

DOCKET NO. 2022-0125-WR

APPLICATION NO. 13404 BY THE § **BEFORE THE TEXAS COMMISSION**
CITY OF WICHITA FALLS IN CLAY §
COUNTY FOR LAKE RINGGOLD § **ON**
WATER USE PERMIT 13404 §
§ **ENVIRONMENTAL QUALITY**

**RESPONSE TO REQUESTS FOR
CONTESTED CASE HEARING**

TO THE HONORABLE COMMISSIONERS:

The City of Wichita Falls (herein referenced interchangeably as the “City,” or the “Applicant”) submits this response to requests made to the Texas Commission on Environmental Quality (“TCEQ” or the “Commission”) for a contested case hearing on the above-referenced application, and would respectfully show the TCEQ Commissioners the following:

I. BACKGROUND

The City has applied to TCEQ for a water use permit to construct and maintain a proposed dam and reservoir known as Lake Ringgold (“Lake Ringgold”) with a maximum storage capacity of 275,000 acre-feet of water and an approximate surface area of 15,500 acres on the Little Wichita River in the Red River Basin (the “Application”). Lake Ringgold will be located in Clay County, Texas. The Application requests authorization to divert and use not to exceed 65,000 acre-feet of water per year from Lake Ringgold at a maximum diversion rate of 139.79 cubic feet per second (62,770 gallons per minute) for municipal, industrial, mining, and agricultural purposes. Applicant requests authorization to use the water within its service area in Archer, Clay, and Wichita counties. Applicant also seeks to authorize the use of the bed and banks of the Little Wichita River (Lake Arrowhead), Red River Basin to convey up to 65,000 acre-feet of water per year for subsequent diversion and use for municipal, industrial, mining, and agricultural purposes.

II. PROCEDURAL HISTORY

On June 27, 2017, the City filed Application No. 13404 with TCEQ. The City provided additional information and fees July 7, July 10, and August 7, 2017. The Application was declared administratively complete and filed with the Office of the Chief Clerk (“Chief Clerk”) on August 10, 2017. The Executive Director completed technical review and prepared a draft permit on October 16, 2019. Mailed notice was issued on January 24, 2020, and notice of the application was published in the *Clay County Reader* on February 6, 2020. The comment and hearing request period ended on March 9, 2020. A public meeting was held on August 25, 2020. A number of hearing requests were filed, as noted below.

The City provided additional information on October 13, October 16, 2017, October 23, November 16, 2018, and June 4, 2019. This additional information included information about the City’s Petition for Rulemaking in Docket No. 2019-0756-RUL and the accounting plan associated with the Application. On March 9, 2022, TCEQ staff filed draft Water Use Permit 13404 (the “Draft Permit”) with the Office of the Chief Clerk along with a request for consideration of the Draft Permit to be placed on the Commissioners’ agenda meeting.

On January 25, 2022, TCEQ staff requested consideration of the Application at the Commissioners’ agenda meeting. The City subsequently received notice that the Application would be considered by the Commission at the agenda meeting on April 13, 2022. The Executive Director filed its Response to Hearing Request on March 21, 2022. The City submits this response to requests made to TCEQ for a contested case hearing on the Application pursuant to Title 30, Section 55.254 of the Texas Administrative Code.

III. DETERMINATION OF AFFECTED PERSONS

Under TCEQ rules, TCEQ Commissioners, the TCEQ Executive Director, the Applicant, and affected persons may request a contested case hearing.¹ An “affected person” is “one who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the Application.”² “An interest common to members of the general public does not qualify as a personal justiciable interest.”³ Accordingly, a request for a contested case hearing must include a brief, but specific, description of the requestor’s location and distance relative to the activity that is the subject of the Application.⁴ In addition, the requestor must do more than provide a conclusory statement in the request that he or she will be harmed by the proposed change. The requestor must describe briefly, but specifically, how and why he or she will be affected by the change proposed in the Application.⁵

When determining whether an individual or entity is an affected person, all relevant factors are considered by the Commission, including: “(1) whether the interest claimed is one protected by the law under which the application will be considered; (2) distance restrictions or other limitations imposed by law on the affected interest; (3) whether a reasonable relationship exists between the interest claimed and the activity regulated; (4) likely impact of the regulated activity on the health, safety, and use of property of the person; (5) likely impact of the regulated activity on use of the impacted natural resource by the person; (6) whether the requestor timely submitted comments on the application that were not withdrawn; and (7) for governmental entities, their statutory authority over or interest in the issues relevant to the application.”⁶

When determining whether a group or association has affected entity status, all of the following requirements must be met: (1) one or more members of the group or association would otherwise have standing to request a hearing in their own right; (2) the interests the group or

¹ 30 Tex. Admin. Code § 55.251(a).

² *Id.* § 55.256(a).

³ *Id.*

⁴ *Id.*; § 55.251(c)(2).

⁵ *Id.*

⁶ *Id.* § 55.256(c).

association seeks to protect are germane to the organization's purpose; and (3) neither the claim asserted nor the relief requested requires the participation of the individual members in the case.⁷

Persons claiming to be affected persons must also submit their hearing requests in writing to the Chief Clerk within the time period specified in the notice.⁸ For the purposes of the Application, the notice directed all potential requestors to submit their requests for a contested case hearing on the matter to the Chief Clerk within the 30-day period following the date notice of the Application was published. Thus, all timely hearing requests must have been received by the Chief Clerk by March 9, 2020. All such requests not filed within this period are not timely and thus cannot be processed by the Chief Clerk.

Under TCEQ rules, a person who filed a hearing request may submit a reply to the following responses no later than nine days before the TCEQ Commissioners Agenda to consider the hearing requests.⁹ Under Section 55.254(f), such a reply may contain additional information responsive to the information contained in the correspondence issued by the Office of the Chief Clerk pursuant to Section 55.254(d).

Given the inadequacies of the hearing requests submitted on the Application, as discussed in more detail below, it is anticipated that some hearing requestors may attempt to use Section 55.254(f) as a means of curing the substantive defects of their original hearing request by discussing additional issues in an effort to influence the determination of their affected person status. Such a result, if allowed, would effectively neuter the requirement for submitting hearing requests by the time specified in Section 55.251(d).

Indeed, the only reasonable interpretation of Section 55.254(f) in the context of Section 55.251(d) is that the former provides requestors with the opportunity to round-out, or clarify, the information originally contained in their timely filed requests. The latter, however, precludes the requestors from incorporating newly articulated impacts attributable to the Application, or including other additional substantive components, to their hearing requests.

IV. EVALUATION OF HEARING REQUESTS FOR WATER USE PERMIT 13404

A. Impacts on Use of Property

Under the non-exclusive criteria that apply to this Application, an “affected person” is one who has shown that they satisfy each of the following: (1) the person has an interest related to a legal right, duty, privilege, power, or economic interest; (2) the interest is personal—that is, it is not one held in common with members of the general public; (3) the personal interest is justiciable by TCEQ—that is, it must be an interest protected by the law under which this application will be considered by TCEQ; and (4) the personal, justiciable interest is affected by the Application.¹⁰ Jurisdiction of administrative agencies must emanate from a statute and such

⁷ *Id.* § 55.252(a).

⁸ *Id.* § 55.251(b).

⁹ *Id.* § 55.254(f).

¹⁰ *Id.* §§ 55.251, 55.256(c).

jurisdiction is limited to “only those powers the law, in clear and express statutory language, confers on them.”¹¹ The Legislature has given TCEQ the authority to follow and consider only limited procedures and criteria in reviewing a water rights application.¹² For instance, TCEQ has jurisdiction to consider “public interest” and “public welfare” in water rights permitting.¹³ But “where the Legislature intends for the TCEQ . . . to evaluate a particular factor in considering the public interest, it says so.”¹⁴

Likewise, TCEQ does not have jurisdiction to adjudicate disputes between parties to a water rights permitting hearing relating to constitutional eminent domain condemnation or inundation of private property. Chapter 11 of the Texas Water Code grants TCEQ authority to hear applications for condemnation of property only from a water right appropriator who is not a corporation, district, city, or town.¹⁵ Most importantly, the Legislature has expressly recognized that remedies and damages arising from overflow of water onto private property from an impoundment must be brought before courts of law or equity.¹⁶ The Legislature did not confer upon TCEQ authority to hear claims for such remedies.¹⁷ TCEQ, as an administrative agency, cannot adjudicate general claims in law or equity, but may only exercise powers expressly conferred on it by statute.¹⁸ A water rights permitting hearing, therefore, cannot concern interests of persons who are concerned that an impoundment of water will overflow onto their property.¹⁹

Further, TCEQ’s own rules contemplate that its jurisdiction to hear complaints regarding inundation ends where an applicant has eminent domain authority. The Texas Administrative Code states:

If the applicant does not have the power of condemnation and proposes to inundate or to place any installation upon the land of another, the name(s) and address(es) of such landowner(s) shall be given. A copy of a duly acknowledged written easement, consent, or license from the landowner(s) or of a written lease or other evidence of agreement between the landowner(s) and the applicant shall be filed with the application.²⁰

TCEQ requires that a water rights application include information about property that will be inundated only when the applicant cannot condemn that property.²¹ Landowner consent is also

¹¹ *Subaru of Am., Inc. v. David McDavid Nissan, Inc.*, 84 S.W.3d 212, 220 (Tex. 2002).

¹² Tex. Water Code §§ 11.132, 11.134.

¹³ *Id.* §§ 5.276, 11.134(b).

¹⁴ *Railroad Comm’n of Texas v. Texas Citizens for a Safe Future and Clean Water*, 336 S.W.3d 619, 629 (Tex. 2011).

¹⁵ Tex. Water Code § 11.035.

¹⁶ *Id.* § 11.086.

¹⁷ *See id.*

¹⁸ *Subaru of Am.*, 84 S.W.3d at 220.

¹⁹ *See* Tex. Water Code § 11.086; *see Subaru of Am.*, 84 S.W.3d at 220.

²⁰ 30 Tex. Admin. Code § 295.10.

²¹ *Id.*

only required where the applicant does not have eminent domain powers.²² If an applicant has condemnation power, then TCEQ has no jurisdiction to intervene in property acquisition matters that are properly left to tribunals of competent jurisdiction. The interests of landowners whose property may be inundated by a reservoir are outside of TCEQ's jurisdiction.

The Application, and all applicable statutes and rules under which the Application was submitted and is being considered by TCEQ, contemplates only (1) the construction of a dam, (2) impoundment of water in an on-channel reservoir, (3) storage of state water in the impoundment, (4) diversion of stored water from the impoundment, and (5) the beneficial use of the diverted water. The Application is not an application for a dredge and fill permit under Section 404 of the federal Clean Water Act. Similarly, it is not a request to condemn property or an action to authorize the impoundment of water on property not owned by the City. Instead, the Application is a request for the authorizations contemplated in Chapter 11 of the Texas Water Code. Purportedly affected "interests" unrelated to water rights permitting are outside the jurisdiction of TCEQ to adjudicate and are, therefore, not justiciable in a water rights permitting proceeding. An individual whose purportedly affected interests do not relate to issues governed by Chapter 11 of the Texas Water Code cannot be an affected person as a matter of law.

The possibility that property owned by a requestor will be acquired either through purchase or eminent domain condemnation by an applicant for a water rights permit does not sufficiently establish affected person status because those interests are not protected by the law under which TCEQ issues water rights permits. Likewise, impacts to the use of property resulting from the acquisition of real property or eminent domain condemnation by an applicant for a water rights permit do not result from any activity regulated by TCEQ. The laws under which a water rights permit is evaluated by TCEQ address neither acquisition of property by purchase or condemnation, nor inundation of property. TCEQ, in turn, does not regulate the acquisition or condemnation of private property by applicants or permittees. TCEQ has no authority to regulate acquisition of property by the City either by purchase through real estate transactions or by condemnation through eminent domain proceedings.

The City will acquire property that is still in private ownership that will be inundated by Lake Ringgold either through purchase or condemnation prior to the impoundment of water. The procedures through which the City will acquire the property are within the jurisdiction of governmental entities other than TCEQ. Purchase of real estate involves private contractual agreements enforceable in district court and filings with the Clay County Clerk. Similarly, condemnation of property through eminent domain proceedings is within the exclusive jurisdiction of the judiciary.²³ If the City inundates or floods property to which it has not acquired ownership, the remedy for such action would be through civil actions for constitutional takings, inverse condemnation, or some other theory in property or tort law.²⁴ In any event,

²² *Id.*

²³ See Tex. Prop. Code § 21.001.

²⁴ See *Tarrant Reg'l Water Dist. v. Gragg*, 43 S.W.3d 609 (Tex. App.—Waco 2001), *aff'd*, 151 S.W.3d at 549 (citing *Bennett v. Tarrant County Water Control & Improvement Dist. No. 1*, 894 S.W.2d 441 (Tex. App.—Fort Worth 1995, writ denied)).

TCEQ has no jurisdiction or authority with respect to the impacts of property from the construction of Lake Ringgold.

Thus, TCEQ cannot provide any remedy to the hearing requestors who claim loss of property as a basis for standing. TCEQ may only deny the Application if it fails to meet applicable criteria in law. Inundation and acquisition of property are not interests protected by the laws under which the Application is being considered, and, thus, cannot be the basis for denial of the Application by TCEQ.

B. Individual Hearing Requestors Not Withdrawn

1. Margaret Bivens

Margaret Bivens submitted one request for a contested case hearing. It was received by the Chief Clerk on June 23, 2020. The deadline to file hearing requests was March 9, 2020. Therefore, Ms. Bivens's hearing request is untimely.

In her hearing request, Ms. Bivens requested that a public comment hearing be held; however, she did not raise any issues with the Application. Ms. Bivens's request does not identify any rights or interests and does not raise any concerns about the Application. The request also does not include an address or a telephone number. Because this request lacks basic information required under Title 30, Section 55.251 of the Texas Administrative Code, this request does not substantially comply with the Code.

In addition, Ms. Bivens's request does not include a brief but specific statement explaining the requestor's location and distance relative to Lake Ringgold or an explanation of how and why the requestor believes she will be impacted by the Application in a manner distinct from interests common to members of the general public. Ms. Bivens has not identified any water right or vested riparian right that she owns and that she is concerned will be affected by the requests made in the Application, if granted. Further, she failed to describe in her hearing request how and why she believes she will be affected in a manner not common to the members of the general public. Because her request fails to identify any personal justiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including the factors enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Thus, should the untimely hearing request submitted by Ms. Bivens be considered by TCEQ, it should not be granted.

