

Marisa Weber

From: PUBCOMMENT-OCC
Sent: Tuesday, November 03, 2015 9:04 AM
To: PUBCOMMENT-WWW-WRAS; PUBCOMMENT-ELD; PUBCOMMENT-OCC2;
PUBCOMMENT-OPIC
Subject: FW: Public comment on Permit Number ADJ 2462
Attachments: 2015.11.03 BBC to B Bohac withdraw CCH.pdf

WH

ADJ
63771

From: jgoldstein@lglawfirm.com [mailto:jgoldstein@lglawfirm.com]
Sent: Tuesday, November 03, 2015 9:02 AM
To: DoNot Reply
Subject: Public comment on Permit Number ADJ 2462

REGULATED ENTY NAME 60802462001 DP1 ADJ 2462

RN NUMBER: RN104072293

PERMIT NUMBER: ADJ 2462

DOCKET NUMBER:

COUNTY: COLLIN, DALLAS, KAUFMAN, ROCKWALL

PRINCIPAL NAME: CITY OF DALLAS

CN NUMBER: CN600331730

FROM

NAME: MR Brad Castleberry

E-MAIL: jgoldstein@lglawfirm.com

COMPANY: Lloyd Gosselink Rochelle & Townsend, PC

ADDRESS: 816 CONGRESS AVE Suite 1900
AUSTIN TX 78701-2442

PHONE: 5123225856

FAX:

COMMENTS: Please see attached withdrawal of contested case hearing request from Texas Westmoreland Coal Company.

42



816 Congress Avenue, Suite 1900
Austin, Texas 78701
Telephone: (512) 322-5800
Facsimile: (512) 472-0532
www.lglawfirm.com

Mr. Castleberry's Direct Line: (512) 322-5856
bcastleberry@lglawfirm.com

November 3, 2015

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

VIA ELECTRONIC MAIL

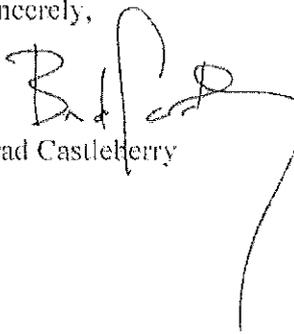
Re: Dallas' Application to Amend Certificate of Adjudication No. 08-2462I
Texas Westmoreland Coal Company's Withdrawal of Hearing Request

Dear Ms. Bohac:

This letter is submitted on behalf of my client, the Texas Westmoreland Coal Company ("TWCC"). TWCC has reviewed the draft permit and the technical memoranda regarding the City of Dallas' Certificate of Adjudication No. 08-2462I. Please accept this letter as notice that TWCC withdraws its comments, request for a contested case hearing, and protest of the above-referenced application, effective immediately. If the Commission makes any changes to the Applicant's permit, please contact me.

TWCC would like to remain on the service list as an interested person, and would like to receive a copy of the permit upon final issuance. Thank you for your attention to this matter. If you have any questions regarding this request, please do not hesitate to contact either Jeffrey Reed at (512)322-5835 or me at your convenience.

Sincerely,


Brad Castleberry

BBC/jg

cc: Mr. Chris Kozlowski
Ms. Gwen Webb
Mr. Mike Altavilla

5688725.1

ADJ
63771

816 Congress Avenue, Suite 1900
Austin, Texas 78701
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Facsimile: (512) 472-0532

www.lglawfirm.com

Mr. Castleberry's Direct Line: (512) 322-5856
bcastleberry@lglawfirm.com

OPA

October 22, 2008 OCT 24 2008

H BY BP

CLERKS OFFICE

OCT 23 PM 2:35

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

VIA FACSIMILE
AND FIRST-CLASS MAIL

Re: Application to Amend Certificate of Adjudication No. 08-2462I (1664-01)

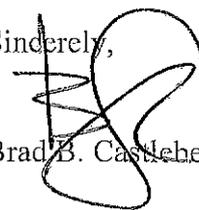
Dear Ms. Castañuela:

This letter is submitted on behalf of the Texas Westmoreland Coal Company ("TWCC") in response to the above-referenced application (the "Application") filed by the City of Dallas (the "City"). TWCC is the owner of Water Use Permit No. 5318 in the Trinity River Basin. TWCC operates the Jewitt surface coal mine in Freestone and Leon counties and has filed an application for Water Use Permit No. 12292 that, as part of its mining operation, would seek to construct and maintain a number of reservoirs for in-place recreation, domestic and livestock purposes. Because the Application, if granted as requested, may impact TWCC's existing water right and its pending application, TWCC must at this time request a contested case hearing regarding this matter.

TWCC is hopeful that a draft permit associated with the Application may be crafted to address any potential concerns such that TWCC's interests will be fully protected. In this regard, TWCC looks forward to working with the Commission and the City as the Application is further considered.

If you have any questions regarding this matter, please do not hesitate to contact me at your convenience.

