, yearly, draw up to 175,000 acre feet. That is every year, regardless if we have had decent rains or not. If, according to a study by R.J.Brandes Company entitled Elevation-Area-Capacity Relationship for Lower Bois d'Arc Reservoir figure 3.4.7-2, they draw only 165,000 acre feet that is enough to create a 4800 acre mudflat. That is lost acreage, not holding water nor usable for anything else.

Gordon Locke
Signature

date 9/7/07

WRB
56919

Contested Case Hearing Request

2007 AUG 27 PM 2:36

CHIEF CLERKS OFFICE

Name: John Loschke Group Name: _____

Mailing Address: 874 CR 2750 Honey Grove TX 75446

Phone: 903-378-7116

OPA

Email: SFloschke@ATT.net

H AUG 28 2007

Applicant & Permit number: NTMWD Permit number 12151

BY pl

I want to request a contested hearing case on the project to build a dam on Lower Bois d' Arc Creek because:

My concern with the reservoir water is that, this area is concentrated with large earthworms one foot long or more as adults. When the lake kills them being underground at perhaps 1000 lbs per acre it will take years for them to completely disintegrate.

When you add chlorine to treat the water for Bacteria you form Trichloromethane "CHCl₃" a deadly cancer causing agent. The EPA is considering extensive revisions to how much of all disinfection by-products are allowed in drinking water.

This needs to be studied to make sure you can use the water for drinking.

Signature: John Loschke date 8-23-07

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WATER SUPPLY DIV.
2007 AUG 29 PM 3 45

WR
56919

Contested Case Hearing Request

Name: John W. Welch Group Name: PREVENT CONSTRUCTION OF LOWER Bois d'ARC LAKE

Mailing Address: 1588 CR 2655 TELEPHANE, TX 75488

Phone: 903-684-2943 Fax: —

Email: —

OPA

SEP 10 2007

Applicant & Permit Number: NTMWD permit number 12151

BY JW

I, JOHN W. WELCH, wish to request a contested case hearing on the project to build a dam on Lower Bois d' Arc Creek because:

① LAKE WILL NOT PRODUCE A SUFFICIENT QUANTITY OF POTABLE WATER

② WATER PRODUCED WILL GO TO DALLAS METRO PLEX AND NOT BE AVAILABLE FOR LOCAL USE

③ LAKE WILL DESTROY AGRICULTURE INDUSTRY IN COUNTY

2007 SEP 10 AM 11: 25
CHIEF CLERK'S OFFICE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

John Welch date 09-07-07
Signature

Contested Case Hearing Request

OPA RECEIVED

SEP 11 2007

Charles Michael Yarbrough and
2325 CR 2765
Honey Grove TX 75446
(903) 378-7291

John Edward Yarbrough
3576 CR 2765
Honey Grove TX 75446
(903) 378-2536

AT PUBLIC MEETING

Applicant and Permit Number: NTMWD permit number 12151

We want to request a contested case hearing on the project to build a dam on Bois D' Arc Creek creating the reservoir to be known as Lower Bois D' Arc Creek Reservoir because:

1. The project will negatively affect us by taking away our best and most productive property and probably put us out of business. There are no industries or businesses in the county to offer employment to people in their early 50's with no other experience except farming and ranching. Our families have been farming this land for about 80 years and we had planned on passing it to our children if they wanted to continue farming it. We have depended totally on this land for our living and there are others such as our parents and elderly relatives who now depend on us. The loss of this land will put a hardship on all of us as well as the agri-supply businesses that we purchase inputs from and the grain elevators and companies that we sell livestock to as well as the regular businesses such as the grocery stores, utility companies, fuel suppliers, insurance companies, etc. The land represents not only business property but also our heritage and jobs and retirement plans. It has provided for us and we have cared for it and tried to improve it, as finances would allow. The land in the creek bottoms is considered by the USDA to be prime farmland because of the fertility, slope, soil type and climate. This type of land is a natural resource that cannot be replaced by any other type of land in its productivity. The hillsides provide excellent winter pasture since they drain well and provide a shelter from the wind and drier places to feed hay. The natural beauty and abundant wildlife could never be replaced.
2. Fannin County's major business is agriculture and removing the amount of prime farmland from production required for the applicant's project will devastate the county's economy. Agricultural production income in the county accounted for \$ 67,482,500 in 2005 making agriculture the highest producing business in the county. Between wildlife mitigation and the reservoir, from around 46,526 to 66,104 acres or more will be removed from agricultural production in the county causing an estimated \$7.7 million to \$11.4 million drop in the county's economy.
3. There are many very large trees, which are hundreds of years old growing along the banks of the many tributaries that feed into Bois D' Arc Creek. These trees have lived here since before state hood and will be killed by flooding the creek bottoms even if for only a few months of the

TEXAS ENVIRONMENTAL COMMISSION
SEP 11 2007
CHIEF CLERK'S OFFICE

Handwritten mark or signature at the bottom right corner.

year. The wildlife, both native and introduced, will be displaced onto less fertile hillsides and into areas more densely populated with people. Feral hogs, bobcats, panthers, coyotes, hawks and owls are the main predators in the area. These animals are most often seen in the bottoms along the creeks and they will also be forced into areas were people are more densely populated. The loss of crops in the bottoms will deprive the foraging wildlife of the quantity and quality of food they are accustomed to even with mitigation. Protected from constant hunting and trapping pressure, the feral hog population will explode if the mitigation land is located around the reservoir. The reservoir level fluctuations will cause extensive mud flats, which will shift the ecosystem to one that favors the feral hog over the other resident wildlife. The overpopulation of feral hogs, which are omnivores, will deplete the food supply for the native wildlife. Feral hogs also create major water quality problems due to their tendency to wallow in the mud flats around water sources. The Texas Animal Health Commission has sent out information to residents in this area warning them that feral hogs can carry diseases such as swine brucellosis, pseudorabies and others that are communicable to humans. The feral hog is already present in the area and any advantage given to it by increasing its habitat or shifting the ecosystem to favor it will accelerate the population increase and the damage that they cause.

4. Most longtime residents have seen Bois D'Arc Creek out and over highway 56 east of Bonham with no dam at all on the creek. Backing water up to US 82 northeast of Bonham before one of the big rains will surely cause increased flooding in the county seat and possibly stopping east-west transportation in the county. There have already been 3 times in 2007 that water has backed up and covered the creek bottom between US 82 and highway 56 and there is no dam on the creek now.
5. The slope of Bois D'Arc Creek is only about 3.5 to 5 ft per mile between US 82 and FM 1396. The average depth of the proposed reservoir is 22 feet but most of the reservoir between US 82 and FM 1396 would be very shallow. NTMWD is requesting a permit to remove about half of the water in the reservoir (175,000 acre feet) per year. This will cause mud flats that will be a mosquito breeding haven in a county that already has had cases of West Nile virus and that poses a public health threat. The mud flats will grow up with cattails and marsh plants and then be flooded when the winter and spring rains come and the decaying plant material will cause oxygen depletion problems each summer. The oxygen depletion will cause fish kills and add to the stench of the rotting plant material, again causing water quality problems and a public health hazard.
6. The proposed reservoir is oriented southwest to northeast, the same as the prevailing wind. The sixteen mile long level surface of the reservoir will allow the wind to whip up high waves causing erosion of the north and east banks and will help to keep the water stirred, which will bring up sediment and decaying organic material, causing water quality problems.

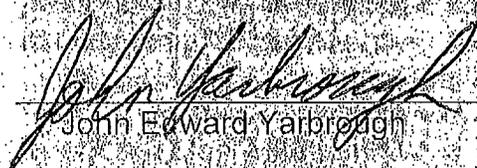
7. The old Bonham city dump ground was on the west bank of Sloan's Creek just north of Highway 56. The junk has all been buried but it used to have everything from old cars to household trash in it. The water leaching from that hill probably contains lead from old batteries to mercury from broken thermometers and every toxin and carcinogen in between and it runs to Bois D'Arc creek. Most of the land farmed in the bottom along the creek was in cotton from before the 1920's through about 1960 and pesticides containing lead compounds were used to control insects and defoliants containing arsenic were used on the cotton. It is highly probable that the soil still contains these two toxins because after a warm rain, you can sometimes still smell it in the air.
8. North Texas Municipal Water District is violating the Texas Private Property Rights Preservation Act by being in rural Fannin County looking to build a reservoir before consistently using the highest level of water conservation at all times and NTMWD has not seriously considered alternative water supplies. They have only considered their own economics and their own people and not the economics of the areas where the reservoirs are built or the hardships that they cause to the people who live there. Building reservoirs is much like buying used computers. They are outdated before you get them. NTMWD is already trying to get Marvin Nichols, Fastrill, Parkhouse I&II and others built as well because Lower Bois D'Arc must not be enough for the water hogs. Why not save the money that will be spent on all these projects and go to the coast and desalinate ocean water? There is a much greater supply and it's already there. NTMWD seems perfectly willing to build pipelines to all of the proposed reservoirs and pump them so why do they always throw up pipeline and pumping costs on the one project that would solve the problem? New technologies for desalinating ocean water are being developed every day and the US Navy has been doing it for a very long time. NTMWD could team with Region C and the other 15 regions and build a Texas size desalination plant and sell water all the way to Amarillo and El Paso without wasting another acre of prime farmland or forcing another farmer off his property. The cost of desalinated water delivered to most of Texas would indeed be higher than the cost of water from a nearby reservoir but they do not want just one reservoir, they want one now and before it is even permitted, they want more reservoirs even farther away. To use the computer analogy, quit buying the out of date technology and invest in the future technology today! Water is a precious commodity and if NTMWD has to charge more for it, then maybe their customers will conserve more of it.
9. The Texas Private Property Rights Preservation Act also requires the applicant to justly compensate the landowners for property taken. NTMWD has only \$ 86,893,700 budgeted for land acquisition. The reservoir will require 16,525 acres and according to the Tulsa District of the Army Corps of Engineers, the mitigation requirement could be up to 49,678 acres or more. The average that NTMWD could pay would only be

\$ 1,314.50 per acre with all improvements included and that is not even close to the average price of an acre of land in Fannin County. If the land were to be used at its highest and best use, which would probably be to collect rainfall if you could sell the water at the same rate that NTMWD is paying for raw water from Texoma, \$350.00 / acre ft, the land would produce an annual income of \$1,254.17 on average using an annual average rainfall of 43 inches. Not many people would voluntarily sell income producing property that has no input and very little maintenance cost for little more than one year's production.

10. There are high voltage power transmission lines and natural gas transmission pipelines in the path of the proposed reservoir. These are currently in sparsely populated areas but they will have to be moved south into much more densely populated areas to go around the south end of the reservoir and during times of heavy rainfall, they will still be subject to damage by erosion and flooding.


