

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

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

**EXCEPTIONS OF
FRIENDS OF THE BRAZOS RIVER H. JANE VAUGHN, LAWRENCE D. WILSON,
KEN C. HACKET, AND BRAZOS RIVER ALLIANCE
TO THE SUPPLEMENTAL PROPOSAL FOR DECISION**

Friends of the Brazos River, its members, Jane Vaughn and Lawrence Wilson, and Brazos River Alliance and its member Ken Hacket (hereinafter jointly “FBR”) file this, their exceptions to the Supplemental Proposal for Decision following the remand on the issues of BRA’s return flows and reservoir capacity.

I. Introduction

FBR appreciates the efforts of the ALJs in this complex case, but respectfully disagrees with the recommendations on the issues referred by the Commission in its interim order of February 2016. (FBR retains its positions on other issues as reflected in its exceptions to the PFD on Remand.)

The legal issues involved here, together with those addressed in the two prior PFDs, show a wide range of possible interpretations of law, interpretations that will likely be addressed by the Texas courts if the issues are not resolved through mediation. The ALJs have identified almost a dozen legal issues that, if decided here, will set new precedent for large and small water rights applications across the state. As the ALJs stated in their PFD on Remand,

The BRA application raises a number of issues related to return flows that arguably comprise the most complex portion of the most complex water right application ever filed. (PFDR at 215.)

A final decision, based on the PFD on Remand and this supplemental PFD, will tie the hands of this and future Commissions to degrees rarely done in any contested case hearing in the past. Many, if not all, of the decisions on the precedent setting issues here deserve resolution through rulemaking, where all interests across the state can participate and where the Commission has input on the full range of impacts of its decisions.

Thus, FBR urges the Commission to send this matter to mediation with a clear message to all parties that it expects a settlement of many, if not all, issues. Now that the parties know the Commission's position on the law and facts, FBR believes that a settlement on the permit is very possible.

Such a settlement could reduce the complexity of the Water Management Plan and make it possible for BRA to implement such a plan and TCEQ to enforce it.¹ Most importantly, it would allow the Commission to defer decisions regarding a myriad of precedent setting issues until a proper rulemaking process is initiated.

This most recent remand on the return flow issues highlights the complexity and the need for input from others outside the Brazos River Basin. TCEQ has made a number of decisions on reuse and it should allow those involved and others with different circumstances to provide input to the resolution of the complex legal and factual issues.

Here, the Executive Director reads the statute on reuse differently from BRA, Texas Parks and Wildlife Department, FBR and the ALJs. The ALJs made somewhat different

¹ The Water Management Plan should also be clear enough to inform impacted parties of BRA's responsibilities and allow such parties to evaluate BRA's performance under it. That is not now the situation.

interpretations of the relevant law in their initial PFD and the PFD on Remand. The Commission has now provided a different interpretation.

There is no precedent for the Commission's position. Thus, if the Commission's decision is appealed, Texas courts will be free to read the statute as they deem appropriate, with little deference to the Commission's interpretation given the spread the different positions, Texas courts could even develop a wholly different interpretation given their perspective.

That risk arises for several other issues too. That is so, in part, because, all of the other complex water right cases in the recent past were resolved through mediation and settlement. A number of issues that could have been addressed in the past are still without precedent. It is also the situation because BRA's application requires so many interpretations of law that have never been addressed by the Commission in the past. The initial PFD, with a recommendation for denial highlights the uniqueness of the approach proposed by BRA in its application and the lack of a statutory framework for such an approach.

Even a mediation process that resolved only some of the complex legal issues would allow those issues to be addressed, later, via rulemaking or other steps to resolve the legal disputes through a broader public process.

FBR understands the Commission's desire to make a final decision on this application, originally filed twelve years ago. Other applications in the Brazos River basin are pending and the BRA application has already taken enormous time and efforts. All parties would like the matter resolved so it could not come back from Texas courts.

