

ALLISON, BASS & ASSOCIATES, L.L.P.

*Attorneys at Law*

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AUSTIN, TEXAS 78701  
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(512) 482-0701  
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JAMES P. ALLISON  
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ROBERT T. BASS  
r.bass@allison-bass.com

VANESSA A. GONZALEZ  
v.gonzalez@allison-bass.com

OPA

AUG 29 2006

August 24, 2006

BY g

VIA CMRRR: 7005 1160 0001 9493 2950

Office of the Chief Clerk  
MC 105  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

*Handwritten:* Jones / 2/23

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
CHIEF CLERKS OFFICE  
AUG 29 PM 2:41

Re: Application of City of Lubbock  
For Water Use Permit No. 5921

Dear Sir/Madam:

Please find enclosed the Hearing Request of Garza County, Kent County, and the Garza/Kent Brazos River Landowners' Coalition in the above referenced matter.

Thank you for your assistance in this matter. Please call me if you have any questions.

Sincerely,

*Handwritten signature of James P. Allison*  
James P. Allison

JPA/afb

*Handwritten initials:* JPA

APPLICATION OF CITY OF  
LUBBOCK FOR  
WATER USE PERMIT NO. 5921

**ORIGINAL**

§  
§  
§  
§

BEFORE THE TEXAS  
COMMISSION ON  
ENVIRONMENTAL  
QUALITY

CHIEF CLERKS OFFICE

2006 AUG 23 PM 2:42

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

**HEARING REQUEST OF GARZA COUNTY, KENT COUNTY, and the GARZA/KENT  
BRAZOS RIVER LANDOWNERS COALITION**

TO THE HONORABLE COMMISSION:

COMES NOW Garza County, Texas, by and through the Garza County Commissioners Court, c/o County Judge Giles Dalby, Garza County Courthouse, 300 W. Main Street, Post, Texas 79356, Kent County, Texas, by and through the Kent County Commissioners Court, c/o County Judge Jim White, 101 Main Street, Jayton, Texas 79528, and the Garza/Kent Brazos River Landowners Coalition, c/o Giles Dalby, 228 E. Main Street, Post, Texas 79356 (Joint Protestants) and file this, their request for hearing, and, in support thereof would respectfully show the following:

I. Summary

Protestants request a contested case hearing. Protestants understand that the hearing requested is more than a public meeting for submission of comments.

The affected persons are the citizens of Garza County, citizens of Kent County, and area landowners. Therefore, Garza County, by and through the Garza County Commissioners Court, and Kent County, by and through the Kent County Commissioners Court, seek to protect the interest of their citizens and the interest of the county as a whole. Garza County and Kent County are responsible for the provision and protection of the water supply for their citizens. Further, Garza County and Kent County maintain county roads and transportation infrastructure that will be affected by the project. The project will also affect the value of taxable property

within the county for ad valorem property taxes. Further, the County is responsible for economic development for the citizens of the County.

The Garza/Kent Brazos River Landowners Coalition is an association of property owners in Garza County and Kent County. Many of these landowners own property adjacent to the Brazos River and rely upon water from the Brazos River for their ranching and other economic activities.

## II. Protestants Represent Affected Persons

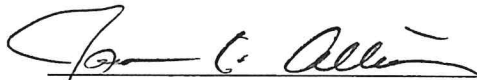
Protestants Garza County and Kent County are political subdivisions of the State of Texas, and meet the tests of affected persons, including those listed in 30 TAC Chapter 55. Garza County and Kent County and their constituents have the specific interests that are intended to be protected by the Texas Health and Safety Code. They would be adversely affected in ways not common to those of the general public. The proposed activity will directly affect Brazos River water flows within Garza County and Kent County.

The Brazos River Landowners Coalition is composed of persons who own property on or near the Brazos River in Garza County and Kent County. These property owners rely upon the flows of the Brazos River to maintain their ranching and other economic activities. The proposed project would adversely affect these persons in a way not common to those of the general public. The proposed activity will directly affect Brazos River water flows by their properties.

## III. Conclusion

WHEREFORE, Protestant respectfully requests that a hearing be granted and that Garza County, Kent County, and the Garza/Kent Brazos River Landowners Coalition be named a party to the hearing.

Respectfully submitted,



James P. Allison  
SBN: 01090000

Allison, Bass & Associates, LLP  
A.O. Watson House  
402 West 12<sup>th</sup> Street  
Austin, Texas 78701  
512/482-0701 Phone  
512/480-0902 Fax

CHIEF CLERKS OFFICE

AUG 28 PM 2:42

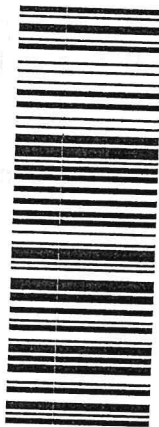
TEXAS  
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QUALITY



ALLISON, BASS & ASSOCIATES, L.L.P.

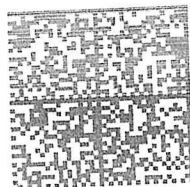
*Attorneys at Law*

A. O. WATSON HOUSE  
402 WEST 12TH STREET  
AUSTIN, TEXAS 78701



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MC 105  
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Austin, Texas 78711-3087



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AUG 28 2006

TCEQ MAIL CENTER'S POSTAGE  
RB

78711-3087-87 E012



William R. Carmony  
11609 PR 3530  
Slaton, Texas 79364  
806-828-6867

Chief Clerk  
MC 105  
TCEQ  
P.O. Box 13087  
Austin, Texas 78711

August 8, 2006

Dear Chief Clerk:

We would like to request a contested case hearing for the Public Notice App No 5921 which was posted July 28.

Lisa & Bill Carmony  
11609 PR 3530  
Slaton, Texas 79364  
806-828-6867

We live in the canyon at the above address which is off of County Road 7300 which is located in the Yellow House Canyon. We are very concerned about our home and if we will have access to get to our home once the dam is built. You may contact us at the above address and phone number. Please notify us of any public hearing or mailing information for the Yellow House Canyon area.

