

ATTACHMENT F
REFERENCED TRA ORDINANCES

TRA Ordinance No. 0-9AAA, Defining the
Restricted Area, 27 October 1993

ORDINANCE NO. O-9AAA

AN ORDINANCE DESIGNATING THE LIVINGSTON DAM (INCLUDING ITS EARTHEN EMBANKMENT, SPILLWAY AND OUTLET WORKS) AND THE AREA ADJACENT THERETO TO BE A RESTRICTED AREA; DEFINING UNAUTHORIZED PERSON; DECLARING UNAUTHORIZED ENTRY TO BE A TRESPASS; PROVIDING FOR THE ENFORCEMENT OF THIS ORDINANCE; PROVIDING PENALTIES FOR THE VIOLATION OF THIS ORDINANCE; REPEALING ORDINANCE O-9AA; AND, SPECIFYING CERTAIN ADMINISTRATIVE MATTERS.

Preamble

WHEREAS, the operation and maintenance of Livingston Dam (including its earthen embankment, spillway, and outlet works) and adjacent areas in Polk and San Jacinto Counties, Texas, may involve equipment and machinery which are dangerous and from which members of the general public must be protected for their own health, safety, and welfare; and

WHEREAS, the Livingston Dam is property of the Authority which requires protection to prevent damage thereto; and

WHEREAS, Section 5-A of the Article 8280-188, Revised Civil Statutes of Texas, provides:

"(a) The Board of Directors of the Authority shall have the power to adopt and promulgate all reasonable regulations to regulate residence, hunting, fishing, boating, camping and all recreational and business privileges on all lands and easements owned by the Authority and to protect the property of the Authority; provided, however, that such regulations shall not include any provisions for the collection of fees or the requirement of permits and/or licenses for boat inspections, non-commercial fishing, the use on lakes owned by the Authority of boats operated for non-commercial purposes, and hunting except for the use of duck blinds constructed, operated and maintained by the Authority.

"(b) The Board of Directors of the Authority shall have the right to make contracts with responsible persons for the construction and operation of any facility on the Authority's property, fixing the compensation to be charged for service by any such facility to the end that the same be reasonable, and requiring adequate bond from any such contracting person, association or corporation, payable to the Authority and to be of such amount and condition as the Board of Directors of the Authority may in its discretion deem appropriate, and such contracts may provide for forfeiture of the particular franchise in case of a failure of the licensee to render adequate public service.

"(c) The Authority may prescribe reasonable penalties for the breach of any regulation of the Authority, which penalties shall not exceed fines of more than Two Hundred Dollars (\$200.00) or imprisonment for not more than (30) days, or may provide both such fine and such imprisonment. The penalties hereby authorized shall be in addition to any other penalties provided by the laws of Texas and may be enforced by complaints filed in the appropriate court of jurisdiction in the county in which the violation occurred, provided, however that no rule or regulation which provides a penalty for the violation thereof shall be in effect, as to enforcement of the penalty, until five (5) days next after the Authority may have caused a substantive statement of the particular rule or regulation and the penalty for the violation thereof to be published, once a week for two (2) consecutive weeks in the

district. The substantive statement so to be published shall be as condensed as is possible to afford an intelligent direction of the mind to the the act forbidden by the rule or regulation; the one notice may embrace any number of regulations; there must be embraced in the notice advice that breach of the particular regulation or regulations, will subject the violator to the infliction of a penalty, and there also shall be included in the notice advice that the full text of the regulations sought to be enforced is on file in the principal office of the Authority, where the same may be read by any interested person. Five (5) days after the second publication of the notice hereby required, the advertised regulation shall be in effect, and ignorance of any such regulation shall not constitute a defense to a prosecution for the enforcement of a penalty; and, the rules and regulations authorized hereby, after the required publication shall be judicially known to the courts and shall be considered of a nature like unto that of valid penal ordinances of a city of the state.

"(d) It further is expressly provided that the Authority shall have the power to employ and constitute its own law enforcement officers, and any such officer or law enforcement officer of any other governmental entity shall have the power to make arrests when necessary to prevent or abate the commission of any offense against the regulations of the Authority, and against the laws of the State of Texas, when any such offense, or threatened offense, occurs upon any land, water or easement owned or controlled by the Authority."

and

WHEREAS, Livingston Dam and the adjacent areas, regulation of which is contemplated under this Ordinance, are located solely on lands owned by the Authority.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE TRINITY RIVER AUTHORITY OF TEXAS:

1. THAT ORDINANCE NO. O-9AA PASSED AND APPROVED BY THE BOARD OF DIRECTORS OF THE TRINITY RIVER AUTHORITY ON JUNE 23, 1982 IS HEREBY REPEALED;
2. The Livingston Dam (including its earthen embankment, spillway and outlet works) and the area adjacent thereto in Polk and San Jacinto Counties, Texas is hereby designated as a restricted area. This restricted area is shown by the plat attached hereto as Exhibit "A" and is specifically described as follows:

