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TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

2007 SEP 18 AM 9:51

CHIEF CLERK'S OFFICE

OPA

SEP 18 2007

BY 

September 17, 2007

Office of the Chief Clerk
TCEQ
Mc 105
PO Box 13087
Austin, Texas 878711-3087

Dear Chief Clerk:

The purpose of this letter is to state the City of Allen's strong support for issuance of a permit to the North Texas Municipal Water District (NTMWD) to build the Lower Bois d'Arc Creek reservoir (Application 12151).

The recent north Texas drought event opened the eyes of the NTMWD family of member cities and customers to the need for both long range water planning and water conservation. Despite the end of the drought, throughout the district there are intensifying efforts to improve water conservation. For example, in Allen, the City Council directed revision of the Land Development Code to reduce allowable turf areas and require the use of more native and drought tolerant landscaping; the addition of a water conservation manager-level position to increase our educational capabilities; an increased emphasis on the City's water conservation rebate program; the development of a new water bill format to expand water conservation educational opportunities; and we acted to increase our top residential water rate tiers to among the highest in the state to help curb the appetite of our high water users.

Despite these concerted local and regional conservation efforts and our water district's implementation of significant waste water reuse projects, our region's dramatic growth demands the development of new water resources. The permit process for this new reservoir needs to move expeditiously towards approval so the decade long effort to acquire property, design, construct the new reservoir as well as mitigation measures, and to fill the new reservoir may stay on track to make the facility available by the current 2017 projection.

The City of Allen endorses permit approval for this new and vitally important reservoir.

Sincerely,



Stephen Terrell
Mayor

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Mayor Pro Tem
Debbie Stout

Councilmembers
Ross Obermeyer
Mark Pacheco
Robin L. Sedlacek
Gary L. Caplinger
Jeff McGregor

City Manager
Peter H. Vargas

MW

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 City ALLEN State TX ZIP 75013-8042
Dept./Room/Inn/Room

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Recipient's Name ROSS + WOODS Phone 512 239-1100

Company TCEC

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FedEx Standard Overnight
 Shipments will be delivered on Thursday unless SATURDAY Delivery is selected.

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Packages up to 150 lbs.

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2007 SEP 17 PM 3:57

CHIEF CLERKS OFFICE

OPA

SEP 18 2007

BY

September 17, 2007

Office of the Chief Clerk
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The City of Allen endorses permit approval for this new and vitally important reservoir.

Sincerely,

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Mayor

MW

Buddy Garcia, *Chairman*
Larry R. Soward, *Commissioner*
Bryan W. Shaw, Ph.D., *Commissioner*
Mark R. Vickery, P.G., *Executive Director*



TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

2008 DEC 11 AM 10:03
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
CHIEF CLERKS OFFICE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
Protecting Texas by Reducing and Preventing Pollution

December 10, 2008

The Honorable Larry Phillips
Texas House of Representatives
P.O. Box 2910
Austin, Texas 78768-2910

WR 12151

Dear Representative Phillips:

Thank you for your letter regarding the 404/401 permit application submitted by North Texas Municipal Water District for the creation of the Lower Bois d'Arc Reservoir. Ms. Jennifer Ahrens in our Intergovernmental Relations Division spoke with Ms. Sara Hays of your staff and verified that you are requesting a public meeting. Staff will contact you to ensure that the meeting is at a time and location convenient for you and your constituents.

The 404 permitting process involves a joint public notice from the U.S. Army Corps of Engineers (Corps) and the Texas Commission on Environmental Quality (TCEQ), which has a 30-day comment period. The federal 404 permit requires state 401 water quality certification from the TCEQ to ensure that Texas Surface Water Quality Standards are not violated. The Corps is the lead agency in the 404 permitting process and is the agency charged with developing the information submitted in the joint public notice for public review. The TCEQ provides comments and requests any additional information needed for the 401 certification decision in response to the joint public notice. I have enclosed a copy of the comments that the TCEQ provided to the Corps on this project. As specifically noted in our comments, the TCEQ recommended that an Environmental Impact Statement be completed to efficiently coordinate stakeholder comments.

Please be assured that your letter will be included with the comments received on this permit application. I have also instructed staff to include you on future TCEQ correspondence regarding the 401 certification. If we can be of further assistance on this matter, please contact me at (512) 239-3900 or Ms. L'Oreal Stepney at (512) 239-4554.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read "Mark R. Vickery".