2. Timothy Burch

Timothy Burch submitted one request for a contested case hearing. It was received by the Chief Clerk on March 4, 2020.

In his hearing request, Mr. Burch indicated he owns a hunting lease near Lake Ringgold with Umhaill Valley, LLC. As a threshold issue, Mr. Burch's request does not include a

statement explaining the requestor's location and distance relative to Lake Ringgold or an explanation of how and why the requestor believes he will be impacted by the Application in a manner distinct from interests common to members of the general public.

Mr. Burch has not provided any proof of a hunting lease with Umhail Valley, LLC. Further, assuming Mr. Burch does in fact have a hunting lease with Umhail Valley, LLC, the lease is a minor property interest. Texas Courts have held that hunting leases are "more in the nature of a personal license or a 'profit a prendre.'"²⁵ Neither the Application, if granted, nor the law under which the Application is being considered, expressly authorizes, prohibits, or otherwise addresses inundation of a minor property interest granted by a hunting lease. Thus, inundation of a hunting lease is not an interest within TCEQ's jurisdiction and cannot be the basis for denial of the Application. To the extent that Mr. Burch's request is based on concerns related to inundation and flooding of his hunting lease, those interests do not fall within the scope of TCEQ's review of the Application and are not otherwise within the jurisdiction of TCEQ to adjudicate, and do not give Mr. Burch affected person status.

Mr. Burch has not identified any water right or vested riparian right that he owns and that he is concerned will be affected by the requests made in the Application, if granted. Further, he failed to describe in his hearing request how and why he believes he will be affected in a manner not common to the members of the general public. Because his request fails to identify any personal justiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including the factors enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, Mr. Burch's request for a contested case hearing should not be granted.

3. Deborah Clark

Deborah Clark submitted three requests for a contested case hearing: two requests were on behalf of two organizations, and one request was in her individual capacity. This response addresses her individual request, and the two organizational requests are addressed in *Subsection IV(C)*, below. The Chief Clerk received Ms. Clark's individual request on March 9, 2020.

In her request, Ms. Clark stated that the Applicant should share the proposed pipeline map with the public and communicate information to the parties who may be affected. Her request does not raise any issues or concerns with the Application. Further, she failed to describe in her hearing request how and why she believes she will be affected in a manner not common to the members of the general public. Because her request fails to identify any personal justiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including the factors enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, Ms. Clark's individual request for a contested case hearing should not be granted.

²⁵ See *Digby v. Hatley*, 574 S.W.2d 186, 190 (Tex. App.—San Antonio 1978, no writ).

4. Casey and Shane Cody

Casey and Shane Cody (the “Codys”) submitted one request for a contested case hearing. It was received by the Chief Clerk on February 17, 2020.

In their hearing request, the Codys expressed concerns about inundation of private property. Additionally, the Codys raised concerns regarding the habitats for birds and lizards in the area, archeological impacts to known Native American lands, and economic impacts to Clay County.

Neither the Application, if granted, nor the law under which the Application is being considered, expressly authorizes, prohibits, or otherwise addresses inundation of private property. Thus, inundation of property is not an interest within TCEQ’s jurisdiction and cannot be the basis for denial of the Application. To the extent the Cody’s request is based on concerns related to inundation and flooding, those interests do not fall within the scope of TCEQ’s review of the Application and are not otherwise within the jurisdiction of TCEQ to adjudicate.

The Codys have not identified any water right or vested riparian right that they own and that they are concerned will be affected by the requests made in the Application, if granted. None of the issues identified in the Cody’s hearing request reflect any anticipated impacts to what would qualify as personal justiciable interest. Instead, as they have described them, their concerns are each clearly related to interests common to members of the general public—if they are attributable to the Application at all.

Further, although the Codys are concerned with archeological impacts and economic impacts, the Codys failed to describe in their hearing request how and why they believe they will be affected in a manner not common to the members of the general public. Because their request fails to identify any personal justiciable interest affected by the Application, it is impossible to determine that these requestors are affected persons using any relevant factors, including the factors enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, the Cody’s request for a contested case hearing should not be granted.

5. John Cox

John Cox submitted one contested case hearing request. It was received by the Chief Clerk on March 4, 2020.

In his request, Mr. Cox—a wildlife biologist in the region—stated that he owns property in Cooke County and raised general concerns about impacts to wildlife in the area. Mr. Cox shared concerns about the economic impacts of Lake Ringgold in the community, including lost revenue for hunting and agricultural operations. Finally, Mr. Cox expressed interest in reviewing the environmental impact studies.

As a threshold issue, Mr. Cox’s request does not include a statement explaining the requestor’s location and distance relative to Lake Ringgold. According to his request, Mr. Cox does not live in Clay County, where Lake Ringgold will be located. Even if Mr. Cox did live near Lake Ringgold, none of the issues identified in his hearing request reflect any anticipated impacts to what would qualify as a personal justiciable interest. Instead, as he described them, his concerns are each clearly related to interests common to members of the general public—if they are attributable to the Application at all.

Mr. Cox has not identified any water right or vested riparian right that he owns and that he is concerned will be affected by the requests made in the Application, if granted. Because his request fails to identify any personal justiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including the factors enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, Mr. Cox’s request for a contested case hearing should not be granted.

6. Frances Essler

Frances Essler submitted one contested case hearing request. The request was received by the Chief Clerk on March 16, 2020. The deadline to file hearing requests was March 9, 2020. Therefore, Ms. Essler’s hearing request is untimely.

In her request, Ms. Essler raised concerns about flooding. As a threshold issue, Ms. Essler’s concerns are not within TCEQ’s jurisdiction or protected by the law under which the Application is considered. Neither the Application, if granted, nor the law under which the Application is being considered, expressly authorizes, prohibits, or otherwise addresses flooding of private property. Thus, flooding of property is not an interest within TCEQ’s jurisdiction and cannot be the basis for denial of the Application. To the extent Ms. Essler’s request is based on concerns related to flooding, those interests do not fall within the scope of TCEQ’s review of the Application and are not otherwise within the jurisdiction of TCEQ to adjudicate.

Ms. Essler has not identified any water right or vested riparian right that she owns and that she is concerned will be affected by the requests made in the Application, if granted. Further, she failed to describe in her hearing request how and why she believes she will be affected in a manner not common to the members of the general public. Because her request fails to identify any personal justiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including the factors enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, should the untimely hearing request submitted by Ms. Essler be considered by TCEQ, it should not be granted.

7. Joshua Don Ferguson

Joshua Don Ferguson submitted one request for a contested case hearing. The request was received by the Chief Clerk on March 3, 2020.

In his hearing request, Mr. Ferguson raised general concerns about impacts to wildlife in the area, including the Whooping Crane population. Mr. Ferguson also shared his concern about the impact of Lake Ringgold on hunting in the area, as Mr. Ferguson states that he has a hunting lease with Umhaill Valley, LLC.

As a threshold issue, Mr. Ferguson's request does not include a statement explaining the requestor's location and distance relative to Lake Ringgold. Mr. Ferguson's interests are not impacted by the Application in a manner distinct from interests common to members of the general public. As Mr. Ferguson described his concerns, they are each clearly related to interests common to members of the general public—if they are attributable to the Application at all.

Although Mr. Ferguson stated he has a hunting lease with Umhaill Valley, LLC near Lake Ringgold, Mr. Ferguson has not provided any proof of a hunting lease with Umhaill Valley, LLC. Further, assuming Mr. Ferguson does in fact have a hunting lease with Umhaill Valley, LLC, the lease is a minor property interest. Texas Courts have held that hunting leases are “more in the nature of a personal license or a ‘profit a prendre.’”²⁶ Neither the Application, if granted, nor the law under which the Application is being considered, expressly authorizes, prohibits, or otherwise addresses inundation of a minor property interest granted by a hunting lease. Thus, inundation of a hunting lease is not an interest within TCEQ's jurisdiction and cannot be the basis for denial of the Application. To the extent that Mr. Ferguson's request is based on concerns related to inundation and flooding of his hunting lease, those interests do not fall within the scope of TCEQ's review of the Application and are not otherwise within the jurisdiction of TCEQ to adjudicate. Thus, the hunting lease is outside of TCEQ's jurisdiction, and does not give Mr. Ferguson affected person status.

Mr. Ferguson has not identified any water right or vested riparian right that he owns and that he is concerned will be affected by the requests made in the Application, if granted. Because his request fails to identify any personal justiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including the factors enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, the hearing request submitted by Mr. Ferguson should not be granted.

8. Sharon Fitts

Sharon Fitts submitted one request for a contested case hearing. The request was received by the Chief Clerk on March 2, 2020.

In her request, Ms. Fitts raised concerns about Lake Ringgold inundating her property and affecting hay production, cattle operations, and hunting. She also expressed an interest in keeping her property such that it borders Lake Ringgold.

²⁶ See *Digby v. Hatley*, 574 S.W.2d 186, 190 (Tex. App.—San Antonio 1978, no writ).

Neither the Application, if granted, nor the law under which the Application is being considered, expressly authorizes, prohibits, or otherwise addresses inundation of private property. Thus, inundation of property is not an interest within TCEQ's jurisdiction and cannot be the basis for denial of the Application. To the extent Ms. Fitts' request is based on concerns related to inundation and purchase of property, those interests do not fall within the scope of TCEQ's review of the Application and are not otherwise within the jurisdiction of TCEQ to adjudicate. Any of Ms. Fitts' interests that could be affected by the Application are addressed by the availability of relief under other sources of law that are distinct and removed from the considerations governing the Application.

Ms. Fitts has not identified any water right or vested riparian right that she owns and that she is concerned will be affected by the requests made in the Application, if granted. Further, she failed to describe in her hearing request how and why she believes she will be affected in a manner not common to the members of the general public. Because her request fails to identify any personal justiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including the factors enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, the hearing request submitted by Ms. Fitts should not be granted.

9. Grayson Gaither

Grayson Gaither submitted one request for a contested case hearing. The request was received by the Chief Clerk on October 7, 2020. The deadline to file hearing request was March 9, 2020. Therefore, Mr. Gaither's hearing request is untimely.

In his request, Mr. Gaither raised general concerns about the loss of land in Clay County and the loss of recreational opportunities. Mr. Gaither suggested an alternative location for Lake Ringgold, in Wilbarger County, Texas.

According to his request, Mr. Gaither is a resident of Dallas and does not live or own property near Lake Ringgold. Additionally, Mr. Gaither raised concerns that are not within TCEQ's jurisdiction or protected by the law under which the Application is considered.

Mr. Gaither has not identified any water right or vested riparian right that he owns and that he is concerned will be affected by the requests made in the Application, if granted. Further, he failed to describe in his hearing request how and why he believes he will be affected in a manner not common to the members of the general public. Because his request fails to identify any personal justiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including the factors enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, should the untimely hearing request submitted by Mr. Gaither be considered by TCEQ, it should not be granted.

10. Haley Greer

Haley Greer submitted one request for a contested case hearing. It was received by the Chief Clerk on March 6, 2020.

In her request, Ms. Greer asked whether Lake Ringgold is needed and who will pay to build and maintain Lake Ringgold. Ms. Greer also expressed concerns about potential increases to school and county taxes due to the loss of land affecting collected taxes, possible need for increased law enforcement to patrol and enforce the law in the area, and impacts to water quality. Ms. Greer stated that she owns a property ten miles southwest of Lake Ringgold and a property two miles south of Lake Ringgold.

As a threshold issue, Ms. Greer's request does not include any statement or an explanation of why she believes she will be impacted by the Application in a manner distinct from interests common to members of the general public. Similarly, although Ms. Greer does not share either of the property addresses, it appears from her description that the properties are not near enough to or within the footprint of Lake Ringgold.

The issues identified by Ms. Greer do not reflect any anticipated impact to a personal justiciable interest. Instead, as she has described them, her concerns are related exclusively to interests common to members of the general public. In addition, Ms. Greer has not identified any water right or vested riparian right that she is concerned may be affected by the requests made in the Application, if approved. Furthermore, the property Ms. Greer claims to own without substantiation is not described as being near enough to or within the footprint of Lake Ringgold to establish a personal justiciable interest. Because this request does not identify any personal justiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, the hearing request submitted by Ms. Greer should not be granted.

11. John M. Greer

John M. Greer submitted three requests for a contested case hearing. They were received by the Chief Clerk on February 27, March 5, and March 6, 2020.

In his requests, Mr. Greer asked whether Lake Ringgold is needed and who will pay to build and maintain Lake Ringgold. Mr. Greer also expressed concerns about potential increases to school and county taxes due to the loss of land affecting collected taxes, possible need for increased law enforcement to patrol and enforce the law in the area, and impacts to water quality. Mr. Greer stated that he owns a property ten miles southwest of Lake Ringgold and a property two miles south of Lake Ringgold.

As a threshold issue, Mr. Greer's request does not include any statement or an explanation of why he believes he will be impacted by the Application in a manner distinct from interests common to members of the general public. Similarly, although Mr. Greer does not

share either of the property addresses, it appears from his description that the properties are not near enough to or within the footprint of Lake Ringgold.

The issues identified by Mr. Greer do not reflect any anticipated impact to a personal justiciable interest. Instead, as he has described them, his concerns are related exclusively to interests common to members of the general public. In addition, Mr. Greer has not identified any water right or vested riparian right that he is concerned may be affected by the requests made in the Application, if approved. Furthermore, the property Mr. Greer claims to own without substantiation is not described as being near enough to or within the footprint of Lake Ringgold to establish a personal justiciable interest. Because this request does not identify any personal justiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, the hearing requests submitted by Mr. Greer should not be granted.

12. Katie Greer

Katie Greer submitted one request for a contested case hearing. It was received by the Chief Clerk on March 6, 2020.

In her request, Ms. Greer asked whether Lake Ringgold is needed and who will pay to build and maintain Lake Ringgold. Ms. Greer also expressed concerns about potential increases to school and county taxes due to the loss of land affecting collected taxes, possible need for increased law enforcement to patrol and enforce the law in the area, and impacts to water quality. Ms. Greer stated that she owns a property ten miles southwest of Lake Ringgold and a property two miles south of Lake Ringgold.

As a threshold issue, Ms. Greer's request does not include any statement or an explanation of why she believes she will be impacted by the Application in a manner distinct from interests common to members of the general public. Similarly, although Ms. Greer does not share either of the property addresses, it appears from her description that the properties are not near enough to or within the footprint of Lake Ringgold.