Charles Michael Yarbrough

11 Sept 2007
Date


John Edward Yarbrough

9-11-07
Date

Presented as a comment for the record at the TCEQ public hearing for NTMWD permit #12151 in Greenville, TX on 10 Sept. 2007 by Charles Michael Yarbrough 2325 CR 2765, Honey Grove, TX 75446

Who Benefits from Water Supply Reservoirs in Fannin County?

There are two reservoirs that are planned to be built in Fannin County by Dallas area municipal water districts: Ralph Hall Reservoir on the Sulphur River and Lower Bois D' Arc Creek Reservoir on Bois D' Arc creek. The acreage for the reservoirs and their mitigation acreage will be removed from private property owners and the county and school tax rolls when the reservoirs are built. The remainder of the county will have to make up the lost county and school tax revenue. Fannin County is primarily used for agricultural production (70%) and that land is taxed on its agricultural production value so the lion's share of the taxes are paid by businesses and homeowners. There are not many large businesses in Fannin County so the brunt of the tax burden is borne by homeowners. Therefore this issue affects all of the people in the county in a big way.

The Fannin, Honey Grove, Dodd City, Sam Rayburn and Bonham school districts will all lose a portion of their tax bases if Ralph Hall and Lower Bois D' Arc Reservoirs are built. Bonham ISD will suffer the least even if the Lower and Upper Reservoirs are built. For every student whose family is evicted from their home and moves out of the district, the local school district will lose money from the state as well as the loss of the local school property tax base.

The main portion of the land removed from the school and county tax bases is the land mitigated for wildlife. The US Army Corps of Engineers and TCEQ are responsible for determining the amount and type of land to be mitigated. Legacy Ridge Golf Course had to mitigate land for wildlife since they flooded land along Bois D' Arc Creek and the Corps made a determination of three to one. North Texas MWD has been estimating the mitigation on the Lower Reservoir at 30,000 acres. If the Corps of Engineers makes NTMWD mitigate the Lower Reservoir at 3:1, there will have to be 49,578 acres mitigated. NTMWD will have to find and purchase the mitigation land within the Bois D' Arc creek drainage basin according to the Tulsa District of the Army Corps of Engineers.

The amount and location of the mitigation land will probably cause the closing and consolidation of several schools in the county. Bonham ISD will lose some tax base to mitigation and a small portion to the Lower Reservoir but if the reservoirs cause one or more schools to consolidate with Bonham, they will pick up whatever tax base the consolidating school still had plus the students and the state money that is funded on a per student basis. Bonham ISD is the most likely school to benefit from consolidation since the location of reservoirs will

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Contested Case Hearing Request

2007 SEP 10 AM 11:25

Name: Charles Michael Yarbrough Group Name: Citizens to Save Bois D'Arc Creek

CHIEF CLERKS OFFICE

Mailing Address: 2325 CR 2765

Phone: 903 328 7291 Fax _____

Email: _____

OPA

H SEP 10 2007

Applicant & Permit Number: NTMWD permit number 12151

BY DL

I, C. Michael Yarbrough, wish to request a contested case hearing on the project to build a dam on Lower Bois d' Arc Creek because:

according to Texas law, I own everything from the center of the earth out to the edge of the atmosphere for every square inch of land that I hold title to. This includes the minerals below, water below and the rainfall that falls on it. I have the right to capture. When the lake developers force me to divert myself of the surface, they also take the right of capture from me, essentially transferring my water, sunshine and surface rights to them. I have been using my water to grow forage and cattle to harvest the forage and been marketing cattle. I will lease my water rights to them but I do not wish to sell or transfer ~~the~~ my rights or property.

Also, the Army Corps of Engineers has determined in 2000 that "due to the shallow nature of the lake would potentially cause water quality problems. I can foresee, with the extensive water removal (approx 1/2 the capacity of the reservoir) public health concerns from mosquitoes breeding in the mud flats and spreading West Nile virus.

Charles Michael Yarbrough date 6 Sept 2007
Signature

Contested Case Hearing Request

OPA RECEIVED

SEP 11 2007

Charles Michael Yarbrough and
2325 CR 2765
Honey Grove, TX 75446
(903) 378-7291

John Edward Yarbrough
3576 CR 2765
Honey Grove, TX 75446
(903) 378-2536

AT PUBLIC MEETING

Applicant and Permit Number: NTMWD permit number 12151

We want to request a contested case hearing on the project to build a dam on Bois D' Arc Creek creating the reservoir to be known as Lower Bois D' Arc Creek Reservoir because:

1. The project will negatively affect us by taking away our best and most productive property and probably put us out of business. There are no industries or businesses in the county to offer employment to people in their early 50's with no other experience except farming and ranching. Our families have been farming this land for about 80 years and we had planned on passing it to our children if they wanted to continue farming it. We have depended totally on this land for our living and there are others such as our parents and elderly relatives who now depend on us. The loss of this land will put a hardship on all of us as well as the agri-supply businesses that we purchase inputs from and the grain elevators and companies that we sell livestock to as well as the regular businesses such as the grocery stores, utility companies, fuel suppliers, insurance companies, etc. The land represents not only business property but also our heritage and jobs and retirement plans. It has provided for us and we have cared for it and tried to improve it, as finances would allow. The land in the creek bottoms is considered by the USDA to be prime farmland because of the fertility, slope, soil type and climate. This type of land is a natural resource that cannot be replaced by any other type of land in its productivity. The hillsides provide excellent winter pasture since they drain well and provide a shelter from the wind and drier places to feed hay. The natural beauty and abundant wildlife could never be replaced.
2. Fannin County's major business is agriculture and removing the amount of prime farmland from production required for the applicant's project will devastate the county's economy. Agricultural production income in the county accounted for \$ 67,482,500 in 2005 making agriculture the highest producing business in the county. Between wildlife mitigation and the reservoir, from around 46,526 to 66,104 acres or more will be removed from agricultural production in the county causing an estimated \$7.7 million to \$11.4 million drop in the county's economy.
3. There are many very large trees, which are hundreds of years old, growing along the banks of the many tributaries that feed into Bois D' Arc Creek. These trees have lived here since before statehood and will be killed by flooding the creek bottoms even if for only a few months of the

year. The wildlife, both native and introduced, will be displaced onto less fertile hillsides and into areas more densely populated with people. Feral hogs, bobcats, panthers, coyotes, hawks and owls are the main predators in the area. These animals are most often seen in the bottoms along the creeks and they will also be forced into areas where people are more densely populated. The loss of crops in the bottoms will deprive the foraging wildlife of the quantity and quality of food they are accustomed to even with mitigation. Protected from constant hunting and trapping pressure, the feral hog population will explode if the mitigation land is located around the reservoir. The reservoir level fluctuations will cause extensive mud flats, which will shift the ecosystem to one that favors the feral hog over the other resident wildlife. The overpopulation of feral hogs, which are omnivores, will deplete the food supply for the native wildlife. Feral hogs also create major water quality problems due to their tendency to wallow in the mud flats around water sources. The Texas Animal Health Commission has sent out information to residents in this area warning them that feral hogs can carry diseases such as swine brucellosis, pseudorabies and others that are communicable to humans. The feral hog is already present in the area and any advantage given to it by increasing its habitat or shifting the ecosystem to favor it will accelerate the population increase and the damage that they cause.

4. Most longtime residents have seen Bois D' Arc Creek out and over highway 56 east of Bonham with no dam at all on the creek. Backing water up to US-82 northeast of Bonham before one of the big rains will surely cause increased flooding in the county seat and possibly stopping east-west transportation in the county. There have already been 3 times in 2007 that water has backed up and covered the creek bottom between US-82 and highway 56 and there is no dam on the creek now!
5. The slope of Bois D' Arc Creek is only about 3.5 to 5 ft per mile between US-82 and FM-1396. The average depth of the proposed reservoir is 22 feet but most of the reservoir between US-82 and FM-1396 would be very shallow. NTMWD is requesting a permit to remove about half of the water in the reservoir (175,000 acre feet) per year. This will cause mud flats that will be a mosquito breeding haven in a county that already has had cases of West Nile virus and that poses a public health threat. The mud flats will grow up with cattails and marsh plants and then be flooded when the winter and spring rains come and the decaying plant material will cause oxygen depletion problems each summer. The oxygen depletion will cause fish kills and add to the stench of the rotting plant material, again causing water quality problems and a public health hazard.
6. The proposed reservoir is oriented southwest to northeast, the same as the prevailing wind. The sixteen mile long level surface of the reservoir will allow the wind to whip up high waves causing erosion of the north and east banks and will help to keep the water stirred, which will bring up sediment and decaying organic material, causing water quality problems.

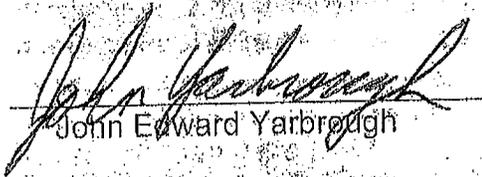
7. The old Bonham city dump ground was on the west bank of Sloan's Creek just north of highway 56. The junk has all been buried but it used to have everything from old cars to household trash in it. The water leaching from that hill probably contains lead from old batteries to mercury from broken thermometers and every toxin and carcinogen in between and it runs to Bois D' Arc creek. Most of the land farmed in the bottom along the creek was in cotton from before the 1920's through about 1960 and pesticides containing lead compounds were used to control insects; and defoliants containing arsenic were used on the cotton. It is highly probable that the soil still contains these two toxins because after a warm rain, you can sometimes still smell it in the air.
8. North Texas Municipal Water District is violating the Texas Private Property Rights Preservation Act by being in rural Fannin County looking to build a reservoir before consistently using the highest level of water conservation at all times and NTMWD has not seriously considered alternative water supplies. They have only considered their own economics and their own people and not the economics of the areas where the reservoirs are built or the hardships that they cause to the people who live there. Building reservoirs is much like buying used computers. They are outdated before you get them. NTMWD is already trying to get Marvin Nichols, Fastrill, Parkhouse I&I and others built as well because Lower Bois D'Arc must not be enough for the water hogs. Why not save the money that will be spent on all these projects and go to the coast and desalinate ocean water? There is a much greater supply and it's already there. NTMWD seems perfectly willing to build pipelines to all of the proposed reservoirs and pump them so why do they always throw up pipeline and pumping costs on the one project that would solve the problem? New technologies for desalinating ocean water are being developed every day and the US Navy has been doing it for a very long time. NTMWD could team with Region C and the other 15 regions and build a Texas size desalination plant and sell water all the way to Amarillo and El Paso without wasting another acre of prime farmland or forcing another farmer off his property. The cost of desalinated water delivered to most of Texas would indeed be higher than the cost of water from a nearby reservoir but they do not want just one reservoir; they want one now and before it is even permitted, they want more reservoirs even farther away. To use the computer analogy, quit buying the out of date technology and invest in the future technology today! Water is a precious commodity and if NTMWD has to charge more for it, then maybe their customers will conserve more of it.
9. The Texas Private Property Rights Preservation Act also requires the applicant to justly compensate the landowners for property taken. NTMWD has only \$86,893,700 budgeted for land acquisition. The reservoir will require 16,525 acres and according to the Tulsa District of the Army Corps of Engineers, the mitigation requirement could be up to 49,678 acres or more. The average that NTMWD could pay would only be

\$ 1,314.50 per acre with all improvements included and that is not even close to the average price of an acre of land in Farin County. If the land were to be used at its highest and best use, which would probably be to collect rainfall if you could sell the water at the same rate that NTMWD is paying for raw water from Texoma, \$350.00 / acre ft, the land would produce an annual income of \$1,254.17 on average using an annual average rainfall of 43 inches. Not many people would voluntarily sell income producing property that has no input and very little maintenance cost for little more than one year's production.