Sincerely,



Lisa Carmony  
William (Bill) Carmony

OPA

H AUG 11 2006

BY mc

52434  
2006

CHIEF CLERK'S OFFICE

2006 AUG 11 AM 9:46

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY



William R. Carmony  
11609 PR 3530  
Slaton, Texas 79364  
806-828-6867

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
2006 AUG 11 AM 9:46  
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LUBBOCK TX 794  
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P.O. Box 13087  
Austin, Texas 78711

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AUG 11 2006

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RB

78711+3087 Lubbock, TX 79409

# Bickerstaff Heath Delgado Acosta LLP

816 Congress Avenue Suite 1700 Austin, Texas 78701 (512) 472-8021 Fax (512) 320-5638 www.bickerstaff.com

June 17, 2009

Via Hand Delivery and First Class Mail

Ms. LaDonna Castañuela  
Office of the Chief Clerk, MC105  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

WR  
52634

OPA

JUN 18 2009

BY EB

Re: Water Rights Application No. 5921 by the City of Lubbock

Dear Ms. Castañuela:

On behalf of the Brazos River Authority (BRA), I withdraw BRA's protest to the above-referenced permit application. BRA's withdrawal is contingent upon review of the final draft permit prepared by the Executive Director to determine that it is consistent with the Interlocal Agreement between BRA and the City of Lubbock, effective May 14, 2009.

Thank you for your attention to this matter. Please feel free to contact me if additional information is required or I may be of assistance.

Sincerely,

  
Douglas G. Caroom

cc: Kellye Rila, TCEQ  
Martin Rochelle, Counsel for Lubbock  
Jim Forte, BRA  
Lauralee Vallon, BRA  
David Wheelock, BRA

CHIEF CLERK'S OFFICE

2009 JUN 18 AM 10:50

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY



Bickerstaff Heath  
Delgado Acosta LLP

816 Congress Avenue Suite 1700  
Austin, Texas 78701

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

2009 JUN 18 AM 10:50

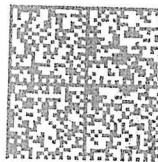
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JUN 18 2009

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Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087



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Austin, Texas 78701

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Ms. LaDonna Castañuela  
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Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087



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78711-3087



## Bickerstaff Heath Delgado Acosta LLP

816 Congress Avenue Suite 1700 Austin, Texas 78701 (612) 472-8021 Fax (612) 820-5638 www.bickerstaff.com

June 17, 2009

Via Hand Delivery and First Class Mail

Ms. LaDonna Castañuela  
Office of the Chief Clerk, MC105  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

WR  
52634

OPA

JUN 17 2009

BY RB

Re: Water Rights Application No. 5921 by the City of Lubbock

Dear Ms. Castañuela:

On behalf of the Brazos River Authority (BRA), I withdraw BRA's protest to the above-referenced permit application. BRA's withdrawal is contingent upon review of the final draft permit prepared by the Executive Director to determine that it is consistent with the Interlocal Agreement between BRA and the City of Lubbock, effective May 14, 2009.

Thank you for your attention to this matter. Please feel free to contact me if additional information is required or I may be of assistance.

Sincerely,

*Douglas G. Caroom*  
Douglas G. Caroom

cc: Kellye Rila, TCEQ  
Martin Rochelle, Counsel for Lubbock  
Jim Forte, BRA  
Lauralee Vallon, BRA  
David Wheelock, BRA

CHIEF CLERKS OFFICE

2009 JUN 17 PM 1:11

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

# Bickerstaff Heath Delgado Acosta LLP

A Registered Limited Liability Partnership

816 Congress Avenue

Suite 1700

Austin, Texas 78701-2443

Telephone: (512) 472-8021

<http://www.bickerstaff.com>

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DATE: June 17, 2009

CLIENT #: 2882-01

## TELECOPIER COVER SHEET

Fax Number: (512) 320-5638

SEND TO:

FAX:

TELEPHONE:

LaDonna Castanuela, TCEQ

(512) 239-3311

(512) 239-1000

FROM: Doug Caroom/michelle

TOTAL PAGES INCLUDING COVER SHEET: 2

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ON ENVIRONMENTAL  
QUALITY

TEXAS  
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ON ENVIRONMENTAL  
QUALITY

# Bickerstaff, Heath, Pollan & Caroom, L.L.P.

816 Congress Avenue

Suite 1700

Austin, Texas 78701

(512) 472-8021

Fax (512) 320-5638

www.bickerstaff.com

2006 JUL 25 AM 9:53

July 24, 2006

CHIEF CLERKS OFFICE

Via Facsimile and U.S. Mail

Ms. LaDonna Castañuela  
Office of the Chief Clerk, MC105  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

OPA

JUL 25 2006

BY J

Re: Application No. 5921 by the City of Lubbock

Dear Ms. Castañuela:

On behalf of the Brazos River Authority (BRA), I protest the above-referenced application and request that a contested case hearing be held on the application.

BRA holds the following water rights: Certificate No. 12-5155 (Possum Kingdom Lake); Certificate No. 12-5156 (Lake Granbury); Certificate No. 12-5157 (Lake Whitney); Certificate No. 12-5158 (Lake Aquilla); Certificate No. 12-5159 (Lake Proctor); Certificate No. 12-5160 (Lake Belton); Certificate No. 12-5161 (Lake Stillhouse Hollow); Certificate No. 12-5162 (Lake Georgetown); Certificate No. 12-5163 (Lake Granger); Certificate No. 12-5164 (Lake Somerville); Certificate No. 12-5165 (Lake Limestone); Permit No. 4146 (Lake Alan Henry); and Permit No. 2925A (proposed Allens Creek Reservoir). One or more of these rights may be impaired if the application is granted. While it is possible that special conditions may be included in the permit in order to prevent any such impairment, BRA must protest the application in order to ensure that its water rights are protected.

Thank you for your attention to this matter. I request that the Brazos River Authority be placed on all notice lists so that it may receive notice of all further actions with regard to this application.

Sincerely,

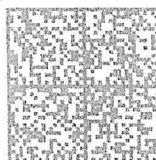
  
Douglas G. Caroom

cc: Lauralee Vallon  
David Wheelock  
Brazos River Authority

Bickerstaff, Heath,  
Pollan & Caroom, L.L.P.