BEING 333.681 ACRES OF LAND SITUATED IN THE J. D. MARTINEZ SURVEY, A-30, AND THE A. R. GARNER SURVEY, A-16, IN SAN JACINTO COUNTY, TEXAS, AND IN THE W. PACE SURVEY, A-60, AND THE T. BRADLEY SURVEY, A-98, IN POLK COUNTY, TEXAS, AND SAID 333.681 ACRE TRACT IS THE RESTRICTED AREA SURROUNDING THE LAKE LIVINGSTON DAM AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT STATION 0+49.46 ON THE LAKE LIVINGSTON DAM, SAID POINT BEING AT THE INTERSECTION OF A FENCE WITH SAID LAKE LIVINGSTON DAM;

THENCE IN A SOUTHERLY DIRECTION ALONG SAID FENCE WITH ITS MEANDERS AS FOLLOWS:

S. 60 DEG. 16' 17" E. 68.17 FT.,

S. 12 DEG. 47' 40" W. 139.96 FT.,
S. 16 DEG. 39' 07" E. 287.67 FT., AND
N. 64 DEG. 50' 34" E. 246.68 FT. TO THE
INTER-SECTION OF SAID FENCE WITH THE SOUTHEAST LINE
OF THE 128.94 ACRE TRACT ACQUIRED FROM MRS. D. M.
HALE FOR THE LAKE LIVINGSTON RESERVOIR:

THENCE N. 59 DEG. 52' 00" E. 1449.32 FT. ALONG SAID
FENCE, SAME BEING THE SOUTHEAST LINE OF SAID HALE
128.94 ACRE TRACT, TO A TWO-INCH IRON PIPE MARKING
THE SOUTH COMMON CORNER BETWEEN SAID HALE 128.94
ACRE FEE ACQUISITION TRACT AND THE 49.22 ACRE TRACT
ACQUIRED FROM W. A. McELHANNON, ET. AL. FOR THE
LAKE LIVINGSTON RESERVOIR:

THENCE N. 59 DEG. 30' 00" E. 146.92 FT. ALONG SAID FENCE,
SAME BEING THE SOUTHEAST LINE OF SAID McELHANNON
49.22 ACRE ACQUISITION TRACT, TO AN ANGLE POINT IN
SAID FENCE;

THENCE IN A NORTHEASTERLY DIRECTION ALONG SAID
FENCE WITH ITS MEANDERS AS FOLLOWS:

N. 43 DEG. 30' 47" E. 331.09 FT.,
N. 61 DEG. 28' 54" E. 333.57 FT.,
N. 47 DEG. 12' 02" E. 447.84 FT.,
N. 53 DEG. 46' 53" E. 326.65 FT.,
N. 49 DEG. 35' 31" E. 469.77 FT.,
N. 50 DEG. 30' 32" E. 285.04 FT.,
N. 55 DEG. 58' 36" E. 247.53 FT.,
N. 56 DEG. 27' 03" E. 303.60 FT.,
N. 46 DEG. 41' 35" E. 207.48 FT.,
N. 36 DEG. 40' 43" E. 370.77 FT., CROSSING THE
COMMON SURVEY LINE LEAVING SAID J. D. MARTINEZ
SURVEY, A-30, AND ENTERING SAID A. R. GARNER SURVEY,
A-16,

N. 38.DEG. 39' 50" E. 893.26 FT.,
N. 38 DEG. 20' 00" E. 531.82 FT.,
N. 23 DEG. 08' 03" E. 369.19 FT.,
N. 53 DEG. 27' 48" E. 1511.67 FT.,
N. 54 DEG. 01' 54" E., AT 1746.28 FT. PAST THE
NORTHWEST END OF A BARRICADE ERECTED BY THE
TRINITY RIVER AUTHORITY (THE SOUTHEAST END OF SAID
BARRICADE BEARS S. 40 DEG. 20' 02" E. 117.61 FT.),
CONTINUING N. 54 DEG. 01' 54" E. FOR A TOTAL DISTANCE
OF 1953.60 FT., AND N. 23 DEG. 59' 58" E. 84.52 FT. TO THE
INTERSECTION OF SAID FENCE WITH THE SOUTH EDGE OF
A CONCRETE WING WALL AT THE SOUTHEAST EDGE OF
THE LAKE LIVINGSTON DAM OUTLET WORKS CHANNEL;

THENCE S. 86 DEG. 03' 16" E. 52.37 FT. ALONG THE SOUTH
EDGE OF SAID WING WALL TO AN ANGLE POINT IN SAME;

THENCE S. 40 DEG. 39' 00" E. 33.69 FT. ALONG THE SOUTH
EDGE OF SAID WING WALL TO A POINT AT THE END OF
SAME;

