

TCEQ DOCKET NO. 2022-0125-WR

APPLICATION NO. 13404 BY THE CITY	§	BEFORE THE TEXAS
OF WICHITA FALLS FOR A WATER	§	
USE PERMIT IN ARCHER, CLAY, AND	§	COMMISSION ON
WICHITA COUNTIES, TEXAS	§	ENVIRONMENTAL QUALITY

EXECUTIVE DIRECTOR'S RESPONSE TO COMMENTS

The Executive Director (ED) of the Texas Commission on Environmental Quality (TCEQ) respectfully files this response to comments filed on Application No. 13404 from the City of Wichita Falls (Applicant or City) for a water use permit in Archer, Clay and Wichita Counties, Texas. Requests for a contested case hearing were also filed, which the Executive Director addresses in a separate Response to Hearing Requests.

BACKGROUND

The TCEQ received this application on June 27, 2017. The application was declared administratively complete on August 10, 2017. Technical review was completed on August 8, 2019. Notice of the application was mailed by the TCEQ's Chief Clerk on January 24, 2020 to water right holders of record in the Red River Basin. Notice of the application was published in the Clay County Leader on February 6, 2020.

The comment period and hearing request period for this application closed on March 9, 2020. Due to significant public interest in this application, the comment period was re-opened. Notice of a public meeting was mailed on July 22, 2020. A virtual public meeting was held on August 25, 2020 and the public comment period on this application closed on August 25, 2020.

APPLICATION

The City seeks authorization to construct and maintain a reservoir, Lake Ringgold, with a capacity of 275,000 acre-feet on the Little Wichita River, Red River Basin, in Clay County. The Applicant also seeks authorizations to divert and use up to 65,000 acre-feet of water per year from the perimeter of Lake Ringgold for multiple purposes within the City's service area. The City further seeks authorization to use the bed and banks of the Little Wichita River (Lake Arrowhead) to convey return flows and up to 65,000 acre-feet of water per year for subsequent diversion and use. The geographic area is subject to the Red River Interstate Compact.

COMMENTERS

The following individuals and entities provided timely comments (written, oral or both) to the application. When substantially the same comments were provided more than once by a commenter, the comments have been treated as one submission. When substantially the same comments were provided by more than one individual, the individuals are referred to collectively as commenters. Businesses, groups, or organizations are referred to by acronym.

1. Harvey Glenn Barham – Chairman, Wichita Falls Water Resource Commission

2. Kelley Bloodworth – City administrator, City of Henrietta
3. Mike Campbell – County Judge, Clay County
4. Deborah Clark
5. Shane Cody
6. Margo Denke
7. Frank J. Douthitt, Esq. – representing Clay County
8. Brent Durham
9. Betty Ellsworth – Henrietta Independent School District, Board of Trustees
10. Henry Florsheim – CEO, Wichita Falls Chamber of Commerce
11. John M. Greer
12. Darron Leiker – City Manager, City of Wichita Falls
13. Jeffrey Lyde
14. Mary Ellen Maddox
15. Randi M. Maddox
16. Mason Martin
17. Jason Obermeir
18. Martin O'Malley
19. William O'Malley
20. Joe J. Parker
21. Stephen Santellana – Mayor, City of Wichita Falls
22. Devin G. Smith
23. Gil Staley
24. Janice Bezanson – Executive Director, Texas Conservation Alliance (TCA)
25. Teresa Veitenheimer – General Manager, Windthorst Water Supply Corporation
26. Catherine J. Webking, Esq. – representing the Murray family
27. Chris Wellborn
28. Randy Whiteman – General Manager, Red River Authority
29. Carole Worley

RESPONSE TO COMMENTS

GENERAL COMMENTS:

COMMENT NO. 1: Commenters thanked TCEQ for holding the public meeting and appreciate being given the time to ask questions and make comments.

COMMENT NO. 2: An individual appreciated the hard work and decision making that members of the Commission must make.

Response to Comment Nos. 1 and 2: The ED acknowledges the comments and thanks all of the commenters for participating in TCEQ's public comment process.

COMMENT NO. 3: The Mayor and City Manager of the City of Wichita Falls, the Windthorst Water Supply Corporation, and other commenters expressed support for the application.

Response to Comment No. 3: The ED acknowledges the comments.

COMMENT NO. 4: The County Judge of Clay County, Clay County, TCA and individual commenters expressed opposition to the application.

Response to Comment No. 4: The ED acknowledges the comments.

COMMENT NO. 5: Individual commenters stated that they have lived in the area for many years and expressed concerns about impacts to ranching and farming for future generations.