816 Congress Avenue Suite 1700  
Austin, Texas 78701

Ms. LaDonna Castañuela  
Office of the Chief Clerk, MC105  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087



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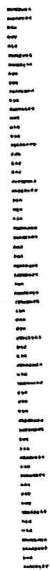
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78711-3087-87 B012



## Bickerstaff, Heath, Pollan & Caroom, L.L.P.

816 Congress Avenue Suite 1700 Austin, Texas 78701 (512) 472-8021 Fax (512) 320-5638 www.bickerstaff.com

July 24, 2006

OPA *H*

JUL 25 2006

Via Facsimile and U.S. Mail

Ms. LaDonna Castañuela  
Office of the Chief Clerk, MC105  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

BY *g*

*WR  
52434*

Re: Application No. 5921 by the City of Lubbock

Dear Ms. Castañuela:

On behalf of the Brazos River Authority (BRA), I protest the above-referenced application and request that a contested case hearing be held on the application.

BRA holds the following water rights: Certificate No. 12-5155 (Possum Kingdom Lake); Certificate No. 12-5156 (Lake Granbury); Certificate No. 12-5157 (Lake Whitney); Certificate No. 12-5158 (Lake Aquilla); Certificate No. 12-5159 (Lake Proctor); Certificate No. 12-5160 (Lake Belton); Certificate No. 12-5161 (Lake Stillhouse Hollow); Certificate No. 12-5162 (Lake Georgetown); Certificate No. 12-5163 (Lake Granger); Certificate No. 12-5164 (Lake Somerville); Certificate No. 12-5165 (Lake Limestone); Permit No. 4146 (Lake Alan Henry); and Permit No. 2925A (proposed Allens Creek Reservoir). One or more of these rights may be impaired if the application is granted. While it is possible that special conditions may be included in the permit in order to prevent any such impairment, BRA must protest the application in order to ensure that its water rights are protected.

Thank you for your attention to this matter. I request that the Brazos River Authority be placed on all notice lists so that it may receive notice of all further actions with regard to this application.

Sincerely,

*Douglas C. Caroom*  
Douglas C. Caroom

cc: Lauralee Vallon  
David Wheelock  
Brazos River Authority

CHIEF CLERK'S OFFICE  
JUL 24 11 14 AM '06  
ON COMMISSIONER'S DESK  
JUL 24 11 14 AM '06

*d*

**Bickerstaff, Heath, Pollan & Caroom, L.L.P.**

*A Registered Limited Liability Partnership*

**816 Congress Avenue, Suite 1700**

**Austin, Texas 78701-2443**

**Telephone: (512) 472-8021**

<http://www.bickerstaff.com>

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**DATE:** July 24, 2006

**CLIENT #: 2882-01**

# TELECOPIER COVER SHEET

**Fax Number: (512) 320-5638**

**TELECOPIER NUMBER: 239-3311**

**SEND TO: LaDonna Castañuela**

**FIRM/COMPANY:** TCEO - Chief Clerk

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**TELEPHONE NUMBER: 239-3300**

**FROM: Douglas G. Caroom**

**TOTAL PAGES INCLUDING COVER SHEET: 2**

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**MESSAGE:**

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**NAMAN HOWELL  
SMITH & LEE**

A REGISTERED LIMITED LIABILITY PARTNERSHIP  
ATTORNEYS AT LAW

CHIEF CLERK'S OFFICE  
2006 AUG 24 10:15 AM  
TEXAS COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
900 Washington Avenue  
P.O. Box 1470  
Waco, Texas 76703  
(254) 755-4100  
Fax (254) 754-6331

OPA

H AUG 25 2006

BY KY

Offices in:

- Austin
- Temple
- Waco

[www.namanhowell.com](http://www.namanhowell.com)

August 23, 2006

**VIA FEDERAL EXPRESS OVERNIGHT MAIL**

Office of the Chief Clerk  
MC 105  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

WPC  
52634

Re: Request for Contested Case Hearing:  
Application No. 5921, City of Lubbock

Dear Sir or Madam:

This firm represents Terry Crofoot, John O. Long, Michael Damron, Justin Damron and Lynn Forrest. On behalf of each of them, we request a contested case hearing on Application No. 5921 submitted by the City of Lubbock (the Applicant). You can contact me at the address, phone number and fax number listed for our Waco office in the letterhead.

Terry Crofoot's address is P.O. Box 53188, Lubbock, Texas 79423. His property is located on each side of the Double Mountain Fork, between Lake Ransom Canyon and proposed dam number 8, and his property is approximately 1.9 miles from proposed dam number 8.

John O. Long's address is 8603 FM 400, Slaton, Texas 79364. His property is located on each side of the Double Mountain Fork, between Lake Ransom Canyon and proposed dam number 8, and is approximately 1.5 miles from proposed dam number 8.

Michael and Justin Damron's address is 8602 FM 400, Slaton, Texas 79364. Their property is located on each side of the Double Mountain Fork, between Lake Ransom Canyon and proposed dam number 8, and is approximately half a mile from proposed dam number 8.

Lynn Forrest's address is 12019 E. County Road 7300, Slaton, Texas 79364. Proposed dam number 8 would be located on his property, with significant portions of

*[Handwritten signature]*

his property located on each side of the proposed dam number 8. The proposed diversion point for the reservoir created by proposed dam number 8 would also be located on Mr. Forrest's property, along with the necessary transmission pipeline.

If granted, the proposed permit would adversely affect each of these individuals. Each of these individuals has, historically, used the water in the river for domestic and livestock use. Each of them continues to have the right to do so, and those rights would be superior to those of the Applicant. Currently, there is insufficient water available for additional diversions, and the granting of a permit would adversely effect current users. The proposed impoundment will also result in permanent flooding of significant portions of their property. The proposed permit would also adversely affect Mr. Forrest by depriving him of the normal flow of the Double Mountain Fork, adversely affecting his domestic and livestock use, and by subjecting those same portions of his land to rapid flooding in the event of discharges from proposed dam number 8.

We request a contested case hearing.

Very truly yours,

NAMAN HOWELL SMITH & LEE, L.L.P.

