No. 09-20-00180-CV

IN THE COURT OF APPEALS FOR THE STATE OF TEXAS
9TH JUDICIAL DISTRICT AT BEAUMONT, TEXAS

SAN JACINTO RIVER AUTHORITY,
Appellant

v.

CITY OF CONROE, TEXAS AND CITY OF MAGNOLIA, TEXAS
Appellees

On Appeal from the 284th Judicial District, Montgomery County, Texas
Cause No. 19-09-12611

BRIEF OF AMICUS CURIAE HARRIS-GALVESTON SUBSIDENCE DISTRICT IN SUPPORT OF APPELLANT

GM ELLIS LAW FIRM PC
GREGORY M. ELLIS
State Bar No. 06562500
2104 Midway Ct.
League City, TX 77573
(713) 705-4861—Phone
(512) 319-6698--Fax
Greg@GMEllis.law

ATTORNEY FOR AMICUS CURIAE
HARRIS-GALVESTON SUBSIDENCE DISTRICT

TABLE OF CONTENTS

INDEX OF AUTHORITIES

CASES

STATUTES

CONSTITUTIONAL PROVISIONS

OTHER AUTHORITIES

No. 09-20-00180-CV

IN THE COURT OF APPEALS FOR THE STATE OF TEXAS
9TH JUDICIAL DISTRICT AT BEAUMONT, TEXAS

SAN JACINTO RIVER AUTHORITY,
Appellant

v.

CITY OF CONROE, TEXAS AND CITY OF MAGNOLIA, TEXAS
Appellees

On Appeal from the 284th Judicial District, Montgomery County, Texas
Cause No. 19-09-12611

BRIEF OF AMICUS CURIAE HARRIS-GALVESTON SUBSIDENCE DISTRICT IN SUPPORT OF APPELLANT

INTRODUCTION

The following is an amicus curiae brief filed in support of the Briefs filed by the Appellant, San Jacinto River Authority ("SJRA"). In so doing, the amicus curiae Harris Galveston Subsidence District intends to both summarize and supplement the central argument set forth in Appellant's Briefs, in the hopes of furthering this Court's understanding of the core underlying issue in the present lawsuit, which is whether "essential terms" required by statute should requires greater specificity than

would be required under Texas contract law generally. The underlying facts are set forth in Appellant's Briefs and adopted herein.

STATEMENT OF INTEREST

This amicus brief is presented by the Harris-Galveston Subsidence District ("HGSD"). HGSD is a political subdivision of the State of Texas that, like the Appellant, was created by the Texas Legislature to accomplish the purposes of Article XVI, Section 59 of the Texas Constitution.[1]

Carrying out the duties statutorily assigned to HGSD required converting existing groundwater users to alternative water supplies. Developing and distributing those supplies require that HGSD's permittees enter into long-term water supply contracts with various local government entities, and those contracts closely resemble the GRP Contracts involved in this lawsuit. Because of the impossibility of accurately predicting the vicissitudes of both water supply and water demand over such decades-long contractual periods, it is the common practice to utilize open-ended pricing terms in those long-term water supply contracts. As already attested to in the briefs submitted by SJRA and all other amici, such long-term and open-termed water supply contracts are similarly critical to HGSD's own ability to reliably regulate groundwater withdrawals and control subsidence over a planning timeframe spanning decades.

---

[1] *See* TEX. CONST. art. XVI, § 59(a), (b); TEX. SPEC. DIST. LOC. LAWS CODE § 8801.002.

SUMMARY OF ARGUMENT

Amicus curiae HGSD wishes to contest the validity of the position asserted by the Appellees City of Conroe, Texas and City of Magnolia, Texas (collectively, "Cities'), regarding the central issue in this lawsuit. In sum, the Cities assert that – because their water supply contracts with SJRA supposedly fail to state certain "essential terms"– the statutory waiver of the Cities' sovereign immunity (as provided for under Local Gov't Code §271.152) is not triggered, thereby denying the District Court jurisdiction to hear SJRA's breach of contract claims against the Cities.

