



February 14, 2017

Via Fax (505-954-2010) and U.S. Mail

Bureau of Land Management
New Mexico State Office
301 Dinosaur Trail
Santa Fe, NM 87508

Margie C. Rose
CITY MANAGER

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Re: City of Corpus Christi, Texas Protest pursuant to 43 C.F.R. 3120.1-3 of proposed auction by the Bureau of Land Management (BLM) of Parcels NM-201704-009 and 010 comprised of approximately 676.80 and 634.74 acres, respectively, in and adjacent to Choke Canyon Reservoir in McMullen and Live Oak Counties, Texas

To Whom It May Concern:

The City of Corpus Christi, Texas hereby files this Protest of the Bureau of Land Management (BLM)'s planned June 8, 2017 Competitive Oil and Gas Lease Sale of Parcel NM-201704-009 and Parcel NM-201704-010 comprised of approximately 976.80 and 634.74 acres, respectively, in Choke Canyon Reservoir in McMullen and Live Oak Counties, Texas.

The City of Corpus Christi (City) is a Texas home-rule municipality and is a regional water supplier to nearly 500,000 people in seven counties of the Coastal Bend region. The City maintains an interest in promoting health and safety, and maintains an interest in preventing damage to the regional water supply and the environment. The City has standing to file this letter of protest because the proposed oil and gas leased areas directly underlie the major water resource of the City of Corpus Christi, the Choke Canyon Dam and Reservoir Project.

**CITY OF CORPUS CHRISTI INVOLVEMENT AND RESPONSIBILITY WITH
REGARD TO CONSTRUCTION OF THE CHOKE CANYON DAM AND
RESERVOIR PROJECT**

The Choke Canyon Dam and Reservoir Project (Choke Canyon Project) was authorized by Congress in Public Law 93-403 dated October 27, 1974 after many years of involvement at the local, State, and Federal levels. EPA granted NPDES Permit No. TX 0071013 on February 13, 1977 for the project. On November 16, 1976, the Texas Water Rights Commission issued Permit No. 3358 pursuant to the Texas Water Code, which authorized the Bureau of Reclamation to construct the proposed Choke Canyon Dam and Reservoir Project on the Frio River, approximately 10 river miles upstream from Nueces River in Live Oak County, Texas and authorized the City of Corpus Christi and the Nueces River Authority to maintain the reservoir and dam to divert and use appropriated State waters. The Department of the Army issued Permit W-N-443-41-

PERMIT-162 to the Bureau of Reclamation for the Choke Canyon Project effective March 14, 1978.

The Bureau of Reclamation executed a contract on June 30, 1976 with the City of Corpus Christi and the Nueces River Authority for the Choke Canyon Project (the Contract). The Choke Canyon Reservoir was constructed to have a surface area of 26,000 acres and impound 700,000 acre-feet of water at elevation 220.5 feet mean sea level. The Contract provided for the Bureau to construct the Project, and provided for repayment by the City and the Nueces River Authority.

PUBLIC BENEFITS OF THE CHOKE CANYON DAM AND RESERVOIR
PROJECT

Since its final completion in 1984 at final construction costs of \$133,955,161 the Choke Canyon Dam and Reservoir has provided essential water storage for municipal and industrial use for over 500,000 residents of the Coastal Bend region including through the region's frequent drought periods. Water is released through the City operated Choke Canyon Dam, where it flows down the Frio and Nueces Rivers, through Lake Corpus Christi, and finally down the Lower Nueces River to the City's water treatment plant. Along the way, water is also diverted by four other cities, two water districts, and three industrial customers. For many residents, the Choke Canyon Dam and Reservoir Project is the major water source in an area known for recurring drought conditions.

CONTRACT BETWEEN THE CITY AND THE BUREAU OF RECLAMATION
TRANSFERRED OPERATION AND MAINTENANCE OF THE PROJECT TO
THE CITY OF CORPUS CHRISTI AND NUECES RIVER AUTHORITY

The Contract provides that the City and the Nueces River Authority are responsible for the care, operation, maintenance, and replacement of any or all of the Choke Canyon Project works regarding the Choke Canyon Project. The Contract provides that operation and maintenance shall include management of land areas of the project and water surface of Choke Canyon Reservoir. The Contract provides that "Operation and maintenance" means "and includes normal and reasonable care, control, operation, maintenance, and replacement of the project works and shall include operation and maintenance of recreation and fish and wildlife facilities, payment of miscellaneous costs, accumulation of reserve funds, and payment of all additional operation and maintenance costs as herein provided." Currently, the City budgets approximately \$1.1 million dollars for annual maintenance and operation of the Choke Canyon.

THE CONTRACT AUTHORIZES THE CITY TO MANAGE THE LAND AREAS
OF THE CHOKE CANYON PROJECT

The Contract clearly authorizes the City to manage the land areas of the Project. Any potential benefit of the proposed lease is overshadowed by potential risks involved. As the authorized manager of the land areas of the project, the City would not recommend such an oil and gas lease take place without additional evaluation by independent engineers to identify all potential risks and hazards and appropriate secure safeguards. The City is not aware that any such independent analysis or recommendations have occurred with regards to this proposed lease. The City has reviewed the proposed stipulations included with the lease but does not agree that they adequately protect the water quality of the Choke Canyon Reservoir.