10. There are high voltage power transmission lines and natural gas transmission pipelines in the path of the proposed reservoir. These are currently in sparsely populated areas but they will have to be moved south into much more densely populated areas to go around the south end of the reservoir and during times of heavy rainfall, they will still be subject to damage by erosion and flooding.


Charles Michael Yarbrough

11 Sept 2007
Date


John Edward Yarbrough

9-11-07
Date

Presented as a comment for the record at the TCEQ public hearing for NTMWD permit #12161 in Greenville, TX on 10 Sept. 2007 by Charles Michael Yarbrough, 2325 CR 2765, Honey Grove, TX 75446

Who Benefits from Water Supply Reservoirs in Fannin County?

There are two reservoirs that are planned to be built in Fannin County by Dallas area municipal water districts, Ralph Hall Reservoir on the Sulphur River and Lower Bois D' Arc Creek Reservoir on Bois D' Arc creek. The acreage for the reservoirs and their mitigation acreage will be removed from private property owners and the county and school tax rolls when the reservoirs are built. The remainder of the county will have to make up the lost county and school tax revenue. Fannin County is primarily used for agricultural production (70%) and that land is taxed on its agricultural production value so the lion's share of the taxes are paid by businesses and homeowners. There are not many large businesses in Fannin County so the brunt of the tax burden is borne by homeowners. Therefore this issue affects all of the people in the county in a big way.

The Fannin, Honey Grove, Dodd City, Sam Rayburn and Bonham school districts will all lose a portion of their tax bases if Ralph Hall and Lower Bois D' Arc Reservoirs are built. Bonham ISD will suffer the least even if the Lower and Upper Reservoirs are built. For every student whose family is evicted from their home and moves out of the district, the local school district will lose money from the state as well as the loss of the local school property tax base.

The main portion of the land removed from the school and county tax bases is the land mitigated for wildlife. The US Army Corps of Engineers and TCEQ are responsible for determining the amount and type of land to be mitigated. Legacy Ridge Golf Course had to mitigate land for wildlife since they flooded land along Bois D' Arc Creek and the Corps made a determination of three to one. North Texas MWVD has been estimating the mitigation on the Lower Reservoir at 30,000 acres. If the Corps of Engineers makes NTMWD mitigate the Lower Reservoir at 3:1, there will have to be 49,578 acres mitigated. NTMWD will have to find and purchase the mitigation land within the Bois D' Arc creek drainage basin according to the Tulsa District of the Army Corps of Engineers.

The amount and location of the mitigation land will probably cause the closing and consolidation of several schools in the county. Bonham ISD will lose some tax base to mitigation and a small portion to the Lower Reservoir but if the reservoirs cause one or more schools to consolidate with Bonham, they will pick up what ever tax base the consolidating school still had plus the students and the state money that is funded on a per student basis. Bonham ISD is the most likely school to benefit from consolidation since the location of reservoirs will

separate the other districts. If Fannindel ISD should be forced to close, the students would probably be distributed between Honey Grove, Wolfe City, Cooper and Commerce schools depending on where they lived. Bonham schools are in a win-win situation while all other schools in the county are in a definite loss mode.

The public schools collectively are probably the largest employer in the county and usually the largest employer in the town. Most school jobs pay above minimum wage and if those jobs are lost, the families who used to work them will no longer spend most of that money in the county. Our children will be bussed longer distances to larger schools. Competition for academic and athletic scholarships will intensify and fewer students will be exposed for possible scholarships because there are only so many starters for each athletic team and only one valedictorian and salutatorian from each school.

North Texas Municipal Water District has already contracted with the city of Bonham to supply them with water at 5 cents per thousand gallons above the price that they charge any of their other member cities. That should tell you how much they appreciate being in Fannin County and should indicate to you how they intend to treat us.

Since most of the city and municipal water supplies are tied together by pipes and inter-local agreements, we'll all get a taste of North Texas Municipal Water District's hospitality and probably some of their re-use water. State law requires that municipal sewage effluent be treated to potable water standards before being released into a creek or river. Lower Bois D'Arc will receive the effluent from Bonham's sewage treatment plant as well as the sewage effluent from Dodd City, Windom and Honey Grove because they all drain to Bois D' Arc creek. Bonham's sewage treatment plant is at 540 ft elevation. The flood elevation of the lower reservoir is 541 ft meaning that every time the reservoir fills to flood stage, the treatment plant will be flooded and possibly release raw sewage into the reservoir.

The water level in municipal water supply reservoirs fluctuates greatly. NTMWD estimates that it will take three years of average rainfall to fill the lower reservoir. The reservoir is reported to hold 367,000 acre-feet of water. The average annual flow in Bois D' Arc Creek is about 120,000 acre-feet. NTMWD applied for a permit with TCEQ to remove 175,000 acre-feet of water per year. Do the math and you will see that the lower reservoir will only be half full or less most of the time under average conditions and may be dry under less than average conditions. When conditions are above average, Bonham will suffer worse flooding than it ever has before along Powder Creek and Pig Branch.

Most long time residents have seen water over Hwy. 56 up to where Fitcock Wrecker is located without a dam on Bois D' Arc. The flooding of Bonham will probably be used as the impetus to get the upper reservoir built. Building

another reservoir will not make it rain more and the flow down Bois D' Arc will remain the same. The upper reservoir will be drained to the lower reservoir and will only contain water during times of above average rainfall so it will also be a mud hole most of the time. Along with the permit to build the upper reservoir, NTMWD will likely request additional water rights which will lower the water level of the lower reservoir further during times of average or below average rainfall.

If the proposed Lower Bois D' Arc gets three to four feet low, the water will recede 1 mile and you won't even be able to see water from Bonham. The average depth of the lower reservoir is 22 feet. If the lower reservoir is full, it will take 28 days to pump it down 1 foot but it will only take 61 days (an additional 38 days) to pump the reservoir to half full by pumping the entire 175,000 acre-feet of water to Lake Lanon. Just imagine the sea of mud, cattails, snapping turtles, mosquitoes and water moccasins and the disease threat that will be imposed on the residents of Fannin County.

Don't expect any good fishing either. When the pump comes on and moves 1 acre-foot of water every 2 minutes, the fish and everything else around will be pumped through the 8 ft diameter pipe to Lanon. The removal of such a large percentage of the water (about 50%) causes large areas of the shallow part of the reservoir to dry up. This area of the reservoir is the nursery for small food fish. When the nursery dries up, the food chain is broken at the start and every thing larger suffers. Just ask about the quality of fishing at any other heavily pumped water supply reservoir such as Cooper.

The reservoirs planned for Fannin County will be owned by a municipal water district and there are differences in Corps built lakes and municipal water district reservoirs. The Corps of Engineers have a set of criteria that require their projects to provide multiple benefits such as water supply, recreation, flood control, wildlife enhancement, etc. The Corps of Engineers have twice rejected building the lower reservoir on Bois D' Arc Creek, once in 1968 and again in 2000, because it would aggravate the flooding of Bonham and due to the shallow nature of the reservoir there was concern over the quality of the water. Water supply district reservoirs do not have to provide anything except water, but all new reservoirs must be mitigated for wildlife by the Corps of Engineers.

The location of the mitigation land is largely up to the reservoir owner so long as the amount and type of land specified by the Corps is met. The regulations requiring mitigation suggest a band around the reservoir be mitigated to form a wildlife travel lane and form a buffer strip. The buffer strip keeps homes, farms and ranches away from the water and thus keeps septic system effluent, fertilizer and pesticide runoff away from the water. It also kills any development around a reservoir that they know will have a widely fluctuating water level. This keeps irate homeowners from complaining to county commissioners, judges and state legislators about their substantial investment being devalued by being on a mud hole.

There will also be an economic impact on Fannin County. Fannin County is largely agricultural (70% of the land is used for agricultural production) and the agriculture industry produced \$ 67,483,000 worth of production income in 2005. It is this sector of the economy that has and is currently providing the main backbone for growth and expansion in the county. Nearly half of the agricultural income in the county is derived from the sale of livestock, primarily beef cattle. Important cash crops include wheat, grain sorghum, soybeans and corn. Soil is the most important natural resource in the county. Forage for livestock and food, fiber and timber are produced on the soils in the county. The best, deepest and most fertile and productive soils are always found in the creek and river bottom lands, and these are the lands that are flooded when reservoirs are built.

The construction of one to three water supply reservoirs will remove from ten to twenty percent of the most productive prime farmland in the county from agricultural production. This will reduce the county's agricultural production by as much as 40% or about 27 million dollars annually. The loss of this income will be felt by all of the retailers in the county and especially by the agri supply and market businesses. The one livestock market business and several grain elevators and fertilizer and pesticide retailers will probably close. Grain production will be cut about twenty to thirty percent as well as hay and cattle production.

We have been told that Fannin County is growing and that we need more water. The only water selling entity in Fannin County to restrict water usage in the last two very droughty years has been the city of Bonham. They were never short of water but they just didn't have large enough pipes to keep the pressure up. The city of Bonham still has four water wells that supplied the city before Lake Bonham was built that could be used to help supply future water needs. Bonham has neglected their wells for 35 years and doesn't even keep them in good repair for emergency use so they evidently don't need additional water. The rest of the county relies on ground water and to date, none have ever run out of water.

The need for additional water exists outside of Fannin County and even there the need is in question. The Dallas metro area has the highest per capita water use of any area in the United States. They could use a lot more conservation and a lot less water but the people supplying the water derive job security, influence, power and mostly profit by developing water supplies and selling water. Water has become the excuse while the quest for money is the reason for reservoir development in the counties around the Dallas metro area. If NTMWD was really concerned about conservation, they would raise their water rates to encourage conservation. Instead, they offer water to cities cheaper than most cities can produce their own, by using the power of eminent domain to obtain land and resources at forced rates and the economy of scale to feed their own growth.