Specifically, the Cities first assert that the essential term of "price" is absent from the GRP Contracts, and further argue that – as to the City of Conroe – its GRP Contract supposedly lacks the essential term of "quantity" as well. However, as demonstrated below, both these arguments fail because Texas law holds that the absence of rigidly fixed terms setting out the applicable "price" or "quantity" does not render a contract unenforceable. This is especially so where, as here, the terms are neither "simply neglected" nor "left for future negotiations" but are instead addressed by the parties' intentional decision to adopt contractual formulas providing for the future resolution of any open-ended terms.

Moreover, neither the text of §§271.151 - .152 nor the application to the GRP Contracts specifically provides any rational grounds for construing the statutory

phrase "essential terms" as requiring a higher standard-of-definiteness, in the §271.152 immunity context, than that necessary to render a contract enforceable under Texas law generally. In contrast, upholding the overly rigid interpretation favored by the Cities would severely interfere with water districts' ability across Texas to carry out the duties entrusted to them by the Legislature. As shown below, water districts commonly rely upon open-termed agreements – similar to the GRP Contracts – to finance their long-term commitments regarding building and operating water-related infrastructure, yet the Cities' interpretation of §271.151 - .152 would be fatal to the districts' ability to enforce those agreements against all local government customers.

ARGUMENT AND AUTHORITIES

1. ESSENTIAL TERMS OF CONTRACTS GENERALLY

ABSENCE OF FIXED PRICE. Texas law holds that a fixed price term is not necessary to render a contract enforceable and therefore does not constitute an "essential term" thereof. *Sacks v. Haden*, 266 S.W.3d 447, 450 (Tex. 2008). As stated in 14 TexJur 3d Contracts §64:

> The failure to spell out a price does not necessarily render a contract unenforceable or indicate a failure of the parties to reach a meeting of the minds with regard to the essential terms of the contract. Generally, neither term, interest rate, nor a specific dollar amount is required to find the existence of a contract, written or oral. If an agreement provides a standard to be applied in determining a price, the

> contract is sufficiently definite to be enforceable. Where the parties have done everything else necessary to make a binding agreement for services, their failure to specify a price does not leave the contract so incomplete that it cannot be enforced. In such a case, a presumption arises that a reasonable price was intended.
>
> The law's presumption that the parties intended a reasonable price on a contract is particularly strong when the agreement specifies a formula or other basis on which a reasonable price may be determined.

Accord, *Fischer v. CTMI*, LLC, 479 S.W.3d 231, 237 (Tex. 2016); *Sacks,* 266 S.W.3d at 450; and *Bendalin v. Delgado*, 406 S.W.2d 897, 900 (Tex. 1966).

As noted by TexJur (citing to *Fischer*, 479 S.W.3d at 237) the terms of a contract will be deemed sufficiently definite, even in the absence of a fixed price term, where the parties have instead provided a formula or standard by which to calculate the operative price. SJRA, at pp. 47-49 of its Appellant's Brief, explained how Article 6 of the GRP Contracts set out just such a pricing formula. The Cities, however, object to the Article 6 formula because – within the various parameters set out there – the formula still leaves SJRA a significant degree of discretion in unilaterally determining the prices to be charged.

This is indeed true; the GRP Contracts do not treat future water rates as an unresolved matter requiring the Cities and SJRA to negotiate future rates bilaterally. In fact, had the Contracts required future bilateral negotiations, they would concededly lack an "essential term" for the purposes of the §271.152 waiver. See *Dallas/Fort Worth Int'l Airport Board v. Vizant Techs.*, LLC 576 S.W.3d 362, 371

(Tex. 2019). The *Vizant* result is wholly distinguishable from the current case, however, because pursuant to the formula set out at Article 6 of the GRP Contracts, future rates are – by agreement of the parties – unilaterally established by SJRA, utilizing the discretion contractually granted to it.