There is no pressing need for the issuance of any SysOp permit now. Texas just went through a major drought, a new drought of record in part of the Brazos River basin, and there were no problems with water supplies that cannot now be resolved with the new Watermaster. Balancing the need for this permit with the need to assure a sound and well-vetted approach for issuance of similar permits across the state, the Commission should choose caution and look for all possible ways to protect the integrity of the Texas water rights system consistent with its development over the 100+ years of its life.

The Commission need only make its preferences known and require mediation. A negotiated resolution of most of the disputed issues is much more likely now that the Commission has made its decision on the initial PFD and then indicated how it would interpret a number of provisions in Texas law if forced to do so here.

II. Exceptions

Before addressing the two major issues, FBR needs to point out two factual disagreements with the Supplemental PFD.

1. FBR's interests in issues of return flows and reuse. The ALJs state that the only parties actively involved in the return flow issue were the ED, BRA and TPWD. Why this matters is not clear. However, FBR must disagree. The issues are important to FBR and FBR participated in the discussions on the issues in the hearing and with other parties. NWF and TPWD, however, took the lead and FBR was pleased to let them do so. Certainly the ALJs did not need FBR playing a redundant role.

FBR sees an advantage for water right law in the interpretation that TPWD proposes, that all return flows must be appropriated if they are not addressed in the underlying water

right authorization as part of issuance or through an amendment. Treating the return flows as requiring a new appropriation for a system operation permit does subject diversions to the environmental flow standards. FBR is, however, disagrees and cannot support TCEQ's position on how these standards should be applied. The rules, as interpreted by the ED and the ALJs, do not provide the protections that should be provided using available water in the fashion that the legislature intended. Thus, FBR has argued throughout this proceeding that BRA's underlying permits much be amended and, if not, a broader range of environmental considerations than just the Senate Bill 3 ("SB 3") standards must be addressed.

Given that the Commission is not treating diversion of BRA's return flows as new appropriations, the SB 3 environmental flow standards do not apply to those return flows. It is not a proper application of Texas law to assume those standards are adequate to satisfy the other environmental requirements in Chapter 11 of the Texas Water Code for authorizations to divert water or use public beds and banks.

While, before the return flow issues were important to FBR, the Commission's approach to the legal provisions, make them even more important to FBR.

FBR did brief aspects of the return flow issues in its Initial Written Arguments at page 23 and 24. NWF also briefed the return flow issues. Then, in FBR's exceptions to the PFD on remand, FBR adopted the exceptions of NWF, because they addressed the aspects of the return flow issues that FBR sought to address upon remand.² Moreover, FBR has relied upon TPWD role in this hearing, which has been exclusively to address the return flow and reuse

² FBR Exceptions to the PFD on Remand, at 86.

issues. TPWD has done an excellent job of presenting the basic legal arguments in its briefs, exceptions throughout the hearing process.

The return flow issues are certainly ones FBR intends to pursue even if the current PFD is adopted.

2. Evaluation of Environmental Impacts of New Reuse Approach: FBR also disagrees with the ALJs position that FBR's attempt "to reopen consideration of environmental flow requirements if BRA is to be given a bed and banks authorization for its return flows" is "outside the scope of remand." (PFDS at 2)³

The Commission asked the ALJs to determine 1) if BRA had submitted an application specifically seeking a bed and banks authorizations for its return flows and 2) if BRA had presented evidence that it satisfied the requirements for such authorizations. As the application was amended, BRA did not seek a bed and banks authorization for its return flows. Thus, there are no specific provisions in the current application addressing the requirements for a bed and banks authorizations for BRA's return flows. Moreover, there is no evidence to address the environmental impacts of the use of the bed and banks or the diversions for these return flows.