Since the Texas Supreme Court ruling in the Hubenak case, entities using eminent domain have been able to legally steal rural property for a fraction of its true value and without regard to the hardship it places on the people whose property is being condemned. The money to build these reservoirs is coming from the Dallas metro area, the water is going to the Dallas metro area and we have been promised economic growth if we allow them to use our resources to feed their water hogs. The promise has not held up in any of the other rural areas where water supply reservoirs have been built and we have no guarantee that it will here. There is no clear advantage for Fannin County to have any of the proposed reservoirs built. All of the advantages are for the Dallas metro area.

Would you please tell me why I should be willing to give up my work place, my job, my retirement plan, my home, my way of life and all that I have worked for so that the people in the Dallas metro area can water their St. Augustine grass, fill their swimming pools and wash their cars weekly and especially when I am forced to do so at an economic loss? Even if you pay me market value for my property, who will pay my moving expense? Where will I find the same amount of the same kind of land for the same price? Who will make up my lost wages while I am moving to a different place, assuming that I can find the same amount of the same kind of property at the same price? If I can't find the same amount or the same kind of property for the amount I receive, who will make up my loss?

This whole project is not really about water, it is about money and greed. Water has become the excuse but money is the reason. North Texas admitted that they could go to the coast and desalinate sea water for about \$5.70 per thousand gallons of treated water but Lower Bois D'Arc could supply raw water for less than \$1.00 per thousand. I am paying \$5.00 per thousand now for treated water and eventually Lower Bois D'Arc won't be enough for the greedy water hogs. They are already planning Marvin Nichols Reservoir. The ocean is the only reservoir that they could never pump dry. Reservoirs are only temporary solutions but again, it's not about solutions, people or even water. It's all about greed for money.

TO: [unclear] SUPPLY
DATE: 2/21/07
BY: [signature]

OPA

FEB 21 2007

Richard [unclear]
2007-02-21
mailed Feb 21, 2007

Fannin County
P.O. Box 13087
Austin, TX 78711-3087

CHIEF CLERK OFFICE

Dear Ms. Rila,

A news article by former Texas Agriculture Commissioner Susan Combs titled 'A victory for the little guys' appeared in the Aug. 15 edition of the Fannin County Special. This article states that the Texas Private Property Preservation Act requires that "if cities should outright condemn property to obtain surface water rights, they must assure that they have implemented the highest levels of water conservation before going to our rural areas in search of water and pavements for reservoirs. Legislation passed during the 78th regular legislative session makes that a law. In addition, the legislation requires cities to prepare a drought contingency plan; make a good faith effort to obtain practicable alternative water supplies; and show that the city needs the water rights to provide for domestic needs within the next 10 years."

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North Texas Municipal Water District has plans to build the Lower Bois D'Arc Creek Reservoir in Fannin County in the near future. NTMWD held a meeting to learn more about the reservoir on Jan. 30, 2007. One of the papers they handed out describes their conservation plan, which consists of 10 suggestions to save water including cutting back yard watering to only one inch per seven days!! How is this even considered conservation at all? That would be 52 inches of water in addition to all the rainfall!! Our area only receives around 40 inches of rainfall per year on an average year! Their suggestions are just that, suggestions only! There is no penalty for wasting water and no enforcement or any restrictions on the use of water. How can this possibly be using the highest levels of water conservation? Why should my neighbors and I be forced to give up our property, our jobs, our retirement plans and our plans to pass our property on to our sons and daughters when the greedy water hogs won't even obey the law?

2007 JUN 12 PM 4:08

RECEIVED
TODD WATER SUPPLY

I was told that you were the person who was in charge of making sure that the water districts obeyed the law. If you are not the person to whom this should have been sent, please pass it on to the right person(s). I hope to hear from you concerning this matter.

NTMWD has millions of our tax dollars, a staff of lawyers, the experience of legally stealing by eminent domain, coercion or outright lying, all the property from farmers and ranchers for their other 25 reservoirs, and they've made enough campaign contributions to own several hundred politicians. We are just farmers and ranchers trying to make an honest living and that's a full time job. We are counting on you and the law to help even the field.

We demand that you deny North Texas Municipal Water District the permit to build this reservoir until they obey the law to the letter!

I have enclosed copies of Susan Combs article and NTMWD's conservation suggestions.

Sincerely,

Michael Yarborough
Michael Yarborough

Wayne Ryan

We, the undersigned, also agree with the contents of this letter.

Ju Reed wife Reed Ranch
Larry D. Broach - 7205 CR 2901
K & W 3 Ranch

Betty + Gilbert Dossert
Sam + Judy Dalton
David Dalton

Joe Carpenter, Carpenter Ranch
903-623-2461

Maule Ryan
John Yarborough

Thrupp Wichee
Bob Ledwith Steve Hall
Don Mankart Remotta Hall
Carl Ryser CASEY HALL
903-378-3161

Larry D. Franklin
Jane + Dave Gehalo
Patsy + Avery
Paul E. Avery
ALBERT PARDO
VERONICA PARDO

Betty Ryser
Marta Combes
Robert Combes
Ann Hagan
Tom Higgins
Charles Yarborough
Stewart Richardson
Lam + Carol Belloc

John Pasby
Sandra Soschle
Monika Blaine
Cathy Ryser
Phyllis Ryser
Glen Du Romaine
M. Martinee

Justin K. K. Jr
Gloria M. W.

Michael Yarborough

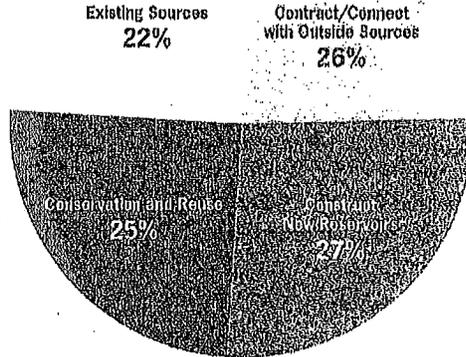
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Conservation and Reuse



Efficient, Wise Use of Resources Is Essential

Conservation and reuse are key strategies in the North Texas Municipal Water District's (NTMWD) long-range water supply plan, which includes providing service to Fannin County. In 2060, a quarter of the water demand within the NTMWD's service area will be met by conservation and reuse. Using existing resources efficiently now will extend them further, and NTMWD will need less water from additional sources.



By 2060, 25 percent of our projected water demand will be met by reuse and conservation.

- Raise your lawnmower's blade to 3 inches.
- Fix leaky faucets and toilets.
- Use a broom instead of a hose to clean sidewalks and driveways.

But Conservation Is Not Enough
Even with NTMWD's strong conservation and reuse programs, the NTMWD will need more water sources to meet the region's demands, particularly as rural areas give way to expanded suburban development.



Conservation includes practices that improve efficient uses of water or reduce consumption, loss or waste.

Water recycling or water reuse refers to reusing treated wastewater for beneficial purposes either directly or indirectly.



Raise Your Water IQ

Everyone must contribute to make NTMWD's long-range plan work. Every municipality, business and individual can make a difference today by using water more wisely. Simple things can make our water last:

- Water lawns only 1 inch per week.
- Install new landscaping after preparing beds with plenty of mulch.
- Choose Texas-hardy natives that require less water.
- Never water during the heat of the day. Water early in the morning and later in the evening to avoid wasteful evaporation.
- Frequently check sprinkler systems and repair broken sprinkler heads.

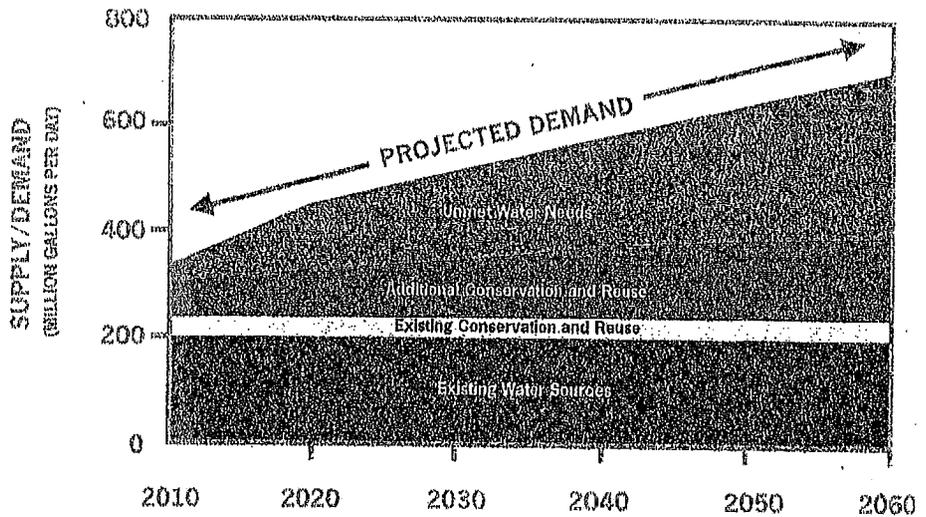
NTMWD Conservation Strategies
 The NTMWD recognizes the need for the efficient use of existing water supplies and the importance to extend the supplies as long as possible. The efficient use will delay the need for new supplies and delay the high cost of additional water supply development.

NTMWD has developed a water conservation and drought contingency plan that includes strategies for reducing the volume of water withdrawn from water supply sources, for reducing the loss or waste of water, for maintaining or improving the efficiency in the use of water, for increasing the recycling and reuse of water, and for preventing the pollution of water. The plan has several key objectives:

- To reduce water consumption from the levels that would prevail without conservation efforts
- To reduce the loss and waste of water
- To improve efficiency in the use of water
- To document the level of recycling and reuse in the water supply
- To extend the life of current water supplies by reducing the rate of growth in demand

NTMWD is the first in Texas to implement the water-awareness campaign, "Water IQ: Know Your Water," which was developed for the Texas Water Development Board. The Water IQ campaign is designed to assist the public within the NTMWD's service area to learn more about their water resources and how easy it is to use water wisely and efficiently. To learn more

CONSERVATION AND REUSE ALONE WILL NOT MEET THE FUTURE WATER DEMANDS IN NORTH TEXAS



about your water source and water-saving tips, visit the Water IQ Web site at www.wateriq.org.

NTMWD Reuse Strategies
 Wastewater reuse is an important component of the NTMWD's current and future water supply plans. The ability to reuse water reduces the reliance on new water sources and increases the efficiency and conservation of existing supplies. Currently, NTMWD has the largest reuse program in Texas. More than 40 million gallons of highly treated effluent from the Wilson Creek Regional Wastewater Treatment Plant are being returned to Lavon Lake each day, providing NTMWD with additional water supply. To expand its ability to reuse water supplies, the NTMWD is constructing the East Fork Raw Water Supply Project for the use of treated effluent from other wastewater plants operated by the NTMWD or its Member Cities. This project will ultimately allow the NTMWD to reuse an additional 90 million gallons per day.

With the completion of the East Fork Raw Water Supply Project and

granting of current permit requests by the Texas Commission on Environmental Quality, the NTMWD will ultimately be able to reuse 140 million gallons of water per day.