The Cities, however, argue that it is precisely this degree of discretion retained by SJRA – in unilaterally applying the Article 6 formula to set future rates – that is fatal to the GRP Contracts' enforceability. Specifically, on page 23 of their Appellees Brief, the Cities cite to 1 Corbin on Contracts §4.4 (Rev. ed. 2018) as holding that:

> An agreement that provides that the price to be paid, or other performance to be rendered, shall be left to the will and discretion of one of the parties *has been held* not enforceable. (emphasis added).

While the above-quoted language is in itself technically accurate, the Cities' out-of-context utilization of the quote is entirely misleading. This Court's review of the full text of §4.4 will find instead that Corbin – in utilizing the past-tense phrase "*has been held*" – was merely referencing older caselaw that reached improper results. Immediately following the above-quoted language, Corbin then goes on to state the correct, modern rule as follows:

> [b]ut the fact that one of the parties reserves the power of fixing or varying the price or other performance is not fatal if the exercise of this power is subject to prescribed or implied limitations, as that the variation must be in proportion to some objectively determined base or must be reasonable or in good faith. If the transaction is a contract for sale of goods, UCC §2-305(2) *eliminates any doubt as to the validity of*

> *such a contract* by providing: "A price to be fixed by the seller or the buyer means a price for him to fix in good faith." (emphasis added).

An identical rule applies in Texas, which has likewise adopted the UCC provision upholding contracts permitting one party to unilaterally set prices in good faith, at TEX. BUS. & COM. CODE §2.305. See, in particular, *Shell Oil Co. v. HRN*, 144 S.W.3d 429, 436 (Tex. 2004), wherein the Texas supreme court – explicitly relying upon U.C.C. §2.305(b) 's "good faith" standard – enforced an "open pricing system" whereby Shell executed gasoline contracts with station owners whose price term was almost entirely open-ended; it consisted of no more than Shell's guarantee that a contracting owner would be charged the same, Shell-fixed rate as all other station owners. At page 431, the supreme court in *Shell Oil* noted that "open-price term contracts are commonly used in the gasoline refining and marketing industry due to price volatility."

The *Shell Oil* court further held at page 432 that when parties intentionally choose to adopt such an "open pricing arrangement," one party is free to fix a price unilaterally, so long as it performs its price-setting in "good faith," pursuant to §2.305(b). Citing to Official UCC Comment 3 accompanying §2.305, the *Shell Oil* court also held that the price-setting party's normal posted rate is ***presumed*** to constitute a good faith price absent evidence to the contrary. *Ibid*. at 433. At page 435, the supreme court noted that the intention of this presumption is "to minimize judicial intrusion into the setting of prices under open-price-term contracts," since

to hold otherwise would allow the non-price-setting party to endlessly challenge the prices set, despite having expressly agreed to just such an arrangement. *Shell Oil Co.*, 144 S.W.3d at 436, 438.

Under the Texas supreme court decisions in *Fischer* and *Shell Oil*, then, it is clear that the "essential terms" of a contract need not include a fixed price so long as the parties agree that future pricing is to be unilaterally set by one party, either 1) under an agreed-upon formula, or 2) through the good faith exercise of price-setting discretion entrusted to that party.

ABSENCE OF FIXED QUANTITY. The Cities also maintain that Conroe's GRP Contract with SJRA lacks a second "essential term" for §271.152 waiver purposes – this time regarding quantity – because Section 4.09 thereof permits SJRA to unilaterally determine the maximum amount of water Conroe can receive, as well as the minimum amount of water that Conroe is required to take. See Appellees' Brief at 20-23.

Amicus curiae HGSD is unaware of any reason the UCC would not apply to the City of Conroe's GRP Contract, and the UCC's embrace of open-price contracts also applies to quantity. Tex. Bus. & Com. Code §2.204(c). See, in particular, *Sanmina Corp. v. BancTec USA, Inc.*, 2001 US Dist. LEXIS 206 *18-19 (N.D. Tex. Jan. 8, 2001), affm'd in relevant part at 94 Fed. Appx. 194 (5th Cir. 2004).

