

TCEQ DOCKET NO. 2016-0531-WR

APPLICATION OF THE LOWER	§	BEFORE THE
COLORADO RIVER AUTHORITY	§	
FOR AN AMENDMENT TO	§	TEXAS COMMISSION ON
CERTIFICATE OF ADJUDICATION	§	
NO. 14-5434	§	ENVIRONMENTAL QUALITY

SIERRA CLUB'S REPLY RESPONSES TO HEARING REQUESTS

The Lone Star Chapter of the Sierra Club (also referred to as Sierra Club) hereby supplements its information provided in its timely filed hearing request for the above referenced matter on June 23, 2003 by then Director of the Lone Star Chapter of Sierra Club, Ken Kramer, to provide information regarding a specific member who is an affected person pursuant to 30 Tex. Admin. Code Section 55.256(c). Sierra Club replies to all issues raised in the Responses filed by the Lower Colorado River Authority (LCRA), the Executive Director (ED) and the Office of Public Interest Counsel (OPIC) concerning its party status.

I. The Application affects instream flows

In response to LCRA's statement that "To the extent that the Commission determines that the Application affects instream flows and Sierra Club is able to present a member or members of its organization with a specific, rather than common, interest in the Application, the LCRA does not object to Sierra Club's hearing request."¹ Sierra Club asserts the following.

The ED and OPIC do not question whether or not this application to add diversion locations will affect the instream flows of the Colorado River. There can be no serious question that instream flows will be affected by adding upstream diversion points. Adding diversion points upstream of the existing diversion point will affect instream flows in the reach between the new diversion points and the existing point at Garwood. The permit conditions imposed will determine the extent of these impacts.

II. Supplemental Information of an Affected Person Member of Sierra Club

¹ See *Applicant Lower Colorado River Authority's Response to Requests for Contested Case Hearing* at Page 6.

While the Lone Star Chapter of Sierra Club believes its initial hearing request complied with the requirements of 30 Tex. Admin. Code Section 55.251(c), it hereby provides additional information regarding a specific member and proves complete compliance with required regulations regarding affected person status.

30 Tex. Admin. Code Section 55.252(b) states, "The executive director, the public interest counsel, or the applicant may request that a group or association provide an explanation of how the group of association meets the requirements of subsection (a) of this section." This Reply from Sierra Club serves to provide further explanation of how it has met the requirements of 30 Tex. Admin. Code Section 55.252(a).

Sierra Club has many members who live on, recreate in and around, and have economic interests in the Colorado River along the stretch of the river between the proposed upstream diversion points and the existing diversion point near Garwood. Two such members are Erin Flynn and Skip Connett. This couple owns property, named Green Gate Farms, that directly abuts the Colorado River for roughly 700 feet. The property's address is 156 Howard Lane, Bastrop, Texas 78602. This property is located upstream of the existing LCRA diversion points under Certificate of Adjudication 14-5434, but it is located downstream of many of the requested diversion points sought to be added under LCRA's application to amend Certificate of Adjudication 14-5434E. The Flynn-Connetts purchased this property because it is riverfront property and, without adequate flows in the river, believe that the property will lose almost all of its value.

The Flynn-Connetts utilize the riverfront on their property for agri-tourism and educational purposes, arranging with the University of Texas to conduct long-term water studies on their property, cooperating with the Audubon Society to perform bird counts along the river on their property, and through their own educational non-profit venture, the New Farm Institute.

The Flynn-Connetts additionally rely on the condition and beauty of Colorado River abutting their property to support their business venture as a wedding destination. They are concerned that the upstream diversions sought under this Amendment will unduly diminish the flows and conditions in the river and negatively impact their use and enjoyment of their property.

Because the Flynn-Connetts meet the test for standing individually and because they are members of Sierra Club and are concerned about issues germane to the purposes of Sierra Club, Sierra Club has met the test for a valid hearing request. Participation of those members in the hearing, beyond establishing standing, is not required for Sierra Club to pursue the claims asserted or relief requested through participation in this hearing.

I. Conclusion

ACCORDINGLY, the Lone Star Chapter of the Sierra Club requests that the Commission grant its request for a contested case hearing.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was filed with the Chief Clerk of TCEQ and sent via electronic mail to the individuals listed on the following Service List on August 29, 2016.



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