Sincerely,


Brad B. Castleberry

BBC/jdg
1664\01\tr081014jdg

cc: Ms. Gwendolyn Hill-Webb
Mr. Denny Kingsley

MW

Lloyd Gosselink
ATTORNEYS AT LAW

Lloyd Gosselink Rochelle & Townsend, P.C.
816 Congress Avenue Suite 1900 Austin, Texas 78701

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2008 OCT 23 PM 2:35
CHIEF CLERKS OFFICE



RECEIVED

OCT 23 2008
MCEQ MAIL CENTER

Ms. LaDonna Castañuela (MCEQ) RB
Office of the Chief Clerk
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

7871130087 5012



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H
OCT 22 2008
BY BP

OPA

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
OCT 22 AM 11:22
OFFICE OF THE CHIEF CLERK

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

VIA FACSIMILE
AND FIRST-CLASS MAIL

Re: Application to Amend Certificate of Adjudication No. 08-2462I (1664-01)

Dear Ms. Castañuela:

This letter is submitted on behalf of the Texas Westmoreland Coal Company ("TWCC") in response to the above-referenced application (the "Application") filed by the City of Dallas (the "City"). TWCC is the owner of Water Use Permit No. 5318 in the Trinity River Basin. TWCC operates the Jewitt surface coal mine in Freestone and Leon counties and has filed an application for Water Use Permit No. 12292 that, as part of its mining operation, would seek to construct and maintain a number of reservoirs for in-place recreation, domestic and livestock purposes. Because the Application, if granted as requested, may impact TWCC's existing water right and its pending application, TWCC must at this time request a contested case hearing regarding this matter.

TWCC is hopeful that a draft permit associated with the Application may be crafted to address any potential concerns such that TWCC's interests will be fully protected. In this regard, TWCC looks forward to working with the Commission and the City as the Application is further considered.

If you have any questions regarding this matter, please do not hesitate to contact me at your convenience.

Sincerely,

Brad B. Castleberry

BBC/jdg
166401Utr081014jdg

cc: Ms. Gwendolyn Hill-Webb
Mr. Denny Kingsley

MW



816 Congress Avenue, Suite 1900
 Austin, Texas 78701
 Telephone: (512) 322-5800
 Facsimile: (512) 472-0532

www.lglawfirm.com

TELECOPIER COVER SHEET

October 22, 2008

PLEASE DELIVER THE FOLLOWING PAGES:

To: Ms. LaDonna Castañuela (MC 105)
Firm: TCEQ—Chief Clerk's Office
Telecopy No.: 239-3311
Verification No.: 239-3300

TEXAS COMMISSION
 ON ENVIRONMENTAL
 QUALITY
 CHIEF CLERK'S OFFICE
 2008 OCT 22 AM 11:24

Client No.: 1664-1
From: Brad B. Castlberry

No. of Pages: 1 + cover sheet

Documents Transmitted: Letter of Protest re Dallas COA 2462I

Comments:

THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE IS ATTORNEY PRIVILEGED AND CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. THE REVIEW, DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION TO ANYONE OTHER THAN THE INTENDED ADDRESSEE IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE, AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA THE U.S. POSTAL SERVICE. THANK YOU.

IF YOU DO NOT RECEIVE ALL PAGES, PLEASE CALL US AS SOON AS POSSIBLE AT (512) 322-5800.

Mehgan Taack

From: PUBCOMMENT-OCC
Sent: Monday, August 15, 2016 4:42 PM
To: PUBCOMMENT-WWW-WRAS; PUBCOMMENT-ELD; PUBCOMMENT-OCC2;
PUBCOMMENT-OPIC
Cc: Mehgan Taack
Subject: FW: Filing on Permit Number/Docket Number 2016-0049-WR
Attachments: NWF.withdrawal of hrg request.pdf

WH

From: EFiling
Sent: Monday, August 15, 2016 4:25 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: FW: Filing on Permit Number/Docket Number 2016-0049-WR

From: hess@nwf.org [<mailto:hess@nwf.org>]
Sent: Monday, August 15, 2016 4:14 PM
To: EFiling <EFiling@tceq.texas.gov>
Subject: Filing on Permit Number/Docket Number 2016-0049-WR

FILING CONFIRMATION NUMBER 216584372016228

REGULATED ENTY NAME ADJ 2462

RN NUMBER: RN104072293

PERMIT NUMBER: ADJ 2462

DOCKET NUMBER: 2016-0049-WR

COUNTY: COLLIN

PRINCIPAL NAME: CITY OF DALLAS, CN600331730

FROM

FILED BY:

FILED FOR NAME: Myron Hess

E-MAIL: hess@nwf.org

COMPANY: National Wildlife Federation

ADDRESS: 505 E HUNTLAND DR 485
AUSTIN TX78752-3717

PHONE: 512-610-7754

DOCUMENT NAME: NWF.withdrawal of hrg request.pdf

Based on 30 TAC Section 1.10(h), the TCEQ General Counsel has waived the filing requirements of Section 1.10(c) to allow the filing of documents using this online system. The General Counsel also has waived the requirements of Section 1.10(e) so that the time of filing your documents is the time this online system receives your filings. Filings are considered timely if received by close of business (usually 5:00 p.m. CST) on the deadline date unless otherwise ordered. If your document is 20 pages or less (including cover letter, mailing list, and attachments) and it is for Commission consideration at an open meeting, the General Counsel has also waived the requirement of Section 1.10(d) to file paper copies with the Office of the Chief Clerk.