In *Sanmina*, the parties entered into an agreement allowing the buyer to purchase circuit boards from the seller in whatever quantity the buyer saw fit to request in subsequently-issued purchase orders. When the seller later questioned the validity of the agreement, "because it left the quantity entirely optional with" the buyer, the *Sanmina* court noted that "the term was deliberately left open by the parties with the intention of providing flexibility," and cited to §2.204(c), which provides that such an open-ended contract "does not fail for indefiniteness if the parties have intended to make a contract and there is a reasonably certain basis for giving an appropriate remedy." *Ibid.* In particular, the *Sanmina* court likewise cited to the accompanying Official Comment regarding §2.204(c), which discusses the UCC's liberal approach toward incorporating "commercial standards" in enforcing contracts that intentionally leave open matters regarding performance, price, etc.[2] This Court is invited to note the similarity between the Official UCC Comment and the approach adopted by the *Fischer* court in the non-UCC context. *Ibid.* 479

[2] Section §2.204 Uniform Commercial Code Comment: "Subsection (3) states the principle as to 'open terms' underlying the later sections of this Article. If the parties intend to enter into a binding agreement, this subsection recognizes that agreement as valid in law, despite missing terms, if there is any reasonably certain basis for granting a remedy. The test is not certainty as to what the parties were to do nor as to the exact amount of damages due the plaintiff. Nor is the fact that one or more terms are left to be agreed upon enough of itself to defeat an otherwise adequate agreement. Rather, commercial standards on the point of "indefiniteness" are intended to be applied, this Act making provision elsewhere for missing terms needed for performance, open price, remedies and the like."

S.W.3d at 238-40. Accord, *Stewart & Stevenson v. Enserve, Inc.*, 719 S.W.2d 337, 346 (Tex. App. – Houston [14th Dist.] 1986, writ ref'd, n.r.e.).

2. ESSENTIAL TERMS OF CONTRACTS FOR WAIVER-OF-IMMUNITY PURPOSES

As shown above, the GRP Contracts are not – under standard Texas contractual law – lacking any essential terms regarding either price or quantity because the parties intentionally agreed to permit SJRA to set those terms according to the relevant formulae in the GRP Contracts. See *Fischer*, at 479 S.W.3d at 237.

Accordingly, the next question is whether – for Chapter 271 waiver-of-immunity purposes – a contract must satisfy a standard higher than the generally-applicable *Fischer* enforceability standard. Specifically, §271.152's waiver of immunity extends only to "contracts subject to this subchapter." "Contract" is defined at §271.151(2)(A) as a written document "stating the essential terms of the agreement for providing goods or services to the local government entity …."

Although the Cities assert at page 15 of their Appellees' Brief that *ISI Construction Co. v. Orangefield ISD*, 339 S.W.3d 235, 239 (Tex. App. – Beaumont 2011, no pet.) supports their position that determining "essential terms" for §271.152 purposes imposes a higher standard than that otherwise needed to enforce other contracts, this Court's review of the quoted portion of the *ISI* case will find little more than dicta musings as to whether 16 disparate documents could even be jointly construed as a constituting a "contract" much less an enforceable one.