The issues identified by Ms. Greer do not reflect any anticipated impact to a personal justiciable interest. Instead, as she has described them, her concerns are related exclusively to interests common to members of the general public. In addition, Ms. Greer has not identified any water right or vested riparian right that she is concerned may be affected by the requests made in the Application, if approved. Furthermore, the property Ms. Greer claims to own without substantiation is not described as being near enough to or within the footprint of Lake Ringgold to establish a personal justiciable interest. Because this request does not identify any personal justiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, the hearing request submitted by Ms. Greer should not be granted.

13. Lea Ann Greer

Lee Ann Greer submitted two requests for a contested case hearing. They were received by the Chief Clerk on February 27 and March 5, 2020.

In her requests, Ms. Greer asked whether Lake Ringgold is needed and who will pay to build and maintain Lake Ringgold. Ms. Greer also expressed concerns about potential increases to school and county taxes due to the loss of land affecting collected taxes, possible need for increased law enforcement to patrol and enforce the law in the area, and impacts to water quality. Ms. Greer stated that she owns a property ten miles southwest of Lake Ringgold and a property two miles south of Lake Ringgold.

As a threshold issue, Ms. Greer's request does not include any statement or an explanation of why she believes she will be impacted by the Application in a manner distinct from interests common to members of the general public. Similarly, although Ms. Greer does not share either of the property addresses, it appears from her description that the properties are not near enough to or within the footprint of Lake Ringgold.

The issues identified by Ms. Greer do not reflect any anticipated impact to a personal judiciable interest. Instead, as she has described them, her concerns are related exclusively to interests common to members of the general public. In addition, Ms. Greer has not identified any water right or vested riparian right that she is concerned may be affected by the requests made in the Application, if approved. Furthermore, the property Ms. Greer claims to own without substantiation is not described as being near enough to or within the footprint of Lake Ringgold to establish a personal justiciable interest. Because this request does not identify any personal justiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, the hearing requests submitted by Ms. Greer should not be granted.

14. Thomas David Greer

Thomas David Greer submitted two identical requests for a contested case hearing. The Chief Clerk received the first request on February 27, 2020 and the second request on March 5, 2020.

In his requests, Mr. Greer asked whether Lake Ringgold is needed and who will pay to build and maintain Lake Ringgold. Mr. Greer also expressed concerns about potential increases to school and county taxes due to the loss of land affecting collected taxes, possible need for increased law enforcement to patrol and enforce the law in the area, and impacts to water quality. Mr. Greer stated that he owns a property ten miles southwest of Lake Ringgold and a property two miles south of Lake Ringgold. Mr. Greer also shared that he is the Health Officer for Clay County, Texas, and the Health Officer for the City of Henrietta, Texas.

As a threshold issue, Mr. Greer's request does not include any statement or an explanation of why he believes he will be impacted by the Application in a manner distinct from interests common to members of the general public. Similarly, although Mr. Greer does not share either of the property addresses, it appears from his description that the properties are not near enough to or within the footprint of Lake Ringgold.

The issues identified by Mr. Greer do not reflect any anticipated impact to a personal justiciable interest. Instead, as he has described them, his concerns are related exclusively to interests common to members of the general public. In addition, Mr. Greer has not identified any water right or vested riparian right that he is concerned may be affected by the requests made in the Application, if approved. Furthermore, the property Mr. Greer claims to own without substantiation is not described as being near enough to or within the footprint of Lake Ringgold to establish a personal justiciable interest. Because this request does not identify any personal justiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, the hearing requests submitted by Mr. Greer should not be granted.

15. Luke Halsell

Luke Halsell submitted one request for a contested case hearing. It was received by the Chief Clerk on February 24, 2020.

In his request, Mr. Halsell raised general concerns about flooding on his property, impacts to wildlife and hunting, and the effect of Lake Ringgold on property values. Mr. Halsell shared that his property already experiences flooding during rain events. While the hearing request stated that Mr. Halsell owns property that will be affected by flooding, it does not include a sufficient explanation of the location and distance of the property to Lake Ringgold. Based on the explanation provided, and Applicant's review of real property records in Clay County, Mr. Halsell's property is not located near to or in the footprint of Lake Ringgold.

Mr. Halsell's concerns are general to members of the public, and he does not specify a personal interest or right in law that could be affected by the Application. In addition, Mr. Halsell raised concerns about flooding. Neither the Application, if granted, nor the law under which the Application is being considered, expressly authorizes, prohibits, or otherwise addresses flooding or inundation of private property. As such, flooding of property is not an interest within TCEQ's jurisdiction and thus cannot be the basis for denial of the Application. To the extent Mr. Halsell's request is based on concerns related to flooding and property values, those interests do not fall within the scope of TCEQ's review of the Application and are not otherwise within the jurisdiction of TCEQ to adjudicate.

Mr. Halsell has not identified any water right or vested riparian right that he owns and is concerned will be affected by the requests made in the Application, if granted. Further, he failed to describe in his hearing request how and why he believes he will be affected in a manner not common to the members of the general public. Because his request fails to identify any personal

justiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including the factors enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, Mr. Halsell's request for a contested case hearing should be denied.

16. Sherri Halsell

Sherri Halsell submitted one request for a contested case hearing. It was received by the Chief Clerk on February 18, 2020.

In her request, Ms. Halsell raised general concerns about flooding on her property, impacts to wildlife and hunting, and the effect of Lake Ringgold on property values. Ms. Halsell shared that her property already experiences flooding during rain events. While the hearing request states that Ms. Halsell owns property that will be affected by flooding, it does not include a sufficient explanation of the location and distance of the property to Lake Ringgold. Based on the explanation provided, and Applicant's review of real property records in Clay County, Ms. Halsell's property is not located near to or in the footprint of Lake Ringgold.

Ms. Halsell's concerns are general to members of the public, and she does not specify a personal interest or right in law that could be affected by the Application. In addition, Ms. Halsell raised concerns about flooding. Neither the Application, if granted, nor the law under which the Application is being considered, expressly authorizes, prohibits, or otherwise addresses flooding or inundation of private property. As such, flooding of property is not an interest within TCEQ's jurisdiction and thus cannot be the basis for denial of the Application. To the extent Ms. Halsell's request is based on concerns related to flooding or property values, those interests do not fall within the scope of TCEQ's review of the Application and are not otherwise within the jurisdiction of TCEQ to adjudicate.

Ms. Halsell has not identified any water right or vested riparian right that she owns and is concerned will be affected by the requests made in the Application, if granted. Further, she failed to describe in her hearing request how and why she believes she will be affected in a manner not common to the members of the general public. Because her request fails to identify any personal justiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including the factors enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Accordingly, Ms. Halsell's hearing request should not be granted.

17. Mark Hill

Mark Hill submitted one request for a contested case hearing. It was received by the Chief Clerk on February 27, 2020.

In the request, Mr. Hill expressed concern regarding potential flooding to his property. Mr. Hill also expressed concern about potential damage to his property, which he stated is one-half mile from Lake Ringgold.

As a threshold issue, Mr. Hill's request also does not include an address or a telephone number. Because this request lacks basic information required under Title 30, Section 55.251 of the Texas Administrative Code, this request does not substantially comply with the Code.

Additionally, Mr. Hill's request does not reference any specific issues or concerns related to the Application or the law under which the Application is being considered. Mr. Hill's concerns are general to members of the public, and he does not state any personal interest or right in law that could be affected by the Application. Additionally, Mr. Hill has not identified any water right or vested riparian right that he owns and that he is concerned will be affected by the requests made in the Application, if granted. Because the request fails to identify any personal justiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including the factors enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, Mr. Hill's request for a contested case hearing should not be granted.

18. Edna Mae Klein

Edna Mae Klein submitted one request for a contested case hearing. It was received by the Chief Clerk on March 16, 2020. The deadline to file hearing requests was March 9, 2020. Therefore, Ms. Klein's hearing request is untimely.

In her request, Ms. Klein stated that her property may be inundated as a result of the Application, if granted. Ms. Klein shared her concerns for loss of use to the property for grazing, hunting, and recreational opportunities.

Neither the Application, if granted, nor the law under which the Application is being considered, expressly authorizes, prohibits, or otherwise addresses inundation of private property. As such, inundation of property is not an interest within TCEQ's jurisdiction and thus cannot be the basis for denial of the Application. To the extent Ms. Klein's request is based on concerns related to inundation, those interests do not fall within the scope of TCEQ's review of the Application and are not otherwise within the jurisdiction of TCEQ to adjudicate. Any of Ms. Klein's interests that may be affected by the Application are addressed by the availability of relief under sources of law that are distinct and removed from the considerations governing the Application.

Ms. Klein has not identified any water right or vested riparian right that she owns and is concerned will be affected by the requests made in the Application, if granted. Further, her request fails to identify any personal justiciable interests affected by the Application, and it is impossible to determine that this requestor is an affected person using any relevant factors, including the factors enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Thus, should the untimely hearing request submitted by Ms. Klein be considered, it should not be granted.

19. Jennica Lambert

Jennica Lambert submitted one request for a contested case hearing. It was received by the Chief Clerk on October 28, 2020. The deadline to file hearing requests was March 9, 2020. Therefore, Ms. Lambert's hearing request is untimely.

The request does not include an address or a telephone number. Because this request lacks basic information required under Title 30, Section 55.251 of the Texas Administrative Code, this request does not substantially comply with the Code.

As a threshold issue, Ms. Lambert does not include any statement about her location relative to Lake Ringgold. Ms. Lambert did not raise any issues or concerns with the Application or provide an explanation of why she believes she will be impacted by the application in a manner distinct from interests common to members of the general public. Ms. Lambert has not identified any water right or vested riparian right that she owns and that she is concerned will be affected by the requests made in the Application, if granted. Further, she failed to describe in her hearing request how and why she believes she will be affected in a manner not common to the members of the general public. Because her request fails to identify any personal justiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including the factors enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Thus, should the untimely hearing request submitted by Ms. Lambert be considered by TCEQ, it should not be granted.

20. Darlene and Luther Lyde

Darlene and Luther Lyde (the "Lydes") submitted one contested case hearing request. It was received by the Chief Clerk on March 5, 2020.

In the request, the Lydes express concerns about the impact of Lake Ringgold on wildlife and archeology in the region. The Lydes shared concerns about the potential impact of Lake Ringgold on law enforcement and the fire department. Finally, the Lydes shared concerns about the potential loss of grazing, hunting, fishing, and other recreational opportunities.

To the extent the Lyde's request is based on property values and general historical value, those interests do not fall within the scope of TCEQ's review of the Application and are not otherwise within the jurisdiction of TCEQ to adjudicate. The interests raised by the Lydes, if attributable to the Application at all, are addressed by the availability of relief under sources of law that are distinct and removed from the considerations governing the Application. The Lydes have not identified any water right or vested riparian right that they own and are concerned will be affected by the requests made in the Application, if granted. Further, their request fails to identify any personal justiciable interests affected by the Application, and it is impossible to

determine that these requestors are affected persons using any relevant factors, including the factors enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, the Lyde's request should not be granted.

21. Mary Ellen Maddox

Mary Ellen Maddox submitted one contested case hearing request. It was received by the Chief Clerk on February 24, 2020.

In her request, Ms. Maddox raised concerns about the potential changes to the community that Lake Ringgold could bring, including concerns about crime, drugs, and traffic. Ms. Maddox also shared concerns about the impact Lake Ringgold would have on wildlife in the region.

Ms. Maddox's concerns are similar to that of members of the general public, if attributable to the Application at all, and she does not specify a personal interest or right in law that could be affected by the Application. To the extent Ms. Maddox's request is based on concerns related to community, those interests do not fall within the scope of TCEQ's review of the Application and are not otherwise within the jurisdiction of TCEQ to adjudicate.

Ms. Maddox has not identified any water right or vested riparian right that she owns and is concerned will be affected by the requests made in the Application, if granted. Further, she failed to describe in her hearing request how and why she believes she will be affected in a manner not common to the members of the general public. Because her request fails to identify any personal justiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including the factors enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Accordingly, Ms. Maddox's hearing request should be denied.

22. Randi M. Maddox

Randi M. Maddox submitted one contested case hearing request. It was received by the Chief Clerk on February 24, 2020.

In the request, Ms. Maddox raised concerns about Lake Ringgold inundating her property, affecting local wildlife and hunting opportunities. Ms. Maddox is also concerned about the effect of Lake Ringgold on the historical "Rock Crossing" historical site.

Ms. Maddox's concerns are general to members of the public, and she failed to specify a personal interest or right in law that could be affected by the Application. To the extent Ms. Maddox's request is based on concerns related to flooding or property values, those interests do not fall within the scope of TCEQ's review of the Application and are not otherwise within the jurisdiction of TCEQ to adjudicate. Neither the Application, if granted, nor the law under which the Application is being considered, expressly authorizes, prohibits, or otherwise addresses

flooding or inundation of private property. As such, flooding of property is not an interest within TCEQ's jurisdiction and thus cannot be the basis for denial of the Application.

Ms. Maddox has not identified any water right or vested riparian right that she owns and is concerned will be affected by the requests made in the Application, if granted. Further, she failed to describe in her hearing request how and why she believes she will be affected in a manner not common to the members of the general public. Because her request fails to identify any personal justiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including the factors enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Accordingly, Ms. Maddox's request should not be granted.

23. Adeline McDonnell

Adeline McDonnell submitted one request for a contested case hearing. It was received by the Chief Clerk on March 6, 2020.

In her request, Ms. McDonnell asked whether Lake Ringgold is needed and who will pay to build and maintain Lake Ringgold. Ms. McDonnell also expressed concerns about potential increases to school and county taxes due to the loss of land affecting collected taxes, possible need for increased law enforcement to patrol and enforce the law in the area, and impacts to water quality. Ms. McDonnell stated that she owns a property ten miles southwest of Lake Ringgold and a property two miles south of Lake Ringgold.

As a threshold issue, Ms. McDonnell's request does not include any statement or an explanation of why she believes she will be impacted by the Application in a manner distinct from interests common to members of the general public. Similarly, although Ms. McDonnell does not share either of the property addresses, it appears from her description that the properties are not near enough to or within the footprint of Lake Ringgold.

The issues identified by Ms. McDonnell do not reflect any anticipated impact to a personal justiciable interest. Instead, as she has described them, her concerns are related exclusively to interests common to members of the general public. In addition, Ms. McDonnell has not identified any water right or vested riparian right that she is concerned may be affected by the requests made in the Application, if approved. Furthermore, the property Ms. McDonnell claims to own without substantiation is not described as being near enough to or within the footprint of Lake Ringgold to establish a personal justiciable interest. Because this request does not identify any personal justiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, the hearing request submitted by Ms. McDonnell should not be granted.