TCEQ DOCKET NO. 2016-0049-WR

APPLICATION BY THE CITY § BEFORE THE TEXAS COMMISSION
OF DALLAS TO AMEND §
CERTIFICATE OF ADJUDICATION § ON
NO. 08-2462 §
§ ENVIRONMENTAL QUALITY

NATIONAL WILDLIFE FEDERATION'S WITHDRAWAL OF HEARING REQUEST

The National Wildlife Federation (NWF) has been engaged in discussions with the City of Dallas and the Texas Parks and Wildlife Department about proposed changes to the draft permit that would resolve the primary concerns that NWF has regarding the City's application. Although those discussions have not yet resulted in an agreed-upon resolution on proposed language to resolve all issues, NWF appreciates the willingness of the City of Dallas to work to resolve NWF's concerns and is confident that the Texas Parks and Wildlife Department shares NWF's remaining concerns about adequate implementation of applicable environmental flow standards. While reserving the right to seek to participate as a party if a contested hearing becomes necessary in this matter, NWF will rely on TPWD to pursue the resolution of remaining issues regarding appropriate implementation of the standards through discussions with the City of Dallas. Accordingly, the National Wildlife Federation hereby unconditionally withdraws its hearing request in this matter.

Respectfully submitted,



Myron J. Hess
Director, Texas Water Programs/Counsel
National Wildlife Federation
505 E. Huntland Drive, Suite 485
Austin, TX 78752
hess@nwf.org
Ofc: 512-610-7754
Cell: 512-576-3948

CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of August, 2016, a true and correct copy of the National Wildlife Federation's Withdrawal of Hearing Request, which was filed today by electronic filing with the Chief Clerk of the Texas Commission on Environmental Quality, was served upon all persons listed below via hand delivery, facsimile transmission, electronic transmission, or deposit, postage paid, in the U.S. Mail.



Myron J. Hess

FOR THE CITY OF DALLAS:

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2028 E. Ben White Blvd., Suite 425
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(512) 472-9990
(512) 472-3183(fax)
g.hill.webb@webbwebblaw.com

FOR THE EXECUTIVE DIRECTOR:

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512-239-0600
512-239-0606 (fax)
Todd.galiga@tceq.texas.gov

Robin Smith

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Chris Kozlowski

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Brian Christian, Director

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Environmental Assistance Division, MC-108
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512-239-5678 (fax)
Brian.christian@tceq.texas.gov

FOR ALTERNATIVE DISPUTE RESOLUTION:

Todd Burkey
Texas Commission on Environmental Quality
Public Interest Counsel, MC-103
P.O. Box 13087
Austin, TX 78711-3087
512-239-4010
512-239-4015 (fax)
Todd.Burkey@tceq.texas.gov

FOR THE PUBLIC INTEREST COUNSEL:

Eli Martinez
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Public Interest Counsel, MC-103
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512-239-6377 (fax)
eli.martinez@tceq.texas.gov

FOR THE CHIEF CLERK:

Bridget C. Bohac
Office of the Chief Clerk, MC 105
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087
512-239-3300
512-239-3311 (fax)

FOR REQUESTERS/INTERESTED PERSONS:

Colette Barron Bradsby
Texas Parks and Wildlife Department
4200 Smith School Road
Austin, TX 78744
512-389-8899
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Colette.Barron@TPWD.texas.gov

Fred B. Werkenthin, Jr.

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fbw@baw.com

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Jackson Sjoberg McCarthy & Townsend
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Lyn Clancy
Lower Colorado River Authority
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Robin A. Melvin
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(512) 480-5688 (PH)
(512) 480-5888 (FAX)
rmelvin@gdhm.com

Nov 24 08 03:50p

P. 2



Gulf States Natural Resource Center

44 East Avenue, Suite 200 Austin, TX 78701 512.476.9805 www.nwf.org

ADJ
03771

CHIEF CLERKS OFFICE

2008 NOV 24 PM 4: 04

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

November 24, 2008

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

OPA
H NOV 25 2008
BY BP

Re: Request for Contested Case Hearing in the Matter of Application No. 08-2462I by the City of Dallas for an Amendment to a Certificate of Adjudication

Dear Ms. Castañuela:

The National Wildlife Federation (NWF) hereby requests a contested case hearing on the above-referenced application and provides the following information in support of that request.

This request for a contested case hearing is submitted on behalf of the National Wildlife Federation through its Gulf States Natural Resource Center. The contact information for NWF in this matter is as follows:

Inspiring
Americans
to protect
wildlife for
our children's
future.