Likewise, while page 16 of the Cities' Brief blithely cites to various cases holding that the "price to be paid" is an essential term for §271.152 purposes, a closer inspection will show that the actual rule is that "Texas courts **generally** construe essential terms of a contract to include … the price to be paid" (emphasis added). *Kirby Lake Dev. Ltd. v. Clear Lake City Water Authority*, 320 S.W.3d 829, 839 (Tex. 2010). Such "general rule" entirely aligns with the Texas supreme court's holding in *Shell Oil*, which provides that while "most contracts for the sale of goods specify a price," an acceptable alternative exists where – as here – the parties intentionally choose to adopt an open-pricing arrangement. Accord, *Fischer*, 479 S.W.3d at 240. Indeed, although the Cities' Brief cites to *LTTS Charter School, Inc. v. Palasota*, 362 S.W.3d 202, 210-11 (Tex. App. – Dallas no pet.) in support of its assertion that, in the §271.152 context, a contract must state a fixed price, the *LTTS* court actually noted instead that the agreement in question failed to state "a price to be paid, **or any term stating the amount or method of calculating the commission**" (emphasis added). *Ibid.* at 210. As to the remaining cases cited at page 16 of Appellees' Brief, none address the effect of an intentional decision to utilize an open-pricing mechanism.

Moreover, the Texas supreme court's use of the "general rule" language in *Kirby Lake* (which necessarily implies the existence of an exception thereto) is entirely consistent with the *Kirby Lake* court's overall liberal approach to

determining whether an agreement contains the requisite "essential terms" for §271.152 purposes. That is, in the sentence immediately preceding that describing price terms as being only generally required, the *Kirby Lake* court held that § 271.152's "essential terms" requirement was satisfied where "the names of the parties, property at issue, and basic obligations are clearly outlined".

This liberal approach adopted by the *Kirby Lake* court in the §271.152 context – requiring only that a written agreement set out the parties' "basic obligations" – is entirely consistent with that adopted by the Texas supreme court outside of the §271.152 context, in *Fischer*, 479 S.W.3d 238-40. See, in particular, *Clear Creek ISD v. Cotton Commercial USA, Inc.*, 529 S.W.3d 569, 580-82 (Tex. App. – Houston [14th Dist.] 2017, pet. denied), where the court, citing to both *Fischer* and *Kirby Lake*, held that to satisfy §271.152, a contract need only be sufficiently definite to establish the parties' intent to contract, and enable the court to 1) understand the parties' contractual obligations, and 2) provide an appropriate remedy if those obligations are breached. Accord, *Houston Community College System v. HV BTW, LP*, 589 S.W.3d 204, 212-13 (Tex. App. – Houston [14th Dist.] 2017, no pet.).

The GRP Contracts here easily meet the "low threshold" of specificity required to satisfy §271.152's "essential terms" requirement. See *Cotton Commercial*, 529 S.W.3d at 585, citing to *Lubbock Cty. Water Control v. Church & Akin, LLC*, 442 S.W.3d 297, 311 (Tex. 2014) (Willett, J., dissenting).

3. CONTROLLING PRINCIPLES IN INTERPRETING §271.151 - .152

Accordingly, we now examine just what arguments might possibly favor upholding the Cities' rigid reading of §271.152's immunity requirements in a way that would require the GRP Contracts to set out their price and quantity terms with a degree of specificity exceeding the standard applicable under Texas contract law. To begin with, all parties concede that the phrase "essential terms" is not defined in Chapter 271 itself. *City of Houston v. Williams*, 353 S.W.3d 128, 138 (Tex. 2011). In the absence of a statutory definition, this Court is required to presume that the term is to be interpreted consistent with the law as it existed at the time of its enactment. See *Marino v. Lenoir*, 526 S.W.3d 403, 409 (Tex. 2017), and especially *McBride v. Clayton*, 166 S.W.2d 125, 128 (1942), where the Texas supreme court stated:

> In applying this statute to the facts before us we must assume that in the use of the term … the Legislature intended it to mean what the courts of this State had theretofore said it meant.

There is no question that well before the 2005 enactment of §§271.151 and 271.152, Texas law held that that price is not an "essential term" for contractual enforceability. See *Bendalin v. Delgado*, 406 S.W.2d 897, 900 (Tex. 1966). As to "quantity," see *Sanmina Corp..*, 2001 US Dist. LEXIS 206 *18-19, relying upon §2.204(c) of the Texas UCC.

