

**BLACKBURN CARTER**  
A Professional Corporation  
Lawyers

James B. Blackburn, Jr.  
Mary W. Carter

4709 Austin  
Houston, Texas 77004  
Telephone (713) 524-1012  
Telefax (713) 524-5165

October 4, 2006

*Via Federal Express*

Mr. Bill Roberts  
Texas Water Development Board  
1700 N. Congress Ave  
Austin, Texas 78701

Re: Comments; Water For Texas - 2007; Region L, Texas State Water Plan

Dear Mr. Roberts

The following comments are submitted to the Texas Water Development Board (TWDB) on behalf of the D.M. O'Connor Interests regarding the Texas State Water Plan. The D.M. O'Connor Interests have participated in the regional planning process including attending public meetings and submitting written comments. We have major concerns about certain elements of the Texas State Water Plan specific to Region L.

The D.M. O'Connor Interests are concerned about and object to the inclusion of three projects in the proposed Texas State Water Plan. These three projects are (1) the "original" Lower Guadalupe Water Supply Project (LGWSP 1) described at 4C.7, (2) the increased LGWSP Capacity for GBRA needs described at 4C.8 (LGWSP 2) and (3) the Lower Guadalupe Water Supply Project for GBRA needs described at 4C.32 (LGWSP 3). We particularly want to raise a "red flag" to the TWDB about misrepresentations regarding feasibility cost of LGWSP option 4C.32. At least in part, the misrepresentation issues arise from the failures of the Region L planning process which failed to meet statutory deadlines required by state law. For this reason, we object to the Region L plan being incorporated into the Texas State Water Plan. In the following comments, the problems arising from the regional planning process will be discussed first, followed by specific problems associated with each of the three LGWSP projects being included in the plan.

I. Region L Missed the Statutory Deadline

It is an understatement to comment that problems existed with the Region L planning process. According to the Texas Legislature, "the regional water planning groups shall submit their adopted regional water plans to the board by January 5, 2001," and each five years thereafter for approval and inclusion in the state water plan. Texas Water Code §16.053(i). It is undisputed that Region L missed this January 5, 2006 statutory deadline. The web site of the Texas Water Development Board clearly states that the Region L plan was adopted after the statutory deadline and that the Region L water plan was not approved by the TWDB. (<http://www.twdb.state.tx.us/RWPG/main-docs/2006RWPindex.asp>). Region L was the only regional planning group to miss this deadline. Therefore, it is certainly arguable that inclusion of any element of the Region L plan in the Texas State Water Plan is illegal.

The fact that Region L missed the statutory deadline raises major legal issues surrounding the inclusion of a "Region L" plan in the Texas State Water Plan. §16.051(a) of the Texas Water Code states: