

Linda Price, Chair
Region D Water Planning Group
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August 25, 2015

Office of General Counsel
Attn: Les Trobman
Texas Water Development Board
P.O. Box 13231
Austin, Texas 78711-3231
les.trobman@twdb.texas.gov

Dear Mr. Trobman:

This letter is in response to your notice sent August 6, 2015 regarding the potential interregional conflict between the Regional Water Plans for Region C and Region D. Your notice advised that a Board Meeting will be held on September 9, 2015 wherein a Region D Representative, a Region C Representative, and the Executive Administrator will each be allotted 15 minutes each to present their position on this matter. The notice further provided that each Region was invited to submit briefs on the issue with the briefs due by August 25, 2015. While Region D looks forward to the opportunity to present its position to the Board on September 9, a formal brief by Region D cannot be prepared in the time allotted for submission for the reasons set forth herein. I have, on behalf of Region D, included in this letter a summary of Region D's position on this issue.

LACK OF FUNDING AND ADEQUATE TIME

As stated above, the Notice from TWDB was sent out on August 6, 2015 requesting that the Briefs be submitted by August 25, allowing the Regions only 19 days to submit the Brief. As you know, the Regional Water Planning Group members volunteer their time in the interest of serving their Regions and the State of Texas in the water planning process. In the case of Region D, we are not in a position to review all the materials, research all of the legal and technical issues, and prepare a formal brief to be submitted on this issue without expert and professional assistance. No funding has been allocated to the Regions for the preparation of the Briefs, thereby requiring the Regions to either retain a third party to prepare the Brief pro bono or obtain third party funding for the Brief within this short time period. Neither alternative has been possible for Region D.

At the time the Notice was sent out on August 6, Region D's next scheduled meeting had been previously set for August 26, 2015, a day after the deadline for the submission of the Brief. Due to scheduling conflicts and notice requirements, it was extremely improbable, if not entirely impossible, for Region D to have a Board Meeting to authorize any actions or response to the Notice by the August 25 deadline. In addition, due to the lack of funding

provided by TWDB, it would also have been impossible for Region D to retain anyone to prepare the Brief even if adequate time had been allowed.

The request by TWDB for the brief to be submitted within the time allotted without any funding provided makes it impossible for Region D to submit a formal brief on this issue.

SUMMARY OF REGION D'S POSITION

It is Region D's position that the inclusion of Marvin Nichols Reservoir as a recommended water management strategy in the Region C IPP creates an interregional conflict with the Region D IPP. The Region D IPP clearly states Region D's position that the inclusion of Marvin Nichols Reservoir as a water management strategy will have substantial adverse impacts on Region D. Region C's IPP, while acknowledging some of those adverse impacts, lacks adequate information on many of those impacts while including Marvin Nichols Reservoir (in conjunction with obtaining water from Lake Wright Patman) as a recommended water planning strategy in its IPP.

Region D's position on Marvin Nichols Reservoir is detailed in its IPP on pages 6-39 through 6-50. Included in its discussion are substantial adverse impacts to agricultural resources, timber industry, farming, ranching and other related industries, natural resources and environmental factors. The IPP reviews and cites all known studies of the impacts of the proposed Marvin Nichols Reservoir and concludes that due to the substantial negative impacts on Region D, Marvin Nichols Reservoir should not be included in any regional water plan or the State Water Plan as a water management strategy.

Region D is now aware that the Marvin Nichols Reservoir, as proposed in the Region C IPP, is slightly different from the project proposed in Region C's previous plan. However, the objections to the previous proposal remain viable and valid objections to the new proposal. Region D stresses that this proposal was made with a lack of disclosure to Region D of the new proposal and that Region C failed to provide adequate information on possible impacts of the new proposal in its IPP.

Page 5B.9 of Region C's IPP reflects that the proposed Marvin Nichols Reservoir will inundate an estimated 41,722 acres and raising the pool level of Wright Patman will inundate an additional 9,429 acres. While acknowledging that this new "Sulphur Basin Supply" strategy will have significant environmental impacts, flood Priority 1 bottomland hardwoods, and require mitigation for those impacts, the Region C IPP fails to identify, analyze, and quantify those impacts other than to state studies will be undertaken to address these issues.

In its Table 5B.2, which lists impacts of Feasible Strategies for Region C, the Sulphur Basin Supply strategy (along with the alternative strategies that include a Marvin Nichols Reservoir) is listed as having the most impacts to environmental factors, agricultural/rural impacts, other natural resources, and third party impacts of the options listed. The Region C IPP states on Page 6.15 that a quantitative analysis of the new configuration of Marvin

Nichols Reservoir is not included in its IPP. Despite the acknowledgement of the negative impacts and the failure to provide required analysis, Region C has included the Sulphur Basin Supply strategy, which includes the Marvin Nichols Reservoir, as a recommended water management strategy.

Region D's position is that under any rational definition of interregional conflict and certainly under case law as it presently exists, the inclusion of Marvin Nichols Reservoir as a recommended water planning strategy in Region C's IPP creates an interregional conflict with Region D's IPP. Region D requests that the TWDB determine that an interregional conflict exists and begin the process of resolving that conflict in accordance with state law, its rules and regulations.

I have submitted a copy of this letter by U.S. Mail and Electronic Mail to you and the persons listed below.

Thank you.


Linda Price, Chair of Region D

cc: Walt Sears, General Manager
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