COMMENT NO. 6: An individual commented that flooding from Lake Arrowhead is a problem. The Red River reach the bottom of the 2233 bridge, and that's not even the spillway of Lake Ringgold.

COMMENT NO. 7: An individual commented that many existing employers have expressed great concern over the future water supply, including Sheppard Air Force Base, the manufacturing community, the largest healthcare providers, and many others. Businesses need certainty and need to know about issues such as taxation, access to work force, transportation or infrastructure, or water. Without our largest employers, the entire region will lose population.

Response to Comment Nos. 5 -7: The ED acknowledges the comments and responds that TCEQ staff performed technical reviews on this application for instream uses, hydrology, and water conservation as required by the Texas Water Code and applicable TCEQ rules. The ED believes that his proposed draft permit is protective of issues within TCEQ's jurisdiction.

COMMENT NO. 8: Clay County discussed historical information related to Lake Ringgold and stated that TCEQ should require the City to accurately inform the citizens and ratepayers, receive input from them and carefully evaluate the propriety of this project.

COMMENT NO. 9: An individual commented that it's a conflict of interest that the City's public works director is also the chair of the executive committee, the technical advisory committee, and the chair of the groundwater technical committee for regional water planning groups.

Comment NO. 10: An individual requested that the meetings that Wichita Falls is going to have with the Henrietta ISD, the city, and the county, be held prior to the permit being issued.

COMMENT NO. 11: An individual commented that taxpayers should be able to vote on decisions about money and the issue should be put on the ballot.

Response to Comment Nos. 8 - 11: The ED acknowledges these comments and responds that TCEQ's role in the process is to evaluate the water rights application pursuant to applicable requirements. TCEQ has no role in or jurisdiction over the City's public information and decision-making processes, in determining what information the City provides to its citizens, or how the City participates in the Regional Planning process.

COMMENT NO. 12: The City of Henrietta expressed concern that building Lake Ringgold would result in more stringent regulations on their proposed new wastewater plant.

Response to Comment No. 12: The ED acknowledges the comment. The ED notes that a TCEQ wastewater permit application is a separate authorization and that is processed separately from this pending water rights application.

COMMENT NO. 13: An individual asked that Lake Ringgold be renamed because Ringgold is not in Clay County.

Response to Comment No. 13: The ED responds that TCEQ has no role in determining the name of the reservoir.

COMMENT NO. 14: An individual commented that TCEQ reconsider the additional information from the commenters before reaching a decision on the application.

Response to Comment No. 14: The ED responds that TCEQ carefully considers all timely comments and relevant information received during the permitting process before making a final decision on an application.

COMMENT NO. 15: An individual asked about the environmental and archeological studies for Lake Ringgold.

Response to Comment No. 15: The ED responds that TCEQ staff performed a technical review of the application in accordance with applicable rules and statutes. Staff performed an environmental review that considered aquatic and riparian habitats, water quality, recreational use, and the City's proposed mitigation. The ED's proposed draft permit includes special conditions to protect the environment. The ED notes that archeological studies are not part of TCEQ's review of a water right application; however, this information would be considered during the review conducted by the United States Army Corps of Engineers during the federal Section 404 permitting process for this type of project.

COMMENT NO. 16: An individual asked TCEQ to look at more progressive solutions to water needs.

Response to Comment No. 16: The ED responds that Regional Water Planning Groups and the Texas Water Development Board are responsible for developing Texas' Regional and State Water Plans. The ED notes that TCEQ staff performed a water conservation review pursuant to applicable TCEQ requirements and determined that the City's application is consistent with the 2016 Region B Water Plan and the 2017 State Water Plan.

COMMENT NO. 17: An individual commented that the permit process should come to a hearing because the public is not getting the opportunity to ask questions or make statements that they need to with webinars and phone calls.

COMMENT NO. 18: An individual commented that there are significant factual questions that warrant a contested case hearing in order to examine the issues related to need and reliability.

Response to Comment Nos. 17 - 18: The ED responds that multiple requests for a contested case hearing were received on this application and that they are addressed by the ED in a separate Response to Hearing Requests. The TCEQ Commissioners will consider the requests at an open meeting, referred to as a Commission agenda, and will decide whether to refer the application to the State Office of Administrative Hearings for a contested case hearing.

COMMENT NO. 19: An individual asks that TCEQ use some wisdom and discretion with regards to how the application is going to affect centuries-old families in Clay County because the City does not need the water rights and cannot truthfully project that they will need them.

COMMENT NO. 20: An individual commented that those in Wichita Falls are willing to sacrifice the citizens of Clay County's property for their own use. Their lack of planning has now become an emergency on our part over here in Clay County.