WATER QUALITY CONCERNS REGARDING THE PROPOSED BLM LEASE
OF PARCELS IN CHOKE CANYON RESERVOIR

The City was never directly notified of the competitive oil and gas lease sale of two parcels of land in or adjacent to Choke Canyon Reservoir nor was the City consulted by the Federal agencies to identify possible stipulations to address the City's water quality concerns. Though there may be oil and gas activity in the region around the reservoirs (Eagle Ford Shale Play), these parcels proposed for sale are either directly within or adjacent to the City's respective surface water supply and outlets. The City is concerned about the high-risk this places on the safety of the water quality and supply within each reservoir.

If a water quality incident were to occur as a result of the proposed lease, the City would pursue all available remedies, but that would not be adequate recovery to the potential millions of dollars of lost economic benefit and the loss of public trust. As such the City must take every step possible to protect its water supply and therefore protests the lease sale of parcels NM-201704-009 and 010 in McMullen, Live Oak Counties, Texas and requests that the BLM withdraw these three parcels from the June 8, 2017 and any future auctions. The City general concerns and specific water quality concerns for the aforementioned sites are further detailed below.

Parcel NM-201704-009 is a 976.80-acre parcel in Live Oak County, Texas, that is completely within the conservation pool of Choke Canyon Reservoir. According to the Oklahoma Field Office lease stipulations for the Nueces River Project, this parcel cannot be accessed or occupied on the surface (no surface occupancy). Since the reservoir is fed by a semi-arid watershed that frequently experiences drought, there is often exposed lake bed below 233 feet msl. This exposed lake bed could prompt access or surface occupancy by lessees, which would lead to contamination by equipment during flood events. In addition the parcel is extremely close to the City's outlet structure which provides flood control, recreation, and essential storage for municipal and industrial uses to 500,000 people in the Coastal Bend region. The proposed activity poses a high-risk to contamination of complex organic compounds. The City's water treatment plant is not designed to filter these complex hydrocarbons.

Parcel NM-201704-010 is a 634.74-acre parcel in Live Oak & McMullen Counties, Texas, that is adjacent or within the conservation pool of Choke Canyon Reservoir. According to the Oklahoma Field Office lease stipulations for the Nueces River Project, this parcel cannot be accessed or occupied on the surface (no surface occupancy). Since the reservoir is fed by a semi-arid watershed that frequently experiences drought, there is often exposed lake bed below 233 feet msl. This exposed lake bed could prompt access or surface occupancy by lessees, which would lead to contamination by equipment during flood events. In addition the parcel is close to the City's outlet structure which provides flood control, recreation, and essential storage for municipal and industrial uses to 500,000 people in the Coastal Bend region. The proposed activity poses a high-risk to contamination of complex organic compounds. The City's water treatment plant is not designed to filter these complex hydrocarbons.

COMPLIANCE WITH 43 C.F.R. 3101.8 REGARDING STATE OF TEXAS
OWNERSHIP OF SURFACE OVERLYING FEDERALLY-OWNED MINERALS

Section 3101.8 provides that: "Where the United States has conveyed title to, or otherwise transferred the control of the surface of lands to any State of political subdivision, agency, or instrumentality thereof, . . . , with reservation of the oil and gas rights to the United States, such party shall be given an opportunity to suggest any lease stipulations deemed necessary for the protection of existing surface improvements or uses, to set forth the facts supporting the necessity of the stipulations and also to file any objections it may have to the issuance of a lease. Where a party controlling the surface opposes the issuance of a lease or wishes to place such restrictive stipulations upon the lease that it could not be operated upon or become part of a drilling unit and hence is without mineral value, the facts submitted in support of the opposition or request for restrictive stipulations shall be given consideration and each case decided on its merits. The opposition to lease or necessity for restrictive stipulations expressed by the party controlling the surface afford no legal basis or authority to refuse to issue the lease or to issue the lease with the requested restrictive stipulations for the reserved minerals in the lands; in such case, the final determination whether to issue and with what stipulations, or not to issue the lease depends upon whether or not the interests of the United States would best be served by issuance of the lease."

In reviewing the proposed BLM Competitive Oil and Gas Lease Sale, the City learned that the State of Texas General Land Office has issued two oil and gas leases overlying 12.56 gross acres of Tract NR-9 Parcel No. 1 filed of record in Live Oak County, which appears to be located within the same area as the proposed BLM parcels. Per State of Texas Oil & Gas Lease No. 117716 issued as of October 6, 2015, the 12.56 gross acres of Tract NR-9 were the subject of a Quitclaim Deed issued by the United States to the State of Texas on December 16, 1981 and recorded in Volume 344, page 341 of the Deed Records of Live Oak County. The City has not located any documentation to

show that the proposed BLM Competitive Oil and Gas Lease Sale complies with 43 C.F.R. 3101.8 with regard to any property owned by the State of Texas in the area of the proposed lease sale.

In conclusion, the City maintains an interest and responsibility in promoting health and safety, and strives to prevent possible damage to the regional water supply and environment. The City of Corpus Christi respectfully files this letter of protest and requests that the BLM and the Bureau of Reclamation withdraw these parcels from the June 8, 2017 competitive lease sale as well as from and any future auctions as the only possible actions to truly protect the water quality of regional's Choke Canyon Reservoir water supply to nearly 500,000 people in seven counties of the Coastal Bend region.

Thank you in advance for your attention and consideration of our concerns and this protest. Please feel free to contact me if additional information is required or if I may be of assistance.

Sincerely,

A handwritten signature in black ink that reads "Margie C. Rose". The signature is written in a cursive, flowing style.

Margie C. Rose
City Manager for City of Corpus Christi, Texas

Cc: Mr. Patrick Brzozowski P.E. – General Manager, Lavaca-Navidad River
Authority

Mr. Mark Trevino – Area Manager, Bureau of Reclamation Oklahoma- Texas
Area Office