24. Caroline McDonnell

Caroline McDonnell submitted one request for a contested case hearing. It was received by the Chief Clerk on March 6, 2020.

In her request, Ms. McDonnell asked whether Lake Ringgold is needed and who will pay to build and maintain Lake Ringgold. Ms. McDonnell also expressed concerns about potential increases to school and county taxes due to the loss of land affecting collected taxes, possible need for increased law enforcement to patrol and enforce the law in the area, and impacts to water quality. Ms. McDonnell stated that she owns a property ten miles southwest of Lake Ringgold and a property two miles south of Lake Ringgold.

As a threshold issue, Ms. McDonnell's request does not include any statement or an explanation of why she believes she will be impacted by the Application in a manner distinct from interests common to members of the general public. Similarly, although Ms. McDonnell does not share either of the property addresses, it appears from her description that the properties are not near enough to or within the footprint of Lake Ringgold.

The issues identified by Ms. McDonnell do not reflect any anticipated impact to a personal justiciable interest. Instead, as she has described them, her concerns are related exclusively to interests common to members of the general public. In addition, Ms. McDonnell has not identified any water right or vested riparian right that she is concerned may be affected by the requests made in the Application, if approved. Furthermore, the property Ms. McDonnell claims to own without substantiation is not described as being near enough to or within the footprint of Lake Ringgold to establish a personal justiciable interest. Because this request does not identify any personal justiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, the hearing request submitted by Ms. McDonnell should not be granted.

25. Jan Greer McDonnell

Jan Greer McDonnell submitted two requests for a contested case hearing. They were received by the Chief Clerk on February 27 and March 5, 2020.

In her requests, Ms. McDonnell asked whether Lake Ringgold is needed and who will pay to build and maintain Lake Ringgold. Ms. McDonnell also expressed concerns about potential increases to school and county taxes due to the loss of land affecting collected taxes, possible need for increased law enforcement to patrol and enforce the law in the area, and impacts to water quality. Ms. McDonnell stated that she owns a property ten miles southwest of Lake Ringgold and a property two miles south of Lake Ringgold.

As a threshold issue, Ms. McDonnell's request does not include any statement or an explanation of why she believes she will be impacted by the Application in a manner distinct from interests common to members of the general public. Similarly, although Ms. McDonnell

does not share either of the property addresses, it appears from her description that the properties are not near enough to or within the footprint of Lake Ringgold.

The issues identified by Ms. McDonnell do not reflect any anticipated impact to a personal justiciable interest. Instead, as she has described them, her concerns are related exclusively to interests common to members of the general public. In addition, Ms. McDonnell has not identified any water right or vested riparian right that she is concerned may be affected by the requests made in the Application, if approved. Furthermore, the property Ms. McDonnell claims to own without substantiation is not described as being near enough to or within the footprint of Lake Ringgold to establish a personal justiciable interest. Because this request does not identify any personal justiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, the hearing request submitted by Ms. McDonnell should not be granted.

26. Laura Del Murray

Laura Del Murray and Diaz Murray submitted two requests for a contented case hearing through their counsel, Catherine Webking. The first hearing request was received by the Chief Clerk on March 5, 2020. The second hearing request, that included Diaz Murray, was received by the Chief Clerk on August 25, 2020. The deadline for submitting hearing requests was March 9, 2020. Therefore, the first hearing request is timely, and the second hearing request is untimely.

In her first hearing request filed on March 5, 2020, Ms. Murray expressed her concern for her property—a cattle ranch—that would be inundated by Lake Ringgold. Ms. Murray also shared her concern for the negative impact of Lake Ringgold on natural resources.

Each of the issues raised in the request fall outside the scope of TCEQ's review of the Application and are otherwise beyond the jurisdiction of the agency to adjudicate. Instead, to the extent that the Application affects any property owned by Ms. Murray, her interests are addressed and protected by the availability of relief under other sources of law that are distinct and removed from the considerations governing the Application—e.g., the applicable constitutional and statutory requirements governing the condemnation of property.

Ms. Murray has not identified any water right or vested riparian right that she is concerned will be affected by the requests made in the Application, if approved. Because Ms. Murray's request does not identify any personal justiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, the first hearing request submitted by Ms. Murray should not be granted.

In her second hearing request, which was untimely, Ms. Murray reiterated her concerns that Lake Ringgold will inundate her property and affect her cattle ranching operations. In

addition, Ms. Murray is concerned that Lake Ringgold could burden Clay County without meeting the water needs as indicated in the Region B Water Plan.

The issues identified by Ms. Murray in her second hearing request do not reflect any anticipated impact to a personal judiciable interest. Instead, as she has described herein, her concerns are related exclusively to interests common to members of the general public. In addition, Ms. Murray claims to have a water right, but does not provide any documentation to establish that water right. Because this request does not identify any personal justiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, should the untimely hearing request submitted by Ms. Murray be considered by TCEQ, it should not be granted.

27. Patricia E. Reynosa Nava

Patricia E. Reynosa Nava submitted one request for a contested case hearing. The Request was received by the Chief Clerk on April 4, 2021. The deadline for submitting hearing requests was March 9, 2020. Therefore, the hearing request is untimely.

In her request for a contested case hearing, Ms. Nava fails to include her telephone number and address. Because this request lacks basic information required under Title 30, Section 55.251 of the Texas Administrative Code, this request does not substantially comply with the Code.

As a threshold issue, Ms. Nava's request does not include any statement or explanation of why she believes she will be impacted by the Application in a manner distinct from interests common to members of the general public. Because this request does not identify any personal justiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, should the untimely hearing request submitted by Ms. Nava be considered by TCEQ, it should not be granted.

28. Jason P. Obermier

Jason P. Obermier submitted one request for a contested case hearing. It was received by the Chief Clerk on February 24, 2020.

In his request, Mr. Obermier described his concerns that his land (including a home, farming operation, machine shop, and grain storage facility) will be affected by flooding and inundated by Lake Ringgold. Mr. Obermier is concerned that his farming, hunting, and fishing operations will be affected by Lake Ringgold. Mr. Obermier also owns land that will be located downstream of Lake Ringgold. Mr. Obermier claims to have a water right to Little Wichita

River drainage, but does not provide a permit, stating that the deed to his property provides him a right “to the center of river starting at center of hwy [sic] 148 north bridge extending to the neighboring property owned by Wichita Falls.” Mr. Obermier also fails to provide the deed substantiating his claimed water right.

The issues identified by Mr. Obermier do not reflect any anticipated impact to a personal justiciable interest. Instead, as he has described them, his concerns are related exclusively to interests common to members of the general public. In addition, Mr. Obermier claims to have a water right, but does not provide the necessary documentation to establish that water right. Because this request does not identify any personal justiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

To the extent that Mr. Obermier’s hearing request addresses the acquisition of his real property through purchase or condemnation, such issues are ones that fall outside the scope of TCEQ’s review of the Application and are otherwise beyond the jurisdiction of the agency to adjudicate.

Therefore, the hearing request submitted by Mr. Obermier should not be granted.

29. Jimmy Dale Obermier

Jimmy Dale Obermier submitted one request for a contested case hearing. It was received by the Chief Clerk on March 1, 2020.

In his request, Mr. Obermier expressed concerns that his property will be inundated and his agriculture operation may be disrupted. Mr. Obermier also expressed concerns about the depth of Lake Ringgold and potential for evaporation. Mr. Obermier does not think the lake will be desirable for recreation, fishing, and development of homes or tourism. Mr. Obermier is also concerned that Clay County citizens may bear the burden for paying for road maintenance and law enforcement.

As a threshold issue, Mr. Obermier’s request does not include any statement or an explanation of why he believes he will be impacted by the Application in a manner distinct from interests common to members of the general public. Similarly, Mr. Obermier does not share the addresses of the property in the hearing request. While the hearing request states that Mr. Obermier owns property that will be affected by flooding, it does not include a sufficient explanation of the location and distance of the property relative to Lake Ringgold.

The issues identified by Mr. Obermier do not reflect any anticipated impact to a personal justiciable interest. Instead, as he has described herein, his concerns are related exclusively to interests common to members of the general public. In addition, Mr. Obermier has not identified any water right or vested riparian right that he is concerned may be affected by the requests made in the Application, if approved. Because this request does not identify any personal justiciable interest affected by the Application, it is impossible to determine that this requestor is an affected

person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

To the extent that Mr. Obermier's hearing request addresses the acquisition of real property through purchase or condemnation, such issues fall outside the scope of TCEQ's review of the Application and are otherwise beyond the jurisdiction of the agency to adjudicate.

Therefore, the hearing request submitted by Mr. Obermier should not be granted.

30. Joe J. Parker

Joe. J. Parker submitted one request for a contested case hearing. It was received by the Chief Clerk on February 12, 2020.

In his request, Mr. Parker stated that he owns land 20 miles north of Lake Ringgold. Mr. Parker expressed concerns for his neighbors regarding loss of farm and ranch land, possible increases in maintenance and expenses in Clay County, and the potential for an increase in water rates from Dean Dale Water SUD and the City of Byers (through the Benvanue Water Company).

As a threshold issue, Mr. Parker's request does not include any statement or explanation of why he believes he will be impacted by the Application in a manner distinct from interests common to members of the general public.

The issues identified by Mr. Parker do not reflect any anticipated impact to a personal justiciable interest. Instead, as he has described herein, his concerns are related exclusively to interests common to members of the general public, especially given the distance of his property from Lake Ringgold. In addition, Mr. Parker has not identified any water right or vested riparian right that he is concerned may be affected by the requests made in the Application, if approved. Because this request does not identify any personal justiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, the hearing request submitted by Mr. Parker should not be granted.

31. Pamela Maddox Payne

Pamela Maddox Payne submitted one request for a contested case hearing. It was received by the Chief Clerk on February 21, 2020.

In her request, Ms. Payne expressed concerns that Lake Ringgold will affect her, her family, and her farm and ranch operation. Ms. Payne is concerned that Clay County will incur increased costs for law enforcement, the fire department, and road expenses, while having a decreased tax roll.

Ms. Payne’s request does not include any statement or explanation of why she believes she will be impacted by the Application in a manner distinct from interests common to members of the general public. The issues identified by Ms. Payne do not reflect any anticipated impact to a personal justiciable interest. Instead, as she has described them, her concerns are related exclusively to interests common to members of the general public. In addition, Ms. Payne has not identified any water right or vested riparian right that she is concerned may be affected by the requests made in the Application, if approved. Because this request does not identify any personal justiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, the hearing request submitted by Ms. Payne should not be granted.

32. Jake Roberson

Jake Roberson submitted two identical requests for a contested case hearing. The identical requests were received by the Chief Clerk on March 3 and March 4, 2020.

In his requests, Mr. Roberson shared concerns regarding a hunting lease with Umhail Valley, LLC within the footprint of Lake Ringgold.

As a threshold issue, Mr. Roberson’s request does not include any statement or explanation of why he believes he will be impacted by the Application in a manner distinct from interests common to members of the general public.

The issues identified by Mr. Roberson do not reflect any anticipated impact to a personal justiciable interest. Instead, as he has described herein, his concerns—primarily hunting in the region—are related exclusively to interests common to members of the general public. Mr. Roberson has not provided any proof of a hunting lease with Umhail Valley, LLC. Further, assuming Mr. Roberson does in fact have a hunting lease with Umhail Valley, LLC, the lease is a minor property interest. Texas Courts have held that hunting leases are “more in the nature of a personal license or a ‘profit a prendre.’”²⁷ Neither the Application, if granted, nor the law under which the Application is being considered, expressly authorizes, prohibits, or otherwise addresses inundation of a minor property interest granted by a hunting lease. Thus, inundation of a hunting lease is not an interest within TCEQ’s jurisdiction and cannot be the basis for denial of the Application. To the extent the Mr. Roberson’s request is based on concerns related to inundation and flooding of his hunting lease, those interests do not fall within the scope of TCEQ’s review of the Application and are not otherwise within the jurisdiction of TCEQ to adjudicate. Thus, the hunting lease is outside of TCEQ’s jurisdiction, and does not give Mr. Roberson affected person status.

In addition, Mr. Roberson has not identified any water right or vested riparian right that he is concerned may be affected by the requests made in the Application, if approved. Because this request does not identify any personal justiciable interest affected by the Application, it is

²⁷ See *Digby v. Hatley*, 574 S.W.2d 186, 190 (Tex. App.—San Antonio 1978, no writ).

impossible to determine that this requestor is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, the hearing request submitted by Mr. Roberson should not be granted.

33. Tremayne Taiwan Savage

Tremayne Taiwan Savage submitted one request for a contested case hearing on April 4, 2021. The deadline to submit hearing requests was March 9, 2020. Therefore, Tremayne's request is untimely.

In the request, Tremayne shared concerns about the major economic and environmental impacts that Lake Ringgold could have. Tremayne does not provide any property information in the request and does not provide a phone number in the request. Because this request lacks basic information required under Title 30, Section 55.251 of the Texas Administrative Code, this request does not substantially comply with the Code.

As a threshold issue, Tremayne's request does not include any statement or explanation of why they will be impacted by the Application in a manner distinct from interests common to members of the general public.

The issues identified by Tremayne's request do not reflect any anticipated impact to a personal judiciable interest. Instead, as they have described them, their concerns are related exclusively to interests common to members of the general public. In addition, Tremayne has not identified any water right or vested riparian right that they are concerned may be affected by the requests made in the Application, if approved. Because this request does not identify any personal justiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, should the untimely request submitted by Tremayne be considered by TCEQ, it should not be granted.

34. Ken Scott

Ken Scott submitted one request for a contested case hearing. The request was received by the Chief Clerk on March 3, 2020.

In his request, Mr. Scott shared concerns about the potential impacts to taxes, road maintenance, the sheriff's office, and cattle operations as a result of Lake Ringgold.

Mr. Scott does not provide an address of the land that may be affected, and based on Applicant's review of real property records, does not own property near to or in the footprint of Lake Ringgold. Nor does Mr. Scott provide a telephone number. Because this request lacks basic information required under Title 30, Section 55.251 of the Texas Administrative Code, this request does not substantially comply with the Code.