Response to Comment Nos. 19 - 20: The ED acknowledges the comments and notes that TCEQ staff reviewed the application pursuant to applicable TCEQ requirements and determined that the City's application is consistent with the 2016 Region B Water Plan and the 2017 State Water Plan.

COMMENT NO. 21: The general manager of the Red River Authority commented that they are the administrators of the Region B water planning group, and that everyone that serves on the planning group are volunteers. Members of the planning group are representing different groups such as agriculture, industry, and municipalities. Members are there because they are willing to serve, and he appreciates any response they can get from the public to serve on that board.

Response to Comment No. 21: The ED acknowledges the comment.

COMMENT NO. 22: Commenters expressed concerns that there could be an even worse drought of record in the future.

Response to Comment No. 22: The ED realizes that hydrology is a dynamic science but notes that the hydrology in TCEQ's Water Availability Model is based on historical data spanning decades. The hydrology in the model ED staff used to review the application was based on a fifty one-year period of record extending from 1948 to 1998. House Bill 723 (86th Legislative Session) required TCEQ to obtain an updated water availability model for the Red River Basin. The updated model was provided to the ED on August 31, 2021. The updated model is based on a seventy one-year period of record extending from 1948 to 2018, which includes the drought of 2011. Both models indicate that unappropriated water is available to support the application.

PLANNING FOR WATER SUPPLY

COMMENT NO. 23: An individual commented that planning for future water supply is critically important because Wichita Falls is the largest municipal water supplier in the North Central Texas Region, supplying water to more than 150,000 residents, and that number is projected to grow. The construction of Lake Ringgold addresses the future water supply needs of Wichita Falls and the entire North Central Texas region because it is the only reasonable water supply option available to Wichita Falls and the customers it serves.

COMMENT NO. 24: An individual commented that the drought from 2010 to 2015 tested the continued viability of the region with residents selling homes and moving away, businesses closing, and Sheppard Air Force Base preparing to move missions to other bases. Sheppard Air Force Base contributed approximately three billion dollars to the area economy at the time, and such a move would have been devastating to Wichita Falls and the surrounding communities.

COMMENT NO. 25: An individual commented that Lake Ringgold is designated as a "unique" reservoir site, and it is consistent with the Wichita Falls Water Resource Commission's and the City's goal of ensuring a water supply for generations to come.

COMMENT NO. 26: An individual commented that building Lake Ringgold needs to be a priority for North Texas' future. Residents of Wichita Falls and surrounding communities rely on the City of Wichita Falls' water supply.

COMMENT NO. 27: An individual commented that Clay County also has water needs and will need water in the future. Issuing this permit means that Clay County won't have any water to provide if it has economic growth or development.

COMMENT NO. 28: The City Manager of the City of Wichita Falls commented that from 2010 to 2015 Wichita Falls experienced a new drought record. During 2011 the City had over 100 days of 100-degree or more temperatures coupled with the lowest precipitation rate in 116 years. To respond to the drought, the city enacted drastic water conservation measures, which drove the average daily consumption of water to about one-half of the normal demands. The City also developed and constructed the largest direct potable reuse project in the entire country. This project replaced about half the City's daily water demand in order to extend the water supply to Wichita Falls and its 15 wholesale customers. Even with all of these measures, the city's overall water supply still dropped to below 19% capacity, the lowest levels since the city's water supply reservoirs were built. The City's existing lakes were approximately 80% full at the start of the drought. During this unprecedented drought, the city's economy suffered. Families and businesses moved, and the City could not attract any new businesses to move to Wichita Falls. Sheppard Air Force Base, the city's largest economic engine, was close to relocating some of their missions because they were very worried that they were going to run out of water.

COMMENT NO. 29: The Mayor of the City of Wichita Falls commented that during the recent drought Sheppard Air Force Base was close to running out of water, and this is going to make the City lose missions and major industries. Post-drought, water security is probably the most important issue for the City. The City and its fifteen

other wholesale customers benefit from water security and depend on water from the City's water sources. The customers that depend on the City's water supply include thousands of families, numerous schools, numerous ISDs, and countless industries. The City has a responsibility to do everything it can to make sure that it keeps the citizens, the industries, and Sheppard Air Force Base, secure.

