

P R O C E E D I N G S

TUESDAY, OCTOBER 15, 2019
(10:00 a.m.)

JUDGE SMITH: Why don't we go ahead and get started. I call to order SOAH Docket No. 952-19-0705. This is the Application of Lower Colorado River Authority for Operating and Transport Permits for Eight Wells in Bastrop County, Texas.

Today is October 15th, 2019. This is the first day of the hearing on the merits, and it is taking place in Bastrop County, Texas. My name is Rebecca Smith, and I and Ross Henderson are the Administrative Law Judges assigned to hear this case.

**OPENING STATEMENT¹ ON BEHALF OF
ENVIRONMENTAL STEWARDSHIP**

MS. PERALES: Good morning. Again, my name is Marisa Perales, and I'm here with Eric Allmon on behalf of Environmental Stewardship. And by way of background, Environmental Stewardship is an organization whose purpose is -- includes ensuring that the supply and the quality of water in the Colorado River basin is adequate to meet environmental and inhabitant needs. Its goals are consistent with the directives given by the legislature.

More specifically, 36.113(d) of the Water Code mandates that groundwater districts consider, before they issue a permit, whether the proposed use of water unreasonably affects existing groundwater and surface water resources and existing permit holders. And that's precisely what Environmental Stewardship seeks to do, to provide some context.

It's important to recognize that our current condition in the Colorado River basin is that freshwater inflows are diminishing in the upper basin, which influences river flows in the lower basin and into the bay. Of particular concern are impacts to environmental flows during drought and extraordinary drought periods, and we can expect to see more of these conditions in the future.

The LCRA and Lost Pines Groundwater Conservation District, as agencies of the State of Texas created by the legislature under the conservation amendment to the Texas Constitution, have a primary responsibility to conserve and protect the natural resources of the State of Texas, and they have the responsibility to recognize the historical relationship that has existed between surface water and groundwater and to protect

¹ October 15, 2019 Transcript pages 29-32 with line numbering removed.

both resources.

They have a responsibility to balance the quality and quantity of freshwater available for conservation and development during drought -- extraordinary drought conditions. They have a responsibility to maintain environmental flows in the Colorado River, its tributaries and Matagorda Bay pursuant to Senate Bill 3.

Yet, thus far, neither LCRA nor the District's general manager has endeavored to conduct any real meaningful evaluation regarding whether LCRA's proposed use of water will unreasonably affect existing groundwater and surface water resources and existing permit holders.

But George Rice and Joseph Trungale have, on behalf of Environmental Stewardship, and their testimony will reveal that, in fact, LCRA's proposed use of water, their proposed pumping, will unreasonably impact surface water and natural resources. The proposed use of water by LCRA will unreasonably impact the Colorado River and its tributaries, particularly during times of drought, and their opinions are based on the best available science.

As we've heard, modeling exercises, the GAM and the WAM, are not an exact science as even LCRA's witnesses recognize. They rely on data that's been collected to date, and then they predict general trends, but they aren't precise. In fact, the models are constantly being updated and tweaked based on the latest data collected.

However imprecise they may be, however, they are what we have, and they are what we use to comply with state law, and that's what Mr. Rice and Mr. Trungale have used to demonstrate the impacts that LCRA's proposed water use will have on natural resources and on water right holders. Theirs is the only thorough evaluation of predicted transient impacts on these resources. And their evaluation reveals that LCRA's proposed use of water will indeed contribute to and result in unreasonable impacts.

LCRA has requested the permits, therefore, they should not be granted. They are not in compliance with state law. And if they were to be granted, they must include protective measures in the form of special provisions to ensure protection of the Colorado River basin and its tributaries and to ensure compliance with state law. Thank you.

JUDGE SMITH: Okay. Thank you.