THENCE N. 49 DEG. 21' 53" E. 76.87 FT., CROSSING SAID
OUTLET WORKS CHANNEL, TO A POINT ON THE NORTH
EDGE AT THE END OF THE WING WALL ON THE NORTH SIDE
OF SAID OUTLET WORKS CHANNEL;

THENCE N. 40 DEG. 41' 46" W. 33.32 FT. ALONG THE NORTH
EDGE OF SAID WING WALL TO AN ANGLE POINT IN SAME;

THENCE N. 04 DEG. 19' 07" E. 51.70 FT. ALONG THE NORTH EDGE OF SAID WING WALL TO ITS INTERSECTION WITH A FENCE LINE;

THENCE N. 80 DEG. 51' 47" E. 85.91 FT. ALONG SAID FENCE LINE TO AN ANGLE POINT IN SAME;

THENCE S. 50 DEG. 13' 39" E. 68.97 FT. ALONG SAID FENCE LINE TO AN ANGLE POINT IN SAME;

THENCE N. 89 DEG. 39' 06" E. 39.04 FT. ALONG SAID FENCE LINE TO AN ANGLE POINT IN SAME;

THENCE S. 89 DEG. 45' 15" E. 904.55 FT., CROSSING THE COUNTY LINES LEAVING SAN JACINTO COUNTY AND ENTERING POLK COUNTY, SAME BEING THE COMMON SURVEY LINE BETWEEN SAID GARNER AND PACE SURVEYS, TO A POINT ON THE WEST BANK OF THE SPILLWAY FOR THE LAKE LIVINGSTON RESERVOIR;

THENCE N. 73 DEG. 01' 00" E. 1198.03 FT., CROSSING SAID LAKE LIVINGSTON RESERVOIR SPILLWAY, TO A POINT ON THE EAST BANK OF SAME;

THENCE N. 16 DEG. 59' 00" W. 509.05 FT. TO A POINT IN A FENCE FOR CORNER;

THENCE N. 54 DEG. 19' 06" E. 706.68 FT. ALONG SAID FENCE TO AN ANGLE POINT IN SAME;

THENCE N. 36 DEG. 42' 37" E. 427.42 FT., ALONG SAID FENCE, CROSSING THE COMMON SURVEY LINE LEAVING SAID PACE SURVEY AND ENTERING SAID BRADLEY SURVEY, TO AN ANGLE POINT IN SAID FENCE.

THENCE N. 19 DEG. 08' 04" E. 637.17 FT. ALONG SAID FENCE TO AN ANGLE POINT IN SAME;

THENCE N. 30 DEG. 51' 21" E. 101.25 FT. TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF F.M. HIGHWAY NO. 1988;

THENCE N. 14 DEG. 12' 00" E. 487.11 FT. ALONG THE WEST RIGHT-OF-WAY LINE OF SAID F.M. HIGHWAY NO. 1988 TO ITS INTERSECTION WITH THE SOUTH-RIGHT-OF-WAY LINE OF THE LIVINGSTON DAM ENTRANCE ROAD;

THENCE WITH SOUTH RIGHT-OF-WAY LINE AS FOLLOWS:

S. 81 DEG. 54' 18" W. 56.46 FT.
N. 55 DEG. 11' 31" W. 42.50 FT.
S. 78 DEG. 22' 52" W. 38.32 FT.
S. 64 DEG. 53' 38" W. 38.79 FT.
S. 48 DEG. 38' 05" W. 40.53 FT.
S. 42 DEG. 44' 51" W. 149.33 FT.;

THENCE ALONG THE PERIMETER OF A PAVED PARKING LOT AS FOLLOWS:

S. 45 DEG. 57' 30" E. 103.53 FT.
S. 33 DEG. 24' 07" W. 160.29 FT.
N. 64 DEG. 36' 43" W. 142.16 FT.;

THENCE N. 39 DEG. 33' 19" W. 24.72 FT. TO AN ANGLE POINT IN A CHAIN LINK FENCE;

THENCE N. 17 DEG. 13' 03" W. 160.84 FT. ALONG SAID CHAIN LINK FENCE TO ITS CORNER;

THENCE S. 86 DEG. 36' 30" W. 319.46 FT. TO THE NORTHEAST CORNER OF A BOATHOUSE;

THENCE S. 66 DEG. 12' 56" W. 24.37 FT. ALONG THE NORTH WALL OF SAID BOATHOUSE TO ITS NORTHWEST CORNER;

THENCE S. 55 DEG. 07' 07" W. 104.00 FT. TO A POINT ON THE EAST BANK OF THE LAKE LIVINGSTON RESERVOIR;