By:



Kerry L. Haliburton

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
2006 AUG 24 PM 2:55  
CHIEF CLERKS OFFICE

KLH/kwp

Cc: Mr. Martin Rochelle  
Lloyd Gosselink Blevins Rochelle & Townsend, P.C.  
816 Congress Avenue  
Suite 1900  
Austin, Texas 78701

TCEQ Region 2 – Lubbock  
Regional Director Randy Ammons  
3113 34th Street  
Lubbock, TX 79410-3227



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FORM 0215

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Address 900 WASHINGTON AVE FL 7  
City WACO State TX ZIP 76701-1200

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3 To Recipient's Name OFFICE OF THE CHIEF CLERK  
Company TCEC  
Address mc 105  
City Austin State TX ZIP 78753

Address 18100 PARK 35 CIRCLE  
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☐ Third business day

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8 Sign to Authorize Delivery Without a Signature

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Credit Card Auth.

August 21, 2006

John and Marianne Loveless  
7106 - 32<sup>nd</sup> Street  
Lubbock, Texas 79407  
(806) 796 - 0124

OPA  
AUG 25 2006  
BY RM

CHIEF CLERKS OFFICE

2007 AUG 23 PM 2:26

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

- 2)  
Applicant - City of Lubbock  
Application no. 5921
- 3)  
We request a contested case hearing

2/25/07

- 4)  
The first way we are affected is by the obvious loss of land to the dam (#8) itself. The land above it that would be underwater, is currently and has historically been used as pastureland for cattle. It has long been known as camp sights for nomadic Indian tribes, as much evidence has been found and protected over the past decades by our family and others. Also underwater would be the home owned and occupied by my brother, Lynn Forrest, and his family, which has been in our family since the 1930's. It was built in the early 1900's by Mr. Slaton, and has long been a gathering place for many things, from youth stock shows and scouts to weddings and sunrise services. All of the ranch improvements now used by both ranching operations and some of the best ranching pastureland in the area will be covered. This application is also objectionable because of the allocations of water asked for by The City of Lubbock being above and beyond a reasonable amount. This application does not allow any consideration for our watering of livestock, therefore directly influencing our operations in ranching. There are people, crops, wildlife, domesticated animals and other livelihoods dependant upon The River. Many of these operations greatly benefit the citizens of The City of Lubbock and would hurt the community in general if this water source is cut off or depleted by the proposed dam. There must be consideration given to these matters, therefore this application by The City of Lubbock is not acceptable.

I have also included a copy of a letter written by us regarding an amendment to Water Use Permit no. 3985, since it is also included in this current application.

Many of our objections are the same in that they both affect the water flow in the river, therefore affecting all life downstream. We ask The State of Texas to help protect its people from an overtaking of water by The City of Lubbock.

- 5)  
The location of the proposed dam #8 is on our property in Section 35, Block S, Lubbock County and will claim property above the dam to water and will affect all of our property below the dam in relation to water flow in the river.

Sincerely,

*John and Marianne Loveless*

John and Marianne Loveless

*[Handwritten mark]*



January 26, 2005

1) Marianne and John Loveless  
7106-32nd Street  
Lubbock, Texas 79407  
(806) 796-0124

2) Applicant: The City of Lubbock  
seeking to amend Water Use Permit No. 3985

3) "We request a contested case hearing."

4) How we are affected by the application in a way not common to the general public.

Concerning the North Fork Double Mountain Fork Brazos River, Brazos River Basin hereafter referred to as "the river" and The City of Lubbock hereafter referred to as "The City".

To have good water flowing down the river, is vital to life in the canyon and downstream. To pull water from a natural water source in a land where water is scarce, changes the whole dynamics of life for people, animals (wild and farmed), and plantlife. This land, historically and currently is used as grazeland for cattle and horses and for farming. This has also been habitat and watering sites for wildlife for thousands of years. This water is imperative to life downstream from The City of Lubbock. This river has flowed for thousands of years bringing life to plants, animals and people. To take this water would cause diverse changes and the death of much life downriver.

It would be wrong to allow the proposed capture of water with the potential of great harm to the environment and financial damage to the livelihood of those along the river that depend on its water. This proposal leaves the possibilities of greater pollution to groundwater and to properties alongside the subject river.

The City seeks an amendment to authorize the diversion and use from the North Fork River of historic discharge of Canadian River Basin surface water-based effluent and groundwater-based effluent. This is an impossible request, as the historic discharge is long gone downstream and is not possible to be recovered, used, or diverted by anyone. This statement should be removed from the request as it is not possible.

The amount of water The City wishes to retrieve could exceed the amount of water available. There should be no Permit that will ever allow The City to stop the flow of water downstream at any point of the River.

The diversion point chosen by The City of Lubbock is the beginning point of long time grazing and ranching operations. The ranchers and leasees below this point depend on water for cattle for the food industry, use in their homes, and other various business and personal uses. All effluent water that is allowed to flow into the earth is contamination of not only the immediate river, but also the land and underground water of all the surrounding areas downriver from the discharge point. There is no need for this pollution to be released, run through the portion of property referred to as the distance between the discharge point and the most downstream diversion point, therefore releasing more pollutants into our earth. The city needs to reclaim their effluent before it goes into the river. The City has already put in a station at FM 400. It should be usable as the reclamation point for the effluent water. This eliminates the need for another facility to be constructed as a reclamation point.

This also eliminates the concern of the city of evaporation, seepage, channel or other associated carriage losses between those two points. The use of The City's current facility also eliminates The City's request for control of the bed and banks of the river which have always and should remain in control of the landowners.

5) Location and distance of property relative to proposed activity:

Water flows through our property in the upper quarter of the lower half of Section 35, Block S, Lubbock County, Texas, with a tributary running south through Section 35 and all the way through our Section 36, into our NE quarter of Section 39.

The river continues to flow through Forrest Ranch, Sections 38 and 37 of Block S and Section 4 of Block B-9

The river comes back into our property on the northeastern border of Section 1, Block B-9,

The river comes in very close proximity of our property in Section 37, Block S, S 1/2.