Mark R. Vickery, P.G.
Executive Director

Enclosure

MW

Buddy Garcia, *Chairman*
Larry R. Soward, *Commissioner*
Bryan W. Shaw, Ph.D., *Commissioner*
Mark R. Vickery, P.C., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

November 19, 2008

Mr. Andrew Commer
U.S. Army Corps of Engineers, Tulsa District
Regulatory Branch, CESWT-PE-R
1645 South 101st East Avenue
Tulsa, Oklahoma 74128-4609

Re: USACE Permit Application Number SWT-0-14659

Dear Mr. Commer:

As described in the Joint Public Notice, dated October 14, 2008, the applicant, North Texas Municipal Water District (NTMWD), proposes to construct a dam on Bois d'Arc Creek to impound a water supply reservoir, Lower Bois d'Arc Reservoir. The project is located approximately 14 miles northeast of the town of Bonham, in Fannin County, Texas. Lower Bois d'Arc Creek Reservoir Dam would be constructed as a zoned earthen embankment. The dam would be about 10,400 feet in length and would have a maximum height of about 90 feet. The design to elevation of the embankment would be 553.5 feet mean sea level (msl). The embankment would provide 19.5 feet of freeboard above the conservation pool of 534.0 feet msl for Lower Bois d'Arc Creek Reservoir. The upstream and downstream side slopes would be 3.5:1. All fill for the embankment is expected to come from required excavations of the spillways and from the reservoir pool area. Soil cement would be placed on the upstream slope and a grass cover would be placed on the downstream slope. The application states that required low-flow releases would be made through a 36-inch diameter low-flow outlet located on the right (east) side of the floodplain near the toe of the right abutment.

Also, raw water transmission facilities are proposed to transport water via pipeline to a proposed water treatment plant near the City of Leonard in Fannin County. The pipeline would also extend to an outfall on Pilot Grove Creek, a tributary of the East Fork of the Trinity River, to deliver raw water to Lake Lavon. The outlet structure is expected to be located approximately 5.4 miles north of Lake Lavon in the reach of Pilot Grove Creek between FM 545 and FM 2756. The pipeline would consist of approximately 29 miles of 90-inch pipe and approximately 14.4 miles of 66-inch pipe. The raw water would be transported via the bed and banks of Pilot Grove Creek and Lake Lavon to the NTMWD's existing intake structures on Lake Lavon. The final alignment of the pipeline has not been determined. Preliminary evaluations of pipeline alignment indicate that it would intersect 15 potential wetlands (5 forested, 10 emergent), 87 streams (3 perennial, 41 intermittent, 43 ephemeral), and 16 impoundments (8 on-channel, 8 on uplands). The Corps will review these preliminary determinations of jurisdiction for final determination of federal jurisdiction on intersecting streams.

Mr. Andrew Commer
U.S. Army Corps of Engineers
USACE Permit Application Number SWT-0-14659
Page 2
November 19, 2008

Based on the applicant's jurisdictional determinations in the project area, construction of the dam and impoundment of the water within the normal pool elevation of 534 feet msl would result in direct fill impact or inundation of approximately 120 acres of perennial streams, 99 acres of intermittent streams, 87 acres of open water, 4,602 acres of forested wetlands, 1,223 acres of herbaceous wetlands, and 49 acres of shrub wetlands. The Corps is currently reviewing for verification the jurisdictional determinations and delineations submitted by the applicant's agent.

In addition to the information contained in the public notice, the following information is needed for review of the proposed project. Responses to this letter may raise other questions that will need to be addressed before a water quality certification determination can be made.