COMMENT NO. 30: TCA commented that the City does not need Lake Ringgold to meet its projected future demand for water. The City's lakes, Arrowhead and Kickapoo, plus the city's reuse facility, provide well over forty thousand acre-feet per year, and the City has other water rights that could be developed. The City's water use is projected to grow only a little bit over the next fifty years to 32,306 acre-feet in 2070, which supplies a significant safety margin. The City seriously undercounts its currently available water supply by using a methodology that TCA has never seen used anywhere in 30 - 40 years of addressing water issues in Texas, which is keeping a reserved 20% of the capacity of all its reservoirs, in the reservoir, at all times. This is not a reasonable method for assessing the City's water supply. Also, when the City calculated the yield for Lake Ringgold, they used a different method. Lake Ringgold is in the same watershed, the same county, and subject to the same climatic conditions. The permit application references climate uncertainty, assuming the City would invest hundreds of millions of dollars now, just in case the climate happened to be drier later. Climate change models predict that some areas will be drier, and others will be wetter. No one knows whether the Wichita Falls area will be drier and if there would be increased evaporation and decreased inflows.

COMMENT NO. 31: Windthorst Water Supply Corporation commented that in 2015 they were probably two to three weeks from being out of water, and Lake Ringgold cannot be built in two to three weeks. The City has gone through all of the options they feel are best for our communities and Lake Ringgold is at the top of that list. Windthorst Water Supply Corporation is one of the fifteen wholesale customers that are dependent on the water rights owned by the City. Windthorst was impacted greatly by the drought record during 2010 - 2015. Windthorst had to extend its intake in order to pull enough from Lake Arrowhead due to the extremely low levels. The impact the drought had on the agricultural community remains today. During the 5 years of drought, Windthorst watched the City work tirelessly to do everything possible to continue to provide water to their city along with other wholesale customers by implementing drought contingency plans. Granting the water right for Lake Ringgold may avert any future drought issues that may occur in North Texas.

COMMENT NO. 32: An individual commented that the City evaluated thirteen different options and landed on Lake Ringgold as the most realistic one. No one knows for sure what the demands will be in fifty years. This is a long-term issue that requires long-term planning to address.

Response to Comment Nos. 23 - 32: The ED acknowledges the comments and notes that TCEQ staff performed a review pursuant to applicable requirements to determine whether the application was consistent with the State and Regional Water Plans. Staff's review found that Lake Ringgold is a recommended water management strategy in the 2016 Region B Water Plan to meet future water supply needs for the City.

NEED FOR THE WATER

COMMENT NO. 33: Clay County commented that the City's current water supply, even during the worst drought of record, is significantly more than the amount of water the City and its customer cities are projected to need anytime in the next fifty years. The City's water demand right now is 31,329 acre-feet per year. The projected demand for water in 2070 goes up by less than 3% to 32,306 acre-feet per year. In contrast, the current supply is more than 40,000 acre-feet per year. Lakes Arrowhead and Kickapoo provide 31,770 acre-feet per year. The City's reuse project adds 9,000 acre-feet per year that is absolutely reliable and there is additional water available from Lake Kemp. Only a portion of that available water is being used, so the actual water supply totals well over 40,000 acre-feet per year to meet the demand of just over 30,000 acre-feet per year.

COMMENT NO. 34: An individual requested that TCEQ consider that the City is losing population and really doesn't need the water.

COMMENT NO. 35: An individual commented that although they are very proud of the City's water solutions developed during the long and painful time of drought, these solutions will work for the future and the City does not need Lake Ringgold.

COMMENT NO. 36: An individual commented that the current demand of the City and its customers is 31,000 acre-feet, and the City's water supplies are around 43,000 acre-feet, so Lake Ringgold is simply not needed.

COMMENT NO. 37: An individual commented that the Lake Ringgold site was earmarked over seventy years ago. Since then, Lake Arrowhead has been built. The City has also implemented recycling and reuse projects. The reuse project was implemented during the 2010 - 2015 drought, which was the worst drought in 116 years. That project reduced the demand on the reservoirs by about 25%. The commenter questions how the City is justifying the need, especially when the population projected for Wichita Falls is going to remain flat for the next fifty years. The City is the only urban area in Texas that experienced a decrease or decline in population in the past decade and a new reservoir in the same watershed is not needed.

COMMENT NO. 38: An individual commented that there are some other factors that were not considered in the City's analysis. The commenter supports the City's reuse program and thinks that it addresses the significant portion of concerns from the drought of 2015. The commenter also notes that there is a canal and pipeline conversion project in the Region B plan that needs to be considered. In the 2021 Region B plan, 73% of the water demand is related to irrigation, and the canal to pipeline conversion conservation project costs significantly less and would provide more immediate availability of additional water and address the needs that have been identified. In addition, the project also includes ADP Local Union Electric Plant. That plant is scheduled for retirement and is being taken out of service as of October 1 of this year. That water use will not be needed and it exceeds the projected water need demand of the City in 2040.

COMMENT NO. 39: An individual commented that the City has spent millions on a recycle water system that provided more water than is projected for the City's use and other county use.

