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Neches decision applauded by locals

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East Texans who have supported the creation of the Neches River National Wildlife Refuge and opposed the City of Dallas and the Texas Water Development Board over building a dam that would flood the area can rest easy. Thursday, March 12, the Fifth Circuit Court of Appeals affirmed the July 2008 decision by Judge Jorge A. Solis in favor of the refuge.

"This is wonderful news," said Janice Bezanson, executive director of Texas Conservation Alliance. "The Neches River Refuge is exceptional wildlife habitat- one of the most important wildlife areas left in Texas. Thousands of Texans wrote letters or signed petitions in support of its creation."

In June, 2006, Dale Hall, then director of the U.S. Fish and Wildlife Service signed the proposal for the refuge. The City of Dallas and the Texas Water Development Board filed suit hoping to get it overturned. because they wanted to build Fastrill Dam, creating a reservoir Dallas predicts might be needed in fifty years.

The reservoir would have inundated thousands of acres of land in Cherokee and Anderson counties, including the refuge site and the Texas State Railroad.

Dallas and TWDB contended that the Fish and Wildlife Service failed to meet the requirements of the National Environmental Policy Act by failing in several ways to do an adequate environmental assessment and by failing to cooperate with state and local officials.

After careful review, Judge Solis disagreed with the allegations and denied motions by Dallas and TWDB to require a more detailed environmental study, thus upholding the U.S. Fish and Wildlife Service's 2006 creation of the refuge. Dallas and TWDB appealed Judge Solis' decision. Thursday a three-judge panel affirmed the lower court ruling.

Biologists say the land within the boundaries of the Neches River National Wildlife Refuge is some of the least disturbed and highest-quality bottomland hardwood forest left in Texas, rated Priority 1 for acquisition by the U.S. Fish and Wildlife Service. By contrast, the reservoir proposed for the site is one of many water supply options available to Dallas Water Utilities.

Bezanson described the hardwood forests to be protected in the Refuge as "fabulous". Towering oaks and hickories shelter wildlife and provide the nuts and acorns that deer, squirrel, turkey, and other animals depend on in winter. Bushes, smaller plants, and under story trees such as dogwoods provide a diverse array of food for resident animals. The Refuge is located in the heart of the North American Central Flyway, the major "highway" for and migrating ducks and songbirds. The waters of the Neches River sustain the exceptional habitat of the Big Thicket National Preserve, the Davy Crockett and Angelina National Forests, various state parks and wildlife management areas, and the Sabine Lake estuary.

During the Texas Water Plan hearings and following the lawsuit, many landowners, hunters, fishermen, concerned citizens and environmental groups testified and wrote letters in favor of the refuge.

Gina Donovan, the current Executive Director of the Houston Audubon Society and former Director of the Neches River Protection Initiative was one of those, and she still works on protecting the Neches.

"We are thrilled with the appeals court ruling in favor of the Neches River National Wildlife Refuge," Donovan said. "Not only will bottomland hardwood habitat be protected for millions of birds and numerous species of wildlife, but also private property owners will be able to keep their property for generations to come."

Donovan said that the Houston Audubon Society has taken preservation of the Neches as one of its projects.

"The freshwater flows of the Neches River are vitally important to the ecologically diverse bottomland hardwood habitat along the river's banks," she said. "With the Fifth Circuit Court of Appeals upholding Judge Solis' earlier ruling, the Neches will be allowed to flow freely and maintain its highly diverse ecosystem."

Michael Banks, Co-chairman of the Friends of the Neches River, one of the groups who supported creation of the refuge is also celebrating the victory.

"This is a sweet victory for East Texas," Banks said. "This will protect the area for generations to come. I appreciate the thousands of contacts made by our organization and others and to those in government who make these decisions for us. Our system of governing can work."

Banks said that East Texas receives about 50 inches of rain annually and that the water supply is still eyed by North Texas with its less than 30 average inches per year, but building more reservoirs is not the answer.

"With reservoirs there is a very high evaporation rate and they are constantly silting in," he said. "And with the destruction to the environment that dam building brings, there has to be a better way to store water."

Many have criticized Dallas' waste of water resources and lack of conservation practices. Another issue for East Texans who live in counties along the Neches River, was the condemnation of thousands of acres of land to build a reservoir in Region I of the Texas Water Plan. Region I comprises most of East Texas, but the water rights would have gone to Dallas, which lies in Region C.

They also pointed out that land for the Fastrill project would be obtained through eminent domain, taking huge amounts of property off of the tax rolls while the wildlife refuge would depend on landowners willing to sell or donate land.

"The Fish and Wildlife Service has been barred from acquiring land for the refuge, pending outcome of the appeal," Bezanson said. "Conservationists are poised to donate several thousand acres to the refuge as soon as the ruling is final."

While the plaintiffs can appeal to the Supreme Court, Bezanson said that she is hopeful that will not happen.

"The plaintiffs can appeal to the Supreme Court, but we're hoping that they won't," she said. "The judge's opinion is quite strong. Hopefully they will consider it a waste of money to appeal further and we can go forward. We look forward to celebrating a wonderful new refuge on the Neches."

Texas Conservation Alliance, Friends of the Neches River, and a number of other organizations are proposing that the Neches River be studied for potential inclusion in the Wild and Scenic Rivers System. Designating the Neches as a Wild and Scenic River would protect the river and enhance its value for tourism.