What NTMWD Has Asked Our Customers to Do

The NTMWD has also asked Member and Customer Cities to implement policies and measures to curb peak water use during this current drought:

- Prohibit hosing of paved areas, buildings or windows
- Prohibit operation of ornamental fountains that use treated water
- Prohibit washing cars with a hose
- Prohibit wasteful landscape irrigation
- Prohibit outdoor irrigation between 10 a.m. and 6 p.m.
- Limit landscape watering to once weekly
- Prohibit draining and refilling swimming pools except to maintain normal evaporative losses
- Encourage conservation through a tiered rate structure
- Initiate rate surcharges for retail water use over a certain level



MOST PEOPLE IN TEXAS DON'T. IF YOUR COMMUNITY IS SERVED BY THE NORTH TEXAS MUNICIPAL WATER DISTRICT AND YOU THINK YOUR WATER COMES FROM LAKE LAVON, YOU'RE RIGHT. CONGRATULATIONS! YOU'RE WELL ON YOUR WAY TO RAISING YOUR WATER IQ.

With recent drought conditions, Lake Lavon is low and we need to make our water supply last.

If everyone uses just 5 percent less water, we can make our limited supply last longer.

North Texas has a new public education and awareness campaign to help you save water. It's called "Water IQ: Know your water." By raising your Water IQ, you'll use less water and be better prepared for mandatory water restrictions effective June 1.

1. Use 5 percent less water. Read your latest utility bill and note how many gallons you consumed. Simply multiply the number of gallons by .05—that's your 5 percent goal. For example, 8,000 gallons X .05 = 400 gallons. That's all you need to save for that month. You can easily save that much by fixing a leak or implementing some of these simple tips.
2. Slowly cut back watering your lawn to about 1 inch every seven days. Experts advise watering your lawn deeply and infrequently to promote a strong root system. Watering landscapes with sprinklers is limited to once every seven days as of June 1.
3. Water your lawn early in the morning or at night. Mid-day watering results in fast evaporation and scorches your lawn and plants. Beginning June 1, watering with sprinklers between 10 a.m. and 6 p.m. is prohibited.
4. Operate your in-ground sprinkler system manually—don't use the timer. Check sprinkler systems frequently for directional aim and broken heads to prevent watering driveways, sidewalks and streets.
5. If you own a pool, pay close attention to the water level. If it varies drastically from day to day, you probably have a leak and need to have it serviced immediately. Swimming pools may not be drained and refilled this summer except to replace normal water loss.
6. Use plenty of mulch in your beds—especially during a drought. Experts recommend 4 to 6 inches to prevent evaporation and keep soil moist.
7. Choose "water-wise" plants like lantana, salvia and Mexican sage. Ask your local nursery or landscape professional for advice.
8. Raise your lawnmower blade and cut grass to a height of 3 inches—this shades the soil, which reduces evaporation, and allows roots to grow deeper.
9. Check for leaks in taps, pipes and hoses. It's an easy way to save water. One slow drip can waste 20 gallons of water daily (7,000 gallons per year).
10. Use soaker hoses instead of sprinklers to water trees, shrubs and beds more efficiently.



IT MAY NOT SEEM LIKE MUCH, BUT EVERY TIME YOU PRACTICE ONE OF THESE EASY TIPS YOU'RE HELPING LAKE LAVON LAST.



North Texas

The North Texas Municipal Water District is the first in Texas to implement the "Water IQ: Know your water" campaign, which was developed for the Texas Water Development Board. The North Texas Municipal Water District is a wholesale water provider serving 1.5 million people in the North Texas area.

Raise your Water IQ. To learn more about how you can help save water this



A victory for the little guys

By Agriculture Commissioner Susan Combs

For too often, Texas and American farmers and ranchers have felt that courts have ignored their private property rights. When it's been the case of Man vs. Insect, courts have ruled time after time for the insect, leaving farmers, ranchers and other entities with land they couldn't use, develop or sell. In other words, land that was rendered virtually worthless.

The same held true when private property was "taken" for public projects. More than likely, landowners were not fairly compensated and land they did retain was often devalued or worse yet, destroyed.

Well, something commendable happened on the way to the courthouse.

The Texas Supreme Court recently upheld the decision that the Tarrant Regional Water District "took" the property of O.J. Gragg by flooding when the district discharged water from a reservoir after a heavy rain. In addition, the court upheld the lower court's award for damages. This is a ruling that has far-reaching implications to property owners across the state beyond a first glance. It was a crucial decision and one that stands up for private property rights

Gragg and his partners sued for diverse condemnation, alleging that the flooding made their land useless for extended amounts of time. By the time the case was tried in 1998, the ranch had experienced a number of extensive floods similar to the one in 1990.

The court ruled that a "taking" had occurred, and damages were calculated based on the value of the property before and after the taking. The court of appeals upheld the verdict, and did the Texas Supreme Court.

For too many years, uncompensated takings have been an extensive burden on private property owners, who have often borne the full burden of the cost for the public good, at a great consequence when landowners lose land to federal, state or local authorities and are not fully compensated for it. It has created an adversarial situation of doubt, ill-will and discouragement.

While serving in the Texas Legislature, I was proud to author the Texas Eminent Domain, Rights Preservation Act protecting Texas landowners. That's why I applaud the Texas courts and the Texas Supreme Court for their bold actions and just decisions. It was a matter of fairness and responsibility — the water district needed to take responsibility for the flooding and

have implemented the highest levels of water conservation before going to our rural areas in search of water and private land for reservoirs. Legislation passed during the 78th regular legislative session makes that a law. In addition, the legislation requires cities to prepare a drought contingency plan, make a good faith effort to obtain practicable

alternative water supplies, and show that the city needs the water rights to provide for domestic needs within the next 10 years.

Ownership of private property has been the foundation of this country. I applaud the Texas Legislature and the Texas Supreme Court for upholding this principle.



Come Share
God's Word
Cowboy Style

Every Sunday
10:45 A.M.

Corner of Hwy. 121 and FM 1629 (Cohube Rd.)

ROCK FLOUR HORSE SALE
 Now, 30% Savvy - 90¢ per lb.
 Every Saturday 10:00 am
 Melvin Hanson, 1000 E. 1629 Rd.
 Selling Horses, Jack, Tralls, &
 Small Farm Equipment & Misc.
Buy • Sell • Trade Daily
IF YOU BRING A TRUCK, WE'LL BRING A TRUCK



Michael Yarbrough
2325 CR 2766
Honey Grove, TX 75146

RECEIVED
FEB 26 2007
TCEC MAIL CENTER

Texas Commission on Environmental Quality
Kellie Rife
MC 160
P.O. Box 13001
Austin, TX 78711-0301

WR
56919

Contested Case Hearing Request

2007 SEP 14 AM 10:11

Name: Kela Foreman Group Name: Citizens to Save the Lower Bois d'Arc
CHIEF CLERK'S OFFICE

Mailing Address: 8719 E Fm 1396

Phone: 903-664-3341 Fax: _____

Email: _____

OPA H

SEP 14 2007

Applicant & Permit Number: NTMWD permit number 12151

BY D

I want to request a contested hearing case on the project to build a dam on Lower Bois d' Arc Creek because:

- (1) Tarrant County will retain no water rights. NTMWD will control the water rights, determine the quantity and price of water used by Tarrant County. The revenues will benefit NTMWD, not Tarrant County or its entities.
- (2) The Bois d'Arc river bottom is the main thoroughfare for wild life throughout the county. This area contains many valuable hardwood trees, and also nut bearing trees. The wildlife and hardwoods will suffer greatly.
- (3) This area is situated at the point of two eco regions and has the most fertile agricultural land in the county making the region in value and irreplaceable.
- (4) NTMWD has applied for up to 175,000 acre feet of water to be drawn per year from the reservoir; thus the shoreline will be mainly muddy flats in typical WE Texas summers. Recreation and attractions of lakefront property will be less than significant.
- (5) A federal funded study was conducted by the Tulsa District of the Army Corp of Engineers Bois d'Arc Basin Section 905 (WROA92). This cost an excess of \$100 million dollars. The results of the study eliminated the lower portion of the basin primarily because of the lack of effective flood control, potential technical and environmental problems associated with locating a reservoir wellhead areas of the Lower Bois d'Arc Area. In addition the shallow nature of the reservoir would potentially pose water quality problems.
- (6) This fertile farm land has been in my family for over 100 years. Now are the American farmers going to produce food for our nation and other countries when the most fertile land is going for water reservoir to help the metropolis population keep their lawns green & pristine?

Kela Foreman date 09-11-07
Signature

at Mulberry
John Gregory Hall

328 CR 1035

Ravenna, TX 75476

tel. 903/583-4044
greghall@texoma.net

WR
56919

September 16, 2007

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

HE OPA
SEP 19 2007
BY *[Signature]*

CHIEF CLERKS OFFICE

2007 SEP 19 AM 11:07

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

Refer to NTMWD Application # 12151 to build a dam on Lower Bois d' Arc Creek

Dear Sir or Madam:

I request a Contested Case Hearing regarding this application because I believe it will negatively impact efforts that I have made during the last fifty years to protect the environment and habitat of wildlife on 570 acres which I own in the Caney Creek watershed in NW Fannin County. I have been active in a group of volunteers working to preserve and protect the Lake Fannin property of the U.S. Forest Service in the Caddo National Grasslands. Also, I am chairman of the Fannin County Historical Commission, but write only for myself as a member of the commission.

I am also a member of the Sierra Club and request that it be granted standing in future actions on my behalf.

The proposed dam and reservoir will destroy old growth hardwood timber in Fannin County that is immediately adjacent to the Caddo National Grasslands. It will interrupt wildlife migration corridors that lead upstream along Red River to my property on Caney Creek. This timber and habitat cannot be replaced by mitigation in other areas of the county or elsewhere.

Destruction of this Fannin County asset will close off realization of a vision that many have for our future quality of life. I believe that it will also submerge historical and archeological sites, including Confederate Camp Benjamin and Indian burial grounds.

Sincerely,

John Gregory Hall

John Gregory Hall

sent also by FAX on Sept 16, 2007

WR
56919

WES REED
ATTORNEY AT LAW
4519 W. LOVERS LANE
DALLAS, TEXAS 75209
(214) 358-1330 * FAX (214) 358-1404

September 12, 2007

OPA

H **SEP 13 2007**

BY *WR*

CHIEF CLERKS OFFICE
SEP 12 11 38 10
TCEQ
COMMUNICATIONS SECTION

Chief Clerk
TCEQ
P.O. Box 13087
Austin, Texas 78711

RE: CONTESTED CASE HEARING REQUEST

Dear Clerk:

Joseph Reed, John Reed, and myself (Wes Reed) are requesting a hearing to contest the application (proposed water usc permit number 12151) filed by North Texas Municipal Water District to build a lake in Fannin County, Texas. This proposed lake has been commonly called the Lower Bois D' Arc Creek Reservoir.