The issues identified by Mr. Scott do not reflect any anticipated impact to a personal judiciable interest. Instead, as he has described herein, his concerns are related exclusively to interests common to members of the general public. In addition, Mr. Scott has not identified any water right or vested riparian right that he is concerned may be affected by the requests made in the Application, if approved. Because this request does not identify any personal judiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, the hearing request submitted by Mr. Scott should not be granted.

35. Johnnie Shaw

Johnnie Shaw submitted one request for a contested case hearing. The request was received by the Chief Clerk on March 9, 2020.

In his request, Mr. Shaw shared his concern that his property would be inundated by Lake Ringgold. Mr. Shaw does not provide an address of the property that would be inundated by Lake Ringgold, nor does Mr. Shaw provide a telephone number. Because this request lacks basic information required under Title 30, Section 55.251 of the Texas Administrative Code, this request does not substantially comply with the Code.

The issues raised in the request are ones that fall outside the scope of TCEQ's review of the Application and are otherwise beyond the jurisdiction of the agency to adjudicate. Instead, to the extent that the Application affects any property owned by Mr. Shaw, his interests are addressed and protected by the availability of relief under other sources of law that are distinct and removed from the considerations governing the Application—e.g., the applicable constitutional and statutory requirements governing the condemnation of property.

Mr. Shaw has not identified any water right or vested riparian right that he is concerned will be affected by the requests made in the Application, if approved. Because Mr. Shaw's request does not identify any personal judiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, the hearing request submitted by Mr. Shaw should not be granted.

36. Larry Horwood, Lonnie Horwood, and Stan Horwood

James C. Skinner, on behalf of Larry Horwood, Lonnie Horwood, and Stan Horwood, (the "Horwoods") submitted two identical requests for a contested case hearing. The requests were received by the Chief Clerk on February 24, 2020.

In the requests, the Horwoods shared their concern that their property would be inundated by Lake Ringgold. The Horwoods also shared that they have a water right that will be adversely

affected by Lake Ringgold. The Horwoods did not provide a copy of the water right or any information about the water right.

The issue of property inundation raised in the request falls outside the scope of TCEQ's review of the Application and is otherwise beyond the jurisdiction of the agency to adjudicate. Instead, to the extent that the Application affects any property owned by the Horwoods, their interests are addressed and protected by the availability of relief under other sources of law that are distinct and removed from the considerations governing the Application—e.g., the applicable constitutional and statutory requirements governing the condemnation of property.

The Horwoods claim to have a water right or vested riparian right that they are concerned will be affected by the requests made in the Application, if approved. The Horwoods did not provide any evidence of a water right. Because the Horwoods' request does not identify any personal justiciable interest affected by the Application, it is impossible to determine that these requestors are affected persons using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, the hearing request submitted by the Horwoods should not be granted.

37. Clint Staley

Clint Staley submitted one request for a contested case hearing. The request was received by the Chief Clerk on March 3, 2020.

In his request, Mr. Staley shared his concern that his hunting lease with Kildavent Castle, LLC will be affected. Mr. Staley also expressed concern for Native American campgrounds and burial grounds that will be impacted by Lake Ringgold.

Mr. Staley does not provide a telephone number. Because this request lacks basic information required under Title 30, Section 55.251 of the Texas Administrative Code, this request does not substantially comply with the Code.

As a threshold issue, Mr. Staley's request does not include any statement or explanation of why he believes he will be impacted by the Application in a manner distinct from interests common to members of the general public. The issues raised in the request are ones that fall outside the scope of TCEQ's review of the Application and are otherwise beyond the jurisdiction of the agency to adjudicate.

Mr. Staley has not provided any proof of a hunting lease with Kildavent Castle, LLC. Further, assuming Mr. Staley does in fact have a hunting lease with Kildavent Castle, LLC, the lease is a minor property interest. Texas Courts have held that hunting leases are "more in the nature of a personal license or a 'profit a prendre.'"²⁸ Neither the Application, if granted, nor the law under which the Application is being considered, expressly authorizes, prohibits, or otherwise addresses inundation of a minor property interest granted by a hunting lease. Thus,

²⁸ See *Digby v. Hatley*, 574 S.W.2d 186, 190 (Tex. App.—San Antonio 1978, no writ).

inundation of a hunting lease is not an interest within TCEQ's jurisdiction and cannot be the basis for denial of the Application. To the extent the Mr. Staley's request is based on concerns related to inundation and flooding of his hunting lease, those interests do not fall within the scope of TCEQ's review of the Application and are not otherwise within the jurisdiction of TCEQ to adjudicate. Thus, the hunting lease is outside of TCEQ's jurisdiction, and does not give Mr. Staley affected person status.

The issues identified by Mr. Staley do not reflect any anticipated impact to a personal judiciable interest. Instead, as he has described herein, his concerns are related exclusively to interests common to members of the general public. In addition, Mr. Staley has not identified any water right or vested riparian right that he is concerned may be affected by the requests made in the Application, if approved. Because this request does not identify any personal judiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, the hearing request submitted by Mr. Staley should not be granted.

38. Gil Staley

Gil Staley submitted one request for a contested case hearing. The request was received by the Chief Clerk on February 24, 2020.

In his request, Mr. Staley expressed concerns regarding Lake Ringgold inundating his ranch that produces cattle, wheat, and hay, as well as impacts to his residence, barn, and equipment that are located within one mile of Lake Ringgold. Mr. Staley also shared his concerns about losing the recreational aspects of the Little Wichita River, including boating and fishing.

Mr. Staley's concerns are general to members of the public, and he does not specify a personal interest or right in law that could be affected by the Application. In addition, Mr. Staley raised concerns regarding his property being inundated. Neither the Application, if granted, nor the law under which the Application is being considered, expressly authorizes, prohibits, or otherwise addresses flooding or inundation of private property. As such, flooding of property is not an interest within the TCEQ's jurisdiction and thus cannot be the basis for denial of the Application. To the extent Mr. Staley's request is based on concerns related to flooding and inundation, those interests do not fall within the scope of TCEQ's review of the Application and are not otherwise within the jurisdiction of TCEQ to adjudicate.

The issues identified by Mr. Staley do not reflect any anticipated impact to a personal judiciable interest. Instead, as he has described herein, his concerns are related exclusively to interests common to members of the general public. In addition, Mr. Staley has not identified any water right or vested riparian right that he is concerned may be affected by the requests made in the Application, if approved. Because this request does not identify any personal judiciable interest affected by the Application, it is impossible to determine that this requestor is an affected

person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, the hearing request submitted by Mr. Staley should not be granted.

39. Joe A. Staley

Joe A. Staley submitted one request for a contested case hearing. The request was received by the Chief Clerk on February 24, 2020.

In his request, Mr. Staley expressed concerns regarding Lake Ringgold inundating his ranch that produces cattle, wheat, and hay, as well as impacts to his residence, barn, and equipment that are located within one mile of Lake Ringgold. Mr. Staley also shared his concerns about losing the recreational aspects of the Little Wichita River, including boating and fishing.

Mr. Staley's concerns are general to members of the public, and he does not specify a personal interest or right in law that could be affected by the Application. In addition, Mr. Staley raised concerns regarding his property being inundated. Neither the Application, if granted, nor the law under which the Application is being considered, expressly authorizes, prohibits, or otherwise addresses flooding or inundation of private property. As such, flooding of property is not an interest within TCEQ's jurisdiction and thus cannot be the basis for denial of the Application. To the extent Mr. Staley's request is based on concerns related to flooding and inundation, those interests do not fall within the scope of TCEQ's review of the Application and are not otherwise within the jurisdiction of TCEQ to adjudicate.

The issues identified by Mr. Staley do not reflect any anticipated impact to a personal judiciable interest. Instead, as he has described herein, his concerns are related exclusively to interests common to members of the general public. In addition, Mr. Staley has not identified any water right or vested riparian right that he is concerned may be affected by the requests made in the Application, if approved. Because this request does not identify any personal judiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, the hearing request submitted by Mr. Staley should not be granted.

40. Phil Staley

Phil Staley submitted one identical request for a contested case hearing. The request was received by the Chief Clerk on February 24, 2020.

In his request, Mr. Staley expressed concerns regarding Lake Ringgold inundating his ranch that produces cattle, wheat, and hay, as well as impacts to his residence, barn, and equipment that are located within one mile of Lake Ringgold. Mr. Staley also shared his

concerns about losing the recreational aspects of the Little Wichita River, including boating and fishing.

Mr. Staley's concerns are general to members of the public, and he does not specify a personal interest or right in law that could be affected by the Application. In addition, Mr. Staley raised concerns regarding his property being inundated. Neither the Application, if granted, nor the law under which the Application is being considered, expressly authorizes, prohibits, or otherwise addresses flooding or inundation of private property. As such, flooding of property is not an interest within TCEQ's jurisdiction and thus cannot be the basis for denial of the Application. To the extent Mr. Staley's request is based on concerns related to flooding and inundation, those interests do not fall within the scope of TCEQ's review of the Application and are not otherwise within the jurisdiction of TCEQ to adjudicate.

The issues identified by Mr. Staley do not reflect any anticipated impact to a personal judiciable interest. Instead, as he has described herein, his concerns are related exclusively to interests common to members of the general public. In addition, Mr. Staley has not identified any water right or vested riparian right that he is concerned may be affected by the requests made in the Application, if approved. Because this request does not identify any personal judiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, the hearing request submitted by Mr. Staley should not be granted.

41. Kelly Dean Yandell

Kelly Dean Yandell submitted one request for a contested case hearing. The request was received by the Chief Clerk's office on March 3, 2020.

In the request, Kelly expressed concern about the impact of Lake Ringgold on the land and wildlife. Kelly expressed concern for the impact of Lake Ringgold on road use, pollution, crime, and the increase in costs associated with the same. Finally, Kelly expressed concerns about dam failure.

Kelly did not provide a telephone number, and the address provided indicates Kelly lives in Dallas. Based on Applicant's review of real property records, Kelly does not own property near to or within the footprint of Lake Ringgold. Because this request lacks basic information required under Title 30, Section 55.251 of the Texas Administrative Code, this request does not substantially comply with the Code.

As a threshold issue, Kelly's request does not include any statement or explanation of why they believe they will be impacted by the Application in a manner distinct from interests common to members of the general public. The issues raised in the request fall outside the scope of TCEQ's review of the Application and are otherwise beyond the jurisdiction of the agency to adjudicate.

The issues identified by Kelly do not reflect any anticipated impact to a personal judiciable interest. Instead, as they have described herein, their concerns are related exclusively to interests common to members of the general public. In addition, Kelly has not identified any water right or vested riparian right that they are concerned may be affected by the requests made in the Application, if approved. Because this request does not identify any personal justiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, the hearing request submitted by Kelly should not be granted.

C. Organizational Hearing Requestors Not Withdrawn

1. Birdwell and Clark Ranch

Deborah Clark and Emry Birdwell submitted a joint request for a contested case hearing on behalf of the Birdwell and Clark Ranch (“BCR”). It was received by the Chief Clerk on March 5, 2020.

In the request, BCR expressed concern that a portion of their property would be inundated by Lake Ringgold, affecting ranching operations and travel time to the highway. BCR also expressed concerns regarding Lake Ringgold’s impact to wildlife and their habitats, as well as hunting opportunities. Additionally, BCR shared concerns about the impact on tallgrass prairie, economic losses for Clay County, safety related to the location of the dam, general costs of Lake Ringgold, and the proposed depth of Lake Ringgold.

The concerns identified in the request either do not fall within the scope of TCEQ’s review of the Application and are not otherwise within the jurisdiction of the agency to adjudicate or are issues common to the members of the general public. Neither the Application, if granted, nor the law under which the Application is being considered, expressly authorizes, prohibits, or otherwise addresses inundation of private property. As such, inundation of property is not an interest within TCEQ’s jurisdiction and thus cannot be the basis for denial of the Application. To the extent BCR’s request is based on concerns related to inundation, those interests do not fall within the scope of TCEQ’s review of the Application and are not otherwise within the jurisdiction of TCEQ to adjudicate.

BCR’s request does not include any statement or an explanation of why they believe they will be impacted by the Application in a manner distinct from interests common to members of the general public. The issues identified by BCR do not reflect any anticipated impact to a personal judiciable interest. Instead, as they have described them, their concerns are related exclusively to interests common to members of the general public. Further, BCR has not identified any water right or vested riparian right that they are concerned may be affected by the requests made in the Application, if approved. Because this request does not identify any personal justiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, the hearing request submitted by BCR should not be granted.

2. Clay County

Frank Douthitt submitted two requests for a contested case hearing on behalf of Clay County, Texas (the “County”). They were received by the Chief Clerk on February 28 and March 2, 2020.

In its request, the County expressed concerns about the impact of Lake Ringgold on the County’s tax base, the additional burden to law enforcement (including watershed enforcement), and the need for additional road maintenance. The County shared concerns about Lake Ringgold inundating properties within the County. Additionally, the County is also concerned that Lake Ringgold will impact the County’s Turkey Fest and Dove Salute, two annual hunting events hosted by the County. Similarly, the County shared concerns about the impact of Lake Ringgold on wildlife, threatened species, and cultural resources. Finally, the County disapproves of the name of Lake Ringgold.

The factor for determining affected person status that is applicable to a government entity is the entity’s statutory authority or interest in the issues relevant to the application. Under Title 30, Section 55.256 of the Texas Administrative Code, a governmental entity, including local governments, may be considered affected persons only when the entity has authority under state law over issues contemplated by the application. The Application was filed, and is being considered by TCEQ, under Chapter 11 of the Texas Water Code and Chapters 295 and 297 of TCEQ rules. No provision of state statutory law relevant to the Application relates to the interests or jurisdiction of the County.

Similar to the interest of individual landowners, the acquisition, relocation, or impact to the County’s property, specifically County roads, is not an interest that falls within the jurisdiction of TCEQ. Under the applicable law, TCEQ regulates the construction of dams, the impoundment and storage of water in on-channel reservoirs, and the diversion, transfer, and beneficial use of state water. As explained above, any inundation of real or personal property of persons or entities is remedied through judicial courts. Thus, the County’s general concerns related to inundation and private property are not an interest within TCEQ’s jurisdiction and cannot be the basis for denial of the Application. To the extent the County has interests related to the requests made in the Application, those interests do not fall within the scope of TCEQ’s review of the Application and are not otherwise within the jurisdiction of TCEQ to adjudicate.

In addition, the County has not asserted that it has any ownership or other interest in state surface water resources in the Red River Basin. The concerns expressed by the County do not demonstrate a personal justiciable interest that is distinguishable from interests common to members of the general public.