Second, even in the §271.152 context agreements are to be construed to avoid forfeiture, which is precisely the result that the Cities seek here. *Kirby Lake*, 320 S.W.3d at 842.

Third, and perhaps most importantly, for §271.152 purposes, courts "consider each contract separately on a case-by-case basis to determine its essential terms," rather than through the rote application of a one-size-fits-all standard. *Cotton Commercial*, 529 S.W.3d at 580. As stated by the *Vizant* court, "what particular terms are essential generally depends on the specific contract at issue." *Ibid.*, 576 S.W.3d at 369, citing *Fischer*, 479 S.W.3d 237. As amply briefed by SJRA and the various water districts who have weighed in as amici, the specific GRP Contracts at issue here are unique in many respects, even as – by necessity – they closely resemble those supply contracts entered into by numerous other Texas water districts.

Among the unique features of our GRP Contracts, first and foremost, is that they are inordinately lengthy (here, of 35 and 79 years in length, respectively), and concern supplying a commodity (water) whose price will inevitably fluctuate during the term of the contract due to unforeseeable shifts in both supply and demand.[3] See

[3] By way of illustrating such unforeseeability, HGSD would point out that in the 79 years *prior* to 2020, Conroe's population (and attendant water needs) increased from 4,624 to 93,160.

Appellant's Brief at 19, 33-34. Essentially, then, the Cities are faulting the GRP Contracts for their failure to specify the unspecifiable.

Second, GRP Contracts are unique because their lack of traditionally-specified terms such as "price" or "quantity" reflects an intentional choice to proactively respond to the uncertainty inherent in long-term water contracts by granting SJRA authority to unilaterally set such matters. In this respect, note the Texas supreme court's comment in *Shell Oil* that "open-price term contracts are commonly used in the gasoline refining and marketing industry due to price volatility." *Ibid.*, 144 S.W.3d at 431. In their briefs, SJRA and the amici have attested to similar volatility regarding water supply and demand. Moreover, their briefs uniformly state that the long-term nature of the GRP Contracts reflects the equally long-term nature of the tasks assigned by the Texas legislature in financing, building, and operating the infrastructure necessary to develop and conserve this state's water resources. Under these circumstances, it is entirely unclear why – for §271.152 to apply – water supply contracts involving local government entities should be denied the flexibility otherwise granted under Texas law that allows them to address – through open-term arrangements – the uncertainty inherent in long-term water supply contracts. See *Fischer*, 479 S.W.3d at 240, upholding enforceability where a "contract [is] about as definitive and certain as the parties could have made it under the circumstances."

Applying the interpretative principles set forth above, amicus curiae HGSD is aware of precious little – in law or logic – favoring the Cities' rigid interpretation of the phrase "essential term," either in the §271.152 context generally, or as applied to the GRP Contracts specifically. This is hardly a case in which a private, for-profit entity seeks to gouge an unsuspecting municipality for its own enrichment. Rather, the GRP Contracts are instead *between* governmental entities, with SJRA's rate-setting ability closely circumscribed by the statutes creating it. See Appellant's Brief at 22-23. In that regard, it must also be noted that the Cities initially agreed to (and in the case of Conroe, extensively negotiated) the very same open-ended terminology that they now complain of. Thus, the Cities' current embrace of §271.152 smacks of little more than attempting to create a loophole for short-term gain. Conversely, SJRA and the other water district amici have amply testified regarding the vital importance of both long-term and open-termed supply contracts in financing the districts' accomplishment of the tasks set for them by the Legislature.