Myron J. Hess
National Wildlife Federation
44 East Avenue, Suite 200
Austin, TX 78701
Ph: 512-610-7754
Fax: 512-476-9810
email: hess@nwf.org

This is a **REQUEST FOR A CONTESTED CASE HEARING** on application number 08-2462I, which was filed by the City of Dallas and through which the City seeks to authorize additional diversions of state water from Lake Ray Hubbard. The National Wildlife Federation would be affected in a way that is not common to the general public because the National Wildlife Federation is a national, non-profit organization dedicated, among other things, to protecting natural resources and the right of people to use and enjoy those resources. NWF's membership is composed of people who share the goals of protecting fish and wildlife resources and the right of people to use and enjoy those resources. NWF has approximately 44,000 members in Texas many of whom use and enjoy those resources, including the resources of the Trinity River and Galveston Bay



Handwritten signature

*Hearing Request of NWF
Appl. No. 08-24621, City of Dallas
Page 2*

downstream of the proposed diversions. NWF's participation in the hearing does not require the participation of individual members in any capacity other than possibly to establish standing.

The Gulf States Natural Resource Center is a regional office of NWF and is located in Austin, Texas. One of the key functions of the office is the implementation of a program to ensure adequate protection of stream and river flows to support fish and wildlife resources in Texas. NWF is actively pursuing that goal through a variety of avenues, including the filing of this hearing request.

The application by the City of Dallas that is the subject of this hearing request has the potential to significantly affect in a direct way the fish and wildlife resources of the Trinity River watershed and Galveston Bay and to affect NWF members. Through this application, the City seeks authorization to divert an additional 119,600 acre-feet of water per year from Lake Ray Hubbard. As a result of such diversions, the Trinity River downstream of the reservoir would experience significantly reduced flows and Galveston Bay would experience reduced freshwater inflows. Unless appropriately controlled, that would result in reductions in water quality and in adverse impacts to fish and wildlife resources and to the ability of people, including NWF members, to use and enjoy those resources. Accordingly, NWF's interests in protecting fish and wildlife resources would be adversely affected by the granting of this application, as would its interests in protecting the ability of its members and others to use and enjoy the resources in and along the River and the associated estuary system.

This application also has the potential to adversely affect fish and wildlife resources and NWF members in a more indirect fashion through the precedent that it could establish. The City seeks to rely on a novel basis for establishing the availability of unappropriated water: an adjustment in naturalized flows in the relevant water availability model ("WAM") to "reflect the increase in runoff that would have occurred over the historical period had today's level of development been there." If an additional appropriation is authorized in the absence of an adequate demonstration that the water to be appropriated will be available on a reliable basis, downstream flows and water quality, along with downstream rights, may be adversely affected. Accordingly, this application raises important factual and policy issues that require careful consideration after development of a complete factual record.

An initial policy issue, that has significant factual aspects, is whether a modification of naturalized flow assumptions should be allowed. If such modifications are allowed, a comprehensive mechanism for fully evaluating the appropriateness of any particular modification is needed. An applicant should be required to meet a high evidentiary burden in demonstrating that such a modification is appropriate. In meeting that burden,

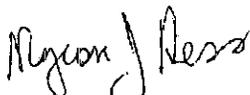
*Hearing Request of NWF
Appl. No. 08-24621, City of Dallas
Page 3*

an applicant should be required to demonstrate that all factors potentially affecting naturalized flow assumptions have been adequately evaluated, including factors such as groundwater depletion that might reduce inflow, rather than simply one particular factor that might increase runoff. Basing an appropriation upon increased impervious cover also raises major policy and factual issues about measures required to maintain the assumed increased runoff in the future. For example, how would implementation of measures such as rainwater harvesting, use of green roofs, and pervious paving affect the future availability of the appropriation?

Although NWF has serious concerns about the application, NWF is not unalterably opposed to its approval. NWF recognizes that obtaining increased yield from existing reservoirs, if it can be achieved in a dependable manner that does not have unintended adverse consequences for water management and the environment, can be a positive development. Accordingly, NWF is interested in participating in the development of conditions to be included in any permit to address adverse impacts to fish and wildlife resources, water quality, commercial and recreational fisheries, and other recreational activities resulting from any diversion authorization that might be granted. In addition, NWF is interested in ensuring that the potential recipients of any water from those additional diversions have implemented adequate water conservation and drought management measures to ensure that any diversions are, in fact, necessary and that state water is used in a way consistent with the public welfare. NWF also is vitally interested in ensuring that an adequate record is created and that the important policy issues raised by this application are carefully considered and appropriately resolved.

Please contact me at the phone number or address listed below if you have any questions or need additional information.