The County derives its authority from Article 9 of the Texas Constitution. The provisions of the Texas Constitution do not give the County jurisdiction over or are relevant to applications for the use of state water. The County failed to establish authority over issues

contemplated by the Application and raised concerns that are not related to interests protected under the law the Application is being considered. Therefore, the County cannot be considered an affected person under the applicable TCEQ rules.

Accordingly, Clay County's hearing requests should not be granted.

3. Clay County Farm Bureau

The Clay County Farm Bureau's ("CCFB") Board of Directors²⁹ submitted a request for a contested case hearing on the Application on behalf of CCFB. It was received by the Chief Clerk on February 28, 2020. Tommy Henderson and Scott Cleveland, President and Vice President of CCFB Board of Directors, respectively, also submitted hearing requests on the Application on behalf of the board members of CCFB. Both Mr. Henderson and Mr. Cleveland's requests were received by the Chief Clerk on February 28, 2020. With the exception of contact information and signatures, all hearing requests are substantially identical.

In the requests, CCFB expressed concerns regarding potential losses to hunting and ranching revenue. CCFB shared concerns about the impact of Lake Ringgold on the County's tax rolls, schools, and budget. Finally, CCFB stated that Lake Ringgold will increase costs to the County for law enforcement and waste management. While the requestors attempt to identify a personal justiciable interest, the interest identified is not unique to the requestors but is common to members of the general public.

TCEQ rules provide that an association may request a contested case hearing only if it meets the requirements set forth in Title 30, Section 55.252 of the Texas Administrative Code. For CCFB to have associational standing to request a contested case hearing, therefore, Section 55.252(a) requires it to be comprised of members that otherwise have standing on their own right to request such a hearing. Although CCFB stated that Randi Maddox, a member of CCFB, owns land near Lake Ringgold, CCFB has not demonstrated that Ms. Maddox meets TCEQ's criteria to be considered an affected person in her own right. As discussed above, Ms. Maddox submitted a request individually, which does not meet the requirements to be considered an affected person.

Under TCEQ rules, a person that is not the Commission, the Executive Director, or the applicant must be an affected person to request a contested case hearing on requests like those made in the Application. With respect to CCFB's request, CCFB provides no basis for the associational standing of CCFB to make a request, as the request fails to meet the substantive requirements of Title 30, Section 55.251 of the Texas Administrative Code. Because it has not been demonstrated that any CCFB member would otherwise have standing to request a hearing on the Application on their own right, the organization has no standing under Title 30, Section 55.252(a)(1) of the Texas Administrative Code to request a hearing, either.

²⁹ Clay County Farm Bureau Board Members who signed the request include: Bob Howard, L.C. Harrison, Donna Wimes, Forester, Sam Scaling, Cecil Sparking, Dwayne Davis, E.C. Crump, Ross Cantrell, R. Leonard Phillips. Note, there may be spelling mistakes as some signatures are difficult to read.

Section 55.252(a) also requires CCFB to demonstrate that the interests it seeks to protect through a hearing request are germane to its organizational purpose. CCFB did not indicate its organizational purpose in its request. Thus, CCFB has made no such demonstration and has no standing under Title 30, Section 55.252(a)(2) of the Texas Administrative Code to request a hearing on the Application.

The third requirement that CCFB must meet to demonstrate the requisite standing to make its hearing request is that neither the claim it asserts, nor the relief it requests, requires the participation of individual members in the case. CCFB has made no such demonstration. Because CCFB is unable to demonstrate that neither the claim it asserts, nor the relief it seeks, requires the participation of any individual members it may have, it has no standing under Title 30, Section 55.252(a)(3) of the Texas Administrative Code to request a hearing on the Application.

In addition to its lack of standing, it has not been shown that CCFB has any water rights, vested riparian rights, or any other personal justiciable interests affected by the Application. None of the requests provided any explanation regarding how or why the organization takes the position the Application affects its or its members' interests in a manner not common to members of the general public. As a consequence, setting aside the issues of standing for purposes of this response, it is impossible to determine that CCFB is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, the CCFB Board of Directors' request for a hearing should not be granted.

4. Clay County Rural Development, LLC

William O'Malley submitted one request for a contested case hearing on behalf of Clay County Rural Development, LLC ("CCRD"). It was received by the Chief Clerk on March 5, 2020.

In its request, CCRD described its basis for requesting a contested case hearing as the loss of land that will be inundated and flooded by Lake Ringgold. CCRD also expressed concerns with the name of Lake Ringgold and suggested alternative names. CCRD expressed concern for completing impact studies regarding flooding along Texas Highway 287. Finally, CCRD is concerned about the alleged lack of studies on endangered species and the potential destruction of historic sites in Clay County.

Neither the Application, if granted, nor the law under which the Application is being considered, expressly authorizes, prohibits, or otherwise addresses inundation of private property. Thus, inundation of property is not an interest within TCEQ's jurisdiction and cannot be the basis for denial of the Application. To the extent CCRD's request is based on concerns related to inundation and flooding, those interests do not fall within the scope of TCEQ's review of the Application and are not otherwise within the jurisdiction of TCEQ to adjudicate. Finally, CCRD's concerns regarding endangered species and the potential destruction of historic sites in Clay County are concerns that are common to members of the general public.

In addition to its lack of standing, it has not been shown that CCRD has any water rights, vested riparian rights, or any other personal justiciable interests affected by the Application. As a consequence, it is impossible to determine that CCRD is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, CCRD's hearing request should not be granted.

5. Henrietta and Clay County Chamber of Commerce

Lynda Cannedy, President of the Henrietta and Clay County Chamber of Commerce (the "Chamber"), submitted one hearing request on behalf of the Chamber regarding the Application. The request was received by the Chief Clerk on February 27, 2020. It is not clear from the hearing request whether Ms. Cannedy submitted this request as an individual, or as a member of the Chamber.

In the hearing request, the Chamber expressed concern about the effect the Application could have on fundraising events (including the annual hunting event, Turkey Fest) and the potential decrease in property tax revenue. The Chamber also expressed concerns about the impact to hunting, wildlife, industry, and questioned the need for the Application.

TCEQ rules provide that an association may request a contested case hearing only if it meets the requirements set forth in Title 30, Section 55.252 of the Texas Administrative Code. For the Chamber to have associational standing to request a contested case hearing, therefore, Section 55.252(a) requires it to be comprised of members that otherwise have standing on their own right to request such a hearing. Although the Chamber listed property owners in its request, the Chamber did not state whether these property owners were members of the Chamber or whether they had any personal justiciable interest affected by the Application. The Chamber has not demonstrated that its members meet TCEQ's criteria for being considered an affected person in their own right. Further, the Chamber failed to describe in the hearing request how and why it believes the Chamber or its members will be affected in a manner not common to the members of the general public.

Under TCEQ rules, a person that is not the Commission, the Executive Director, or the applicant must be an affected person to request a contested case hearing on the Application. With respect to the Chamber's request, the request provides no basis for the associational standing of the Chamber to make a request, as the request fails to meet the substantive requirements of Title 30, Section 55.251 of the Texas Administrative Code. Because it has not been demonstrated that any Chamber member would otherwise have standing to request a hearing on the Application on their own right, the organization has no standing under Title 30, Section 55.252(a)(1) of the Texas Administrative Code to request a hearing, either.

Section 55.252(a) also requires the Chamber to demonstrate that the interests it seeks to protect through a hearing request are germane to its organizational purpose. The Chamber did not indicate its organizational purpose in its request. Thus, the Chamber has made no such

demonstration and has no standing under Title 30, Section 55.252(a)(2) of the Texas Administrative Code to request a hearing on the Application.

The third requirement that the Chamber must meet to demonstrate the requisite standing to make its hearing request is that neither the claim it asserts, nor the relief it requests, requires the participation of individual members in the case. The Chamber has made no such demonstration. Because the Chamber is unable to demonstrate that neither the claim it asserts, nor the relief it seeks, requires the participation of any individual members it may have, it has no standing under Title 30, Section 55.252(a)(3) of the Texas Administrative Code to request a hearing on the Application.

In addition to its lack of standing, it has not been shown that the Chamber has any water rights, vested riparian rights, or any other personal justiciable interests affected by the Application. The request does not provide any explanation regarding how or why the organization takes the position the Application affects its or its members' interests in a manner not common to members of the general public. As a consequence, setting aside the issues of standing for purposes of this response, it is impossible to determine that the Chamber is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Notwithstanding the technical shortcomings of the request, the issues identified in the request either do not fall within the scope of the TCEQ's review of the Application and are not otherwise within the jurisdiction of the agency to adjudicate or are issues common to the members of the general public.

To the extent that the hearing request submitted by Lynda Cannedy is interpreted as associational hearing requests by the Chamber, the request should not be granted.

6. Henrietta Independent School District

Scot Clayton, Henrietta Independent School District ("Henrietta ISD") Superintendent, and Betty Ellsworth, a member of Henrietta ISD Board of Trustees, submitted a hearing request on the Application on behalf of Henrietta ISD, which was received by the Chief Clerk on March 6, 2020.

In the hearing request, Henrietta ISD expressed concerns about the potential impact to the tax rolls, school funding, enrollment, and staffing issues that could result from Lake Ringgold. The factor for determining affected person status that is applicable to a government entity is the entity's statutory authority or interest in the issues relevant to the application.

Under Title 30, Section 55.256 of the Texas Administrative Code, a governmental entity, including local governments, may be considered affected persons but only when the entity has authority under state law over issues contemplated by the application. The Application was filed, and is being considered by TCEQ, under Chapter 11 of the Texas Water Code and Chapters 295 and 297 of TCEQ rules. No provision of state statutory law relevant to the Application relates to education or the related responsibilities of Henrietta ISD.

Henrietta ISD has not asserted that it owns any real property that may be affected by Lake Ringgold. Further, Henrietta ISD has not stated that it has ownership or other interest in state surface water resources in the Red River Basin. The concerns expressed by Henrietta ISD do not demonstrate a personal justiciable interest that is distinguishable from interests common to members of the general public.

Henrietta ISD derives its authority from the Texas Education Code and related law. None of the provisions of those bodies of law is relevant to applications for the use of state water. Henrietta ISD failed to establish authority over issues contemplated by the Application and raised concerns that are not related to interests protected under the law the Application is being considered. Therefore, Henrietta ISD cannot be considered an affected person under the applicable TCEQ rules.

Accordingly, Henrietta ISD's hearing request should not be granted.

7. Kildavent Castle, LLC

William O'Malley submitted one request for a contested case hearing on behalf of Kildavent Castle, LLC ("KC"). It was received by the Chief Clerk on March 3, 2020.

In its request, KC described its concern as owning land that is located in the floodplain of Lake Ringgold. KC's request does not include any statement or any explanation of how KC will be impacted by the Application in a manner distinct from interests common to members of the general public.

Neither the Application, if granted, nor the law under which the Application is being considered, expressly authorizes, prohibits, or otherwise addresses inundation of private property. Thus, inundation of property is not an interest within TCEQ's jurisdiction and cannot be the basis for denial of the Application. To the extent KC's request is based on concerns related to inundation and flooding, those interests do not fall within the scope of TCEQ's review of the Application and are not otherwise within the jurisdiction of TCEQ to adjudicate.

In addition to its lack of standing, it has not been shown that KC has any water rights, vested riparian rights, or any other personal justiciable interests affected by the Application. As a consequence, it is impossible to determine that KC is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, KC's hearing request should not be granted.

8. Lively-Stansbury Management Corp. & Lively Ranch, Ltd.

Daniel W. Stansbury submitted a request for a contested case hearing on behalf of Lively-Stansbury Management Corp. & Lively Ranch, Ltd. (collectively, "Lively"). The Chief Clerk's office received the request on February 24, 2020.

In its request, Lively described concerns related to owning land within the floodplain of Lake Ringgold. Lively also expressed concerns that Lake Ringgold could remove Lively's access to local well water, divide the property, and alter access to the home and cattle operations on the property. Lively's request does not include any statement or an explanation of why Mr. Stansbury will be impacted by the Application in a manner distinct from interests common to members of the general public.

Neither the Application, if granted, nor the law under which the Application is being considered, expressly authorizes, prohibits, or otherwise addresses inundation of private property. Thus, inundation of property is not an interest within TCEQ's jurisdiction and cannot be the basis for denial of the Application. To the extent Lively's request is based on concerns related to inundation and flooding, those interests do not fall within the scope of TCEQ's review of the Application and are not otherwise within the jurisdiction of TCEQ to adjudicate.

In addition to its lack of standing, it has not been shown that Lively has any water rights, vested riparian rights, or any other personal justiciable interests affected by the Application. As a consequence, it is impossible to determine that Lively is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, Lively's hearing request should not be granted.

9. National Wildlife Federation

Danielle Louise Goshen and Michael Choate, on behalf of the National Wildlife Federation ("NWF"), submitted one hearing request on the Application. It was received by the Chief Clerk on March 9, 2020.

The requestors expressed concerns regarding potential impacts to fish and wildlife and their habitats, the methodology used to determine available water supply, and whether there is a need for Lake Ringgold. NWF's request does not include any statement or an explanation of why NWF or its members, including Deborah Clark, will be impacted by the Application in a manner distinct from interests common to members of the general public.

TCEQ rules provide that an association may request a contested case hearing only if it meets the requirements set forth in Title 30, Section 55.252 of the Texas Administrative Code. For NWF to have associational standing to request a contested case hearing, therefore, Section 55.252(a) requires it to be comprised of members that otherwise have standing on their own right to request such a hearing. Though Ms. Clark, a member of NWF, filed a request on her own behalf, the request did not demonstrate that she meets TCEQ's criteria for being considered an affected person in her own right. Under TCEQ rules, a person that is not the Commission, the Executive Director, or the applicant must be an affected person to request a contested case hearing on requests like those made in the Application. With respect to Ms. Clark, she provides no basis for the associational standing of NWF to make a request, as her request fails to meet the substantive requirements of Title 30, Section 55.251 of the Texas Administrative Code.

Because it has not been demonstrated that any NWF member would otherwise have standing to request a hearing on the Application on their own right, the organization has no standing under Title 30, Section 55.252(a)(1) of the Texas Administrative Code to request a hearing, either. Notwithstanding the technical shortcomings of the request, the issues identified in the request either do not fall within the scope of TCEQ's review of the Application and are not otherwise within the jurisdiction of the agency to adjudicate or are issues common to the members of the general public.