Respectfully Submitted,

John and Marianne Loveless

COPY

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*John S. Thammachandrasekaran  
17106 - 32nd Street  
Fulbrook, Texas 79407*

*Office of the Chief Clerk  
MC 105  
TCEQ  
P.O. Box 13087  
Austin, Texas 78711-3087*

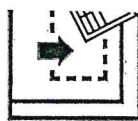




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**GEORGE NELSON LAW FIRM**

1501 AVENUE K  
LUBBOCK, TEXAS 79401  
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H OPA  
AUG 22 2006  
BY KY

GEORGE H. NELSON  
ELIZABETH S. NELSON

TELEPHONE: (806) 765-7788  
FACSIMILE: (806) 765-7803

August 18, 2006

Office of The Chief Clerk  
MC-105  
Texas Commission on Environmental Quality  
P. O. Box 13087  
Austin, Texas 78711-3087

WR  
52634

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
206 AUG 21 PM 2:40  
CHIEF CLERKS OFFICE

Re: City of Lubbock Water Rights Application No. 5921

Dear Sirs:

I represent Clark Wood, Jr., Box 129, Slaton, Texas 79364. He holds Water Right #3709 (ADT/3709/Co); Permit # 2376 and #2376A; Application # 2601 and # 2601A; and Water Code Section 11.303, Claim Number 1640.

A copy of Permit Number 2376 A is enclosed with this letter. As shown, it is of record at Volume 167, Page 420, Deed Record of Crosby County, Texas.

Mr. Wood's phone number is (806) 828-6249. He does not have a fax number, but any correspondence can be fax'd to me at (806) 765-7803.

His ranch property is the C-Bar Ranch, located on the North Fork Double Mountain Fork of the Brazos River, east of Slaton, Texas, in Crosby County, Texas, downstream from the diversion and discharge points described in the Application of the City of Lubbock. The exact distance from the proposed activity as set out in the Application of the City of Lubbock is not known at this time, but it is believed to be approximately seven (7) miles east/southeast.

Mr. Wood has previously filed a notice to contest the Water Rights Application No. 4340A filed by the City of Lubbock and Amendment of Water Use Permit No. 3985. We wrote a letter dated January 27, 2005 in that regard, and I include a copy of that letter, adopting by reference all of the reasons stated therein why Mr. Wood is contesting both of these Applications of the City of Lubbock. Please note that I do not represent anyone in this present matter other than Clark Wood, Jr.

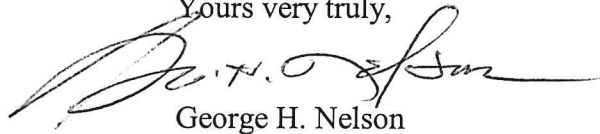
Mr. Wood requests a contested case hearing.

10

The position of Mr. Wood remains fairly simple. The City of Lubbock should not be granted any diversion or discharge rights under its application which would or could alter the natural flow of the river and/or adversely affect or diminish the established water rights of Mr. Wood, which rights are specific rights which have been reserved by him and granted to him and are not common to the general public.

Thank you in advance. I will appreciate notice of any hearing dates.

Yours very truly,

A handwritten signature in dark ink, appearing to read "G. H. Nelson", with a long, sweeping horizontal line extending to the right.

George H. Nelson

GHN:gc

Enclosures: as stated

cc: Mr. Clark Wood, Jr.  
Box 129  
Slaton, Texas 79364



167 420

196359

AMENDMENT TO  
PERMIT TO  
APPROPRIATE STATE WATER

APPLICATION NO. 2601A	PERMIT NO. 2376A	TYPE: Amendment
Permittees : Clark Wood, Trustee for the Gertrude Wood Estate Trust, Clark Wood, Jr., Jan Wood, Richard C. Lowrey, Juanita Lowrey, Joe Lane Wood and Sandra Wood	Address : 3504 42nd Street Lubbock, Texas 79413	
Received : October 29, 1979	Filed : June 16, 1980	
Granted : June 16, 1980	County : Crosby	
Watercourse : North Fork Double Mountain Fork Brazos River, tributary of Double Mountain Fork Brazos River, tribu- tary of Brazos River	Watershed: Brazos River Basin	

WHEREAS, the Texas Water Commission finds that jurisdiction of the application is established; and

WHEREAS, applicant has requested an amendment to Permit No. 2376 to authorize an increase in the amount of land irrigated per year from 540 to 1280 acres; and

WHEREAS, a public hearing has been held and Clark Wood, Trustee for the Gertrude Wood Estate Trust, Clark Wood, Jr., Jan Wood, Richard C. Lowrey, Juanita Lowrey, Joe Lane Wood and Sandra Wood named as parties; and

WHEREAS, by law the Executive Director and the Public Interest Advocate of the Department of Water Resources are parties; and

WHEREAS, no person appeared to protest the granting of this application; and

WHEREAS, the issuance of this amendment granting this application is not adverse to any party.

NOW, THEREFORE, this amendment to Permit No. 2376 is issued to Clark Wood, Trustee for the Gertrude Wood Estate Trust, Clark Wood, Jr., Jan Wood, Richard C. Lowrey, Juanita Lowrey, Joe Lane Wood and Sandra Wood subject to the following terms and conditions:

2. USE

In lieu of the previous authorization to irrigate two specific tracts of land totaling 540 acres, the permittees are authorized to irrigate 1280 acres out of a 5440-acre tract that includes the north 1/2 of Jno. T. Beal Survey No. 4, Abstract No. 924; and all of the land in E. L. and R. R. RR Co. Survey No. 9, Abstract No. 239; E. L. and R. R. RR Co. Survey No. 15, Abstract No. 240; E. L. and R. R. RR Co. Survey No. 729, Abstract No. 402; K. Aycock Survey No. 3, Abstract No. 438;

K. Aycock Survey No. 1, Abstract No. 440; Jno. T. Beal Survey No. 8, Abstract No. 923; Jno. T. Beal Survey No. 730, Abstract No. 925; and E. B. Logan Survey No. 14, Abstract No. 1131. This land is part of a 14,088-acre tract that was originally conveyed as community property to Clark Wood and his wife, Gertrude Wood in a deed recorded in Volume 85, Pages 515-518 of the Crosby County Deed Records and is presently owned by Clark Wood, as Trustee for his deceased wife's trust, and Clark Wood, Jr., Jan Wood, Richard C. Lowrey, Juanita Lowrey, Joe Lane Wood and Sandra Wood as evidenced by deed recorded in Volume 160, Pages 539-545 of the said deed records.

4. SPECIAL CONDITION

Land authorized for irrigation under this permit, as amended, is exclusive of any land irrigated under permittee's Water Code Section 11.303, Claim No. 1640.