Response to Comment Nos. 33 - 39: The ED acknowledges the comments and notes that TCEQ staff performed a water conservation review of the application pursuant to applicable requirements. The review evaluated whether there was a need for additional water. Based on information in the 2016 Region B Water Plan, staff determined that the City would need additional water supplies in the future. Staff's review also found that the Lake Ringgold is a recommended water management strategy in the 2016 Region B Water Plan to meet future water supply needs for the City.

COMMENT NO. 40: An individual commented that the City's population is a concern. It's projected to remain flat into the future and beyond the next 50 years. Existing water sources and other conservation can be used to meet future needs. The City has done a good job at 116.8 gallons per capita per day and could do better because other communities perform better than that in Texas.

COMMENT NO. 41: An individual commented that the rapid growth the City has been hoping for since the 1960s is not happening.

COMMENT NO. 42: An individual commented that Lake Ringgold is not needed because the population of the City is projected to remain flat into the future and beyond the next fifty years.

Response to Comment Nos. 40 - 42: The ED responds that TCEQ staff performed a water conservation review of the application pursuant to applicable requirements which evaluated whether there was a need for additional water. As part of that review, staff considered population projections from the 2016 Region B Water Plan. Staff's review also found that the City's Water Conservation Plan, which was submitted with the application, met the requirements in TCEQ's Chapter 288 Water Conservation rules.

ALTERNATIVES TO THE PROJECT

COMMENT NO. 43: The City of Wichita Falls City Manager commented that the City evaluated over thirteen water supply alternatives, and Lake Ringgold is the next viable project on that plan. The City has exhausted all of its currently available water supply options, including direct reuse, indirect reuse, and water conservation. There is a need for future water supply, and Lake Ringgold is the most feasible water supply alternative.

COMMENT NO. 44: The Mayor of Wichita Falls commented that he has a responsibility as an elected official to press forward with Lake Ringgold. The City has exhausted all other methods.

Response to Comment Nos. 43 - 44: The ED acknowledges the comments.

COMMENT NO. 45: An individual stated that water demands are going to be affected by drought and asks why the City can't dredge their existing reservoir to meet the demands.

COMMENT NO. 46: An individual commented that the City has already taken land from Clay County to build Lake Arrowhead and is now coming to north Clay County to take more land and asks why the City can't dam up the Big Wichita. There are numerous houses and land that flood in that area and it is much closer to the City.

COMMENT NO. 47: An individual commented that the proposed Lake Ringgold is an outdated solution to an unfounded need for additional surface water for the region at a tremendous cost to the citizens, businesses, and customers of the City. The City has demonstrated innovation and creativity in thinking outside the box for the design and execution of the indirect potable reuse project. This highly successful and iconic effort is a global example of meeting a community's water needs in a creative, cost-effective, and timely manner. The proposed Lake Ringgold meets none of those criteria. The City is pursuing an application for a reservoir that is subject to the same conditions as the three reservoirs that are already in use. This application adds to the problem and burdens future generations by building a reservoir that mimics what the City already has.

COMMENT NO. 48: An individual asks TCEQ to consider what is the purpose of issuing a water right that simply sustains the current problem that the City already has and asks that people in the city of Wichita Falls reconsider this project.

COMMENT NO. 49: An individual commented that the cost of the project is too expensive, considering sedimentation and evaporation loss. The commenter supports supplementing the needs of the City and other major cities in Texas with a pay-as-you-need policy, where entities buy water as needed from commercial or state-owned water pipelines and transport desalinated water from the Gulf. The commenter also supports rainfall collection systems.

COMMENT NO. 50: The City has done a very good job of maintaining their water reuse project, between 2012-2013, they were able to increase their existing lakes.

COMMENT NO. 51: TCA commented that the permit application references the City's long-range water supply plan, but that the plan omits some of the promising alternatives to Lake Ringgold, if indeed an additional water supply were ever needed. One option is to take water from the Red River, which would mean some desalination, but it would be much cheaper and lower impact than building a reservoir. Another alternative is to store some of the water currently in the City's lakes in underground aquifers and use an aquifer storage and recovery project to reduce the amount of water lost to evaporation.

Response to Comment Nos. 45 – 51: The ED responds that staff's review of a water rights application is limited to specific requirements under applicable statutes, rules, and the specific requests in the application. The suggested alternatives were not submitted as part of the City's application. Staff's conservation review also found that the application for Lake Ringgold is a recommended water management

strategy in the 2016 Region B Water Plan to meet the future water supply needs for the City.

COMMENT NO. 52: An individual commented that existing water sources and further conservation are more than adequate to meet the needs served by the City.