My brothers and I are fourth generation landowners and run a cow/calf operation on approximately 1500 acres and locally known as Reed Ranch. Our land is on the South side of Bois D' Arc Creek (25 acres does extend North of the creek) with an East boundary along Ward's Creek. If one takes FM 1743 North of 82 and turn right where the State Maintenance ends and follows the gravel road you will eventually enter the South central entrance to our property.

On our Ranch, we have approximately 200 acres of hardwoods, which run, along the said Creek. Throughout the Ranch we have areas of improved pastures as well as, hay meadows with several intermittent wildlife habitats areas. We have also improved the property with several lakes stocked with fish. We operate a working Ranch to raise beef cattle for sale and provide income through outdoor recreational rentals.

Over the years we have been a release site for small mammals and birds i.e., raccoons, bobcats, beaver and turkeys. We have continued to open our doors for rescued animals and provide them with a protected natural habitat. For years we did not allow hunting of any kind, but have allowed deer, duck, turkey and wild hog hunting on a very restricted and limited basis.

If the lake were allowed to be constructed, this would disrupt our present operation and destroy the hardwood habitat we have protected. Our hay meadows would be flooded. Our most productive pastures would also be destroyed. Our ability to provide a natural habitat for wildlife would be greatly impaired. I have enclosed a copy of a study that was done on our Ranch in the hardwood timber bottom along Bois D' Arc Creek.

For the above stated reasons we would request a contested hearing in order to present our objections to the proposed lake.

Sincerely,

Wes Reed

WR:bm
Enclosures
c.c. Joe Reed
John Reed
Leeman Mills-Foreman Reed Ranch

**Characterization of the Vegetation of the Reed Ranch,
Fannin County, Texas, with Emphasis on Riparian Vegetation
July 14, 2005**

The following is a report of a short trip to the Reed Ranch in northeast Texas. Because much of the ranch had been converted to tame pasture or was currently under cultivation, the primary focus of the survey was 200+/- acres of riparian vegetation along Bois d'Arc Creek.

Physical Setting.

The Reed Ranch is located in northeastern Fannin County, Texas, within the Crosstimbers and Southern Tallgrass Prairie Ecoregion. It is less than 10 miles south of the Caddo National Grasslands, Bois d'Arc Unit. The property is bounded on the north in part by Bois d'Arc Creek. A tributary, Ward Creek, joins Bois d'Arc Creek on the eastern edge of the property. The underlying geology of the bottomlands is Quaternary alluvium and alluvial terraces. Surrounding uplands are on Upper Cretaceous Blossom Sand and Brownstown Marl formations. Bottomland soils are typically Tinn Series (typic hapluderts). Upland soils are typically Ellis-Crockett associations (udertic paleustalfs and udertic ustocrepts).

Conservation Context

The Ranch is located within an area of conservation interest as designated by The Nature Conservancy's preliminary assessment of the biodiversity of the Crosstimbers and Southern Tallgrass Prairie Ecoregion. The Bois d'Arc Creek watershed is approximately 270,000 acres. Remote sensing and modeling have indicated that the potential for conservation of high quality riparian plant communities is high. Natural heritage records indicate that several plant communities and species of conservation interest occur within the watershed, including:

- Texas wideleaf false aloe (*Manfreda virginica ssp lata*). A plant.
- Little bluestem-Indiangrass-Prairie Bishop Prairie (*Schizachyrium scoparium-Sorghastrum nutans-Bifora americana Alfisol herbaceous vegetation type*). Remnant tallgrass prairie.
- Post oak-Blackjack oak- Little bluestem Woodland (*Quercus stellata-Quercus marilandica-Schizachyrium scoparium woodland*). Remnant woodland and savanna.

Further, the federally listed American Burying Beetle (*Nicrophorus americanus*) occurs in adjacent Lamar County within similar habitat.

Survey of the Riparian Forest

The Reed ranch supports 200-300 acres of riparian forest along Bois d'Arc and Ward Creeks. Adjoining properties appear to support similarly-sized or larger forest tracts. Three south-to-north transects were walked and plant species encountered were recorded.

The topography underlying the forest is generally level. As both Ward and Bois d'Arc creeks are deeply incised, flooding may be expected but may not be as frequent as within the historic flood regime. Further, drainage improvements have further altered the historic flood regime. However, sheet flow from the surrounding uplands is undoubtedly sufficient to make the forest an exceptionally wet place in the wetter portion of the year as evidenced by old ponded areas, and sloughs. The forest has a generally open structure, closed canopy and a well developed herbaceous layer. The shrub layer is somewhat suppressed, which may be a result of intensive browsing in the past by cattle (or currently by white-tailed deer), a closed forest canopy, or a combination of factors. An educated guess as to the age class distribution of trees would be that about 30% are 40-60 years; 40% are 20-40 years; 20% are 10-20 years; and 10% are less than ten. Notable is that: 1) no exceptionally old trees were encountered and 2) fewer than expected seedling tree recruits were encountered.

Compositionally, the forest is dominated by green ash (*Fraxinus pennsylvanica*) and sugarberry (*Celtis laevigata*). Cedar elm (*Ulmus crassifolia*) and western soapberry (*Sapindus saponaria*) were important species. The herbaceous layer was dominated by Virginia wildrye (*Elymus virginicus*) with long-leaf chasmanthium (*Chasmanthium latifolium*) common and sometimes dominant within depressions and near streams. Shrubs were most common along forest edges, the most common being Indian currant (*Symphoricarpos orbiculatus*), and possumhaw (*Ilex decidua*).

Several avian species of conservation interest were encountered. Notably, at least six singing male painted buntings (*Passerina ciris*) were heard throughout most of the survey, and one was sighted. Further, the songs of both the Chuck-Will's-widow (*Caprimulgus carolinensis*) and yellow-billed cuckoo (*Coccyzus americanus*) were detected.

In general, the forest appeared to have not been disturbed by grazing or harvest within recent years, though it is likely that it was historically subject to both. It is, in my opinion, a reasonably good example of a green ash-sugarberry forest, though its current composition may have been altered from its historic composition by high grading of more desirable trees; and that it is relatively young and is not very diverse (although the latter is typical of most forests of the region).

Characterization of the Vegetation of the Riparian
Forest of the Reed Ranch, Fannin Co., TX

7/14/05

Trees and Shrubs

River amorpha	<i>Amorpha fruticosa</i>
Possumhaw	<i>Ilex decidua</i>
Red mulberry	<i>Morus rubra</i>
Sugarberry	<i>Celtis laevigata</i>
Box Alder	<i>Acer negundo</i>
Water Hickory	<i>Carya aquatica</i>
Pecan*	<i>Carya illinoensis</i>
Cedar elm	<i>Ulmus crassifolia</i>
Bois d'arc	<i>Maclura pomifera</i>
American elm	<i>Ulmus Americana</i>
Bur oak	<i>Quercus macrocarpa</i>
Western soapberry	<i>Sapindus saponaria</i>
Honey locust	<i>Gleditsia triacanthos</i>
Gum bumelia	<i>Sideroxylum lanuginosum</i>
Eastern redcedar	<i>Juniperus virginiana</i>
Indian currant	<i>Symphoricarpos orbiculatus</i>

Grasses and sedges

Virginia wildrye	<i>Elymus virginicus</i>
Long-leaf chasmanthium	<i>Chasmanthium latifolium</i>
Narrow melic	<i>Melica mutica</i>
Dalis grass	<i>Paspalum dilatatum</i>
Bristlegrass	<i>Setaria geniculata</i>
Dropseed	<i>Sporobolus (asper var drummondii?)</i>
Narrow leafed sedge	<i>Carex sp.</i>
Broad leafed sedge	<i>Carex sp.</i>
Johnsongrass	<i>Sorghum halpense</i>
Tall fescue	<i>Festuca arundinacea</i>

Broad-Leafed Herbs

Lance-leafed loosestrife	<i>Lythrum lanceolatum</i>
Frog fruit	<i>Lippia sp.</i>
Sumpweed	<i>Iva annua</i>
Giant ragweed	<i>Ambrosia trifida</i>
Illinois bundleflower	<i>Desmanthus illinoensis</i>
American basketflower	<i>Centaurea Americana</i>

Fokeweed
Stream Groundsel
Clasping leaf coneflower
Frostweed
Finger dogshade
Baldwin's ironweed
Violet
Goldenrod
Woods germander

Phytolacca Americana
Senecio obovatus
Dracopis amplexicaulis
Verbesina virginica
Cynoscadium digitatum
Vernonia baldwinii
Viola sp.
Solidago sp.
Teucrium canadense

Vines

Trumpet vine
Red honeysuckle
Virginia creeper
Poison ivy
Greenbrier
Saw-tooth greenbrier

Campsis radicans
Lonicera semper virens
Parthenocissus quinquefolia
Toxicodendron radicans
Smilax rotundifolia
Smilax bona-nox

WR
56919

WITCHER FAMILY TEXAS PROPERTY TRUST

TEXAS
COMMISSION ON
GOVERNMENTAL

DOROTHY L. WITCHER TRUSTEE
JOHN REX WITCHER, TRUSTEE

SEP -7 PM 3:01
CHIEF CLERKS OFFICE

September 6, 2007

OPA

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

H SEP 10 2007

BY DL

Re: NTMWD Application #12151 to build a dam on Lower Bois d' Arc Creek

Dear Sir or Madam:

We want to request a contested hearing case on the project to build a dam on Lower Bois d'Arc Creek because we do not think it appropriate to flood thousands of acres of Fannin County land so that Dallas will be able to continue to water their lawns, country clubs and golf courses. The land that we own was bought by our Great Grandfather, so that his family would have a better life in Texas than they had in Virginia. That land was passed down to our Grandfather and our Father, and eventually to us. It is a well known fact that if this Lower Bois d' Arc Creek Dam project goes forward and the land is bought by the State for the project, that we will not get anything close to the going rate per acre before this project was first announced.

It is our most sincere hope that this project for a Dam on the Lower Bois d'Arc Creek does not go forward.

Sincerely,

Dorothy L. Witcher
Dorothy L. Witcher Trustee

John Rex Witcher
John Rex Witcher, Trustee

WR
36919

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

Contested Case Hearing Request

SEP 12 11 21 17

Name: LARRY D. FRANKLIN Group Name: Citizens To Save Boisd'arc Creek
CHIEF CLERK'S OFFICE

Mailing Address: 15387 E FM 1396 Windom, Tx 75492

Phone: 903-378-3949 Fax: _____

Email: _____

OPA

H SEP 13 2007

Applicant & Permit Number: NTMWD permit number 12151

BY DL

I want to request a contested hearing case on the project to build a dam on Lower Bois d' Arc Creek because:

Tarrant County will retain no water rights. Although the water source is located within the county, all rights will belong to NTMWD. Due to the size and depth of the reservoir the shoreline will be primarily a muddy flat in the typical NE Texas summers. The attraction by lakefront property will be less than significant.