This amendment is issued subject to all terms, conditions and provisions contained in Permit No. 2376, except as herein amended.

This amendment is issued subject to all superior and senior water rights in the Brazos River Basin.

Permittees agree to be bound by the terms, conditions and provisions contained herein and such agreement is a condition precedent to the granting of this amendment.

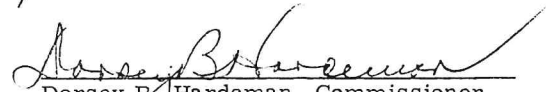
All other matters requested in the application which are not specifically granted by this amendment are denied.

This amendment is issued subject to the Rules of the Texas Department of Water Resources and to the right of continual supervision of State water resources exercised by the Department.

TEXAS WATER COMMISSION

  
Felix McDonald, Chairman

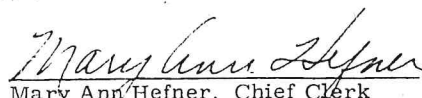
  
Joe R. Carroll, Commissioner

  
Dorsey B. Hardeman, Commissioner

Date Issued:

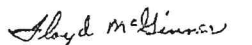
June 20, 1980

Attest:

  
Mary Ann Hefner, Chief Clerk

FILED FOR RECORD  
At 5:00 O'clock P.M.

JUL 1 1980

  
FLOYD MCINNIS  
COUNTY CLERK, CROSBY COUNTY, TEXAS  
BY \_\_\_\_\_ DEPUTY

STATE OF TEXAS  
COUNTY OF CROSBY

I, FLOYD MCGINNIS, Clerk of the County Court in and for Crosby County,

Texas, hereby certify that the foregoing instrument of writing dated on the 26 day of June,  
A.D. 19 32 together with its certification and authentication was filed for record in my office this 1 day  
of July 1932, at 5:00 o'clock P.M. and duly recorded this 2 day of July,  
19 32, in the Record Records of Crosby County, Texas.  
Volume 167, Page 422

Witness my hand and seal of said court, at Crosbyton, Texas, the date last written.

By: Floyd McGinnis Deputy  
FLOYD MCGINNIS  
County Clerk, Crosby County, Texas



**GEORGE NELSON LAW FIRM**

1501 AVENUE K  
LUBBOCK, TEXAS 79401

GEORGE H. NELSON  
ELIZABETH S. NELSON

August 18, 2006

Office of The Chief Clerk  
MC-105  
Texas Commission on Environmental Quality  
P. O. Box 13087  
Austin, Texas 78711-3087

H OPA  
AUG 22 2006  
BY KY

TELEPHONE: (806) 765-7788

FACSIMILE: (806) 765-7803

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
AUG 21 PM 3:07  
CHIEF CLERK'S OFFICE

Re: City of Lubbock Water Rights Application No. 5921

Dear Sirs:

I represent Clark Wood, Jr., Box 129, Slaton, Texas 79364. He holds Water Right #3709 (ADT/3709/Co); Permit # 2376 and #2376A; Application # 2601 and # 2601A; and Water Code Section 11.303, Claim Number 1640.

A copy of Permit Number 2376 A is enclosed with this letter. As shown, it is of record at Volume 167, Page 420, Deed Record of Crosby County, Texas.

Mr. Wood's phone number is (806) 828-6249. He does not have a fax number, but any correspondence can be fax'd to me at (806) 765-7803.

His ranch property is the C-Bar Ranch, located on the North Fork Double Mountain Fork of the Brazos River, east of Slaton, Texas, in Crosby County, Texas, downstream from the diversion and discharge points described in the Application of the City of Lubbock. The exact distance from the proposed activity as set out in the Application of the City of Lubbock is not known at this time, but it is believed to be approximately seven (7) miles east/southeast.

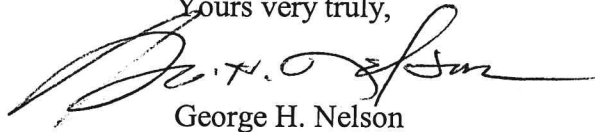
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Mr. Wood requests a contested case hearing.

The position of Mr. Wood remains fairly simple. The City of Lubbock should not be granted any diversion or discharge rights under its application which would or could alter the natural flow of the river and/or adversely affect or diminish the established water rights of Mr. Wood, which rights are specific rights which have been reserved by him and granted to him and are not common to the general public.

Thank you in advance. I will appreciate notice of any hearing dates.

Yours very truly,

A handwritten signature in dark ink, appearing to read "G. H. Nelson", with a long, sweeping horizontal line extending to the right.

George H. Nelson

GHN:gc

Enclosures: as stated

cc: Mr. Clark Wood, Jr.  
Box 129  
Slaton, Texas 79364

Vol 167 420

196359

AMENDMENT TO  
PERMIT TO  
APPROPRIATE STATE WATER

APPLICATION NO. 2601A	PERMIT NO. 2376A	TYPE: Amendment
Permittees : Clark Wood, Trustee for the Gertrude Wood Estate Trust, Clark Wood, Jr., Jan Wood, Richard C. Lowrey, Juanita Lowrey, Joe Lane Wood and Sandra Wood	Address : 3504 42nd Street Lubbock, Texas 79413	
Received : October 29, 1979	Filed : June 16, 1980	
Granted : June 16, 1980	County : Crosby	
Watercourse : North Fork Double Mountain Fork Brazos River, tributary of Double Mountain Fork Brazos River, tribu- tary of Brazos River	Watershed: Brazos River Basin	

WHEREAS, the Texas Water Commission finds that jurisdiction of the application is established; and

WHEREAS, applicant has requested an amendment to Permit No. 2376 to authorize an increase in the amount of land irrigated per year from 540 to 1280 acres; and

WHEREAS, a public hearing has been held and Clark Wood, Trustee for the Gertrude Wood Estate Trust, Clark Wood, Jr., Jan Wood, Richard C. Lowrey, Juanita Lowrey, Joe Lane Wood and Sandra Wood named as parties; and

WHEREAS, by law the Executive Director and the Public Interest Advocate of the Department of Water Resources are parties; and

WHEREAS, no person appeared to protest the granting of this application; and

WHEREAS, the issuance of this amendment granting this application is not adverse to any party.