Response to Comment No. 52: The ED acknowledges that water conservation is important. The City submitted a Water Conservation Plan that meets the applicable requirements in TCEQ's Chapter 288 Water Conservation rules. Staff's review of information from the 2016 Region B Water Plan indicates that although water conservation could delay the need for construction of Lake Ringgold, water conservation would not meet the City's long-term water needs.

COST OF THE PROJECT

COMMENT NO. 53: Clay County expressed concerns about the cost of Lake Ringgold and its effects on water bills and commented that the costs of Lake Ringgold keep rising. Clay County further commented that the citizens and the ratepayers would not get a chance to decide whether to take on this huge debt. The City says one possibility for financing the Ringgold project is certificates of obligation that would be funded by water-user rates. Possible funding could come from a loan through the Texas Water Development Board's State Water Implementation Fund or a federal loan. Either loan would have to be paid off by the people of Wichita Falls and its customer cities. State or federal loans or certificates of obligation do not require a vote of the citizens like a bond issue does. Lake Ringgold has many negative aspects that significantly impact the people of the region. For example: The \$443 million price tag would be about \$3,000 for every man, woman, and child in Wichita Falls and its customer cities. Once the interest on the loan and the operating costs are added, the price tag reaches nearly \$700 million.

COMMENT NO. 54: An individual commented that influential special interests with a large and profitable stake in this project have bypassed the requirements for a bond issue to be put before the public.

COMMENT NO. 55: . Individual commenters had concerns about the cost to build Lake Ringgold and that the current costs could increase. An individual commented that the City hasn't looked at the real cost of the production from Lake Arrowhead, which would be a much better alternative.

COMMENT NO. 59: An individual expressed concerns that the City's contractor, Freese and Nichols, is involved in too many levels from determining feasibility to design and construction of this reservoir. The commenter asks for a breakdown of costs and expenses.

COMMENT NO. 60: The Clay County Judge commented that Clay County is a good neighbor to Wichita Falls. The Judge believes the City should look at cost versus risk. The risk of running out of water may be too expensive for the taxpayers and people of Wichita County to afford.

Response to Comment Nos. 53 – 60: The ED acknowledges these comments but responds that the cost of the project was not considered in TCEQ staff’s review of the application under applicable TCEQ statutes and rules. The ED notes that issues related to project costs are presented during the regional planning process, and that construction of Lake Ringgold is a recommended water management strategy in the 2016 Region B Water Plan.

ENVIRONMENTAL ISSUES

COMMENT NO. 61: Clay County commented that 16,000 acres of productive grassland would be permanently flooded, and 8,000 more acres would be flooded part of the time. This is ranch land, wildlife land, and land where the people of Clay County live. The proposed reservoir will impact the hunting of turkey, deer, and other wildlife. Over 1,000 acres of this land is tallgrass prairie that’s never been plowed. Tallgrass prairie is one of the most endangered wildlife habitats in the country.

COMMENT NO. 62: An individual commented that there are so many trees that will be destroyed building this lake, and trees are beneficial to the environment. There are also numerous plants, insects, and wildlife that will be displaced by this lake.

COMMENT NO. 63: An individual objected to the environmental impact.

COMMENT NO. 64: An individual expressed concern that ranch land, which helps with carbon sequestration, would be taken out of production.

COMMENT NO. 65: An individual commented that the lack of information on impacts on the Red River ecosystem is worrisome. The waterways which lead into the river would be stopped, hurting river flow and ecosystem viability.

COMMENT NO. 66: An individual commented that Lake Ringgold is going to knock out some very unique environmental areas and that there is some old virgin prairie there that has never been plowed and is going to be covered by the lake. That area is also one of the best hunting areas in Texas. Lake Ringgold will wipe out the bottomland to the Wichita River.

COMMENT NO. 67: An individual commented that the endangered whooping crane and the Texas horned lizard currently use these areas.

COMMENT NO. 68: TCA commented that the environmental impacts will be enormous.

COMMENT NO. 69: An individual commented that wildlife is a current issue.

COMMENT NO. 70: An individual commented that Lake Ringgold would destroy the best wildlife habitat in the county, if not in Texas. The commenter has seen whooping cranes as well as bald eagles nesting and all this wildlife in very large numbers, including many species of birds.

COMMENT NO. 71: The Clay County Judge commented that TCEQ should protect the environment and take the environmental impacts of Lake Ringgold into consideration.