THENCE S. 74 DEG. 22' 37" W. 4179.58 FT. ALONG THE GENERAL ALIGNMENT OF A LINE OF BUOYS IN THE LAKE LIVINGSTON RESERVOIR MARKING THE RESTRICTED AREA SURROUNDING THE SPILLWAY;

THENCE S. 40 DEG. 29' 00" E. 1529.09 FT. ALONG THE GENERAL ALIGNMENT OF ANOTHER LINE OF BUOYS AT THE SOUTHWEST LINE OF SAID RESTRICTED AREA TO A POINT AT THE EDGE OF THE RIP RAP, SAID POINT BEING LOCATED N. 40 DEG. 29' 00" W. 38.00 FT. FROM STATION 100+00 OF THE LAKE LIVINGSTON DAM;

THENCE S. 49 DEG. 31' 00" W. 9400.00 FT. ALONG A LINE 38 FT. PERPENDICULAR DISTANCE SOUTHWEST OF AND PARALLEL TO THE CENTERLINE OF SAID LAKE LIVINGSTON DAM, SAME BEING ALONG THE EDGE OF THE RIP RAP AND GENERALLY AT THE WATER'S EDGE OF SAID RESERVOIR, TO A POINT FOR CORNER;

THENCE WITH THE SOUTHWEST SHORELINE OF SAID LAKE LIVINGSTON RESERVOIR ALONG THE RIP RAP AND GENERALLY ALONG THE WATER'S EDGE AS FOLLOWS:

N. 87 DEG. 51' 00" W. 245.36 FT.,
N. 50 DEG. 01' 10" W. 168.83 FT., and
N. 19 DEG. 20' 59" E. 102.90 FT., TO ITS INTERSECTION WITH A FENCE;

THENCE ALONG SAID FENCE WITH ITS MEADERS AS FOLLOWS:

S. 81 DEG. 31' 01" W. 160.87 FT.,
S. 78 DEG. 15' 32" W. 100.52 FT.,
S. 11 DEG. 15' 15" E. 109.65 FT.,
S. 17 DEG. 02' 51" E. 338.12 FT.,
S. 31 DEG. 24' 03" E. 143.21 FT., AND
S. 60 DEG. 16' 17" E. 12.34 FT. TO THE PLACE OF BEGINNING AND CONTAINING WITHIN THESE BOUNDS 333.681 ACRES OF LAND.

3. It shall be unlawful for any unauthorized person to enter into or upon any portion of this restricted area. A person shall be deemed to be unauthorized if he does not have authority to so enter from the Authority's General Manager or his designated representative.
4. The provisions of this Ordinance shall be enforceable by duly authorized agents or employees of the Authority, which is empowered to employ and constitute its own law enforcement officers. Any such officer or law enforcement officer of any other governmental entity shall have the power to make arrests when necessary to prevent or abate the commission of any offense against this Ordinance.

5. The doing of any act forbidden to be done by this Ordinance, or the aiding or abetting thereof, shall be deemed a misdemeanor, which, in case of a lawful conviction therefor, shall be punishable by penalties which shall not exceed fines or maximum penalties under existing State Penal Code for Class C misdemeanors. The penalties hereby authorized shall be in addition to any other penalties provided by the laws of Texas and may be enforced by complaints filed in the appropriate court of jurisdiction in the county in which the violation occurred; provided, however, that no rule or regulation which provides a penalty for the violation thereof shall be in effect, as to the enforcement of the penalty, until five (5) days next after the Authority may have caused a substantive statement of the particular rule or regulation and the penalty for the violation thereof to be published, once a week for two (2) consecutive weeks in the district. The substantive statements so to be published shall be as condensed as possible to afford an intelligent direction of the mind to the act forbidden by the rule or regulation; the one notice may embrace any number of regulations; there must be embraced in the notice advice that breach of the particular regulation or regulations will subject the violator to the infliction of a penalty; and there also shall be included in the notice advice that the full text of the regulation sought to be enforced is on file in the principal office of the Authority, where same may be read by any interested person. Five (5) days after the second publication of the notice hereby required, the advertised regulation shall be in effect, and ignorance of such regulation shall not constitute a defense to a prosecution for the enforcement of a penalty and, the rules and regulations authorized thereby, after the required publication, shall judicially be known to the courts and shall be considered of a nature like unto that of valid penal ordinances of a city of the state.

6. The General Manager of the Authority shall:
 - A. cause this restricted area to be clearly and visibly marked, identified and defined by signs – or notices bearing the words "WARNING – RESTRICTED AREA – TREASPASSING PROHIBITED. TRINITY RIVER AUTHORITY OF TEXAS.";

 - B. cause a certified copy of this Ordinance summarily to be filed with the Texas Highway Department and by the Texas Parks and Wildlife Department as required by the Texas Water Safety Act;

 - C. cause a substantive statement of this Ordinance to be prepared and published in a newspaper of general circulation in each of Polk and San Jacinto Counties once a week for two (2) consecutive weeks in order to comply with the provisions of Section 5-A, of Article 8280-188, Revised Civil Statutes of Texas.