One of the requirements in both Section 11.042 (b) and (c) of the Water Code is:

The authorization may allow for the diversion and reuse by the discharger of existing return flows, less carriage losses, and shall be subject to special conditions if necessary to protect an existing water right that was granted based on the use or availability of these return flows. **Special conditions may also be provided to help maintain instream uses and freshwater inflows to bays and estuaries.**

³ The ALJs also assert that the issue FBR attempts to raise was addressed in the PFDR at 123-25. (PFDS footnote 1) FBR disagrees that the PFDR addresses this issue.

There is no evidence in the record that BRA submitted an application that included a basis for such a special condition or set of special conditions. Even if there were, there is still no evidence in the record to support any such special condition or the lack of need for such a special condition.

There can be no presumption of adequacy of the environmental flow standards for BRA's return flows for several reasons. First, if not new appropriations, the SB 3 standards do not apply and other statutory provisions must be applied. Second, each authorization for use of bed and banks must be evaluated individually given that the use or return flows are not created by the system operations. They are not a result of combined operations of the BRA reservoirs. The decision here on what the law means is not limited to system permits. It applies for all bed and banks authorizations.

There are very valid reasons for the historic environmental evaluations in Chapter 11 of the Water Code. For example, the use of bed and banks or the diversions by BRA of its return flows will be allowed under the SysOp permit even if these activities reduce flows in any stream or river to zero or below the 7Q2 flow needed to assure wastewater discharge permits do not result in violations of water quality standards. There are no special conditions to address such impacts and there is no evidence to support such conditions. There is no evidence that such a special condition is not required.

BRA's agreement with TPWD to protect certain flows for water quality is not part of the permit. It was never subject to any parties' ability to question or challenge the adequacy. It was done outside the permitting process and is not enforceable by TCEQ or the new Watermaster.

Thus, the precedent the Commission would create by adopting the PFD's approach to the required evaluation for a bed and banks authorization is that the Commission can simply ignore conditions resulting from issuance of a water right permit that conflicts with the agency's responsibility to assure the quality of water in state rivers, streams and lakes meets minimum standards.⁴

Even if such use of bed and banks for diversions of BRA's own return flows are subject to the environmental flow standards, there is still the major problem of "stranded stream segments" identified by TPWD. Such stream segments could be completely dried by use of bed and banks for diversion of return flows under the approach in the PDF. Other stream segments could also be dewatered or have their flows reduced to below the 7Q2 flows needed for water quality, and that is not even considering the impacts on the aquatic species relying upon the flows.

Even if the Commission is correctly interpreting Senate Bill 3 to allow for rivers and streams to go dry when there is currently unappropriated water for flows in these water courses, it is only because of the overall approach used for a river basin under SB 3. That approach is not the approach for diversions that are not subject to SB 3. Those diversions require a case-by-case evaluation for their environmental impacts. Thus, the authorizations for the use of bed and banks require this case-by-case analysis and must be based on evidence in the record. Here there is none for any of BRA's authorizations to use the state's beds and banks.

⁴ See, for example, Sections 26.023, and .027.

Again, the decision here will set a precedent for any bed and banks authorization in any part of the state, whether part of a system operation permit or the more traditional water rights.

There is one other problem with the ALJs' approach. Based on the objections of BRA, the ALJs struck evidence, including prefiled testimony, that FBR and other parties offered, which showed how the SB 3 standards did not address all of the diversions and types of diversions sought by BRA and proposed to be authorized in the draft permit. The ALJs' adopted the BRA position that the SB 3 environmental flow standards applied to all authorizations in the SysOp permit. Thus, there is no evidence that could be considered by the Commission for special considerations for bed and banks authorizations in the record, except what BRA may not claim it included as part of its application. In essence, FBR due process rights to present its evidence on impacts on water quality and other environmental and public welfare issues will be denied if the PFD is adopted.

A. Additional Exceptions to the Supplemental PFD on the Issues on Return Flows

As the ALJs stated in their PFD on Remand,

At the First Hearing, the primary question regarding return flows was: Once return flows are discharged into a Watercourse, should they be considered "state water" and, therefore, available for appropriation by anyone, or do they remain the property of (or at least reserved for) the original water-right holder or discharger? BRA described this issue as possibly "the most significant legal issue presented by this proceeding" with "far-reaching impacts" in the state. (PFDR at 218.)

