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Judge's ruling blocks plans for Neches River reservoir

He rejects challenges from Dallas, state board and protects wetlands

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A federal judge has upheld the U.S. Fish and Wildlife Service's efforts to create a national refuge on 25,000 acres of forested wetlands along the Neches River that Dallas had targeted for a major reservoir.

To the relief of environmentalists, landowners and timber interests in East Texas, the decision blocked plans that called for taming one of the state's wildest rivers to meet the burgeoning thirst of Dallas and its suburbs.

The proposed Fastrill Reservoir, opponents said, would flood much of the refuge's hardwood bottomlands, reduce downstream flows to the Big Thicket National Preserve and Sabine Lake near Beaumont, and jeopardize one of the state's best and last migratory bird habitats.

"I'm absolutely euphoric," said Gina Donovan, executive director of the Houston Audubon Society, which has fought Dallas' plan for the reservoir. "This is critical habitat. If you turn off the faucet upstream, then you dry up the Big Thicket."

In his ruling late Monday, U.S. District Judge Jorge A. Solis rejected a variety of challenges from Dallas and the Texas Water Development Board, including their contention that the wildlife agency failed to conduct an adequate analysis of the potential impacts, as required by federal law, before designating the refuge.

The Dallas judge ruled that the establishment of a refuge would not result in a change to the environment, as the city and state argued, because it preserves the land in its current state.

Solis also raised doubts about the refuge's economic impact on Dallas and criticized the city for apparently not looking at alternate sites.

The disagreement "is more akin to a political dispute over policy choices than a legal dispute over compliance with procedural requirements," Solis wrote.

Allison Castle, a spokeswoman for Gov. Rick Perry, criticized the decision, saying the proposed reservoir is important to the state.



"This is, unfortunately, another example of the federal government being part of the problem instead of part of the solution," she said.

'Best alternative'

Christopher Bowers, the first assistant city attorney overseeing the lawsuit, said Dallas has looked at drawing water from other sites, including in Oklahoma, but the upper Neches River in Anderson and Cherokee counties represents "the biggest, cheapest source of water. It's the best alternative available."

Bowers said the city is reviewing the decision with the water board and the Texas Attorney General's Office and had not decided whether to appeal.

Still, the city and state filed a motion Tuesday for a restraining order that would prevent the wildlife agency from moving forward with land acquisitions for the refuge.

Fast growth predicted

If the city and state lose the lawsuit, which would go next to the 5th U.S. Circuit Court of Appeals in New Orleans, only Congress could reverse the refuge.

Dam builders have had their eyes on the upper Neches since 1961, and the site recently moved onto a short list of recommended reservoirs for North Texas, where the population is expected to double in the next 50 years.

Environmentalists argue that Dallas can meet its projected water needs through a combination of existing sources and basic conservation measures employed statewide.

In forming the refuge, the wildlife service said the 38-mile stretch of river is vital to a wide variety of species, including mallards, wood ducks, bobcats, river otters and several types of fish, reptiles and amphibians.

"It's a wonderful piece of land," said Michael Banks, a Jacksonville dentist whose group, Friends of the Neches River, has organized local support. "We're really excited that it will be protected for generations to come."

Acquisitions next

Unless the city obtains a restraining order, the wildlife service could begin acquiring land next week, agency spokesman Jose Viramontes said.

The Conservation Fund, for one, recently acquired 7,000 acres within the refuge's boundaries for the purposes of donating the land to the service.

"Everybody has been on hold," said Andy Jones, director of the Conservation Fund's Texas office.

"There are many willing sellers, and I think the funding sources will come out of the woodwork. We're eager to move forward."

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