Lower Bois' d'arc reservoir is situated at the point of two different eco regions and has the most fertile agricultural land in the county making it priceless in value and irreplaceable. It is a main thoroughfare for wildlife throughout the county.

According to the Army Corps of Engineers study of the Bois' d' Arc Basin Section 905 (b) (WRDA 86) analysis by the Tulsa District. Reservoir sites located at lower river miles 23.5, 24.8 and 28.6 were dropped from further consideration in the reconnaissance phase. Reservoir sites in the lower portion of the basin were eliminated primarily because of the lack of effective flood control and potential technical and environmental problems associated with locating reservoirs in wetland areas in the lower Bois' d' Arc Creek Basin. The shallow nature of the reservoir would potentially pose water quality problems.

Larry D. Franklin
Signature

date Sept. 10, 2007

WR
56919

Contested Case Hearing Request

2007 SEP 14 PM 2:56

Name: Glenn Lee Group Name: Citizen to Save Bois D'Arc STATE TREASURER'S OFFICE

Mailing Address: 703 W. Market St. Money Grove, TX 75446
Phone: 903-378-3624 Fax 903-378-2871
Email: rushgator@att2.yahoo.com

OPA HR

SEP 17 2007

Applicant & Permit Number: NTMWD permit number 12151

BY: [Signature]

I, Glenn Lee, wish to request a contested case hearing on the project to build a dam on Lower Bois d' Arc Creek because:

I have concerns regarding the quality of the water that will come from the proposed Lower Bois D'Arc Reservoir. According to a reconnaissance study conducted by the U.S. Army Corps of Engineers (USACE) in 2000, "... the shallow nature of the reservoir would potentially pose water quality problems." As a result, the USACE eliminated the Lower Bois D'Arc Creek basin from further consideration as a reservoir site. The USACE used approximately \$100,000 in U.S. taxpayer funds in fiscal year 2000 to come to this conclusion. I understand that the proposed project is not a USACE lake. However, if the USACE is rejecting further consideration of a project due to projected poor quality, among other criteria, then I believe it is cause for concern.

I am also concerned about the use of Fannin County natural resources by an entity whose primary goal is to export our natural resources to their customers outside the area. Fannin County's biggest assets are our natural resources - timber, rangeland, water etc. I am concerned about the apparent lack of local control we will have over one of our most precious resources - our water. If I understand the plan correctly, NTMWD will impound our local water supply that currently flows freely down Bois D'Arc Creek into the Red River, and then they will decide how much to charge us for our own resource that they received for relatively free. This is not a good deal for Fannin County.

In conclusion I believe that the results of this project will be for me, excessive water rates, and poor water quality. This will affect the economy of Fannin County, and therefore, my standard of living.

[Signature]

date 9/12/07

Signature

RECEIVED
TCEQ
WATER SUPPLY DIVISION
2007 SEP 19 AM 9:10

WR
36919

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

Contested Case Hearing Request

2007 SEP 10 AM 11: 25

Name: Maeta Lee Group Name: Citizens to Save Bois D' Arc Creek

CHIEF CLERKS OFFICE

Mailing Address: 703 W Market St. Honey Grove TX. 75446

Phone: 903-378-7300 Fax: 903-378-2871

Email: maetalee@yahoo.com

OPA

H SEP 10 2007

Applicant & Permit Number: NTMWD permit number 12151

BY ll

I, Maeta Lee, wish to request a contested case hearing on the project to build a dam on Lower Bois d' Arc Creek because:

The Lower Bois D' Arc reservoir would be a bad deal for Fannin County. NTMWD would own all of the water rights. Fannin County has no rights to the water in the reservoir. They would have to buy it from NTMWD. Fannin County will lose valuable farmland, and part of their tax base. NTMWD will not take care of the shore line, that will be up to Fannin County. Fannin County should at least retain 50% of the water rights to the reservoir since it is in the county and taking up the county's land.

Also the Army Corps of Engineers (Tulsa District) did a study on the Bois D' Arc Basin in 2000. The title of the Study Bois D' Arc Basin Section 905(b) (WRDA 86) Analysis. "(b) Reservoir sites located at lower river miles 23.5, 24.8, and 28.6 were dropped from further consideration in the reconnaissance phase. Reservoir sites in the lower portion of the basin were eliminated primarily because of the lack of effective flood control and potential technical and environmental problems associated with locating reservoirs in wetland areas in the Lower Bois D' Arc Creek Basin. The best location for a reservoir in the lower portion of the basin, at river mile 23.5 (Coffey Mill site), would inundate an existing Forest Service lake and significant wetland areas. In addition, the shallow nature of the reservoir would potentially pose water quality problems."

ll date 9-7-07
Signature

WR
5/6/19

Contested Case Hearing Request

2007 SEP 14 AM 10:10

Name: Cathy J. Melsos Group Name: CORE

CHIEF CLERKS OFFICE

Mailing Address: 3385 E. HWY 56 Dodd City, TX 75118

Phone: (903) 583-4951 Fax

Email: Cathy.melsos@yahoo.com

H OPA

SEP 14 2007

Applicant & Permit Number: NTMWD permit number 12151

BY [Signature]

I want to request a contested hearing case on the project to build a dam on Lower Bois d' Arc Creek because:

Our county is proposed to be used as a source of water for the neighboring counties. The Bois D'Arc lake project should not be in the permitting stage until all impact studies have been completed and reported on. The amount and location of mitigated land is not known. This could affect any land owner in the Bois D'Arc drainage area.

Texas old growth bottom land hardwoods are becoming extinct in North Texas. Much of the wildlife habitat and agriculture land in North Texas is disappearing at an alarming rate. The hardwood forests and prairies in the Bois D'Arc Creek drainage area provide most of the wildlife habitat in Fannin County. The fields that are in production in this bottom land provide much of the food supply for the wildlife. This produces income from both hunting and agriculture for the landowners. Many of the families own land that has been in their families possession for over a century. These families still depend upon this land for their income and families well being.

There are two closed landfills that border Sloan's Creek within a mile of the proposed Bois D'Arc lake site. The P. H. at Bonham's landfill was operated approximately 15 years. The James Hazlett's private landfill was operated over 20 years. Water samples were taken from the site of the Bonham City landfill on County Road 2935. The results show the presence of many heavy metals that are above EPA acceptable levels. Both of these sites need to be inspected and tested by TCEQ before the permitting process of the proposed Lower Bois D'Arc Reservoir continues. The Texas Private Property Protection Act is being violated by NTMWD with the building of this reservoir.

Cathy Melsos date 9-11-07
Signature

Contested Case Hearing Request

SEP 10 10 00 AM

Name: Ruby J. Odom Group Name: Lower Bois d'Arc Project
CHIEF CLERK OFFICE

Mailing Address: P.O. Box 354
Phone: 9736234031 Fax _____
Email: _____

OPA

H SEP 10 2007

Applicant & Permit Number: NTMWD permit number 12151

BY pl

I want to request a contested hearing case on the project to build a dam on Lower Bois d' Arc Creek because:

I have researched the Confederate Camp and the Confederate Soldiers buried there.

I have read published books and other published material in my research.

Camp Benjamin 1861-1862 in Jackson County near Bois d'Arc Creek. This camp and the graves of the soldiers that are buried are marked by a 6 foot concrete cross.

If you dam up this creek you will be killing these brave men that gave their life for our country. Putting this camp underwater.

I had four great grand fathers in the civil war that fought with distinction.

I am a member of the Davis, Texas Chapter of the "United Daughters of the Confederacy."

I am filing for a Historical Marker.

Ruby J. Odom
Signature

date August 13, 2007

WR
36919

CONTESTED CASE HEARING REQUEST

2:07 SEP 14 PM 2:46

CHIEF CLERKS OFFICE

Name: Carlos A. Pardo

Mailing Address: 4085 Preston Hills Cir. Celina, TX. 75009

Phone Number: 972-670-1925

OPA HR

SEP 17 2007

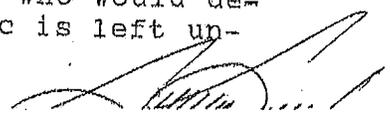
Applicant and Permit Number:

BY Dus

NTMWD permit number 12151, to build a dam on Lower Bois d'Arc

I would like to request a contested case hearing on the permit above because of the following

- 1-**Eco-transitional area**; The Lower Bois d'Arc serves as the natural boundary between two well defined ecoregions in Texas. To the north **The East Central Texas Plains** and **The Texas Blackland Prairies** to the south and more particularly off of these, the merging of two subregions, **The Northern Post Oak Savanna** and **The Northern Blackland Prairie**. This creates an abundance of edaphic conditions that in turn sustain diverse plant communities and their related wildlife within the realm of one very large **riparian forest**, surrounded by **prairie** and pockets of **upland forests**. These riparian forest is known to serve as a highway of interchange for wildlife between north central Texas and southeastern Oklahoma. Some of the prairie remains in its native state. Ancient trees abound.
- 2-**Prime Farmland area**; Approximately one third of the several thousand acres of land that would be consumed by the new reservoir are considered Prime Farmland as identified by the United States Department of Agriculture, having the best combination of physical and chemical properties for the production of food, forage, feed, fiber and oilseed crops and available for these uses. The loss of this prime farmland would place pressure on marginal lands, which are less productive and more erodible in some cases. Examples of crops obtained from these prime soils are wheat, grain sorghum, corn, cotton, soybeans, peanuts, watermelons, black-eyed peas, sweetcorn, sweet potatoes, strawberries. Orchards of pecans, peaches, apples and pears are also favored. Alfalfa, improved pastures of coastal and common Bermuda, Bahia, Klein, Fescue and Lovegrass, white, burr and button clovers. Areas that remain as native range present eastern Gammagrass, Beaked panicum, little Bluestem, Florida paspalum, Virginia wildrye, longleaf Uniola, Indian and Switch grass. Stands of ancient oaks, Post, Burr, Water, and Red, both Shumard and Buckleyi. Stands of ancient and young Pecans, Hickories, along with Walnuts. Very large stands of Ash and Cottonwood harvested commercially as well as stands of Loblolly pine. Several other species of trees and shrubs grow in these mixed environments. These soils are our savings account. The trade off of all these natural resources for a reservoir of shallow waters is incorrect not only to the affected landowners but to the people of Texas as well, people who would definitely be better served if the Lower Bois d'Arc is left untouched and preserved. Most sincerely,



WR
5/29/19

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

Contested Case Hearing Request

SEP 13 AM 9:59
CHIEF CLERK'S OFFICE

Name: Nathan Ryser Group Name: Citizens to Save Bois d' Arc Creek

Mailing Address: 602 Oak St
Phone: 903-227-1890 Fax 903-378-2871
Email: n_ryser@yahoo.com

OPA

SEP 13 2007

H BY al

Applicant & Permit Number: NTMWD permit number 12151

I, Nathan Ryser, wish to request a contested case hearing on the project to build a dam on Lower Bois d' Arc Creek because:

The dam built on Bois d' Arc Creek will be detrimental in a number of ways to Fannin County.