In announcing their position, the ALJs then stated:

In the First PFD, the ALJs disagreed with . . . parties' competing analyses . . . As noted by TPWD, the return flows issues raised by the BRA application are "extremely complex," and involve a great deal of ambiguity about confusing legal and regulatory issues. . . . The ALJ s agreed. A considerable amount of evidence was introduced by the parties at the First Hearing attempting to prove that the TCEQ had an established

approach to reuse issues. On balance, however, this evidence demonstrated that no consistent Commission policy existed. As such, there was no official TCEQ interpretation to which the ALJs might defer.

FBR is sympathetic with the overall goal of the Commission to interpret the relevant law to reserve the rights of those with water rights and those who have developed ground waters to reuse their water indirectly, as well as directly. FBR does not, however, agree that current law supports the Commission's approach.

While a surface water right holder maybe able to amend the water right to provide for use of bed and banks and indirect reuse, that is not what is occurring here. Here we have a new water right and the permit proposes to allow reuse of water that is not even part of the permit. That creates a number of very significant issues, many of which have been addressed in earlier briefings.

Moreover, the PFD proposes to create a water right in privately owned groundwater that is discharged by others, as if it is state water subject to appropriation, at least until the discharge wants it back to use or sell, when it apparently is no longer state water, regardless of where it is diverted downstream. Then, the PFD proposes treating BRA's groundwater not as state water. There are, however, no statutes or rules that provide for such treatment or the how or when privately owned groundwater becomes state water and then can move back to private ownership or remain as state water that only the prior owner can appropriate.

Still, FBR's major objections to the ALJ's recommendations in all their PFDs continue to be the failure of the permit and WMP to provide the required protections for water quality,

fish and wildlife, recreational use and other instream roles of the public's water.⁵ How return flows are treated makes a difference.

The problems have always be a result of the complexity of BRA's application, BRA's effort to mix an application for system operations with an application for other new appropriations and its return flows. The problems are a result of such goals, mixed with that of maximizing flexibility and refusing to agree to reasonable solutions to the adverse impacts that TPWD, NWF and FBR have identified. BRA's compromise with TPWD, was not sufficient, and, of course, is now significantly more limited by the approach to environmental flows standards proposed by the ED and the ALJs.⁶

ALJs' argument that FBR's issues are beyond the scope of the remand is legally wrong. And their approach encourages the Commission to ignore a significant TCEQ environment quality issue. Some return flows have at times been required in water rights to assure adequate water downstream. Even return flows that are not required provide much of the flows needed in the rivers and streams and to bays and estuaries; because many if not most water rights were authorized before environmental considerations were part of the water right permitting process. Return flows clearly play a significant in protecting the environment.

Clearly, the provision of Section 11.042 quoted above is an explicit recognition of that fact by the Legislature.

FBR also agrees with Dow's position in its arguments to the ALJs that BRA cannot identify, in the record, where it has properly applied for authority for use of any bed and

⁵ Then there is also the thorny issue of groundwater impacts, one that is clearly not trumped by SB 3 standards.

⁶ For example, TPWD and BRA's environmental flow restrictions were not limited to the first downstream measuring point, as are the standards under the ED's interpretation

banks in the Brazos River basins for any of its return flows.⁷ There is no evidence in the record to show that the application addresses all of the requirements for any authorization to use any bed and banks that BRA seeks for a return flow. BRA has not provided specific quantities or locations for use of bed and banks and for diversions of its return flows to evaluate the impacts. The law and TCEQ rules contemplate site specific authorizations, with evaluations of the impacts at the locations of the use of bed and banks and impacts downstream of any related diversions. The assessment required in Texas law simply cannot be performed for any bed and banks authorizations.