NWF must also demonstrate the requisite standing to make its hearing request is that neither the claim it asserts, nor the relief it requests, requires the participation of individual members in the case to satisfy TCEQ's hearing request requirements. However, NWF has made no such demonstration. Because NWF is unable to demonstrate that neither the claim it asserts, nor the relief it seeks, requires the participation of any individual members it may have, it has no standing under Title 30, Section 55.252(a)(3) of the Texas Administrative Code to request a hearing on the Application.

In addition to its lack of standing, it has not been shown that NWF has any water rights, vested riparian rights, or any other personal justiciable interests affected by the Application. The request failed to provide any explanation regarding how or why the organization takes the position the Application affects its or its members' interests in a manner not common to members of the general public. As a consequence, setting aside the issues of standing for purposes of this response, it is impossible to determine that NWF is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, NWF's hearing request should not be granted.

10. Staley Family Trust and Melva Jo Staley Estate

The Staley Family Trust and Melva Jo Staley Estate (the "Staley Trust and Estate") submitted a request for a contested case hearing in a letter written by Carol Staley Morrow. The Chief Clerk's office received the letter on February 21, 2020. Ms. Morrow is the executor of the Staley Trust and Estate.

In its request, the Staley Trust and Estate described its concern as owning land that is located in the floodplain of Lake Ringgold. The Staley Trust and Estate is concerned about the inundation of wheat fields and pecan trees. The Staley Trust and Estate is also concerned about impacts of flooding to farming, cattle grazing, hunting, and the environment (from an oil pipeline in the region).

Neither the Application, if granted, nor the law under which the Application is being considered, expressly authorizes, prohibits, or otherwise addresses inundation of private property. Thus, inundation of property is not an interest within TCEQ's jurisdiction and cannot be the basis for denial of the Application. To the extent the Staley Trust and Estate's request is based on concerns related to inundation and flooding, those interests do not fall within the scope

of TCEQ's review of the Application and are not otherwise within the jurisdiction of TCEQ to adjudicate.

In addition to its lack of standing, it has not been shown that the Staley Trust and Estate has any water rights, vested riparian rights, or any other personal justiciable interests affected by the Application. As a consequence, it is impossible to determine that the Staley Trust and Estate is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, the Staley Trust and Estate's hearing request should not be granted.

11. Texas Conservation Alliance

Janice C. Bezanson submitted a request for a contested case hearing on behalf of Texas Conservation Alliance ("TCA"). The request was received by the Chief Clerk on March 6, 2020.

In the request, TCA expressed general concerns about impacts to wildlife and their habitats, economic impacts, water quality, evaporative losses, cost, the procedure to determine available water supply, and whether there is a need for Lake Ringgold or alternative option to the Application. TCA also indicated that two of its members, Deborah Clark and Emry Birdwell, may be affected by Lake Ringgold and expressed concerns about inundation.

TCEQ rules provide that an association may request a contested case hearing only if it meets the requirements set forth in Title 30, Section 55.252 of the Texas Administrative Code. For TCA to have associational standing to request a contested case hearing, therefore, Section 55.252(a) requires it to be comprised of members that otherwise have standing on their own right to request such a hearing. TCA did not demonstrate that either Ms. Clark or Mr. Birdwell meet TCEQ's criteria for being considered an affected person in their own right as their concerns are not within TCEQ's jurisdiction to adjudicate or protected by the law the Application will be considered under. Mr. Birdwell did not file a contested case hearing as an individual, and although it is unclear whether this request was submitted as an individual, or on behalf of TCA, Mr. Birdwell has not demonstrated that he meets TCEQ's criteria for being considered an affected person in his own right. Although Ms. Clark did file a contested case hearing request as an individual, as described above in *Subsection (IV)(B)*, she does not meet the criteria for affected person status.

Under TCEQ rules, a person that is not the Commission, the Executive Director, or the applicant must be an affected person to request a contested case hearing on requests like those made in the Application. TCA provides no basis for the associational standing to make a request, so the request fails to meet the substantive requirements of Title 30, Section 55.251 of the Texas Administrative Code. Because it has not been demonstrated that any TCA member would otherwise have standing to request a hearing on the Application on their own right, the organization has no standing under Title 30, Section 55.252(a)(1) of the Texas Administrative Code to request a hearing, either.

Section 55.252(a) also requires TCA to demonstrate that the interests it seeks to protect through a hearing request are germane to its organizational purpose. Although TCA did state its organizational purpose, TCA failed to connect these interest to a member that has standing in their own right under Title 30, Section 55.252(a)(1) of the Texas Administrative Code to request a hearing on the Application.

The third requirement that TCA must meet to demonstrate the requisite standing to make its hearing request is that neither the claim it asserts, nor the relief if requests, requires the participation of individual members in the case. TCA has made no such demonstration. Because TCA is unable to demonstrate that neither the claim it asserts, nor the relief it seeks, requires the participation of any individual members it may have, it has no standing under Title 30, Section 55.252(a)(3) of the Texas Administrative Code to request a hearing on the Application.

In addition to its lack of standing, it has not been shown that TCA has any water rights, vested riparian rights, or any other personal justiciable interests affected by the Application. The request failed to provide any explanation regarding how or why the organization takes the position the Application affects its or its members' interests in a manner not common to members of the general public. As a consequence, setting aside the issues of standing for purposes of this response, it is impossible to determine that TCA is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code. Notwithstanding the technical shortcomings of the request, the issues identified in the request either do not fall within the scope of TCEQ's review of the Application and are not otherwise within the jurisdiction of the agency to adjudicate or are issues common to the members of the general public.

Therefore, TCA's hearing request should not be granted.

12. Texas and Southwestern Cattle Raisers Association

Robert E. McKnight submitted a request for a contested case hearing on behalf of Texas and Southwestern Cattle Raiser's Association ("TSCRA"). The request was received by the Chief Clerk on February 19, 2020.

The stated basis for the TSCRA's request is loss of property and land for agriculture operations, including ranching and beef production, and the effects of the loss of land on TSCRA members and agricultural producers.

TCEQ rules provide that an association may request a contested case hearing only if it meets the requirements set forth in Title 30, Section 55.252 of the Texas Administrative Code. For TSCRA to have associational standing to request a contested ease hearing, Section 55.252(a) requires it to be comprised of members that otherwise have standing on their own right to request such a hearing. Mr. McKnight did not file a contested case hearing as an individual, nor has he demonstrated that he meets TCEQ's criteria for being considered an affected person in his own right. Further, TSCRA did not identify by name any members of TSCRA who are affected by Lake Ringgold. Under TCEQ rules, a person that is not the Commission, the Executive Director, or the applicant must be an affected person to request a contested case hearing on requests like

those made in the Application. With respect to Mr. McKnight, he provides no basis for the associational standing of TSCRA to make a request, so his request fails to meet the substantive requirements of Title 30, Section 55.251 of the Texas Administrative Code.

Because it has not been demonstrated that any TSCRA member would otherwise have standing to request a hearing on the Application on their own right, the organization has no standing under Title 30, Section 55.252(a)(1) of the Texas Administrative Code to request a hearing, either.

Section 55.252(a) also requires TSCRA to demonstrate that the interests it seeks to protect through a hearing request are germane to its organizational purpose. Although TSCRA fails to expressly include its organizational purpose, it may be inferred from TSCRA's request that TSCRA is a livestock trade association. Thus, TSCRA may be seeking to protect interests that are germane to its organizational purpose, but it has failed to connect these interests to a member that has standing in their own right under Title 30, Section 55.252(a)(1) of the Texas Administrative Code to request a hearing on the Application.

The third requirement that TSCRA must meet to demonstrate the requisite standing to make its hearing request is that neither the claim it asserts, nor the relief it requests, requires the participation of individual members in the case. TSCRA has made no such demonstration. Because TSCRA is unable to demonstrate that neither the claim it asserts, nor the relief it seeks, requires the participation of any individual members it may have, it has no standing under Title 30, Section 55.252(a)(3) of the Texas Administrative Code to request a hearing on the Application.

In addition to its lack of standing, it has not been shown that TSCRA has any water rights, vested riparian rights, or any other personal justiciable interests affected by the Application. The request did not provide any explanation regarding how or why the organization takes the position the Application affects its or its members' interests in a manner not common to members of the general public. As a consequence, setting aside the issues of standing for purposes of this response, it is impossible to determine that TSCRA is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code. The issues raised in TSCRA's hearing request are ones that fall outside the scope of TCEQ's review of the Application and are otherwise beyond the jurisdiction of the agency to adjudicate.

Therefore, TSCRA's hearing request should not be granted.

13. Texas Wildlife Association

Richard David Yeates submitted a request for a contested case hearing on behalf of Texas Wildlife Association ("TWA") that was received by the Chief Clerk on March 9, 2020.

In its request, TWA described its concern for Birdwell and Clark Ranch being inundated by Lake Ringgold. The owners of the Ranch, Emry Birdwell and Deborah Clark, are members of TWA. TWA's request does not include any statement or an explanation of why Birdwell and

Clark Ranch (or Emry Birdwell or Deborah Clark) will be impacted by the Application in a manner distinct from interests common to members of the general public.

TCEQ rules provide that an association may request a contested case hearing only if it meets the requirements set forth in Title 30, Section 55.252 of the Texas Administrative Code. For TWA to have associational standing to request a contested case hearing, therefore, Section 55.252(a) requires it to be comprised of members that otherwise have standing on their own right to request such a hearing. Emry Birdwell has not submitted a contested case hearing request on the Application, and therefore has not demonstrated that he is an affected person. Although Deborah Clark has submitted a contested case hearing request on the Application, she has not demonstrated that she meets TCEQ's criteria for being considered an affected person in her own right. Under TCEQ rules, a person that is not the Commission, the Executive Director, or the applicant must be an affected person to request a contested case hearing on requests like those made in the Application. With respect to Emry Birdwell and Deborah Clark, they provide no basis for the associational standing of TWA to make a request, as their requests fail to meet the substantive requirements of Title 30, Section 55.251 of the Texas Administrative Code.

Because it has not been demonstrated that any TWA member would otherwise have standing to request a hearing on the Application on their own right, the organization has no standing under Title 30, Section 55.252(a)(1) of the Texas Administrative Code to request a hearing, either.

Section 55.252(a) also requires TWA to demonstrate that the interests it seeks to protect through a hearing request are germane to its organizational purpose. TWA did not indicate its organizational purpose in its request. Thus, TWA has made no such demonstration and has no standing under Title 30, Section 55.252(a)(2) of the Texas Administrative Code to request a hearing on the Application.

The third requirement that TWA must meet to demonstrate the requisite standing to make its hearing request is that neither the claim it asserts, nor the relief it requests, requires the participation of individual members in the case. TWA has made no such demonstration. Because TWA is unable to demonstrate that neither the claim it asserts, nor the relief it seeks, requires the participation of any individual members it may have, it has no standing under Title 30, Section 55.252(a)(3) of the Texas Administrative Code to request a hearing on the Application.

In addition to its lack of standing, it has not been shown that TWA has any water rights, vested riparian rights, or any other personal justiciable interests affected by the Application. The request failed to provide any explanation regarding how or why the organization takes the position the Application affects its or its members' interests in a manner not common to members of the general public. As a consequence, setting aside the issues of standing for purposes of this response, it is impossible to determine that TWA is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, TWA's hearing request should not be granted.

14. Texoma Stewardship Coalition

Deborah Clark submitted a request for a contested case hearing on behalf of Texoma Stewardship Coalition (“TSC”) and its members.³⁰ The request was received by the Chief Clerk on March 5, 2020. It is not clear from the hearing request whether Ms. Clark submitted this request as an individual, or as a member of TSC.

As an initial matter, it is not clear that TSC is a legitimate organization. The Office of the Texas Secretary of State does not recognize the valid existence of any organization bearing the name of Texoma Stewardship Coalition. In the request, TSC expressed general concerns about impacts to wildlife and their habitats, tax revenue, family legacies, safety concerns, and flooding. However, there is no indication that TSC possesses any personal justiciable interests affected by the Application. Because TSC has no independent justiciable interest that it claims is affected by the Application, it must meet the associational standing requirements in order to submit a valid request for a contested case hearing.

TCEQ rules provide that an association may request a contested case hearing only if it meets the requirements set forth in Title 30, Section 55.252 of the Texas Administrative Code. For TSC to have associational standing to request a contested case hearing, Section 55.252(a) requires it to be comprised of members that otherwise have standing on their own right to request such a hearing. TSC did not demonstrate that any of its members meet TCEQ’s criteria for being considered an affected person in their own right. Under TCEQ rules, a person that is not the Commission, the Executive Director, or the applicant must be an affected person to request a contested case hearing on requests like those made in the Application. TSC provides no basis for the associational standing to make a request, so the request fails to meet the substantive requirements of Title 30, Section 55.251 of the Texas Administrative Code.

Because it has not been demonstrated that any TSC member would otherwise have standing to request a hearing on the Application on their own right, the organization has no standing under Title 30, Section 55.252(a)(1) of the Texas Administrative Code to request a hearing, either.

Section 55.252(a) also requires TSC to demonstrate that the interests it seeks to protect through a hearing request are germane to its organizational purpose. TSC did not state its organization purpose, and thus it is unclear whether TSC is seeking to protect interests that are germane to its organizational purpose. Further, TSC failed to connect these interests to a member that has standing in their own right under Title 30, Section 55.252(a)(1) of the Texas Administrative Code to request a hearing on the Application.

The third requirement that TSC must meet to demonstrate the requisite standing to make its hearing request is that neither the claim it asserts, nor the relief it requests, requires the participation of individual members in the case. TSC has made no such demonstration. Because TSC is unable to demonstrate that neither the claim it asserts, nor the relief it seeks, requires the

³⁰ The request lists Lyle Horwood, Shane Cody, Brent Durham, Gil Staley, Phil Staley, Joe A. Staley, Chris Wellborn, and Justin O’Malley as members of TSC.

participation of any individual members it may have, it has no standing under Title 30, Section 55.252(a)(3) of the Texas Administrative Code to request a hearing on the Application.

In addition to its lack of standing, it has not been shown that TSC has any water rights, vested riparian rights, or any other personal justiciable interests affected by the Application. None of the requests provided any explanation regarding how or why the organization takes the position the Application affects its or its members' interests in a manner not common to members of the general public. As a consequence, setting aside the issues of standing for purposes of this response, it is impossible to determine that TSC is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code. Notwithstanding the technical shortcomings of the request, the issues identified in the request either do not fall within the scope of TCEQ's review of the Application and are not otherwise within the jurisdiction of the agency to adjudicate or are issues common to the members of the general public.