Sincerely,



Myron J. Hess,
Manager, Texas Water Programs/Counsel
Office: 512-610-7754
Fax: 512-476-9810
Email: hess@nwf.org
44 East Avenue, Suite 200
Austin, TX 78701



NATIONAL WILDLIFE FEDERATION
 Gulf States Natural Resource Center
 44 East Avenue, Suite 200
 Austin, Texas 78701

Phone: 512/476-9805
 Fax: 512/476-9810

CHIEF CLERKS OFFICE

2008 NOV 24 PM 4: 04

TEXAS
 COMMISSION
 ON ENVIRONMENTAL
 QUALITY

FACSIMILE TRANSMITTAL

TO:
 Office of the Chief Clerk

FROM:
 Myron Hess, National Wildlife Federation

COMPANY:
 Texas Commission on Environmental
 Quality

DATE:
 Nov. 24, 2008

FAX NUMBER:
 239-3311

NO. PAGES INCLUDING COVER:
 4

RE:
 Hearing Request in the Matter of Water Rights Application No. 08-24621 by the City of
 Dallas

NOTES/COMMENTS:

Bryan W. Shaw, Ph.D., P.E., *Chairman*
Toby Baker, *Commissioner*
Jon Niermann, *Commissioner*
Richard A. Hyde, P.E., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

July 5, 2016

To: Ms. Bridget Bohac, Office of the Chief Clerk, (by hand delivery)
Persons on the attached mailing list (by mail as indicated)

Re: Application by the City of Dallas to Amend Certificate of Adjudication No. 08-2462,
Application No. 08-2462I; TCEQ Docket No. 2016-0049-WR

On behalf of the ADR program of the Texas Commission on Environmental Quality, I have been working with some of the potential parties in the above-referenced matter to informally resolve their dispute. As a result of the potential parties' efforts, Environmental Defense Fund has determined to withdraw its hearing request and submitted a signed withdrawal form. Attached please find Environmental Defense Fund's original withdrawal form. Please do not hesitate to contact me if you have any questions regarding this letter. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in cursive script that reads "Todd Burkey".

Todd Burkey, Attorney-Mediator
Alternative Dispute Resolution Program, Office of General Counsel
Texas Commission on Environmental Quality
P.O. Box 13087, MC-222
Austin, Texas 78711-3087
512/239-2941 FAX 512/239-4015

Mailing List

2016 JUL -5 PM 3:25
CHIEF CLERKS OFFICE
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



July 5, 2016

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

Re: TCEQ Docket No. 2016-0049-WR: the application by the City of Dallas to amend Certificate of Adjudication No. ADJ2464 (Application No.08-2462I)

Ms. Bohac,

The Environmental Defense Fund hereby withdraws its requests for a contested case hearing filed on the above-referenced application, and no longer wish to move forward with its protest of this application.

Sincerely,

A handwritten signature in black ink, appearing to read "Nichole Saunders", is written over a horizontal line.

Nichole Saunders
Attorney
Environmental Defense Fund
512-691-3459
nsaunders@edf.org

Mailing List
City of Dallas
TCEQ Docket No. 2016-0049-WR

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Colette J Barron Bradsby
Texas Parks & Wildlife Dept.
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Myron Hess
National Wildlife Federation
505 E Huntland Dr., Suite 485
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Nichole Saunders, Attorney
Environmental Defense Fund
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Edmond R McCarthy Jr
Jackson Sjoberg McCarthy & Townsend
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Lloyd Gosselink Rochelle & Townsend PC
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Todd Galiga
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Docket Clerk
TCEQ Office of Chief Clerk MC 105
P.O. Box 13087
Austin, Texas 78711-3087
512/239-3300 FAX 512/239-3311

e

ALJ
05/11

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

ENVIRONMENTAL DEFENSE FUND

finding the ways that work

2008 DEC -1 AM 11:15

CHIEF CLERKS OFFICE

November 24, 2008

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

H OPA
BY EB

Re: Request for Contested Case Hearing in the Matter of Application No. 08-2462I
by the City of Dallas for an Amendment to a Certificate of Adjudication

Dear Ms. Castañuela:

The Environmental Defense Fund (EDF) hereby requests a contested case hearing on the
above-referenced application and provides the following information in support of that request.

The contact information for EDF in this matter is as follows:

Mary E. Kelly or Amy Hardberger
Environmental Defense Fund
44 East Avenue, Suite 100
Austin, TX 78701
Ph: 512-478-5161
Fax: 512-478-8140
email: mkelly@edf.org

This is a **REQUEST FOR A CONTESTED CASE HEARING** on application number 08-2462I, which was filed by the City of Dallas and through which the City seeks to authorize additional diversions of state water from Lake Ray Hubbard. EDF would be affected in a way that is not common to the general public because EDF is a national, non-profit organization dedicated, among other things, to protecting natural resources and the right of people to use and enjoy those resources. EDF's membership is composed of people who share the goals of protecting fish and wildlife resources and the right of people to use and enjoy those resources. EDF has been active for many years in activities to protect Texas water resources, including flows in Texas rivers.

EDF has approximately 27,000 members in Texas many of whom use and enjoy the Trinity River and its environs, including in the Trinity basin downstream of Lake Ray Hubbard all the way down to Galveston Bay. These uses include, but are not limited to, fishing, recreation and economic pursuits. EDF's participation in the hearing does not require the participation of individual members in any capacity other than possibly to establish standing.

