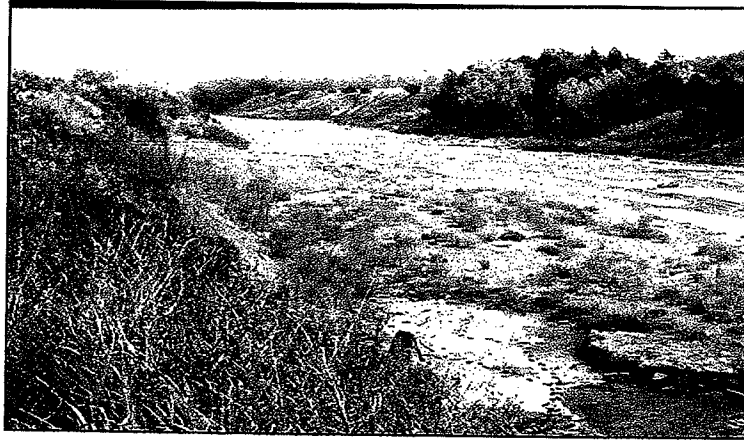


Lake Ralph Hall Hearing Almost Over

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January 23, 2013 - Day seven of the planned nine days of hearings by the State Office of Administrative Hearing's (SOAH) on the merits of the proposed Lake Ralph Hall is almost over and only rebuttals and closing statements are left to be argued. With the SOAH judges holding court eight hours a day, the proceedings are moving along at a fast pace and the end is in sight. The SOAH judges are to rule on the merits of the lake and make a recommendation to the Texas Commission on Environmental Quality (TCEQ) about their legal opinion as to whether the lake is the most cost effective option and all due diligence has been done in requesting a permit.

The Upper Trinity Regional Water District had their initial permit request for Lake Ralph Hall accepted by the TCEQ in 2004 and this hearing, while not the last in the process to build a new lake, is an important step in getting the final TCEQ permit for water storage and the CORPS of Engineers 404 permit to build a dam for the project.

The Permit application was deemed Admin complete after a series of responses to information requests plus the originally filed application. Technical review by the TCEQ was continued for another 8 or 9 years before the draft permit was issued in March 2011. During this technical review period numerous additional information and data were submitted, plus site visits.

One major factor in the hearing is that the TCEQ itself is supporting the project and actually testifying in support of the project as they have issued a preliminary permit. The

lawyers for the TCEQ represent the Office of the Executive Director of the agency and have introduced documents that support their contention that while some of the details about the mitigation plan and water conservation plans are not finalized at this point, there is enough information to let the permit proceed to the next stage.

The three entities opposing the reservoir, The National Wildlife Federation, The Texas Conservation Alliance, and the City of Flower Mound have all voiced comments that the project should not proceed based on the initial cost, what they feel was an incomplete initial permit application, the lack of details for mitigation and remediation, and the future cost.

Flower Mound brought in Jay Joyce to testify that in his opinion the actual cost to build Lake Ralph Hall would be closer to \$475 million dollars vs. the \$275 million estimated by the Upper Trinity. During cross examination Mr. Joyce admitted that he had done no work on his own to justify his numbers, he just used a prior witnesses statements for his figures. Mr. Joyce was adamant that he felt Dallas would provide water to whoever asked them for it, and could do so at a cheaper cost than Upper Trinity will be able to.

The National Wildlife Federation brought in Chris Brown to testify on what he felt was a lack of information supplied in the initial permit application for water conservation by the clients of the Upper Trinity. Mr. Brown had served on a Texas Water Board commission many years ago and felt that every district should strive for 140 gallons a day for each person served by a water district. Upper Trinity currently supplies 175 gallons a day to each person it serves. Mr. Brown felt that without a written policy in the permit application, the Upper Trinity would get "no conservation in the plan" that they had to follow. Upon cross examination it was determined that the legislature is in the process of having the state water board come up with ways to measure and evaluate water conservation plans.

The National Wildlife Federation also brought in Dr. Norman Johns to testify about the downstream remediation that needed to be done to bring approximately 14,550 feet downstream of the dam back to an environment that could support aquatic life. Upon questioning it was determined that Dr. Johns had never actually been to the North Sulphur river and had only read a few reports about the actual aquatic life that now exists in and around the river. The TCEQ lawyer showed that Dr. Johns had written a document showing he believed that the continual erosion of the river as it currently exists would decrease wildlife in the area. While Dr. Johns felt the Upper Trinity should let out enough water to maintain a consistent flow for weeks after any rainfall, he wanted to use a water flow station 20 miles downstream of the dam site.

Flower Mound called Mr. Jackson to try and show that the cost of Lake Ralph Hall would be more for the Upper Trinity District and its customers than getting water from other sources. As Mr. Jackson once had discussions with a city of Dallas water planner, he felt that if the Upper Trinity would just ask, Dallas would be able to supply the Upper Trinity with all the water they needed. This led to a heated discussion with Upper Trinity's lawyer stating that why "should we rely on one conversation with one individual who has

no authority to make water decisions for the state” in response to Mr. Jackson’s insistence that Dallas could take care of the water needs of the Upper Trinity. Mr. Jackson’s response to the lawyer for Upper Trinity was “that’s what they have done in the past – why wouldn’t they do it in the future”. With a new lake taking up to 20 years to get built from conception, Upper Trinity is not willing to gamble and hope someone else will take care of supplying their water customer’s needs.

Once the hearing closes, it will take 40-60 days to get all the responses to any legal issues that might carry over from the actual hearing. Once the final written responses are all filed, the SOAH judges will have 30 working days to make a ruling on their findings. This will then be submitted to the TCEQ for a final permit request to impound the water behind the dam. While the SOAH judges can make a suggestion that the project not proceed, the TCEQ is not bound by their decision.

With this being the first lake to go through the permitting process in over 20 years, every other entity looking to start a project such as this is closely watching how the Upper Trinity is challenged and how they respond. This project will help set the standard for what is needed over the next few years in regards to building this type project and with the legislature making a push for more water projects this biennium, the outcome is important to all water suppliers and all Texas citizens.

For Fannin County, this is just the first of two major projects to reach this stage. The Lower Bois Arc should reach the SOAH hearing stage within the next six months and they have a representative sitting in on this hearing.