These ill-balanced equities between the Cities and SJRA bring us to the final rule of construction this Court is urged to consider. Where a statute may reasonably be interpreted in two different ways, a court may consider the consequences of differing interpretations in deciding which interpretation to adopt so as to avoid hardship, inconvenience, or prejudice to the public interest. *National Surety Corp.*

v. Ladd, 115 S.W.2d 600, 603 (Tex. 1938); *Griffith v. State*, 116 S.W.3d 782, 785 (Tex. Crim. App. 2003). Here, the "public interest" unquestionably favors interpreting §§271.151 - 271.152 so as allow water districts to both 1) enter into open-termed supply contracts, and 2) later enforce those contracts against local government entities. Accordingly, in the §271.152 waiver context, the phrase "essential terms" should be construed in a manner consistent with Texas law governing contracts generally, so as to permit water districts to likewise exercise the flexibility needed to operate effectively, in carrying out their statutory duties.

CONCLUSION

Accordingly, this Court should reject the Cities' "essential terms" argument, reverse the decision of the District Court, and remand this case for trial.

Respectfully submitted,

GM ELLIS LAW FIRM PC
GREGORY M. ELLIS
2104 Midway Ct.
League City, TX 77573
(713) 705-4861—Phone
(512) 319-6698—Fax
Greg@GMEllis.law

/s/ Gregory M. Ellis
Gregory M. Ellis
State Bar No. 06562500

ATTORNEY FOR AMICUS CURIAE
HARRIS-GALVESTON SUBSIDENCE DISTRICT

CERTIFICATE OF COMPLIANCE

I certify that this document complies with the typeface requirements of Texas Rule of Appellate Procedure 9.4(e) because it was prepared on a computer in a conventional typeface no smaller than 14-point for text and 12-point for footnotes. In reliance on the word count feature of the program used to create the brief, I also certify that the brief complies with the word-count limitation in Rule 9.4(i) as it contains 3,928 words, excluding any parts exempted by 9.4(i)(l).

/s/ Gregory M. Ellis
Gregory M. Ellis

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this document was served on all counsel of record identified below on February 8, 2021, electronically through the electronic filing manager in compliance with the Texas Rules of Appellate Procedure:

James E. Zucker *jzucker@yettercoleman.com* Reagan W. Simpson *rsimpson@yettercoleman.com* April L. Farris *afarris@yettercoleman.com* Wyatt J. Dowling *wdowling@yettercoleman.com* Steven Vacek *svacek@yettercoleman.com* Delonda Dean *ddean@yettercoleman.com* YETTER COLEMAN LLP *efile@yettercoleman.com* 811 Main Street, Suite 4100 Houston, Texas 77002	**ATTORNEYS FOR APPELLANT SAN JACINTO RIVER AUTHORITY**
Michael V. Powell *mpowell@lockelord.com* LOCKE LORD LLP 2200 Ross Avenue, Suite 2800 Dallas, Texas 75201	**ATTORNEYS FOR APPELLEES THE CITIES OF CONROE AND MAGNOLIA, TEXAS**

Ramon G. Viada III *rayviada@viadastrayer.com* VIADA & STRAYER 17 Swallow Tail Court The Woodlands, Texas 77381	**ATTORNEYS FOR APPELLEE CITY OF CONROE, TEXAS**
Leonard V. Schneider IV *LSchneider@lilesparker.com* LILES PARKER PLLC 1221 Northpark Drive, Suite 445 Kingwood, Texas 77339	**ATTORNEYS FOR APPELLEE CITY OF MAGNOLIA, TEXAS**
Marvin W. Jones *Marty.Jones@sprouselaw.com* C. Brantley Jones *Brantley.Jones@sprouselaw.com* C. Eric Vickers *Eric.Vickers@sprouselaw.com* Beth Langwell *Beth.Langwell@sprouselaw.com* Elizabeth L. Esperance *liz.lesperance@sprouselaw.com* SPROUSE SHRADER SMITH PLLC P. O. Box 15008 Amarillo, Texas 79105-5008	**ATTORNEYS FOR PRIVATELY-OWNED UTILITIES QUADVEST, L.P. d/b/a QUADVEST WATER AND SEWER UTILITY, WOODLAND OAKS UTILITY, L.P., EVERETT SQUARE, INC., E.S. WATER CONSOLIDATORS, INC., UTILITIES INVESTMENT CO., INC., T&W WATER SERVICE COMPANY**
Roberta B. Cross *RCross@thewoodlandstownship-tx.gov*	**ATTORNEY FOR THE WOODLANDS TOWNSHIP-TX.GOV**