MW

The application by the City of Dallas that is the subject of this hearing request has the potential to significantly affect in a direct way the river flows and fish and wildlife resources of the Trinity River watershed and Galveston Bay and to therefore affect the interests of EDF members.

Through this application, the City seeks authorization to divert an additional 119,600 acre-feet of water per year from Lake Ray Hubbard. As a result of such diversions, the Trinity River downstream of the reservoir would experience significantly reduced flows and Galveston Bay would experience reduced freshwater inflows. Unless appropriately controlled, that would result in reductions in water quality and in adverse impacts to fish and wildlife resources and to the ability of EDF members to use and enjoy those resources. Accordingly, EDF's interests in protecting river flows and fish and wildlife resources that depend upon those flows would be adversely affected by the granting of this application, as would its interests in protecting the ability of its members and others to use and enjoy the resources in and along the River and the associated estuary system.

This application also has the potential to adversely affect river flows and the fish and wildlife resources that depend upon those flows, and thus the interests of EDF through the precedent that it could establish. The City seeks to rely on a novel basis for establishing the availability of unappropriated water: an adjustment in naturalized flows in the relevant water availability model ("WAM") to "reflect the increase in runoff that would have occurred over the historical period had today's level of development been there." If an additional appropriation is authorized in the absence of an adequate demonstration that the water to be appropriated will be available on a reliable basis, downstream flows and water quality, along with downstream rights, may be adversely affected. Accordingly, this application raises important factual and policy issues that require careful consideration after development of a complete factual record.

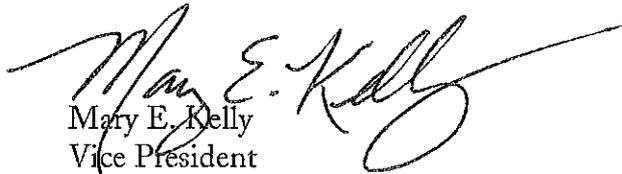
An initial policy issue, that has significant factual aspects, is whether a modification of naturalized flow assumptions should be allowed. If such modifications are allowed, a comprehensive mechanism for fully evaluating the appropriateness of any particular modification is needed. An applicant should be required to meet a high evidentiary burden in demonstrating that such a modification is appropriate. In meeting that burden, an applicant should be required to demonstrate that all factors potentially affecting naturalized flow assumptions have been adequately evaluated, including factors such as groundwater depletion that might reduce inflow, rather than simply one particular factor that might increase runoff. Basing an appropriation upon increased impervious cover also raises major policy and factual issues about measures required to maintain the assumed increased runoff in the future. For example, how would implementation of measures such as rainwater harvesting, use of green roofs, and pervious paving affect the future availability of the appropriation?

Although EDF has serious concerns about the application, EDF is not unalterably opposed to its approval. EDF recognizes that obtaining increased yield from existing reservoirs, if it can be achieved in a dependable manner that does not have unintended adverse consequences for water management and the environment, can be a positive development. Accordingly, EDF is interested in participating in the development of conditions to be included in any permit to address adverse impacts to fish and wildlife resources, water quality, commercial and recreational fisheries, and other recreational activities resulting from any diversion authorization that might be granted. In addition, EDF is interested in ensuring that the potential recipients of any water

from those additional diversions have implemented adequate water conservation and drought management measures to ensure that any diversions are, in fact, necessary and that state water is used in a way consistent with the public welfare. EDF also is vitally interested in ensuring that an adequate record is created and that the important policy issues raised by this application are carefully considered and appropriately resolved.

Please do not hesitate to contact me if you have any questions or need additional information.

Sincerely,



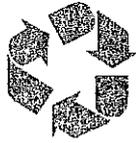
Mary E. Kelly
Vice President
Rivers and Deltas

e

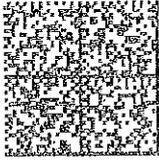
ENVIRONMENTAL DEFENSE FUND

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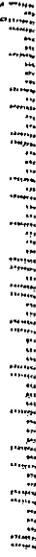
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November 24, 2008

Ms. LaDonna Castañuela
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Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087

Post-it® Fax Note	7671	Date	11/24/08	# of pages	3
To	Chief Clerk	From	Mary Kelly		
Co./Dept.		Co.			
Phone #		Phone #	478-5161		
Fax #	239-3311	Fax #	478-8140		

Re: Request for Contested Case Hearing in the Matter of Application No. 08-2462I
by the City of Dallas for an Amendment to a Certificate of Adjudication

Dear Ms. Castañuela:

The Environmental Defense Fund (EDF) hereby requests a contested case hearing on the above-referenced application and provides the following information in support of that request.