Finally, as mentioned above, while the ALJs included discussions of offers by BRA to protect water quality, do more studies, and dedicate some water to the Texas Water Trust, these are not permit conditions or even enforceable application provisions. They are also mostly vague and subject to political pressure on TPWD on how or whether to enforce them. These side-bar agreements or offers cannot substitute for the legal analysis of evidence in the record and the requirements, by statute, for the potential impacts on the environment and for permit conditions to limit such impacts where appropriate.

Assuming the Commission's interpretation of the applicable law is correct, no authorization for BRA to use public bed and banks for its return flows should or can be granted. BRA's request for reuse of its own return flows should be denied. BRA can then seek amendments to its base water rights permits for its surface water derived return flows and other authorizations or its groundwater derived return flows.

B. Exceptions to the Supplemental PFD on issues of Loss Reservoir Storage

⁷ Dow Chemical Company's Brief on Disputed Issues, at 2-3 and 8.

The ALJs have rightly concluded, as has the Commission, that there is not as much water available in BRA's reservoirs as BRA proposed or now seeks. There is sediment in these reservoirs that reduces storage of water. However, FBR has a number of problems with the Commission's approach and the Supplemental PFD.

First, the assumption that a fourteen percent reduction in total water is a proper resolution of the issue of loss of storage is not a valid approach; it is an arbitrary one. There is no evidence in the record that a general fourteen percent reduction is accurate or based on a valid scientific analysis of facts. It is based on an estimate by Mr. Brandes that was not intended to be used to derive total system storage loss or loss for any reservoir, except possibly Possum Kingdom.

BRA has the burden of proof on the issue of the availability of water in the source of supply. BRA has never met that burden. The ALJs efforts to do so for them should be rejected. Again, consider the precedent that would be created here.

As water gets even harder to develop, TCEQ needs accurate figures on what is available from a reservoir, not a firm yield estimate from 50 years ago adjusted by a guess as how much of that firm yield is lost due to sedimentation. However, FBR understands that the Commission is not interested in detailed discussion on this issue, and FBR will not brief this issue further.

More significantly, FBR believes that the ALJs cannot have correctly interpreted the Commission's directive to allow recapture of the full appropriation for use given Texas law. The ALJs propose to allow a wide range of strategies to be used by BRA to recapture the loss of storage due to sedimentation. FBR asserts that the loss of storage by sedimentation must

only be restored if BRA proves that there is less than a fourteen percent overall reduction or if it has removed sedimentation to free up storage for water.

Any other approach to find new water must be addressed in an application for a new appropriation, as an amendment to the SysOp permit or as a new permit. It must be subject to the Section 11.134 requirements for any water right appropriation. BRA's proposal as adopted by the ALJs is clearly an attempt to avoid that result. Otherwise there would be no need for the type of special condition proposed in the PFD.

While the proposed provision for recapture of the loss correctly indicates that a contested case hearing is required, it suggests a more limited hearing than would be required for a new appropriation. If the full set of Section 11.134 issues would be open in a recapture proceeding as proposed by the PFD, there is no reason to provide any special condition beyond what FBR has proposed, i.e.

If, in a subsequent application for a major amendment of this permit, Permittee is able to demonstrate that it has removed sediments and restored lost capacity in one of its reservoirs, the amount of water resulting from that restored capacity in a reservoir may be added back to Permittee's authorized diversions below that reservoir and used up to the appropriated amount in Paragraph 1.A. In any such amendment, Permittee must also identify the amount of storage loss at the time due to sedimentation or factors to determine the amount of offset allowed Permittee.

There is also the problem that there is no evidence to support any finding that any storage can, will or should be recaptured by sediment removal. There is no evidence that the sediment can be removed, can be done economically or that BRA or anyone has any plans or proposals for sediment removal in the relevant reservoirs anytime in the future. The evidence is just the opposite.