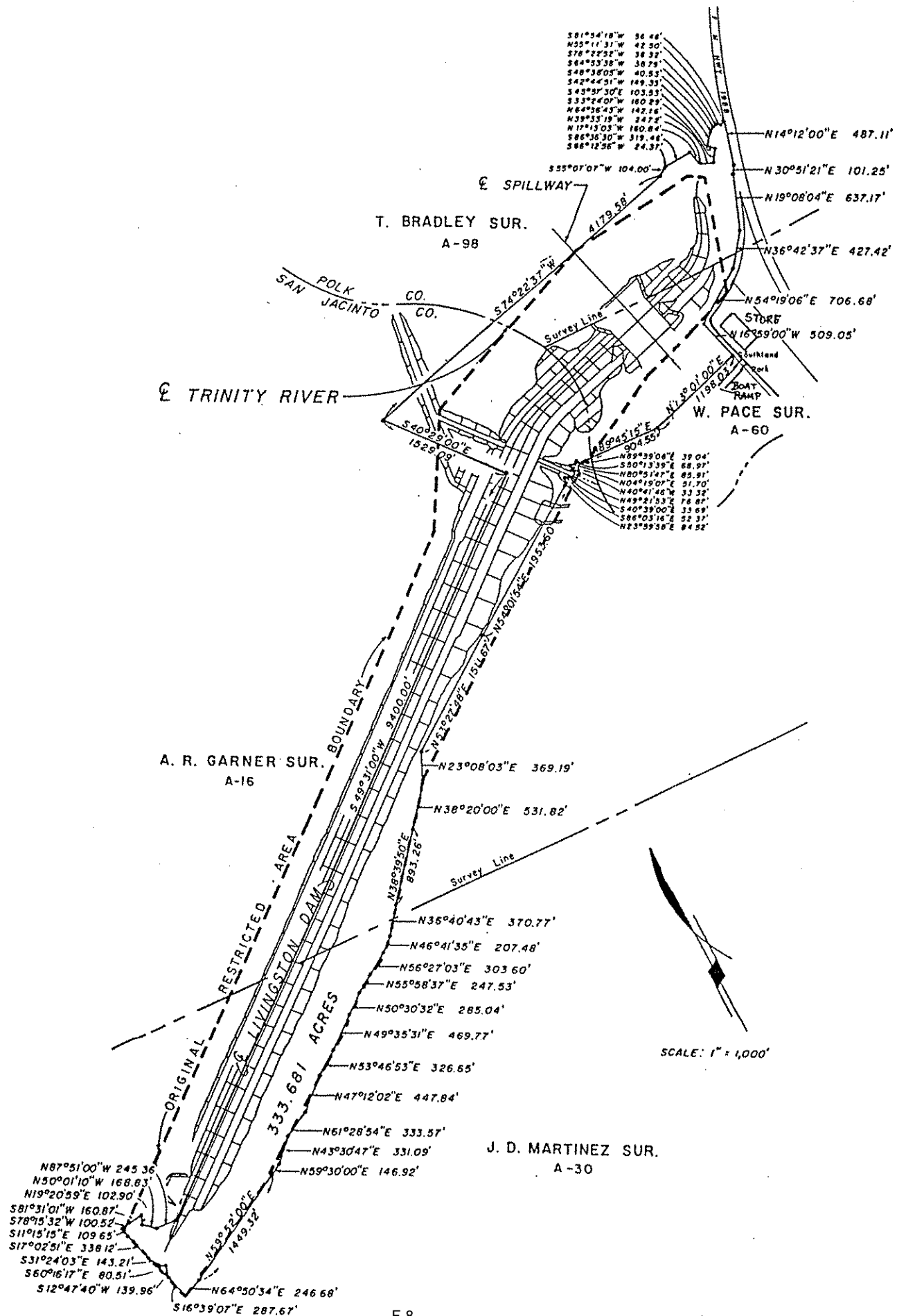
PASSED AND APPROVED this 27th day of October, 1993

T. WALTER ERWIN III,
President
Board of Directors
Trinity River Authority of Texas

ATTEST:

JAMES L. MURPHY, Secretary
Board of Director

RESTRICTED AREA SURROUNDING THE LIVINGSTON DAM



TRA Ordinance No. 0-20AAAA, Pertaining to
Lake Livingston Dam and Reservoir, establishing
rules and regulations regarding development on
and use of reservoir, 27 October 1993