The contact information for EDF in this matter is as follows:

Mary E. Kelly or Amy Hardberger
Environmental Defense Fund
44 East Avenue, Suite 100
Austin, TX 78701
Ph: 512-478-5161
Fax: 512-478-8140
email: mkelly@edf.org

H OPA
BY BP

This is a **REQUEST FOR A CONTESTED CASE HEARING** on application number 08-2462I, which was filed by the City of Dallas and through which the City seeks to authorize additional diversions of state water from Lake Ray Hubbard. EDF would be affected in a way that is not common to the general public because EDF is a national, non-profit organization dedicated, among other things, to protecting natural resources and the right of people to use and enjoy those resources. EDF's membership is composed of people who share the goals of protecting fish and wildlife resources and the right of people to use and enjoy those resources. EDF has been active for many years in activities to protect Texas water resources, including flows in Texas rivers.

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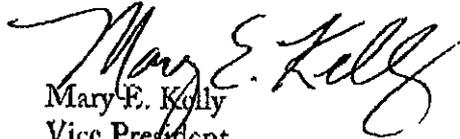
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Please do not hesitate to contact me if you have any questions or need additional information.

Sincerely,



Mary E. Kelly
Vice President
Rivers and Deltas



GRAVES DOUGHERTY HEARON & MOODY
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Robin A. Melvin
512.480.5688
512.480.5888 (fax)
rmelvin@gdhm.com

MAILING ADDRESS:
P.O. Box 98
Austin, TX 78767

October 29, 2015

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

ADJ
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TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2015 NOV -2 AM 10:46
CHIEF CLERKS OFFICE

Re: Application No. 08-2462I of the City of Dallas to Amend Certificate of Adjudication No. 08-2462

Dear Chief Clerk:

By letter dated October 30, 2008, the Texas Chapter of the Coastal Conservation Association ("CCA Texas") requested a contested case hearing on the City of Dallas' Application to Amend Certificate of Adjudication No. 08-2462.

CCA Texas hereby withdraws its protest and request for a contested case hearing in this matter.

Thank you for your attention to this matter. Please do not hesitate to call me if you have any questions.

REVIEWED

NOV 02 2015

By RP

WH

Sincerely,

Robin A. Melvin

Robin A. Melvin

cc: Robby Byers
Ben F. Vaughan, III
Gwen Webb
Myron Hess
Colette Barron Bradsby

RAM/mah

Handwritten mark



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P.O. Box 13087
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TEXAS
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QUALITY
2015 NOV -2 AM 10:116

CHIEF CLERKS OFFICE



78711308787

Marisa Weber

From: PUBCOMMENT-OCC
Sent: Friday, October 30, 2015 8:42 AM
To: PUBCOMMENT-WWW-WRAS; PUBCOMMENT-ELD; PUBCOMMENT-OCC2;
PUBCOMMENT-OPIC
Subject: FW: City of Dallas Application #08-2462I
Attachments: CCA Withdrawal Letter App 08 2462I - City of Dallas.PDF

ADJ
63771

WH

From: PEP
Sent: Friday, October 30, 2015 8:32 AM
To: MHenderson@gdhm.com
Cc: CHIEFCLK
Subject: FW: City of Dallas Application #08-2462I

Good morning Molly,

Since you faxed a copy of the letter, are you planning to send in the original as well? If you look on this page, it shows that you need to submit the original as well: <http://www14.tceq.texas.gov/epic/eComment/>.

Another option is to submit it online using the link above. On the main eComment screen, you can type in the permit number "ADJ 2462" (must include the space) to pull up the application, and you can then attach the withdraw letter.

If you have any questions, the phone number for the Chief Clerk's Office is 512-239-3300.

Thank you, and have a great weekend!

Kindest regards,

Brandon Greulich

Texas Commission on Environmental Quality
Public Education Program
Ph: (800) 687-4040



How is our customer service? Fill out our online customer satisfaction survey at www.tceq.texas.gov/goto/customersurvey

From: Henderson, Molly [<mailto:MHenderson@gdhm.com>]
Sent: Thursday, October 29, 2015 4:42 PM
To: PEP
Subject: City of Dallas Application #08-2462I

Please find CCA's Withdrawal letter in the above application. I have also faxed our letter as well.

Thank you.

MW

Molly Henderson

512 480 5799

512 480 5809 Fax

Assistant to Pete Schenkkan, Susan G. Conway

Patrick F. Thompson, Andrea Moore Stover,

Helen Currie Foster, Robin A. Melvin and Kristina F. Rollins



GRAVES DOUGHERTY HEARON & MOODY

401 Congress Avenue, Suite 2200

Austin, Texas 78701

Phone 512.480.5600

www.gdhm.com

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Robin A. Melvin
512.480.5688
512.480.5888 (fax)
rmelvin@gdhm.com

MAILING ADDRESS:
P.O. Box 98
Austin, TX 78767

October 29, 2015

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

Re: Application No. 08-2462I of the City of Dallas to Amend Certificate of
Adjudication No. 08-2462

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Thank you for your attention to this matter. Please do not hesitate to call me if you have any questions.