Q (BY WERKENTHIN) You mentioned you might develop projects that would restore the water that's not available under this permit. What kind of projects might those be?

A (BY BRUNETT) I suppose it could be any number of things, you know. Dredging is always a popular topic. So we could at some point in the future, maybe it's economically feasible to dredge. It's currently not -- in my opinion, not feasible to do that on a large scale. . . .

Q (BY WERKENTHIN) Do you have any current plans to pursue any of these?

A (BY BRUNETT) We're not pursuing any large scale dredging projects at this point in time. . . .⁸

This evidence makes clear that there is no plan for sediment removal and no evidence that sediment is economically feasible or in the future. If it ever becomes feasible, BRA could then seek an amendment to appropriate or divert and use the water lost to sediment. In the meantime, BRA's permit should not include the loss as an appropriation or a potential water right even if it is prohibited from use.

BRA has no plans for future beneficial use of the storage space in any reasonable time. Providing an appropriation for water that is currently unavailable because of storage loss from sedimentation conflicts with the beneficial use requirement of the water code and the Texas Supreme Court's interpretation of that requirement.

Finally, this raises the issue of how temporary and permanent storage losses in reservoirs should be defined and addressed. There are losses of storage and/or yield that should be considered temporary. Use or sales of such losses could be addressed by special conditions in a permit. For example, the reduction in use of full storage due to locations of intake structures being well above the bottom of the lake is one good example. FBR believes

⁸ Tr. Vol. 18 p. 4106:22-25 & 4107: 1-21.

there are intake structures for water supplies for cities, power plants, and industries located mid-way between the conservation pool level and the bottom of BRA's reservoirs. and that BRA will not be able to take full advantage of the actual storage without 1) uncovering intakes and making them unusable or 2) requiring the owner of the intake to lower the intake elevation at least temporarily with added pipes or other steps.

But whether or not there are such limits, FBR has accepted that such losses are temporary losses. If BRA wants to full use its appropriation, it simply needs to require relocation of the intake structures.

FBR does not believe the Commission should treat permanent losses in the same way or with the special condition proposed by BRA or the ALJs. The Commission should treat storage loss by sediment as a permanent loss, where there is no plan for sediment removal or, as here, removal is not shown to be feasible. When a valid application can be filed to show plans for actual sediment removal in a reasonable time, BRA or others could then seek an appropriation for the water they have or intend to develop. Given that Texas laws allows others to do so in reservoirs that they do not own, giving BRA exclusive rights to do so, is not consistent with assuring beneficial use of the public's water.

Conclusion

BRA did not need to include its return flows in its SysOp permit application. It could have sought authorizations for indirect reuse separately, and it still can. It included these return flows in the SysOp permit application at its own risk.

The SysOp permit application is complicated enough just integrating different reservoirs into one system. The inclusion of BRA's return flows has added to the

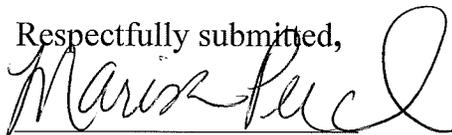
complexities from the start. The new approach proposed by the Commission exacerbates the problems.

Given the vagueness if not internal inconsistency of the Texas law on return flows, it would be much better if the Commission carved out the return flow part of the application, at least for BRA's return flows. The Commission could then initiate a rulemaking on Sections 11.042 and 11.046 and address the complexities in a process that allows all affected parties across the state to participate.

The Commission should also direct the parties to proceed to mediation on the permit. Not doing so assures that the Texas courts will have to review as many as a dozen precedent setting decisions - new interpretations of Texas laws.

FBR urges the Commission to direct the parties to negotiate a resolution based on Commission decisions on the law. Otherwise, the SysOp permit should be denied or issued with the revisions previously proposed by FBR.