**TRINITY RIVER AUTHORITY
OF TEXAS
ORDINANCE NO. 0-20AAAA**



ORDINANCE 0-20AAAA

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ORDINANCE 0-20AAAA
CAPTION

AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE TRINITY RIVER AUTHORITY OF TEXAS PERTAINING TO LAKE LIVINGSTON DAM AND RESERVOIR: A PROJECT IN POLK, SAN JACINTO, WALKER, TRINITY, HOUSTON AND MADISON COUNTIES, TEXAS; REPEALING ORDINANCE NO. 0-20AAA; DEFINING CERTAIN TERMS; MAKING THE TEXAS WATER SAFETY ACT, U.S. ARMY CORPS OF ENGINEERS' GENERAL PERMIT APPLICABLE TO THE RESERVOIR AND OTHER ADJACENT PROJECT LANDS; ESTABLISHING RULES AND REGULATIONS RELATIVE TO THE CONSTRUCTION, PLACEMENT, OPERATION AND MAINTENANCE OF PIERS, BULKHEADS, WHARVES, BOATHOUSES, DOCKS, BARGES, BUILDINGS, BOATSLIPS, BOATSTALLS OR OTHER FACILITIES ON PROJECT LANDS; ESTABLISHING RULES AND REGULATIONS PERTAINING TO VESSELS; ESTABLISHING RULES AND REGULATIONS PERTAINING TO SEAPLANES; ESTABLISHING RULES AND REGULATIONS RELATIVE TO COMMERCIAL VENTURES AND OPERATIONS ON PROJECT LANDS; ESTABLISHING SPECIAL RULES AND REGULATIONS PERTAINING TO THE DESIGNATION OF CERTAIN AREAS FOR BATHING, FISHING, SWIMMING, WATER-SKIING AND/OR AQUAPLANING, RESTRICTION OF SPEED OF VESSELS; ESTABLISHING RULES AND REGULATIONS RELATIVE TO THE THROWING OR DEPOSITING OF GLASS BOTTLES, CANS AND OTHER SUBSTANCES, IN OR ON THE RESERVOIR OR CERTAIN PROJECT LANDS AND IMPOSING CERTAIN DUTIES AS TO THE COLLECTION AND REMOVAL OF SUCH SUBSTANCES BY OWNERS AND OPERATORS OF COMMERCIAL VENTURES AND OPERATIONS; ESTABLISHING RULES AND REGULATIONS RELATIVE TO THE ABANDONMENT OF PERSONAL PROPERTY AND/OR FIXTURES; ESTABLISHING RULES AND REGULATIONS RELATIVE TO PRIVATE NOTICES AND ADVERTISEMENTS; PROHIBITING THE EXPLOSION OF EXPLOSIVES; PROHIBITING THE DISCHARGE OF RIFLES, SIDE ARMS, SHOTGUNS OR OTHER FIREARMS EXCEPT BY DULY AUTHORIZED PEACE OR LAW ENFORCEMENT OFFICERS AND EXCEPTING THE USE OF GUNS FOR SUCH PROHIBITION UNDER CERTAIN CIRCUMSTANCES; PROHIBITING HUNTING ON PROJECT LANDS EXCEPT AS TO PERMITTED HUNTING; PROHIBITING CAMPING IN UNAUTHORIZED AREAS; PROHIBITING THE DESTRUCTION, DAMAGE, DEFAACEMENT OR REMOVAL OF THE AUTHORITY'S PROPERTY; PROHIBITING THE MODIFICATION OF NATURAL CONDITIONS OF TOPOGRAPHY AND TERRAIN OF PROJECT LANDS; ESTABLISHING RULES AND REGULATIONS RELATIVE TO THE SOLICITATION OF BUSINESS; DEEMING THE VIOLATION OF OR FAILURE TO COMPLY WITH THIS ORDINANCE TO BE A MISDEMEANOR; SPECIFYING THE MAXIMUM PENALTY FOR CONVICTION HEREUNDER; MAKING ARRANGEMENTS FOR COURT COSTS AND THE INABILITY TO PAY FINES; ESTABLISHING EMERGENCY PROCEDURES; SPECIFYING CERTAIN ADMINISTRATIVE MATTERS; RESERVING THE BOARD OF DIRECTORS RIGHT TO REVOKE OR SUSPEND A LICENSE; RESERVING THE AUTHORITY'S RIGHT TO PROMULGATE OTHER RULES AND REGULATIONS AFFECTING THE PROJECT OR INDIVIDUAL FACILITIES THEREOF; PROVIDING A SEVERABILITY CLAUSE; AND REPEALING ALL ORDINANCES IN DIRECT CONFLICT WITH THE PROVISIONS HEREOF.

