

Fastrill, Nichols reservoirs pulled from SB3 before committee vote

By **GEORGIA PURDY Newsboy Correspondent**

Janice Bezanson, Executive Director of Texas Conservation Alliance, reports that the House Natural Resources Committee took both Fastrill and Marvin Nichols reservoirs out of SB3 before voting it out of committee last Wednesday.

"This is great news, but Committee Chair Robert Puente is predicting that there will be amendments on the floor to try and put Marvin Nichols and Fastrill back into the bill," Bezanson said.

Fastrill Dam would flood over 25,000 acres of bottomland, already slated to become the Neches River Wildlife Refuge on the upper Neches River as well as much of the Texas State Railroad.

Marvin Nichols, on the Sulphur River in Northeast Texas, would impound 30,000 acres of prime bottomland plus another 42,000 acres of mixed forest and farmland.

Both have been designated to supply water for the Fort Worth/Dallas metroplex in Region C of the Texas Water Plan.

"While we won't be declaring any victories till we see what the final bill looks like, the language changes are a clear indication that the water hustlers aren't having an easy path," Bezanson said. "Their push for unique reservoir site designation has greatly increased the scrutiny by rural legislators and property rights advocates of the reservoir proposals."

'Unique reservoir sites' refers to lands designated for future water development. The designation precludes any local or state government or governmental agencies from doing anything that would prevent its future use as a reservoir site.

Both of these sites are opposed by a number of conservation groups as well as area residents. Critics of the Region C water plan say that there are sufficient available water resources for the Dallas area and that the metroplex does little to conserve existing water sources.

In addition, residents of Region I, which includes Southeast Texas, and Region D in Northeast Texas resent water being diverted to feed the desires of the City of Dallas.

Last June, the U.S. Fish and Wildlife Service, approved the Neches River Wildlife Refuge, but then the City of Dallas and the Texas Water Development Board filed suit, charging that the USFWS did not consider economic impact to the Dallas area. Governor Rick Perry sided with the plaintiffs.

Gina Donovan, Director of the Neches River Protection Initiative and Communications Director of TCA, said that the USFWS case is strong.

"I feel the USFWS case is very strong," Donovan said. "The people who worked on this refuge, the New Mexico and Nacogdoches offices, were very professional and conducted their studies according to the refuge establishment procedural methods."

The refuge already had the first donated acre of land when the suit was filed, but no additional lands have been accepted since the suit was filed.

"The USFWS was about to receive a substantial land donation for the Neches River National Wildlife Refuge when the lawsuit was filed," Donovan said. "The Service has chosen not to accept any land donations until the suit is settled, including the large tract they were about to receive."

The case will go to federal court in Dallas.

"There has been no hearing or trial date set," she said. "The judge may not have a trial; he may just rule on the administrative record. The City of Dallas and the TWBD are requesting the judge allow discovery, that is that the judge will allow expert witnesses to testify in a trial and additional evidence be presented. The USFWS has moved to limit the case to the administrative record. It is more the norm to rule on the administrative record."

The lawsuit is independent of the legislation; however, the outcome of one can have an effect on the other. If the court rules in favor of the USFWS, then the unique reservoir status would be irrelevant.

"If, however, the judge were to overturn the refuge, then the unique reservoir site language could come into play," Bezanson said. "The entire House will soon be voting on the issue. We need to keep pressure on all of the members of the House of Representatives. Keep those calls, faxes, and emails going."

Names and contact information can be found at <http://www.capitol.state.tx.us>