Michelle Maddox Smith *msmith@sledgelaw.com* Brian L. Sledge *bsledge@sledgelaw.com* Jennifer Smith *jsmith@sledgelaw.com* Lindsay Pipes Smith *lsmith@sledgelaw.com* SLEDGE LAW GROUP, PLLC 919 Congress Avenue, Suite 460 Austin, Texas 78701	**ATTORNEYS FOR AMICUS CURIAE NORTHEAST TEXAS MUNICIPAL WATER DISTRICT**
George Thomas (Tom) Bohl *tbohl@gbra.org* General Counsel GUADALUPE-BLANCO RIVER AUTHORITY 933 East Court Street Sequin, Texas 78155	**ATTORNEY FOR AMICUS CURIAE GUADALUPE-BLANCO RIVER AUTHORITY**
Andrew S. "Drew" Miller *drew.miller@kempsmith.com* KEMP SMITH LLP 601 W. Parmer Lane, Suite 370-134 Austin, Texas 78727	**ATTORNEYS FOR AMICI CURIAE NORTH HARRIS COUNTY REGIONAL WATER AUTHORITY, WEST HARRIS COUNTY REGIONAL WATER AUTHORITY, CENTRAL HARRIS COUNTY REGIONAL WATER AUTHORITY, NORTH FORT BEND WATER AUTHORITY**
Hubert Oxford III *hubertoxford@benoxford.com* General Counsel LOWER NECHES VALLEY AUTHORITY 3535 Calder, Suite 300 Beaumont, Texas 77706	**ATTORNEYS FOR AMICUS CURIAE LOWER NECHES VALLEY AUTHORITY**

Stacey Allison Steinbach *ssteinbach@twca.org* General Manager TEXAS WATER CONSERVATION ASSOCIATION 3755 S. Capital of TX Hwy, Ste. 105 Austin, Texas 78704	**ATTORNEYS FOR AMICI CURIAE TEXAS WATER CONSERVATION ASSOCIATION, ET AL**
Eugene Montes Catherine Norman Email: _____ Catherine "Kate" Norman Email: _____ COFFIN RENNER LLP P.O. Box 13366 Austin, Texas 78711	**ATTORNEYS FOR AMICUS CURIAE NORTH TEXAS MUNICIPAL WATER DISTRICT UPPER TRINITY REGIONAL WATER DISTRICT**
Howard Samuel Slobodin Alexis S. Long Email: _____ Alexis S. Long Email: _____ TRINITY RIVER AUTHORITY OF TEXAS 5300 S. Collins St. Arlington, Texas 76018	**ATTORNEYS FOR AMICUS CURIAE TRINITY RIVER AUTHORITY**
Charles W. Goehringer, Jr. *cwgoehringer@germer.com* GERMER PLLC P.O. Box 4915 Beaumont, Texas 77704	**ATTORNEYS FOR AMICUS CURIAE SABINE RIVER AUTHORITY OF TEXAS**
Lee Foster Christie EMAIL: _____ POPE, HARDWICKE, CHRISTIE, SCHELL, KELLY & TAPLETT, LLP 500 W. 7th St., Suite 600 Fort Worth, Texas 76102	**ATTORNEYS FOR AMICUS CURIAE TARRANT REGIONAL WATER DISTRICT**

Bryan Travis Yeates Email: _____ ATTORNEY AT LAW 1300 Post Oak Blvd., Suite 1400 Houston, Texas 77056-3078	**ATTORNEYS FOR AMICUS CURIAE THE WOODLANDS WATER AGENCY**

/s/ Gregory M. Ellis
Gregory M. Ellis