ORDINANCE 0-20AAAA
PREAMBLE

WHEREAS, The Trinity River Authority of Texas is a conservation and reclamation district, governmental agency of the State of Texas and a body politic and corporate created by the Texas Legislature under the authority of Article XVI, Section 59 of the Texas Constitution by House Bill No. 20, 54th Legislature, Regular Session (1955), said House Bill No. 20 and the amendments thereto being codified as Article 8380-188, Revised Civil Statutes of Texas; and

WHEREAS, the Authority is constructing and will operate and maintain the Livingston Dam and Reservoir Project pursuant to Permit to Appropriate Public Waters of the State of Texas numbered 1970 and granted October 11, 1960 by the Board of Water Engineers of the State of Texas, and all subsequent amendments thereto, and pursuant to that contractual Agreement made between the Authority and the City of Houston, Texas on September 2, 1964; and

WHEREAS, Livingston Reservoir will have a total storage capacity of about 1,750,000 acre-feet of water and a surface area of about 84,000 acres at normal operating level, with its length being about 49 miles and its shoreline measuring about 460 miles; and

WHEREAS, the Texas Water Safety Act (Chapter 31, V.T.C.A., Parks and Wildlife Code) provides;

1. In Section 31.092 (c):

"The governing board of a political subdivision of the state created pursuant to Article XVI, Section 59 of the Texas Constitution, for the purpose of conserving and developing the public water of the state, with respect to public water impounded within lakes and reservoirs owned or operated by the political subdivision, may designate by resolution or other appropriate order certain areas as bathing, fishing, swimming, or otherwise restricted areas and may make rules and regulations relating to the operation and equipment of boats which it deems necessary for the public safety. The rules and regulations shall be consistent with the provisions of this chapter."

2. In Section 31.127:

"A person who violates or fails to comply with any provision of this chapter, or who violates or fails to comply with a city ordinance or order of a commissioners court or a political subdivision of the state made or entered under this chapter, for which no other penalty is applicable is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$200."

and

WHEREAS, Section 5 (1) of Article 8280-188 empowers the Authority:

"To adopt all reasonable rules and regulations designed to facilitate the exercise of its rights and the performance of its duties . . ."

and

WHEREAS, Section 20 of Article 8280-188 provides:

"The Authority shall have the same power to make provision for the protection of its properties and water supply as is provided by general law for water control and improvement districts."

and

WHEREAS, House Bill 542, 61st Legislature, Regular Session, 1969 (codified as Article 8280-188, Section 5-A) provides as follows:

"Section 5-A

"(a) The Board of Directors of the Authority shall have the power to adopt and promulgate all reasonable regulations to regulate residence, hunting, fishing, boating, camping and all recreational and business privileges on all lands and easements owned by the Authority and to protect the property of the Authority; provided, however, that such regulations shall not include any provisions for the collection of fees or the requirements of permits and/or licenses for boat inspections, noncommercial fishing, the use on lakes owned by the Authority of boats operated for noncommercial purposes, and hunting.

"(b) The Board of Directors of the Authority shall have the right to make contracts with responsible persons for the construction and operation of any facility on the Authority's property, fixing the compensation to be charged for service by any such facility to the end that the same be reasonable, and requiring adequate bond from any such contracting person, association or corporation, payable to the Authority and to be of such amount and condition as the Board of Directors of the Authority may in its discretion deem appropriate, and such contracts may provide for forfeiture of the particular franchise in case of a failure of the licensee to render adequate public service.

"(c) The Authority may prescribe reasonable penalties for the breach of any regulation of the Authority, which penalties shall not exceed fines of more than Two Hundred Dollars (\$200.00), or imprisonment for not more than thirty (30) days, or may provide both such fine and such imprisonment. The penalties hereby authorized shall be in addition to any other penalties provided by the laws of Texas and may be enforced by complaints filed in the appropriate court of jurisdiction in the county in which the violation occurred, provided, however, that no rule or regulation which provides a penalty for the violation thereof shall be in effect, as to enforcement of the penalty, until five (5) days next after the Authority may have caused a substantive statement of the particular rule or regulation and the penalty for the violation thereof to be published, once a week for two (2) consecutive weeks in the district. The substantive statement so to be published shall be as condensed as is possible to afford an intelligent direction of the mind to the act forbidden by the rule or regulations; the one notice may embrace any number of regulations; there must be embraced in the notice advice that breach of the particular regulation or regulations, must subject the violator to the infliction of a penalty, and there also shall be included in the notice advice that the full text of the regulations sought to be enforced is on file in the principal office of the Authority, where the same may be read by any interested person. Five (5) days after the second publication of the notice hereby required, the advertised regulation shall be in effect, and ignorance of any such regulation shall not constitute a defense to a prosecution for the enforcement of a penalty; and, the rules and regulations authorized hereby, after the required publication shall judicially be known to the courts and shall be considered of a nature like unto that of valid penal ordinances of a city of the state.

"(d) It further is expressly provided that the Authority shall have the power to employ and constitute its own law enforcement officers, and any such officer or law enforcement officer of any governmental entity shall have the power to make arrests when necessary to prevent or abate the commission of any offense against the regulations of the Authority, and against the laws of the State of Texas, when any such offense, or threatened offense, occurs upon any land, water or easement owned or controlled by the Authority.

