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 The Paper Of Record for Fannin County Texas
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June 28, 2013

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Lake Ralph Hall Permit Recommended for Approval to TCEQ

Dale McQueen • Wed, Jun 26, 2013

The hearing held by the State Office of Administrative Hearings (SOAH) between January 15 – 25, 2013 on whether to recommend that TCEQ grant a permit to the Upper Trinity Regional Water District for the construction of Lake Ralph Hall in Southeast Fanning County has resulted in a favorable ruling for the water district and Fanning County. In the final ruling, the SOAH law judges recommended that TCEQ issue the Draft Permit required to proceed with only a minor amendment to connect measurement flow devices to a reporting system.



The Administrative Law Judges (ALJs) stated that: "Lake Ralph Hall will create a much needed water supply for the Trinity River Basin while providing recreational opportunities and associated economic benefits for the North Sulphur River area." The lake will be located in the Ladonia area in southeast Fanning County.

Various parties brought up issues related to the cost of water from Lake Ralph Hall in comparison to other sources, the degree of silt that would fill the lake over time, and the cost of the lake would be excessive based on some of the opposing party's estimates. While these were not the only issues addressed, the hearing did take a significant amount of time on each of these highlighted issues.

The ALJs' addressed these issues individually in their conclusions and had a recommendation for the TCEQ board about each.

While the cost of water might be cheaper at some point from a given source such as Lake Texoma or Oklahoma they stated that, "Lake Texoma is also a questionable alternative at this time. Obtaining water from Lake Texoma would require an act of Congress or water out of Oklahoma's storage, and may be affected by a recent United States Supreme Court case. In the ALJs' opinion, this seriously limits the feasibility of Lake Texoma or other water from Oklahoma as alternatives to Lake Ralph Hall." As to other lakes that might be cheaper to build the ALJ's commented, "All the other alternatives to Lake Ralph Hall will require the development of new water sources; there simply are not enough existing sources of water to meet UTRWD's future needs. Other potential sources of water have serious drawbacks that limit their feasibility as alternatives to Lake Ralph Hall. The Toledo Bend Reservoir and Wright Patman Lake are large, expensive projects that would necessitate the transport of water over distances longer than the distance UTRWD would transport water from Lake Ralph Hall?" Further, unlike Lake Ralph Hall where UTRWD would be sole owner of the water right, UTRWD

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would be a minor participant in either of those two projects.”

The issue of silt being deposited in the lake and taking away storage capacity over time was addressed by the ALJs: “The ALJs find persuasive Dr. Harvey’s testimony concerning sedimentation in the Lake Ralph Hall reservoir. Dr. Molinas’s analysis suggests that sediment loading would fill approximately 75% of Lake Ralph Hall’s conservation storage capacity within 50 years. Though Dr. Molinas asserted that he used more modern and more widely-accepted models of sediment transport as compared to those used by Dr. Harvey, the conclusion that Dr. Molinas reaches is highly implausible. The historical record and established erosion data persuade the ALJs that Dr. Harvey’s analysis is more reliable. Moreover, the ALJs find convincing Dr. Harvey’s explanation that the creation of the reservoir in itself should slow velocities of water through the tributary system, thus reducing the transport capacity of the flows.”

The ALJs had the following comments on the total costs presented by the City of Flower Mound in their argument that Upper Trinity had understated the cost of the total project, “Flower Mound’s estimate that Lake Ralph Hall will cost \$464 million instead of the \$274.7 million estimated by UTRWD is based primarily on three major issues: the need for sedimentation control structures; increased cost of environmental mitigation; and increased pipeline construction costs. As discussed above, the ALJs do not find Flower Mound’s arguments persuasive. The preponderance of the evidence indicates that UTRWD has established a sufficiently detailed and reliable cost estimate for the Commission to evaluate the Application under section 11.085(b)(3) of the Texas Water Code. The ALJs find that the Application presents reasonable estimates for the costs of diverting and conveying the water proposed to be appropriated.”

The final recommendation from the ALJs’ to the TCEQ: “As explained above, the ALJs find that UTRWD met its burden of proving that its Application meets all the statutory and regulatory requirements for issuance a permit to impound and divert Water from the Sulphur River Basin for municipal, industrial, and agricultural uses in the Trinity River Basin. The ALJ s recommend that the Commission grant UTRWD’s Application, issue the Draft Permit with the minor amendment recommended by the ALJs (that the flow measurement devices be connected to the SCADA system), adopt the ALJ s’ proposed order; and reject the findings of fact and conclusions of law proposed by Flower Mound. Further, the proposed order contains undisputed findings of fact and conclusions of law that are not discussed in the PFD4.”

The TCEQ is expected to issue a ruling on the permit by the end of the year. An additional permit from the USACE will also be required before construction begins.

The press release put out by the Upper Trinity Water District can be viewed by: [Click here for my page.](#)

The SOAH final report can be viewed by: [Click here for my page.](#)

If you have problems opening the SOAH final report, you can go to the Texas SOAH site, login as a guest, and look for case file 582-12-5332 under the electronic records.

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