To the extent that the hearing request submitted by Deborah Clark is interpreted as associational hearing requests by TSC, the request should not be granted.

15. Quail Coalition

James "Jay" Dell Stine submitted a request for a contested case hearing on behalf of the Quail Coalition ("QC"). The Chief Clerk received the request on March 6, 2020.

The stated basis for QC's hearing request is the impact of Lake Ringgold on quail population in Clay County. QC does not specifically identify any member who has affected person status.

TCEQ rules provide that an association may request a contested case hearing only if it meets the requirements set forth in Title 30, Section 55.252 of the Texas Administrative Code. For QC to have associational standing to request a contested case hearing, Section 55.252(a) requires it to be comprised of at least one member that otherwise has standing on their own right to request such a hearing. QC has not identified any such members by name. Under TCEQ rules, a person that is not the Commission, the Executive Director, or the applicant must be an affected person to request a contested case hearing on requests like those made in the Application. QC's request fails to meet the substantive requirements of Title 30, Section 55.251 of the Texas Administrative Code.

Because it has not been demonstrated that any QC member would otherwise have standing to request a hearing on the Application on their own right, the organization has no standing under Title 30, Section 55.252(a)(1) of the Texas Administrative Code to request a hearing, either.

Section 55.252(a) also requires QC to demonstrate that the interests it seeks to protect through a hearing request are germane to its organizational purpose. QC did not indicate its organizational purpose in its request. Thus, QC has made no such demonstration and has no

standing under Title 30, Section 55.252(a)(2) of the Texas Administrative Code to request a hearing on the Application.

The third requirement that QC must meet to demonstrate the requisite standing to make its hearing request is that neither the claim it asserts, nor the relief it requests, requires the participation of individual members in the case. QC has made no such demonstration. Because QC is unable to demonstrate that neither the claim it asserts, nor the relief it seeks, requires the participation of any individual members it may have, it has no standing under Title 30, Section 55.252(a)(3) of the Texas Administrative Code to request a hearing on the Application.

In addition to its lack of standing, it has not been shown that QC has any water rights, vested riparian rights, or any other personal justiciable interests affected by the Application. The request does not provide any explanation regarding how or why the organization takes the position that the Application affects its or its members' interests in a manner not common to members of the general public. As a consequence, setting aside the issues of standing for purposes of this response, it is impossible to determine that QC is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, QC's hearing request should not be granted.

16. Umhaill Valley LLC

William O'Malley submitted one request for a contested case hearing on behalf of Umhaill Valley, LLC ("UV"). It was received by the Chief Clerk on March 3, 2020.

In its request, UV described its concern as owning land that is located in the floodplain of Lake Ringgold. UV's request does not include any statement or any explanation of how UV will be impacted by the Application in a manner distinct from interests common to members of the general public.

Neither the Application, if granted, nor the law under which the Application is being considered, expressly authorizes, prohibits, or otherwise addresses inundation of private property. Thus, inundation of property is not an interest within TCEQ's jurisdiction and cannot be the basis for denial of the Application. To the extent UV's request is based on concerns related to inundation and flooding, those interests do not fall within the scope of TCEQ's review of the Application and are not otherwise within the jurisdiction of TCEQ to adjudicate.

In addition to its lack of standing, it has not been shown that UV has any water rights, vested riparian rights, or any other personal justiciable interests affected by the Application. As a consequence, it is impossible to determine that UV is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, UV's hearing request should not be granted.

17. Wellborn Ranch Ltd.

William “Chris” Wellborn submitted one request for a contested case hearing on behalf of Wellborn Ranch Ltd. The Chief Clerk’s office received the letter on March 5, 2020.

In its request, Wellborn Ranch expressed concerns about owning land located in the floodplain of Lake Ringgold. Wellborn Ranch also expressed concerns about inundation and the resulting division of its property, diminished access to property, and decreased productivity and revenue. Wellborn Ranch is also concerned about a decrease in recreational and hunting opportunities due to a decrease in wildlife. Finally, Wellborn Ranch is concerned about the potential increase in costs to Clay County for road maintenance and law enforcement.

As a threshold issue, Wellborn Ranch’s request does not include any statement or explanation of why he believes he will be impacted by the Application in a manner distinct from interests common to members of the general public. The issues raised in the request fall outside the scope of TCEQ’s review of the Application and are otherwise beyond the jurisdiction of the agency to adjudicate.

The issues identified by Wellborn Ranch do not reflect any anticipated impact to a personal justiciable interest. Instead, as it has described them, its concerns are related exclusively to interests common to members of the general public. In addition, Wellborn Ranch has not identified any water right or vested riparian right that it is concerned may be affected by the requests made in the Application, if approved. Because this request does not identify any personal justiciable interest affected by the Application, it is impossible to determine that this requestor is an affected person using any relevant factors, including those enumerated in Title 30, Section 55.256 of the Texas Administrative Code.

Therefore, the hearing request submitted by Wellborn Ranch should not be granted.

V. CONCLUSION

Following a careful and thorough review of all hearing requests received by the Chief Clerk, the City believes that the responses provided above recommend the legally correct course of action for TCEQ to take with respect to each hearing request identified. For the foregoing reasons, the City respectfully recommends that TCEQ proceed in a manner consistent with the analysis provided in this response.

Respectfully submitted,

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**ATTORNEYS FOR APPLICANT
CITY OF WICHITA FALLS**

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Response to Requests for Contested Case Hearing was sent by hand delivery, United States Postal Service (“USPS”), or electronic mail to the individuals identified below on this, the 21st day of March, 2022.



Sara Thornton

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via USPS:

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CLEVELAND , SCOTT
PO BOX 97
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CODY , CASEY & SHANE
COOPERATOR
375 N LUCILLE DR
HENRIETTA TX 76365-5616

CODY , SHANE
375 N LUCILLE DR
HENRIETTA TX 76365-5616

COLEMAN , DAVID
1634 VICTORY AVE
WICHITA FALLS TX 76301-6155

COX , JOHN A
PO BOX 464
NOCONA TX 76255-0464

CRUMP, E C & DAVIS, DWAYNE
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PO BOX 97
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DAVIDSON , MICHAEL
4905 SAN MARCUS DR
MESQUITE TX 75150-1021

DENKE , MARGO
11035 FM 470
TARPLEY TX 78883-6307

DOUTHITT , FRANK J
FRANK J DOUTHITT LAWYER
102 S FANNIN ST
HENRIETTA TX 76365-2713

DURHAM , BRENT
PO BOX 40
HENRIETTA TX 76365-0040

ELLSWORTH , BETTY
1791 STATE HIGHWAY 148
HENRIETTA TX 76365

ESSLER , FRANCES
13501 FM 172
HENRIETTA TX 76365-6706

FERGUSON , JOSHUA DON
614 W GILBERT ST
HENRIETTA TX 76365-2719

FITTS , SHARON
402 KAY ST
HENRIETTA TX 76365-2416

FLORSHEIM , HENRY
4508 HOLLOW RIDGE DR
WICHITA FALLS TX 76309-1014

FORESTER, STEVE & WINES,DONNA
THE CLAY COUNTY FARM BUREAU
PO BOX 97
HENRIETTA TX 76365-0097

GAITHER , GRAYSON
3558 WALDORF DR
DALLAS TX 75229-3826

GREER , HALEY
7506 MARQUETTE ST
DALLAS TX 75225-4521

GREER , JOHN M
7506 MARQUETTE ST
DALLAS TX 75225-4521

GREER , KATIE
7506 MARQUETTE ST
DALLAS TX 75225-4521

GREER , LEA ANN
PO BOX 360
HENRIETTA TX 76365-0360

GREER , T DAVID
811 W SOUTH ST
HENRIETTA TX 76365-3226

GREER , DR. THOMAS DAVID
PO BOX 360
HENRIETTA TX 76365-0360

HALSELL , LUKE
9426 FM 2606
HENRIETTA TX 76365-6401

HALSELL , SHERRI
9426 FM 2606
HENRIETTA TX 76365-6401

HARRISON, L C & HOWARD,BOB
THE CLAY COUNTY FARM BUREAU
PO BOX 97
HENRIETTA TX 76365-0097

HEMMI , KIM
15198 FM 1954
WICHITA FALLS TX 76310-0368

HENDERSON , TOMMY
PO BOX 97
HENRIETTA TX 76365-0097

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1705 MARGARET ST
AUSTIN TX 78704-2121

HILL , MARK
2404 N LUCILLE ST
HENRIETTA TX 76365-5619

ICE , LAUREN
PERALES ALLMON & ICE PC
1206 SAN ANTONIO ST
AUSTIN TX 78701-1834

JONES , MIKE
3002 MCNIEL AVE
WICHITA FALLS TX 76309-4919

KLEIN , EDNA MAE
1178 EDNA DR
HENRIETTA TX 76365-5519

KOWALICK , CLAIRE
6 MAYFAIR TER
WICHITA FALLS TX 76308-1474

LAMBERT , JENNICA
1338 T BONE RD
WICHITA FALLS TX 76310-0491

LEIKER , DARRON
1300 7TH ST
WICHITA FALLS TX 76301-2305

LOVETTE , BEN
1537 PRIMROSE DR
WICHITA FALLS TX 76302-2909

LYDE , DARLENE
18255 FM 2332
HENRIETTA TX 76365-5305

LYDE , JEFFREY
815 W GILBERT ST
HENRIETTA TX 76365-2605

MADDOX , MARY ELLEN
18758 FM 2332
HENRIETTA TX 76365-5303

MADDOX , RANDI M
18758 FM 2332
HENRIETTA TX 76365-5303

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PO BOX 5
TERRAL OK 73569-0005

MAUK , ROBERT
409 CHESTER AVE
WICHITA FALLS TX 76301-5304

MCDONNELL , ADELINE
PO BOX 547
HENRIETTA TX 76365-0547

MCDONNELL , CAROLINE
PO BOX 547
HENRIETTA TX 76365-0547

MCDONNELL , JAN GREER
PO BOX 547
HENRIETTA TX 76365-0547

MCKNIGHT JR , MR ROBERT E
TEXAS AND SOUTHWESTERN CATTLE RAISERS
ASSOCIATION
STE 1050
1005 CONGRESS AVE
AUSTIN TX 78701-2463

MESSER , BROOKE
4101 SOUTHWESTERN BLVD
DALLAS TX 75225-6763

MORRO , CAROL STALEY
311 9TH ST
NOCONA TX 76255-2908

NELSON , LINDA
1645 BRENDA HURSH DR
WICHITA FALLS TX 76302-1926

O'MALLEY , MARTIN
STE 440
9575 KATY FWY
HOUSTON TX 77024-1406

O'MALLEY , MR WILLIAM
UMHAILL VALLEY LLC
PO BOX 114
HENRIETTA TX 76365-0114

OBERMIER , JASON
12665 STATE HIGHWAY 148 N
HENRIETTA TX 76365-5556

OBERMIER , JASON P
12655 STATE HIGHWAY 148 N
HENRIETTA TX 76365-5556

OBERMIER , MR JIMMY DALE
12107 STATE HIGHWAY 148 N
HENRIETTA TX 76365-5560

PARKER , JOE
2491 PARKER RD
BYERS TX 76357-4614

PARKER JR , JOE J
PO BOX 245
BYERS TX 76357-0245

PAUL , DOUGLAS
1814 9TH ST
WICHITA FALLS TX 76301-5030

PAYNE , PAMELA MADDOX
2328 JIM MADDOX RD
HENRIETTA TX 76365-5314

PERRY , MR BRANDON RAY
612 E WICHITA ST
HENRIETTA TX 76365-2940

PERRY , THE HONORABLE CHARLES STATE
SENATOR
THE SENATE OF TEXAS DISTRICT 28
PO BOX 12068
AUSTIN TX 78711-2068

PRICE , GARY
9241 FM 55
BLOOMING GROVE TX 76626-3264

REYNOSA NAVA , PATRICIA E
APT 611
1500 JACKSON ST
DALLAS TX 75201-4923

ROBERSON , JAKE
903 E IKARD ST
HENRIETTA TX 76365-3012

SANTELLANA , STEPHEN
1905 LAKE BEND DR
WICHITA FALLS TX 76310-4701

SAVAGE JR , MR TAIWAN TREMAYNE
APT 611
1500 JACKSON ST
DALLAS TX 75201-4923

SCALING, SAM & SPARKMAN,CECIL
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PO BOX 97
HENRIETTA TX 76365-0097

SCHREIBER , RUSSELL
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PO BOX 1592
BOWIE TX 76230-1592

SHAW , MR JOHNNIE
1378 FM 1197
HENRIETTA TX 76365-5503

SKINNER , JAMES C
PO BOX 2540
SAN ANGELO TX 76902-2540

SMITH , MR DEVIN G
839 FM 1954
WICHITA FALLS TX 76310-8501

SOLIMANO , ELENA
PERALES ALLMON & ICE PC
1206 SAN ANTONIO ST
AUSTIN TX 78701-1834

STALEY , CLINT
1509 NEW CASTLE RD
SOUTHLAKE TX 76092-4227

STALEY , GIL
303 PARK RD
NOCONA TX 76255-3626

STALEY , GIL
22429 FM 2332
RINGGOLD TX 76261-5304

STALEY , GIL
97302 FM 2332
RINGGOLD TX 76261

STALEY , JOE & PHIL
303 PARK RD
NOCONA TX 76255-3626

STANSBURY JR , DANIEL W
LIVELY RANCH LTD
STE 100-364
25 HIGHLAND PARK VLG
DALLAS TX 75205-2789

STINE III , JAMES DELL
QUAIL COALITION
2410 COUNTY ROAD 394
PRINCETON TX 75407-4204

VEITENHEIMER , TERESA
PO BOX 112
WINDTHORST TX 76389-0112

WEBKING , CATHERINE J
STE 2400
303 COLORADO ST
AUSTIN TX 78701-4653

WELLBORN , CHRIS
1410 EAGLE BND
SOUTHLAKE TX 76092-9426

WELLBORN , CHRIS
1595 HENRY SCHEER RD
HENRIETTA TX 76365

WORLEY , CAROLE
4500 WESTWARD DR
WICHITA FALLS TX 76308-2441

YANDELL , KELLY DEAN
4413 WILDWOOD RD
DALLAS TX 75209-2801

YEATES , RICHARD DAVID
TEXAS WILDLIFE ASSOCIATION
STE 126
3660 THOUSAND OAKS DR
SAN ANTONIO TX 78247-3123