NOW, THEREFORE, this amendment to Permit No. 2376 is issued to Clark Wood, Trustee for the Gertrude Wood Estate Trust, Clark Wood, Jr., Jan Wood, Richard C. Lowrey, Juanita Lowrey, Joe Lane Wood and Sandra Wood subject to the following terms and conditions:

2. USE

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K. Aycock Survey No. 1, Abstract No. 440; Jno. T. Beal Survey No. 8, Abstract No. 923; Jno. T. Beal Survey No. 730, Abstract No. 925; and E. B. Logan Survey No. 14, Abstract No. 1131. This land is part of a 14,088-acre tract that was originally conveyed as community property to Clark Wood and his wife, Gertrude Wood in a deed recorded in Volume 85, Pages 515-518 of the Crosby County Deed Records and is presently owned by Clark Wood, as Trustee for his deceased wife's trust, and Clark Wood, Jr., Jan Wood, Richard C. Lowrey, Juanita Lowrey, Joe Lane Wood and Sandra Wood as evidenced by deed recorded in Volume 160, Pages 539-545 of the said deed records.

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This amendment is issued subject to all terms, conditions and provisions contained in Permit No. 2376, except as herein amended.

This amendment is issued subject to all superior and senior water rights in the Brazos River Basin.

Permittees agree to be bound by the terms, conditions and provisions contained herein and such agreement is a condition precedent to the granting of this amendment.

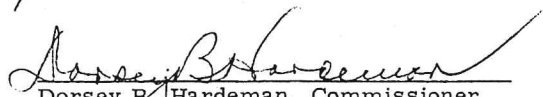
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This amendment is issued subject to the Rules of the Texas Department of Water Resources and to the right of continual supervision of State water resources exercised by the Department.

TEXAS WATER COMMISSION

  
Felix McDonald, Chairman

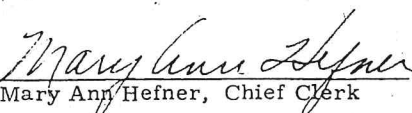
  
Joe R. Carroll, Commissioner

  
Dorsey B. Hardeman, Commissioner

Date Issued:

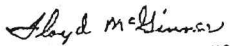
June 20, 1980

Attest:

  
Mary Ann Hefner, Chief Clerk

FILED FOR RECORD  
At 5:29 O'clock P.M.

JUL 1 1980

  
COUNTY CLERK, CROSBY COUNTY, TEXAS  
BY..... DEPUTY

STATE OF TEXAS  
COUNTY OF CROSBY

I, FLOYD MCGINNIS, Clerk of the County Court in and for Crosby County,

Texas, hereby certify that the foregoing instrument of writing dated on the 20 day of June,  
A.D. 19 20 together with its certification and authentication was filed for record in my office this 1 day  
of July 1920, at 5:00 o'clock P.M. and duly recorded this 2 day of July,  
19 20, in the Deeds Records of Crosby County, Texas.  
Volume 167, Page 420

Witness my hand and seal of said court, at Crosbyton, Texas, the date last written.

FLOYD MCGINNIS  
County Clerk, Crosby County, Texas

By Fam Cook Deputy



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IN THE MATTER OF  
APPLICATION NO. 5921

§ BEFORE THE TEXAS COMMISSION

§

§

§

§

§

§

FOR A WATER USE PERMIT BY  
THE CITY OF LUBBOCK, TEXAS

ON

ENVIRONMENTAL QUALITY

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
AUG 21 11:21  
CHIEF CLERK  
OFFICE

REQUEST FOR CONTESTED CASE HEARING

H OPA

AUG 21 2006

TO THE HONORABLE COMMISSIONERS:

BY RY

COMES NOW, R.E. Janes Gravel Co. ("Janes Gravel") and files this request for a contested case hearing on Application No. 5921 for a Water Use Permit by the City of Lubbock ("Application"), and for cause would respectfully show the following:

#### I. BACKGROUND

1. On August 27, 1967, Janes-Prentice, Inc. ("Janes-Prentice") submitted an application to the Texas Water Rights Commission for a permit to appropriate public water. In it, Janes-Prentice sought authorization to annually withdraw 450 acre-feet of water from the North Fork of the Double Mountain Fork of the Brazos River. The purpose for the withdrawal of that water was and remains to wash mined sand and gravel.

2. After a hearing on Janes-Prentice's application, the Texas Water Rights Commission issued it Permit No. 2377 ("permit") on June 20, 1968. The permit authorized Janes-Prentice to annually divert the full 450 acre-feet of water requested to an off-channel reservoir for use in its sand and gravel mining operations.

*Handwritten initials*



3. On May 16, 1979, Janes Gravel<sup>1</sup> submitted an adjudication claim to the Texas Department of Water Resources. By final decree of the 39<sup>th</sup> Judicial District Court of Haskell County, Texas on November 18, 1982, the Court recognized Janes Gravel's rights under Permit No. 2377. Janes Gravel was issued Certificate of Adjudication 12-3710 on March 12, 1985, which confirmed its right to annually divert and use 450 acre-feet from the North Fork of the Double Mountain Fork of the Brazos River.

4. On October 17, 2005, the City of Lubbock, Texas ("City") submitted Application No. 5921 requesting authorization to impound the waters of the North Fork of the Double Mountain Fork of the Brazos River in two on-channel reservoirs upstream from Janes Gravel's authorized point of diversion.

5. The total amount of water the City seeks to impound in its application is 70,638 acre-feet. The City requests authorization to withdraw 50,000 acre-feet per year of the impounded water for municipal, industrial, and/or agricultural uses.

6. The TCEQ declared the City's Application administratively complete on April 17, 2006. The City then published notice of the Application in the *Lubbock Avalanche Journal* on July 28, 2006.

## II. REQUEST FOR CONTESTED CASE HEARING

### A. Janes Gravel is an "affected person."

7. Janes Gravel's authorized point of diversion from the North Fork of the Double Mountain Fork of the Brazos River under Certificate of Adjudication 12-3710 is downstream from the proposed point of diversion in the City's Application.

8. Janes Gravel's water right under Certificate of Adjudication 12-3710 will be impaired

---

<sup>1</sup> Janes-Prentice changed its name to Janes Gravel between the grant of its permit in 1968 and the submission of its adjudication claim in 1979.

if the City's Application is granted. The withdrawal of water proposed in the City's Application will: 1) substantially reduce the amount of water available for diversion by Janes Gravel under its Certificate of Adjudication; 2) interfere with its established priority; and, 3) impair its ability to conduct its operations.