Fannin County will retain no water rights under the existing agreement. Revenues from the water sold will only benefit NTMWD. Fannin County will be giving up tax base and land to benefit outside entities. Over 17,000 acres of land will be taken for flooding and easements plus an additional amount for mitigation. These estimates for mitigation have ranged from 30,000 to 51,000 acres. The most productive agricultural land in the region will be rendered useless.

NTMWD has applied to withdraw up to 175,000 acre feet of water per year. The total capacity of this proposed reservoir is 366,000 acre feet. A typical NE Texas summer will render this reservoir useless for recreation and possibly have a negative effect on water quality. Fannin County's only source of revenue from this reservoir would be recreation and development. The aforementioned management of water quantity in this reservoir will have a negative impact on both recreation and development of this reservoir. A good example is the neighboring Jim Chapman (Cooper Dam) which has produced no growth or prosperity for the local communities.

Bois d' Arc serves as the major wildlife thoroughfare throughout Fannin County. Severing this highly utilized natural path would be very detrimental to the county's wildlife. The site of this proposed reservoir is unique in that it is situated where two eco regions meet. Texas Parks and Wildlife has recognized this segment of stream as possessing unique qualities for flows and wildlife. Careful consideration should be heeded before destroying something that can never be replaced.

Nathan Ryser date 9-11-2007
Signature

WR
56919

Applicant and Permit Number: NTMWD permit number 12151

Date: August 13, 2007

I, **William J. Sebastian** of Fannin County Texas, am requesting a Contested Hearing Case on the project to build a dam on Lower Bois d' Arc Creek. I request this hearing because the resulting body of water will not achieve a volume equal in value to the destruction to the environment and quality of life in northeast Texas and Fannin County. The so-called "lake" will be a muddy blight the majority of the time, with thousands of acres of dead trees, brush and muck caused by water temporarily held in the reservoir a few weeks or months out of the year. Deer, geese, ducks, turkey, cranes, eagles, and other wildlife will lose their natural habitat area.

The proposed lake is overall a bad idea. Project plans should be put on-hold until a thorough study and costs versus worth evaluation can be made. There are several ways much better to achieve the needed water without the proposed dam and reservoir on Lower Bois d' Arc Creek.

I am affected by this reservoir in that I am a citizen of Fannin County. The loss of county tax revenue from land lost to the reservoir will have to be made up by the other residents of Fannin County. Therefore I am directly affected financially.

I have specific alternatives related to future water requirements and will present them at the hearing.

Respectfully,



(signed)

August 13, 2007

(date)

William J. Sebastian
1476 CR 2130
Telephone, TX 75488
903/664-3614
bsebast@airmail.net

OPA 
AUG 16 2007
BY 

CHIEF CLERKS OFFICE

2007 AUG 20 11:52 AM
AUG 15 10:05

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

WR
56919

OPA

H SEP 13 2007

Contested Case Hearing Request

BY

Name: Charles Garbrough Group Name: Citizens to Save Bois D'Arc
Creek

Mailing Address: 404 Pease St

Phone: 903-378-2801 Fax N/A

Email: N/A

CHIEF CLERK'S OFFICE
SEP 13 11 58 AM '07
COMMUNICATIONS UNIT

Applicant & Permit Number: NTMWD permit number 12151

I want to request a contested hearing case on the project to build a dam on Lower Bois d'Arc Creek because:

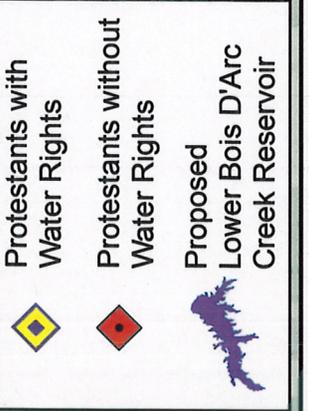
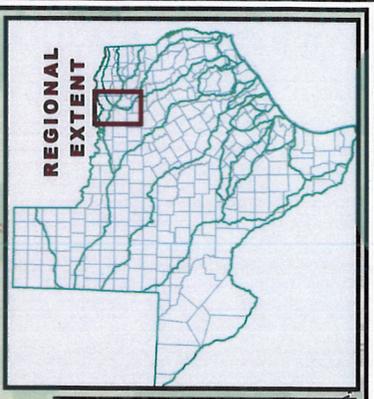
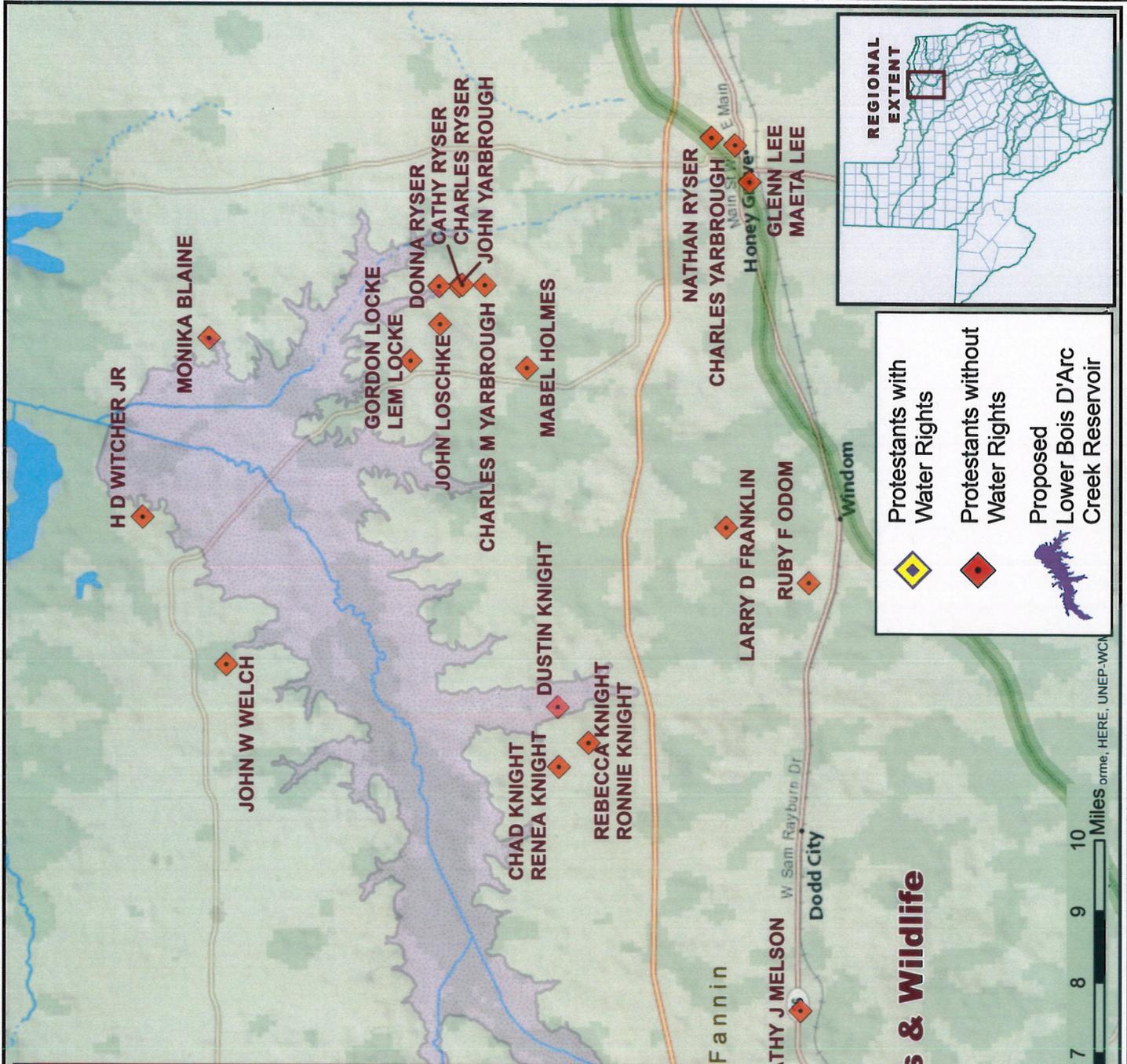
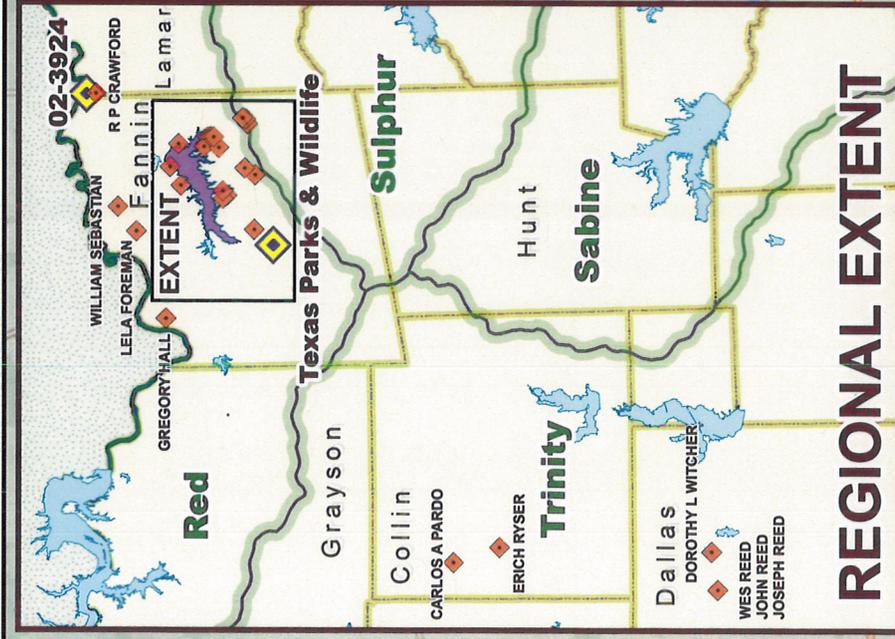
The quality of the water from this mud hole will
be poor quality, shallows except in creek areas,
When pumped a large part of the area will be a swamp,
When the water does come up wild life will be pushed
to the point where it cannot survive.
Land taken in for the reservoir and other needed
land will be taken off the county tax roll,
placing a financial burden on all businesses
and residence of the county. The most productive
land in the county will be under water,
the economic impact does not look good
for Tarrant County schools, business or
land owners.
There is a need for better quality water
than this mud hole will provide.

Charles Garbrough date Sept 8 2007
Signature

ATTACHMENT B

Docket No. 2014-0913-WR

North Texas Municipal Water District Lower Bois d'Arc Creek Reservoir - P12151



Miles orme, HERE, UNEP-WCWI