Response to Comment Nos. 61 – 71: The ED acknowledges these concerns and responds that TCEQ staff’s review of the application included an evaluation of environmental impacts associated with the project. TCEQ staff’s environmental review was performed in accordance with applicable Texas statutes and TCEQ’s rules related to water rights permitting. Staff’s review found that aquatic and riparian habitats, recreational use, and water quality would not be affected by the application. Staff also reviewed the City’s proposed mitigation for fish and wildlife habitat and recommended that any permit issued for the application include special conditions. The draft permit includes special conditions requiring: (1) compliance with mitigation and monitoring requirements resulting from other state and federal permitting actions, including the United States Army Corps of Engineers Clean Water Act Section 404 process and timely implementation of the mitigation plan; (2) design of intake structures that minimize impingement and entrainment; and (3) instream monitoring downstream of the confluence of the Wichita River and the Red River. The ED believes that his proposed draft permit is protective of the environment.

CULTURAL RESOURCES

COMMENT NO. 72: Clay County commented that approximately two-thirds of the reservoir site is identified as high potential for cultural resources, mostly the Native American Indians.

COMMENT NO. 73: An individual commented that Lake Ringgold would destroy a number of Native American sites. This area has been a campground for over 300 years.

COMMENT NO. 74: An individual commented that several areas to be inundated would leave no Native American campgrounds.

COMMENT NO. 75: An individual commented that the historic cemetery is going to be inundated.

Response to Comment Nos. 72 – 75: The ED responds that when reviewing water rights applications, the TCEQ considers only the criteria within its jurisdiction as set forth in applicable statutes and rules. The disturbance of archeological sites is not a listed criterion. However, the ED understands that the U.S. Army Corps of Engineers and the Texas Historical Commission have jurisdiction over the listing and/or protection of sites of historical or archaeological significance. The City must comply with all applicable state and federal requirements governing this type of project.

EMINENT DOMAIN

COMMENT NO. 76: Clay County commented that more than 40 families will be forced to sell land. The City only owns 6,662 acres of the 41,000 acres that will be impacted – the rest is private land. Clay County expressed concerns with the amount of land that will be condemned.

COMMENT NO. 77: An individual commented that there are sixteen thousand acres on the lakebed that would be affected and another eight thousand on the perimeter of the

flow way, as well as land needed for the pipeline. The City does not own the majority of the land.

COMMENT NO. 78: An individual commented that he disagrees that TCEQ is not involved in eminent domain because there is a three-prong test in order to get eminent domain done in Texas. The project would never go to condemnation without the permit from TCEQ.

COMMENT NO. 79: Commenters expressed concern about inundation of their land, that the proposed lake would come up to the back door of their home, that the project would split pastures that are in active use today, and that a residence, multiple barns, and equipment are located less than one mile from the proposed Lake Ringgold dam.

Response to Comment Nos. 76 – 79: The ED responds that issues associated with inundation of land within the footprint of the proposed reservoir or compensating landowners can be addressed through the eminent domain process and notes that the TCEQ does not have jurisdiction over the eminent domain process.

ECONOMIC IMPACTS

COMMENT NO. 80: Clay County commented that the economy of Clay County will be hugely impacted as this land is taken off the tax rolls and the costs of law enforcement and road repair go up. The people of Wichita Falls and its customer cities, the ratepayers, will have high water rates for 40 years to pay for the proposed Lake Ringgold.

COMMENT NO. 81: Individual commenters were concerned about the loss of productive farm and ranch land and land being taken out of production and off of the county tax rolls.

COMMENT NO. 82: An individual commented that the biggest cost will be the thousands of acres of farming, grazing lands, and wildlife habitat that will be lost. This land has been used for the last 150 years and is some of the best grazing land in the United States. It has provided a livelihood to hundreds of families over the years and is the heart of the nation's cattle industry.

COMMENT NO. 83: An individual commented that funding for Henrietta ISD would be impacted by the loss of tax revenue that the current property owners pay annually.

COMMENT NO. 84: An individual expressed concerns about increased maintenance and security expenses for Clay County.

COMMENT NO. 85: TCA commented that the economic impacts will be enormous.

COMMENT NO. 86: Individual commenters asked TCEQ to take into consideration the economic impacts on both individuals and the local economy.

Response to Comment Nos. 80 – 86: The ED responds that TCEQ staff's review of the application did not consider economic impacts. The TCEQ's jurisdiction over water rights permitting is established by the Legislature. Economic impacts to

property taxes, land valuation, law enforcement costs and other such matters are not within the TCEQ's statutorily established jurisdiction over water rights permitting.

DAM SAFETY

COMMENT NO. 87: An individual expressed concerns that the dam will never hold because of the soil, and if the dam breaks their house will be flooded by Lake Ringgold.