Respectfully submitted,



FREDERICK, PERALES,

ALLMON & ROCKWELL, P.C. by:

Richard W. Lowerre, SBT# 12632900

Marisa Perales, SBT# 24002750

707 Rio Grande, Suite 200

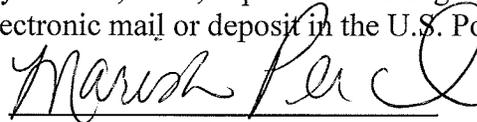
Austin, Texas 78701

(512) 469-6000 (512) 482-9346 facsimile

COUNSEL FOR FRIENDS OF THE BRAZOS
RIVER, H. JANE VAUGHN, LAWRENCE
WILSON, KEN C. HACKETT, AND BRAZOS
RIVER ALLIANCE

CERTIFICATE OF SERVICE

By my signature below, I certify that on this 23rd day of June, 2016, copies of the foregoing document were served upon the parties identified below via electronic mail or deposit in the U.S. Postal Mail.



Marisa Perales

FOR THE ADMINISTRATIVE LAW JUDGES

(via e-filing)

The Honorable Judge William Newchurch
The Honorable Judge Hunter Burkhalter
State Office of Administrative Hearings
P.O. Box 13025
Austin, Texas 78711-3025
Phone: (512) 475-4993
Facsimile: (512) 322-2061

FOR DOW CHEMICAL COMPANY

Fred B. Werkenthin, Jr.
Booth, Ahrens & Werkenthin, PC
206 East 9th Street, Suite 1501
Austin, Texas 78701
Phone: (512) 472-3263
Facsimile: (512) 473-2609
fbw@baw.com

FOR POSSUM KINGDOM LAKE ASSOCIATION

John J. Vay
Enoch Keiver PLLC
600 Congress Ave., Ste. 2800
Austin, Texas 78701
Phone: (512) 615-1231
Facsimile: (512) 615-1198
jvay@enochkeiver.com

FOR THE CHIEF CLERK

(via e-filing)

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

FOR THE PUBLIC INTEREST COUNSEL

Eli Martinez
Texas Commission on Environmental Quality
P. O. Box 13087 MC-103
Austin, Texas 78711-3087
Phone: (512) 239-3974
Facsimile: (512) 239-6377
elmartin@tceq.state.tx.us

FOR THE EXECUTIVE DIRECTOR

Robin Smith
Ruth Ann Takeda
Texas Commission on Environmental Quality
Environmental Law Division, MC-173
P. O. Box 13087
Austin, Texas 78711-3087
Phone: (512) 239- 0463
Facsimile: (512) 239-3434
rsmith@tceq.state.tx.us

FOR THE CITY OF BRYAN

Jim Mathews
Mathews & Freeland LLP
8140 N. Mopac Expressway
Bldg. 2, Suite 260
Austin, Texas 78759
Phone: (512) 404-7800
Facsimile: (512) 703-2785
jmathews@mandf.com

FOR THE CITY OF ROUND ROCK

Steve Sheets
Sheets & Crossfield PC
309 E. Main St.
Round Rock, Texas 78664-5264
Phone: (512) 255-8877 Fax (512) 255-8986
steve@scrllaw.com

FOR THE CITY OF COLLEGE STATION

Jason Hill
Lloyd Gosselink Rochelle & Townsend, P.C.
816 Congress Ave., Suite 1900
Austin, Texas 78701
Phone: (512) 322-5855, Fax: (512) 874-3955
jhill@lglawfirm.com

FOR CITY OF HOUSTON

Ed McCarthy, Jr.
Jackson, Sjoberg, McCarthy & Townsend,
L.L.P.
711 West 7th Street
Austin, Texas 78701-2785
Phone: (512) 472-7600, Fax: (512) 225-5565
emccarthy@jacksonsjoberg.com

**FOR WILLIAM AND GLADYS
GAVAROVIC, THE COMANCHE
COUNTY GROWERS AND BRADLEY B.
WARE**

Gwendolyn Hill Webb
Stephen P. Webb
Webb & Webb
P.O. Box 1329
Austin, Texas 78767
Phone: (512) 472-9990, fax (512) 472-3183
g.hill.webb@webbwebblaw.com
s.p.webb@webbwebblaw.com

