

Lake Ralph Hall Administrative Hearing Underway in Austin

Dale McQueen
Fri, Jan 18, 2013

A hearing on whether to send the Lake Ralph Hall project permit on to the TCEQ got under way on January 15th in Austin. The hearing is expected to last 10 days with the possibility of going longer if needed. The State Office of Administrative Hearings (SOAH) is overseeing the process and has two SOAH judges (Kerri Qualtrough and Pratibha Shenoy) working in concert to hear and make a ruling on the final outcome. While the audience for the hearing contained about 30 people the first day, most were either lawyers or engineers for the two sides of the case. The second day contained about the same number of individual's – just some different faces for a few of them.

The judges are to rule on the whether the Upper Trinity Water District has done enough to verify that other sources of water or conservation within their own district has been adequate and the need for Lake Ralph Hall is the only reasonable option left that can meet the future needs of the district. If the judges rule that the merits to build the reservoir have been met, the case then proceeds to the Texas Commission on Environmental Quality (TCEQ) for a permit involving where the lake will eventually be placed. The judges will have 60 days from the conclusion of the hearing to rule on whether the merits of the project are sound based on presented evidence. It will then move to the TCEQ for processing. Once the TCEQ has the permit application and if ruled to have met all the TCEQ requirements, the Upper Trinity will then apply for the Corps of Engineers permit to build the earthen dam for the lake impoundment.

With this the first lake in over 20 years in Texas to get to this stage in its development, every other entity that plans to build a lake in Texas is watching these proceedings. This is the first lake in Texas that will have to meet much stricter and more costly environmental rules than any lake built in the 60's, 70's, or early 80's. Lake Ralph Hall is serving as a test case for other lake projects to determine just what will be needed to satisfy the newer requirements.

Lake Ralph Hall is being opposed by three groups: Flower Mound, The National Wildlife Federation, and the Texas Conservation Alliance. All the original landowners around the proposed site have withdrawn their objections.

The Upper Trinity Water District is the applicant for the project and if the hearing deems the application to be of merit and the TCEQ and Corps permits can be obtained, the district needs to start construction by 2018 to insure a final date for usage by 2022. The lake is expected to have an available water usage of 30 million gallons of water per day when completed.

With a total of 13 witnesses to be called by Upper Trinity and 6 witnesses to be called to refute the need for the project, the pace of the trial was such that by noon Tuesday the judges were already setting time limits on the parties involved. The final decision was that each side would get 30 hours each for witness questioning, rebuttal, and statements. The entire trial is expected to have over 75 hours of testimony.

The Texas Conservation Alliance and the Wildlife Federation are opposing the project based on their beliefs that more conservation would reduce the need for the project and if it is needed, a cheaper place could be found in another location.

The Town of Flower Mound is opposed based on these same two issues with emphasis on the cost involved. With a projected final cost of 274 million dollars, Flower Mound would need to fund up to 40% of this cost through their water customers bills. As Flower Mound is also a member of the Upper Trinity Water District, they are in the uncomfortable position of having to fund the districts attempt to build the project and also spend money to pay lawyers to try and stop the project. The City lost a court case started in 2004 to stop the project and in addition to their own lawyer bills they had to pay the \$560,000 bill that the Upper Trinity spent on their own lawyers.

Flower Mound is trying to present a case in Austin that shows the project is not needed and the cost is more than if the Water District would contract with someone else such as Dallas for raw water. The Water District is trying to make the case that the project is needed and cities such as Dallas, that at one time would build and maintain public works projects such as this for smaller areas like Flower Mound, is being phased out as the large cities now want to concentrate on projects that are paid for by their taxpayers or only used by their taxpayers.

One tactic used by Flower Mound is to bring up 12-15 year old documents that purport to show Dallas could supply all the future needs of the area at the time and as such they should do so now. Testimony has also shown that consultants worked for both Dallas and Upper Trinity during the late 90's and early 2000's and Flower Mound is using the argument that this overlap might have allowed Dallas to make the decision that Upper Trinity could build their own water source and Dallas would not need to plan on supplying areas outside their borders in later years.

Under the agreement that Flower Mound has with the Upper Trinity, they would be responsible for up to about 40% of the cost for Lake Ralph Hall and they would like to avoid this outlay and the subsequent passage of the cost to their users if at all possible.

In addition to this week's personal coverage of the hearing in Austin, I will make an additional 2-3 days during the week of Jan. 21 – 24 when the protesting party's witnesses take the stand.