COMMENT NO. 88: An individual commented that erosion issues that happen in lake after lake need to be addressed. The commenter asked TCEQ to consider that the lake will be built on dispersive soil and that consultants have been hired to do soil samples to determine the durability of this soil with this water dispersion.

Response to Comment Nos. 87 - 88: The ED responds that TCEQ's Dam Safety Section will review the geotechnical report and the construction plans to ensure that the dam will be built of soil that is appropriate for dam construction. The City's engineers will need to address dispersive soils as part of their submittal to the TCEQ's Dam Safety Section.

WATER AVAILABILITY

COMMENT NO. 89: An individual commented about water availability for Lake Ringgold during droughts. In the first year of a drought, there may be water in Lake Ringgold. However, water from Lake Ringgold will be sent to Lake Arrowhead. In the second and third and fourth years, there won't be water in Lake Ringgold because it is going to be captured in Lake Arrowhead which is upstream. Lake Arrowhead gets all the water first, and then Lake Kickapoo is above Lake Arrowhead. In a drought year, the City will not be getting any water from Lake Ringgold because of the two upstream lakes. In several years Lake Ringgold will be a big mud puddle. The water level in Lake Ringgold is not going to be constant and won't support second homes so Lake Ringgold is not a benefit to Clay County.

COMMENT NO. 90: An individual expressed concerns that Lake Ringgold is in the same watershed as two of the existing reservoirs. Lake Ringgold is designed for drought conditions, and those drought conditions would exist for all of the reservoirs in the watershed. Lake Ringgold would be the furthest downstream.

Response to Comment Nos. 89 - 90: The ED responds that TCEQ staff performed a water availability analysis pursuant to applicable TCEQ requirements and determined there was sufficient unappropriated water available to support the City's request. Staff's review also considered other sources of water available to the City and information in the application related to the City's proposed operation of its water supply sources and found that the amount of water requested in the application was viable for the intended purpose.

COMMENT NO. 91: An individual expressed concerns about storage problems associated with a large lake such as Lake Ringgold. Because of evaporation in Texas, this lake will be very inefficient.

Response to Comment No. 91: The ED responds that staff's water availability determination considered evaporation from Lake Ringgold and determined that there was sufficient unappropriated water available to support the City's request.

IMPACTS ON OTHER WATER RIGHTS

COMMENT NO. 92: The City administrator for the City of Henrietta expressed concerns that Henrietta's intake structure will be inundated by Lake Ringgold and Henrietta is concerned about where the existing intake structure will be moved.

COMMENT NO. 93: An individual commented that the City of Henrietta has water rights, and it is unclear how that will be addressed. The commenter states that there has always been an issue with how much water is released from Lake Arrowhead to Henrietta's senior water rights.

Response to Comment Nos. 92 - 93: The ED responds that other water rights in the basin would not be affected by the application because Lake Ringgold will be junior in priority to those existing water rights. If a senior water right holder is not getting the water it is entitled to under its water right, the senior water right holder can make a priority call to the TCEQ. In addition to impacts to water availability, the application included information relating to how the City would address existing water rights, including the City of Henrietta's water rights. The application indicates that the City of Henrietta's existing diversion facilities would be protected or moved.

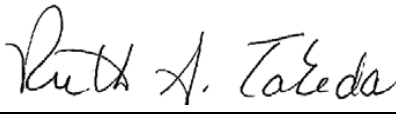
Respectfully submitted,

TEXAS COMMISSION ON ENVIRONMENTAL
QUALITY

Toby Baker
Executive Director

Erin E. Chancellor, Director
Office of Legal Services

Charmaine Backens, Deputy Director
Environmental Law Division

by 

Ruth Ann Takeda
State Bar of Texas No. 24053592

TCEQ
Environmental Law Division, MC 173
P.O. Box 13087
Austin, Texas 78711-3087
ruth.takeda@tceq.texas.gov
Phone: 512.239.6635
Fax: 512.239.0606

ATTORNEYS FOR THE
EXECUTIVE DIRECTOR

CERTIFICATE OF SERVICE

I certify that on the 21st day of March, 2022 a true and correct copy of the foregoing *Executive Director's Response to Comments* was filed with the Chief Clerk of the Texas Commission on Environmental Quality in Austin, Texas.

A handwritten signature in black ink, reading "Ruth A. Takeda". The signature is written in a cursive, flowing style. The first name "Ruth" is written with a large, looped 'R'. The middle initial "A." is written in a smaller, simpler script. The last name "Takeda" is written with a large, looped 'T' and a trailing 'da'.

Ruth Ann Takeda, Staff Attorney
Environmental Law Division
Texas Commission on Environmental Quality