FOR THE CITY OF LUBBOCK

Brad B. Castleberry
Lloyd Gosselink Rochelle & Townsend, P.C.
816 Congress Avenue, Suite 1900
Austin, Texas 78701
Phone: (512) 322-5800, fax: (512) 472-0532
bcastleberry@lglawfirm.com

FOR NRG TEXAS POWER, LLC

Joe Freeland
Mathews & Freeland, L.L.P.
Westpark II, Suite 260
8140 N. Mopac Expressway
Austin, Texas 78759-8884
Phone: (512) 404-7800, Fax: (512) 703-2785
jfreeland@mandf.com

**FOR THE NATIONAL WILDLIFE
FEDERATION**

Myron Hess
Annie E. Kellough
505 E. Huntland Dr. Suite 485
Austin, Texas 78752
Phone: (512) 610-7754, Fax: (512) 476-9810
hess@nwf.org, KelloughA@nwf.org

**FOR GULF COAST WATER
AUTHORITY**

Molly Cagle
Paulina A. Williams
Baker Botts L.L.P.
98 San Jacinto Blvd., Suite 1500
Austin, Texas 78701
Phone: (512) 322-2532 (512) 322-2543
Fax: (512) 322-2501 (512) 322-3643
Molly.cagle@bakerbotts.com
paulina.williams@bakerbotts.com

Ronald J. Freeman
Freeman & Corbett LLP
8500 Bluffstone Cove. Suite. B-104
Austin, Texas 78759
Phone: (512) 451-6689, fax: (512) 453-0865
rfreeman@freemanandcorbett.com

**FOR TEXAS PARKS AND
WILDLIFE DEPARTMENT**

Colette Barron-Bradsby
4200 Smith School Rd.
Austin, Texas 78744
Phone: (512) 389-8899, fax: (512) 389-4482
colette.barron@tpwd.state.tx.us

FOR BRAZOS RIVER AUTHORITY

Douglas Caroom
Emily W. Rogers
Susan M. Maxwell
Bickerstaff Heath, Delgado Acosta LLP
3711 S Mopac Building 1 Suite 300
Austin Texas 78746
Phone: (512) 472-8021, Fax: (512) 320-5638
dcaroom@bickerstaff.com,
erogers@bickerstaff.com,
smaxwell@bickerstaff.com

**FOR THE LAKE GRANBURY
COALITION (HOOD COUNTY, THE
CITY OF GRANBURY, AND LAKE
GRANBURY WATERFRONT OWNERS
ASSOCIATION)**

Jeff Civins
Haynes & Boone, LLP
600 Congress Ave., Suite 1300
Austin, TX 78701
Phone: (512) 867-8477
Facsimile: (512)867-8460
jeff.civins@haynesboone.com

John Turner
Andrew Guthrie
Haynes & Boone, LLP
2323 Victory Ave.
Dallas, TX 75202
Phone: (214) 651-5671
Facsimile: (214)200-0780
john.turner@haynesboone.com
andrew.guthrie@haynesboone.com

Ken Ramirez
Law Offices of Ken Ramirez, PLLC
111 Congress Avenue, Suite 400
Austin, Texas 78701
Phone: (512) 681-4456
Facsimile: (512) 279-7810
ken@kenramirezlaw.com

FOR MIKE BINGHAM

(Via US Mail)
Mike Bingham
1251 C.R. 184
Comanche, TX 76442
(254)842-5899

**FOR CHISHOLM TRAIL VENTURES,
L.P.**

Monica Jacobs
Kelly Hart & Hallman, P.C.
301 Congress Ave., Suite 2000
Austin, Texas 78701
Phone: (512) 495-6405
Facsimile: (512) 495-6601
monica.jacobs@kellyhart.com