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The Jasper Newsboy

Judge hands victory over to Neches

By **GEORGIA PURDY Newsboy Correspondent**

The fate of the proposed Neches River National Wildlife Refuge has finally been decided according to a press release issued Monday, July 2, by the **Texas Conservation Alliance**. Director **Janice Bezanson** reported that U.S. District Judge Jorge A. Solis denied motions by the city of Dallas and the Texas Water Development Board to overturn the refuge created in 2006 by the U.S. Fish and Wildlife Service.

"This is wonderful news," **Bezanson** said. "The Neches River Wildlife Refuge is one of the most important wildlife areas left in Texas. Tens of thousands of Texans wrote letters or signed petitions in support of its creation."

Bezanson said she was not surprised by the judge's ruling.

"I am familiar with the case the judge most cited as a precedent from a case involving the Little Sandy Refuge that I worked on 15-20 years ago," she said.

However, by Tuesday afternoon, attorneys for City of Dallas and the Texas Water Development Board filed an emergency motion in federal court to prevent the refuge from receiving any land donations pending an appeal ruling.

"The plaintiffs can appeal to the Fifth Circuit Court of Appeals and yesterday indicated that they plan to do so," she said. "They filed an 'emergency' motion asking the judge to block the Fish and Wildlife Service from accepting any land donations until the appeals process is resolved. The judge has not yet responded to that motion. The FWS had agreed not to proceed with land negotiations this week, so it may be next week before the judge responds to the motion."

Judge Solis ruled on four issues- all in favor of the USFWS.

First, was the contention that they should have done a full Environmental Impact Statement rather than an Environmental Assessment which is shorter, and failing to do so violated the National Environmental Policy Act.

Second, was the contention that the studies were inadequate because they failed to consider the indirect affects on Dallas' future water supply.

Third, was the claim that they did not use the most recent available studies/data.

Fourth, was the claim that the USFWS had not adequately cooperated with state and local officials.

The refuge prevents the building of Fastrill Dam, an impoundment that would have inundated thousands of acres of prime hardwood bottomland in Cherokee and Anderson counties, the already-approved refuge and the Texas State Railroad.

At a series of Region I Water Plan public hearings held in 2005 and 2006, East Texans overwhelmingly rejected building additional dams on the Neches River.

In addition, the lake created by Fastrill Dam would have been in Region I which comprises most of East Texas, but water rights would have gone to the Dallas metroplex which lies in Region C.

Donations had already been made when the lawsuit was filed, but The Fish and Wildlife Service delayed acquiring land for the refuge pending the outcome of the lawsuit.

Now, conservationists are poised to donate several thousand acres as soon as litigation is resolved. Land for the refuge will come only from landowners willing to sell or donate whereas land for the Fastrill project would be obtained through eminent domain, taking huge amounts of property off of the tax rolls.

Bezanson said that biologists rate the land within the boundaries of the Neches River National Wildlife Refuge as some of the least disturbed and finest-quality bottomland hardwood forest left in Texas, rated Priority I 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.

The Neches River sustains The Big Thicket National Preserve, two of East Texas' national forests, state parks, wildlife management areas, and coastal habitat that depends on inflows of fresh water.

East Texans all along the river corridor have been adamant in their opposition to city of Dallas taking water that would seriously compromise these areas.

"It is a waste of the taxpayers' money for Dallas and TWDB to appeal the decision," **Bezanson** said. "The judge's order cites clear precedents in ruling that the Fish and Wildlife Service met the requirements of the National Environmental Policy Act and we are delighted in his firmly worded ruling. We can't wait to have the refuge open and available to the people of Texas."