Sincerely,

Robin A. Melvin

cc: Robby Byers
Ben F. Vaughan, III
Gwen Webb
Myron Hess
Colette Barron Bradsby

RAM/mah



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Robin A. Melvin
512.480.5688
512.480.5888 (fax)
rmelvin@gdhm.com

MAILING ADDRESS:
P.O. Box 98
Austin, TX 78767

*ADJ
63771*

October 29, 2015

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

TEXAS COMMISSION
ON ENVIRONMENTAL
QUALITY
2015 OCT 29 PM 4: 23
CHIEF CLERKS OFFICE

Re: Application No. 08-2462I of the City of Dallas to Amend Certificate of
Adjudication No. 08-2462

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Sincerely,

Robin A. Melvin

cc: Robby Byers
Ben F. Vaughan, III
Gwen Webb
Myron Hess
Collette Barron Bradsby

REVIEWED

OCT 30 2015

By *RP*

WH

RAM/mah

Mu



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401 Congress Ave., Suite 2200
Austin, TX 78701
512.480.5600
(Writer's Direct No.)
(Direct Fax)

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P.O. Box 98
Austin, TX 78767

FAX TRANSMITTAL

TO: **BRIDGET C. BOHAC** FAX #: 512-239-3311
Office of the Chief Clerk
Texas Commission on Environmental Quality File: A10200.2
Telephone #:

FROM: **ROBIN A. MELVIN**

RE: Coastal Conservation Association ("CCA")
City of Dallas Application No 08-24621

DATE: 10/29/2015

TIME: 4:20p TOTAL PAGES INCLUDING COVER: 2

Notes, comments, special instructions:

PLEASE SEE ATTACHED
CCA'S WITHDRAWAL LETTER

2015 OCT 29 PM 4: 23
CHIEF CLERKS OFFICE

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PLEASE NOTE

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H OPA
OCT 31 2008
BY EB

Robin A. Melvin
512.480.5688
512.480.5888 (fax)
rmelvin@gdhm.com

MAILING ADDRESS:
P.O. Box 98
Austin, TX 78767

October 30, 2008

WR
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VIA TELECOPY AND FIRST CLASS MAIL

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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
2008 OCT 31 AM 10:54
CHIEF CLERKS OFFICE

Re: Application No. 08-2462I of the City of Dallas

Dear Chief Clerk:

I represent the Texas Chapter of the Coastal Conservation Association ("CCA Texas"). On behalf of CCA Texas, I request a contested case hearing on Application No. 08-2462I of the City of Dallas.

CCA Texas has a justiciable interest in this application. CCA Texas is a nonprofit organization dedicated to the conservation of Texas' marine resources. Since its founding in 1977, CCA Texas has had a strong interest in ensuring the quality and quantity of freshwater inflows for the health of Texas' bays and estuaries. CCA Texas has approximately 50,000 members. Some of these members fish in and around Trinity Bay and Galveston Bay and have an interest in maintaining and improving natural marine breeding habitats in the Trinity Bay and Galveston Bay. CCA Texas is concerned that, if granted, the City of Dallas' application will result in a decrease freshwater flows into Trinity Bay and Galveston Bay, and/or a change in the timing of those freshwater flows, to the detriment of natural marine breeding habitats.

I will be responsible for receiving all official communications and documents for CCA Texas in this matter. Please do not hesitate to call me if you have any questions.

Sincerely,

Robin A. Melvin
Robin A. Melvin

cc: Ben F. Vaughan, III
Pat Murray

MW

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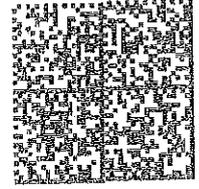
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Robin A. Melvin
512.480.5668
512.480.5888 (fax)
rmelvin@gdhm.com

MAILING ADDRESS:
P.O. Box 98
Austin, TX 78767

October 30, 2008

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Texas Commission on Environmental Quality
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Austin, Texas 78711-3087

OPA
H OCT 30 2008
BY EB

2008 OCT 30 AM 11:34
CHIEF CLERK'S OFFICE

TEXAS
COMMISSION
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QUALITY

Re: Application No. 08-2462I of the City of Dallas

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cc: Ben F. Vaughan, III
Pat Murray

mw



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A Professional Corporation

401 Congress Ave., Suite 2200
Austin, TX 78701
512.480.5600
(Writer's Direct No.)
(Direct Fax)

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P.O. Box 98
Austin, TX 78767

2008 OCT 30 AM 11:34
CHIEF CLERK'S OFFICE

TEXAS
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QUALITY

FAX TRANSMITTAL

TO: **LADONNA CASTANUELA**
Office of the Chief Clerk
Texas Commission on Environmental Quality
Telephone #:

FAX #: 512-239-3311

File: A10200

FROM: **ROBIN A. MELVIN**

RE: Coastal Conservation Association ("CCA")
City of Dallas - Application No. 08-24621

DATE: 10/30/2008

TIME: 11:30

TOTAL PAGES
INCLUDING COVER: 2

Notes, comments, special instructions:

PLEASE SEE ATTACHED

PLEASE NOTE

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