

**TCEQ DOCKET NO. 2005-1490-WR
SOAH DOCKET NO. 582-10-4184**

CONCERNING THE APPLICATION	§	BEFORE THE STATE OFFICE
BY THE BRAZOS RIVER	§	
AUTHORITY FOR WATER USE	§	OF
PERMIT NO. 5851 AND RELATED	§	
FILINGS	§	ADMINISTRATIVE HEARINGS

**THE CITY OF COLLEGE STATION’S AND CITY OF LUBBOCK’S
REPLY TO THE BRAZOS RIVER AUTHORITY’S EXCEPTIONS TO THE
SUPPLEMENTAL PROPOSAL FOR DECISION ON REMAND**

TO THE HONORABLE COMMISSIONERS:

The City of College Station and the City of Lubbock (collectively, the “Cities”) submit this Reply to the exceptions filed by the Brazos River Authority (“BRA”) to the Administrative Law Judges’ (the “ALJs”) Supplement to the Proposal for Decision on Remand (the “SPFDR”) following the last remand of the above-styled matter for hearing at the State Office of Administrative Hearings (“SOAH”). The Cities’ reply is limited to Exception No. 1 in BRA’s exceptions briefing. Exception No. 1 relates to deletion of the “service area” limitation from Special Condition 5.A.(3) in the latest version of the proposed system operation permit that was attached to the SPFDR.

The Cities respectfully disagree with BRA’s position on this narrow issue. As the Cities explained in their briefing to the ALJs—and as the ALJs agreed in the SPFDR—a revised version of Special Conditions 5.A.(3) and 5.A.(4) that removes the “service area” or other geographic limitation “best achieves the objectives specified in the Interim Order[.]” SPFDR at 20-21. BRA has not cited to any legal authority that supports or authorizes a “service area” or other geographic restriction in proposed Water Use Permit No. 5851. Moreover, inclusion of such a restriction would make Water Use Permit No.

5851—if it is ultimately granted—inconsistent with BRA’s Water Management Plan and the Technical Report that supports the Water Management Plan.

For these reasons, the Cities respectfully request that the Commission adopt the Proposed Order as drafted by the ALJs and attached to the SPFDR. The Cities do not oppose issuance of the Draft Permit consistent with the TCEQ’s most recent Interim Order and the ALJs’ latest Proposed Order. The Cities believe that modifying the Draft Permit as recommended by the ALJs in the SPFDR to make the Draft Permit consistent with the TCEQ’s Interim Order and BRA’s Water Management Plan will protect the Cities’ interests in the Brazos River Basin.

Respectfully submitted,

LLOYD GOSSELINK
ROCHELLE & TOWNSEND, P.C.
816 Congress Avenue, Suite 1900
Austin, Texas 78701
(512) 322-5847 (Telephone)
(512) 472-0532 (Facsimile)

By: /s/ James T. Aldredge
JASON HILL
State Bar No. 24046075
JAMES T. ALDREDGE
State Bar No. 24058514

ATTORNEYS FOR
THE CITY OF COLLEGE STATION and
THE CITY OF LUBBOCK

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the City of College Station's Reply to the Brazos River Authority's Exceptions to the Supplemental Proposal for Decision on Remand was filed with the Office of the Chief Clerk and that the same was served on the following by electronic mail or certified mail on this 12th day of July, 2016.

Doug G. Caroom
Susan Maxwell
Emily Rogers
Bickerstaff Heath Delgado Acosta, LLP
3711 S. Mopac Expressway, Bldg. One,
Ste. 300
Austin, Texas 78746
dcaroom@bickerstaff.com
smaxwell@bickerstaff.com
erogers@bickerstaff.com

Robin Smith
Ruth Takeda
Texas Commission on Environmental
Quality
P.O. Box 13087, MC 173
Austin, Texas 78711
robin.smith@tceq.texas.gov
ruth.takeda@tceq.texas.gov

Eli Martinez
Texas Commission on Environmental
Quality
P.O. Box 13087, MC-103
Austin, Texas 78711
eli.martinez@tceq.texas.gov

Molly Cagle
Paulina Williams
Baker Botts, L.L.P.
1500 San Jacinto Center
98 San Jacinto Blvd.
Austin, Texas 78701
molly.cagle@bakerbotts.com
paulina.williams@bakerbotts.com

Mike Bingham
1251 C.R. 184
Comanche, Texas 76422

Fred B. Werkenthin, Jr.
Booth, Ahrens & Werkenthin, P.C.
206 East 9th Street, Suite 1501
Austin, Texas 78701
fbw@baw.com

Richard Lowerre
Marisa Perales
Lowerre, Frederick, Perales, Allmon &
Rockwell
707 Rio Grande, Suite 200
Austin, Texas 78701
rl@lf-lawfirm.com
marisa@lf-lawfirm.com

Ken Ramirez
Law Offices of Ken Ramirez, PLLC
Barton Oaks Plaza One
901 Mopac Expressway South, Ste. 300
Austin, Texas 78746
ken@kenramirezlaw.com

Jeff Civins
Haynes & Boone, LLP
600 Congress Avenue, Suite 1300
Austin, Texas 78701
jeff.civins@haynesboone.com

John Turner
Haynes & Boone, LLP
2323 Victory Ave.
Dallas, Texas 75202
john.turner@haynesboone.com

Joe Freeland
Mathews & Freeland, L.L.P.
8140 N. Mopac Expressway
Westpark II, Suite 260
jfreeland@mandf.com

Gwendolyn Hill Webb
Stephen P. Webb
Webb & Webb
P.O. Box 1329
Austin, Texas 78767
g.hill.webb@webbwebblaw.com
s.p.webb@webbwebblaw.com

Monica Jacobs
Diana Nichols
Kelly, Hart & Hallman, P.C.
303 Colorado, Suite 2000
Austin, Texas 78701-2944
monica.jacobs@kellyhart.com
Diana.nichols@kellyhart.com

Colette Barron Bradsby
Texas Parks and Wildlife Department
Legal Division
4200 Smith School Road
Austin, Texas 78744
colette.barron@tpwd.state.tx.us

Jim Mathews
Mathews & Freeland, L.L.P.
P.O. Box 1568
Austin, Texas 78767-1568
jmathews@mandf.com

Myron Hess
Annie E. Kellough
National Wildlife Federation
44 East Ave., Suite 200
hess@nwf.org
kellougha@nwf.org

Ron Freeman
Freeman and Corbett, LLP
8500 Bluffstone Cove, Suite. B.104
rffreeman@freemanandcorbett.com

Steve Sheets
Sheets & Crossfield, P.C.
309 E. Main Street
Round Rock, Texas 78664
slsheets@sheets-crossfield.com

Ed McCarthy
Jackson, Sjoberg, McCarthy & Townsend,
LLP
711 W. 7th Street
Austin, Texas 78701
emc@jacksonsjoberg.com

The Honorable Charles Perry
Texas State Senate
Capitol Station P.O. Box 12068
Austin, Texas 78711
scott.hutchison@senate.state.tx.us

John J. Vay
Enoch Keever PLLC
One American Center
600 Congress Avenue, Suite 2800
Austin, Texas 78701
jvay@enochkeever.com

/s/ James T. Aldredge
James T. Aldredge