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DISPUTE BETWEEN SJRA AND CONROE HEADED TO TEXAS SUPREME COURT

Validity of water contracts at stake

Conroe, Texas—The Texas Supreme Court has voted to hear the appeal in the longstanding dispute between the City of Conroe and San Jacinto River Authority (SJRA) over the validity of existing Groundwater Reduction Plan (GRP) contracts. The court will now decide whether SJRA can settle the validity of all GRP contracts on an expedited schedule.

A ruling in favor of SJRA would prevent Conroe from further neglecting contractual obligations to the other GRP participants. Since 2016 Conroe has refused to pay current wholesale water rates, to the detriment of the more than 80 participants in the GRP program. The validity of the GRP contracts also protects the underlying Texas public bonds that were used to finance the \$500 million GRP Water Treatment Plant at Lake Conroe and pipeline system throughout Montgomery County.

SJRA General Manager Jace Houston explained that the stakes are high enough to make the case an important one for the Texas Supreme Court. “The City of Conroe is simply being asked to abide by the same contract terms as all the other GRP Participants. When 80-plus utilities join together to implement a regional project, it’s critical that everyone participates as agreed to in the contract. If one member doesn’t fulfill its contract obligations, it puts at risk the entire legal apparatus protecting Texas public bonds for regional projects,” said Houston. “The Supreme Court has identified an area in Texas law that needs to be addressed for all river authorities and other public entities who step up to the plate to provide regional solutions. Conroe’s arguments—if adopted—could mean the end of large-scale regional water projects in Texas. At the very least, such projects would become much more expensive to Texas taxpayers.”

Background:

The case before the Texas Supreme Court comes after the Austin Third Court of Appeals last year ruled in favor of SJRA on three key issues in a lawsuit related to GRP contracts. The Third Court of Appeals ruling affirmed a lower court ruling and paved the way for the original trial court to issue a fast-track legal proceeding to decide the legal validity of the contracts and the 2017 GRP water rates. The Texas Supreme Court is being asked to affirm the expedited schedule.

In 2010, the City of Conroe and more than 80 other public and private water utilities entered into a contract to implement a joint, countywide Groundwater Reduction Plan to conserve groundwater whereby SJRA would deliver treated surface water to supplement existing supplies and meet

growing demands. The GRP contract included provisions for periodic rate increases, which would be reviewed and approved by a committee comprised of GRP participants prior to adoption by SJRA's board of directors.

The Texas Supreme Court's ruling will finally resolve an issue that began when the City of Conroe refused to pay SJRA's 2017 GRP rate increase, despite the GRP customer committee's unanimous approval of the proposed rates. The City of Magnolia later joined Conroe in refusing to pay the full rates, leaving other GRP participants—including area cities, municipal utility districts, and ultimately citizens—to make up the shortfall.

The cities' refusal to pay the full amount due has forced other GRP participants to make up over \$3.5 million in unpaid rates. As a result, the SJRA was forced to budget for a continuation of the shortfall and related litigation and increased its rates for Fiscal Year 2020 as a consequence. Even with the 2020 rate increase, GRP fiscal reserves are projected to be reduced to approximately \$1 million (less than 25% of the target set by the GRP customers) by the end of the fiscal year if the short payments continue. This situation, together with the recent GRP water line break in The Woodlands, poses a serious financial risk to the GRP.

“The GRP contracts secure more than \$500 million in government bonds, the vast majority of which are held by the Texas Water Development Board,” noted Houston. “If the GRP cannot make its payments, then Texas taxpayers could be saddled with the debt.”

The Texas Supreme Court is scheduled to hear oral argument on January 9, 2020.

One of the major river authorities in Texas, SJRA's mission is to develop, conserve, and protect the water resources of the San Jacinto River basin. Covering all or part of seven counties, the organization's jurisdiction includes the entire San Jacinto River watershed, excluding Harris County. For additional information on SJRA visit our website at www.sjra.net, like SJRA on Facebook [@SanJacintoRiverAuthority](https://www.facebook.com/SanJacintoRiverAuthority), or follow us on Twitter [@SJRA_1937](https://twitter.com/SJRA_1937).

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Montgomery County utilities, through a joint project with SJRA, developed the GRP in direct response to requirements set by Lone Star Groundwater Conservation District (LSGCD). The plant's purpose is to satisfy LSGCD's requirements to reduce reliance on groundwater (aquifer) supplies by providing a surface water alternative (treated water from Lake Conroe). LSGCD recently submitted a new groundwater management plan without aquifer management requirements to the Texas Water Development Board, and the TWDB rejected the plan. For additional background information visit our website at <http://www.sjra.net/grp/>.