9. Janes Gravel has a personal justiciable interest related to its legal right and privilege to divert and use water from the North Fork of the Double Mountain Fork of the Brazos River that may be affected if the City's Application is granted in whole or part.

10. Janes Gravel also has a personal justiciable economic interest in its continued ability to conduct its business operations which require that it divert and use water from the North Fork of the Double Mountain Fork of the Brazos River, and its ability to do so may be affected if the City's Application is granted in whole or part.

11. Janes Gravel protests the City's Application in order to protect its water rights and other interests that may be impaired if the City's Application is granted in whole or part.

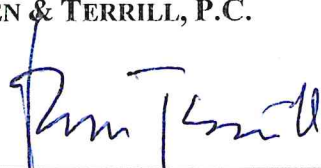
### **III. PRAYER**

Janes Gravel is an "affected person" within the meaning of the Texas Water Code and the Texas Commission on Environmental Quality's rules. Janes Gravel requests that the Commission hold a contested case hearing on the City of Lubbock's Application for a Water Use Permit (Application No. 5921). Upon proper notice and hearing Janes Gravel further requests the Commission deny Lubbock's Application.

**Respectfully submitted,**

**HAZEN & TERRILL, P.C.**

By: \_\_\_\_\_

A handwritten signature in blue ink, appearing to read "Paul M. Terrill III", is written over a horizontal line.

Paul M. Terrill III  
State Bar No. 00785094  
Howard S. Slobodin  
State Bar No. 24031570  
810 West 10<sup>th</sup> Street  
Austin, Texas 78701  
Tel: (512) 474-9100  
Fax: (512) 474-9888

**ATTORNEYS FOR R.E. JANES GRAVEL CO.**

**CERTIFICATE OF SERVICE**

I hereby certify that on August 21, 2006, a true and correct copy of the foregoing has been served on the following as indicated:

LaDonna Castañuela  
Office of the Chief Clerk, MC 105  
Texas Commission of Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

*Via Hand Delivery*

Martin Rochelle  
Lloyd Gosselink Blevins Rochelle & Townsend, P.C.  
816 Congress Avenue, Suite 1900  
Austin, TX 78701  
fax: (512) 472-0532  
**Attorney for City of Lubbock, Texas**

*Via Facsimile*

Douglas G. Caroom  
Bickerstaff Heath Pollan & Caroom  
816 Congress Avenue  
Suite 1700  
Austin, Texas 78701-2443  
fax: (512) 320-5638  
**Attorney for Brazos River Authority**

*Via Facsimile*



---

Paul M. Terrill, III

TCEQ DOCKET NO. \_\_\_\_\_

IN THE MATTER OF  
APPLICATION NO. 5921

§ BEFORE THE TEXAS COMMISSION  
§  
§  
§ ON  
§  
§  
§ ENVIRONMENTAL QUALITY  
§

FOR A WATER USE PERMIT BY  
THE CITY OF LUBBOCK, TEXAS

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
AUG 21 11:21  
CHIEF CLERKS OFFICE

REQUEST FOR CONTESTED CASE HEARING

OPA

AUG 21 2006

BY

KY

TO THE HONORABLE COMMISSIONERS:

COMES NOW, R.E. Janes Gravel Co. ("Janes Gravel") and files this request for a contested case hearing on Application No. 5921 for a Water Use Permit by the City of Lubbock ("Application"), and for cause would respectfully show the following:

#### I. BACKGROUND

1. On August 27, 1967, Janes-Prentice, Inc. ("Janes-Prentice") submitted an application to the Texas Water Rights Commission for a permit to appropriate public water. In it, Janes-Prentice sought authorization to annually withdraw 450 acre-feet of water from the North Fork of the Double Mountain Fork of the Brazos River. The purpose for the withdrawal of that water was and remains to wash mined sand and gravel.

2. After a hearing on Janes-Prentice's application, the Texas Water Rights Commission issued it Permit No. 2377 ("permit") on June 20, 1968. The permit authorized Janes-Prentice to annually divert the full 450 acre-feet of water requested to an off-channel reservoir for use in its sand and gravel mining operations.

10

3. On May 16, 1979, Janes Gravel<sup>1</sup> submitted an adjudication claim to the Texas Department of Water Resources. By final decree of the 39<sup>th</sup> Judicial District Court of Haskell County, Texas on November 18, 1982, the Court recognized Janes Gravel's rights under Permit No. 2377. Janes Gravel was issued Certificate of Adjudication 12-3710 on March 12, 1985, which confirmed its right to annually divert and use 450 acre-feet from the North Fork of the Double Mountain Fork of the Brazos River.

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### III. PRAYER

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Respectfully submitted,

HAZEN & TERRILL, P.C.

By: 

Paul M. Terrill III  
State Bar No. 00785094  
Howard S. Slobodin  
State Bar No. 24031570  
810 West 10<sup>th</sup> Street  
Austin, Texas 78701  
Tel: (512) 474-9100  
Fax: (512) 474-9888

ATTORNEYS FOR R.E. JANES GRAVEL CO.

CERTIFICATE OF SERVICE

I hereby certify that on August 21, 2006, a true and correct copy of the foregoing has been served on the following as indicated:

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Office of the Chief Clerk, MC 105  
Texas Commission of Environmental Quality  
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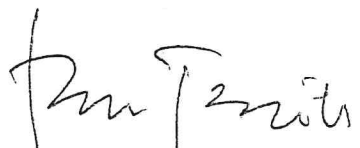
*Via Hand Delivery*

Martin Rochelle  
Lloyd Gosselink Blevins Rochelle & Townsend, P.C.  
816 Congress Avenue, Suite 1900  
Austin, TX 78701  
fax: (512) 472-0532  
Attorney for City of Lubbock, Texas

*Via Facsimile*

Douglas G. Caroom  
Bickerstaff Heath Pollan & Caroom  
816 Congress Avenue  
Suite 1700  
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fax: (512) 320-5638  
Attorney for Brazos River Authority

*Via Facsimile*

  
\_\_\_\_\_  
Paul M. Terrill, IN