

Possum Kingdom Lake Association Newsletter December 2014

P. O. Box 492 Graford, Texas 76449 web page-www.pklakeassn.org

SETTLEMENT AGREEMENT WITH THE BRAZOS RIVER AUTHORITY

Our Possum Kingdom Lake Association Board of Directors is pleased to announce that the PKLA has reached agreement with the Brazos River Authority in regards to the BRA's request for additional water rights under pending Permit 5851. While this agreement does not guarantee that PK will never again be as low as it is today, it gives reasonable assurance that the BRA will operate the Brazos River System in such a way that, except in times of severe drought, lake levels at PK will be maintained at historic levels.

This agreement between the PKLA and BRA culminates intense negotiations over the last three months. The PKLA entered these negotiations with a strategy based on realism and common sense. Rather than ask for concessions from the BRA that they would deem unrealistic, the board recognized that we cannot change the BRA's mission to provide water throughout the Brazos River Basin. Given this reality, we concentrated on seeking a win-win agreement wherein the BRA would agree to sell additional water under Permit 5851 so that the effects on PK track the history of the Lake, all with the understanding that drought may produce results that do not exactly match history. In addition, the PKLA sought to bring more openness to all BRA operations so its policies are more understandable to us as property owners and the public as well. We recognized that it is imperative for us to make sure there are methods in place for holding the BRA accountable for compliance with this agreement.

Throughout the negotiation process, the PKLA negotiating team continuously evaluated the terms of the proposed settlement agreement in relation to all aspects of continuing litigation and its likely outcome, recognizing how many parties are at the table and the financial and technical capability of the BRA to hold its position through legal action. PKLA's attorney, hydrologist, and hydrologic analyst, who have held significant positions with the TCEQ and, in some cases, other river authorities, were able to bring invaluable insight to the process for evaluating the balance between proposed settlement and continued litigation. Because there are other opponents, we also had to evaluate the potential for those parties to impact the outcome and final details of a permit and whether or not it is issued. It is the conclusion of our negotiating team that it is unlikely that the TCEQ would restrict the BRA permit, should one be issued, such that the outcome of continued litigation would be as beneficial to PK as is this settlement agreement.

The Board sincerely thanks you for your on-going commitment. This agreement would have not been possible without your involvement, your financial support, and your consistent outreach to your elected officials. Together we have proven ourselves to be strong and influential; a case in point being the successful land divestiture program. During these negotiations, it became apparent that the BRA understands our purpose and insistence on a fair and open relationship. The agreement incorporates requirements that the BRA not only analyze and track water availability but make that information available to us in order that we can "Trust but Verify".

The PKLA negotiating team members are PKLA directors, Jim Lattimore and Mert Fewell, who both serve as volunteers, and our professional consultants, John Vay, James Kowis, and Kirk Kennedy. This team brought together members with many years of experience in TCEQ legal, water rights management, water permitting, surface water management, and solid waste management and compliance with federal nuclear waste licensing and computer modeling. During the course of the negotiations, we twice met face-to-face with top BRA administrators, and our negotiating team also met frequently in person and via teleconferencing to draft and redraft this agreement. This was a tremendous effort and became almost a full time job to team members. We all owe a special thanks to Jim Lattimore and Mert Fewell for their tireless efforts in securing this agreement and guidance through this entire process. Jim and Mert, as do the other board members, work without compensation and only for the benefit of the Possum Kingdom Community.

Throughout these negotiations, the BRA negotiated in good faith and was always respectful of our position and professionally generated data and reports—even though in many cases the PKLA's stated and well-founded statements of fact challenged the BRA to change positions. From PKLA's point of view, the interactions with the BRA were

respectful, professional, and productive—all of which are indicative of a new era in PKLA/BRA interactions. Make no mistake, these negotiations were not easy. It appeared at several points that the talks had ended, but there was always the recognition of the end goal so someone on one side or the other would find a way to break the impasse.

A copy of the agreement can be found on the PKLA (<http://www.pklakeassn.org/>) and PonderaPK (<http://www.ponderapk.com/>) web sites. In addition, a set of Q&A's will be posted on PonderaPK's Facebook page and hosted on the PonderaPK web site. Initially, the Q&A's will be composed by the PKLA and reviewed by the BRA for their concurrence, but the list will be a living document where further questions can be posed and answered to assist in understanding of this complex agreement.

Pursuant to this agreement, PKLA will move from a "party" status in the litigation of Permit 5851 to "non-aligned, interested party" status. This protects the PKLA from a possible scenario wherein the BRA's settlement with other litigants could conflict or otherwise interfere with the BRA's ability to live up to its agreement with PKLA. On the other hand, there may be actions by other litigants that could damage some of the provisions of this agreement. Thus, while the cost to PKLA for opposition to Permit 5851 will be greatly reduced from those we have incurred to date, expenses will continue and the PKLA will need on-going and significant financial support from its members.

In summary, the BRA agrees to share unprecedented volumes of information and data with the PKLA and to adopt operating procedures and principles that are good for our lake. It is imperative that the PKLA and its general membership continue to be involved and use its excellent communication channels to hold the BRA accountable for operating in accordance with these procedures and policies. It is also important that the PKLA as a unified group of concerned and involved citizens fully supports the BRA, if and when the BRA seeks to sell water to assure compliance with this agreement.

Fundraising necessary to pay bills

In the legal and technical process of representing Possum Kingdom's interests in opposition to Permit Application 5851, PKLA has incurred well over \$100,000 in legal and technical fees. The PKLA Board of Directors works without compensation, for their expenses, but our lawyer and technical consultants do not. We have outstanding bills that must be paid and will have ongoing (though lower) expenses going forward to protect our agreement. We need you to strongly consider a significant contribution to allow us to pay these expenses. We know that these contributions are difficult but we have achieved a lot. Please make as large of a contribution as you can to PKLA now. We are not trying to build a reserve fund, just pay our bills which currently amount to over \$50,000. Send your check to PKLA today at the following address:

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