1. Title 30, Texas Administrative Code (TAC), Chapter 279.11(c)(1), states that "No discharge shall be certified if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem, . . ." The public notice provides the applicant's statement of purpose for constructing the reservoir, but does not provide any alternative's considered that would have less adverse impacts to jurisdictional waters. If the Corps does not require an EIS for this project (see comment # 6), please have the applicant fill out the enclosed alternative's analysis and 401 questionnaire and return it to Texas Commission on Environmental Quality (TCEQ). Practicable alternatives are preliminarily assumed to exist, but the applicant does have the opportunity to clearly demonstrate that no practical alternatives exist.
2. Mitigation of impacts is considered for ". . . all unavoidable adverse impacts that remain after all practicable avoidance and minimization has been completed . . ." (30 TAC §279.11(c)(3)). The public notice indicates that large tracts of contiguous bottomland hardwood forest, in addition to other natural resources will be eliminated. This represents a collection of unique and ecologically significant waters which cannot be recreated. These waters collectively create a high aquatic life use for this area which is upheld by the integrity of the system as it cycles through various hydrologic regimes. The Lower Bois d'Arc creek currently has a high aquatic life use classification. Inundating these areas will likely cause a degradation of this aquatic life use by shifting aquatic communities from a diverse forested wetland community to a lacustrine environment with lower species diversity. Due to the difficulty of adequately replacing wetlands, appropriate and practicable steps should be taken by the applicant to minimize potential adverse impacts (30 TAC §279.11(c)(2)). Currently the applicant has provided conceptual mitigation that includes the use of mitigation bank(s), in-stream flow releases, stream restoration and riparian habitat enhancement, land purchase and management for wildlife habitat enhancement, private land purchase to expand the Caddo National Grasslands, water quality protection measures and shoreline management, and waterfowl management areas.

Mr. Andrew Commer
U.S. Army Corps of Engineers
USACE Permit Application Number SWT-0-14659
Page 3
November 19, 2008

Proper assessment of stream and wetland functions and values in areas proposed to be impacted is needed to compile a complete mitigation plan using the Corps verified jurisdictional waters determination. All stream impacts should be measured in linear feet to get a true indication of impacts. The TCEQ looks forward to reviewing detailed information regarding project impacts and mitigation as they become available. The TCEQ is available to work with the applicant and the Corps in assessing stream and wetland impacts.

3. Due to the conversion of the environment from a lotic to a lentic system, sediments and particulates will likely settle out of the water as it flows toward the dam. This changes the physical and chemical nature of water that is released from the dam which often causes erosion and scouring below the dam and changes the dynamics of the stream. If a hypolimnetic release of water is planned for the dam, the water released would likely be cooler and lower in dissolved oxygen than existing conditions and could lead to a shift in species composition and a potential impairment of downstream aquatic life uses. Please have the applicant explain in detail how these changes in water quality will be avoided or minimized.
4. Altering the flow regime can have deleterious effects on aquatic life uses. An adequate flow regime below the dam is necessary to maintain the high aquatic life uses downstream. These impacts may be minimized by allowing for a flow regime which would inundate the floodplain to simulate existing hydrologic regimes and allow for floodplain connectivity necessary to maintain these aquatic ecosystems. The applicant states that in-stream flow releases are being considered as part of the mitigation plan. An appropriate flow regime based on current and historical flow data is needed to maintain existing downstream aquatic life uses.
5. Please indicate how on-site water quality will be maintained during and after reservoir and pipeline construction.
6. From the public notice the applicant states that a portion of the allocated water from the proposed reservoir will be transferred via an inter-basin transfer through Pilot Grove Creek. Please have the applicant provide information on the existing condition of Pilot Grove Creek and documentation that the increased flows will not degrade these existing conditions. In addition to the flow conditions please have the applicant provide more details on what steps will be taken to ensure that water quality is maintained in Pilot Grove Creek and downstream receiving waters after the inter-basin transfers begin. This should include water quality data for Pilot Grove Creek, downstream receiving waters and for the source water of the inter-basin transfer.

Mr. Andrew Commer
U.S. Army Corps of Engineers
USACE Permit Application No. SWT-0-14659

Page 4

November 19, 2008

7. As described, more information is needed before a Water Quality Certification can be completed. The Corps should consider developing an Environmental Impact Statement (EIS) as an efficient method to develop and coordinate the TCEQ's and other stakeholders information requests. Please notify the TCEQ as soon as possible of the Corps decision regarding an EIS for this reservoir project.

The TCEQ looks forward to receiving and evaluating other agency or public comments. Please provide any agency comments, public comments, as well as the applicant's comments, to Mr. Peter Schaefer of the Water Quality Division MC-150, P.O. Box 13087, Austin, Texas 78711-3087. Mr. Schaefer may also be contacted by e-mail at pschaefer@tceq.state.tx.us, or by telephone at (512) 239-4372.

Sincerely,



L'Oreal W. Stepney, P.E., Director
Water Quality Division
Texas Commission on Environmental Quality

LWS/PS/sp

Enclosure