WHEREAS, the Authority has obtained a General Permit for construction of facilities in navigable waters from the U.S. Army Corps of Engineers under the provisions of P. L. 92-500, Section 404 and the River and Harbor Act of 1899, Section 10 and the requirements of this permit must necessarily be passed on to those persons desirous of using the General Permit.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE TRINITY RIVER AUTHORITY OF TEXAS:

ORDINANCE 0-20AAA

SECTION 1: REPEAL OF ORDINANCE NO. 0-20AAA

Ordinance No. 0-20AAA passed and approved by the Board of Directors of the Trinity River Authority on February 24, 1988 is hereby repealed.

SECTION 2: DEFINITIONS.

When used in this Ordinance the following words and terms shall have the following meaning unless expressly indicated otherwise:

- A. Authority: Means the Trinity River Authority of Texas, which is a conservation and reclamation district, governmental agency of the State of Texas and a body politic and corporate created by the Texas Legislature under the authority of Article XVI, Section 59 of the Texas Constitution by House Bill No. 20, 54th Legislature, Regular Session (1955), said House Bill No. 20 and the amendments thereto being codified as Article 8280-188. Revised Civil Statutes of Texas.
- B. Board of Directors: Means the twenty-four (24) member group appointed by the Governor with the advice and consent of the Texas Senate.
- C. Lake: Means the body of standing water created by the Livingston Dam including any alterations of shoreline which expands the surface area thereof, said term sometimes being referred to as the "Reservoir".
- D. Project Lands: Means any land in which the Authority has a property or regulatory interest.
- E. Livingston Dam: Means that earthfill embankment, concrete spillway and gates, and outlet works constructed, operated and maintained by the Authority at River Mile 128 on the Trinity River in Polk and San Jacinto Counties as part of the Project.
- F. Marina: Means a basin, pier, floating structure, boat dock, or another structure on lands owned or regulated by the Authority, or within the confines of the Lake providing for anchorage, storage or launching of vessels for commercial purposes or for the renting or hiring out of vessels for profit.

G. Motorboat: Means any vessel propelled by machinery, whether or not such machinery is the principal source of propulsion, but shall not include a vessel which has a valid marine document issued by the Bureau of Customs of the United States Government or any Federal agency successor thereto.

H. Operate: Means to navigate or otherwise use a motorboat or vessel.

I. Owner: Means a person, other than a lienholder, having the property interest in or title to a structure or vessel. The term includes a person entitled to the use or possession of a vessel subject to an interest in another person, reserved or created by agreement and securing payment or performance of an obligation, but the term excludes a lessee under a lease not intended as a security.

J. Person: The word person shall include individuals, firms, partnerships, corporations and governmental entities, and any combination thereof, their heirs, successors or assigns.

K. Project: Means the area commonly known as the Lake Livingston Dam and Reservoir or Livingston Recreation Facilities in which the Authority has a property or regulatory interest for any purpose.

L. Project Managers: Means the employee of the Authority who is charged with direct responsibility for various aspects of the Projects.

M. Reservoir: Means the body of water impounded by Livingston Dam which will occupy lands up to Elevation 131' Mean Sea Level, and the Project lands thereabove which will from time to time be inundated by floods, including any alteration of shoreline which expands the surface thereof.

N. Texas Water Safety Act: Chapter 31, Vernon's Texas Codes Annotated, Parks and Wildlife Code.

O. Vessel: Means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

P. Licensee: Means that person to whom a license is issued, their heirs, successors or assigns.

Q. General Permit: Means that permit issued to the Authority under application #1 1442 by the U.S. Army Corps of Engineers pursuant to Section 404 of the Federal Water Pollution Control Act (86 Stat. 816, P.L. 92-500) and Section 10 of the River and Harbor Act of March 3, 1899 (33 U.S.C. 403) and subsequent extensions, amendments, modification or reissuances of the herein described General Permit under future application numbers.

R. Nuisance: The commission of any act prohibited by those provisions of section 42 of the Texas Penal Code, as amended or to be amended. The word shall be understood to include the commission of any act having a continuing or enduring nature or the maintenance of any object, activity or condition which would operate to be offensive to public morals; to impair the purity and sanitary condition of water stored in the Authority's reservoir; to create any hazard to the properties, water control devices and structures owned and controlled by the Authority; to produce a hazard for the safe condition of properties and structures placed upon the lands forming the margins of said reservoir; or to create hazards for any craft or improvement placed, in, over or upon the water stored in the Authority's reservoir; or to produce fear of bodily harm to, or discomfort of, those persons who lawfully may be upon the water stored by the Authority or upon the lands forming the margins thereto. Further, the word "nuisance:" shall include the commission of any act having an enduring effect or the maintenance of any condition which is forbidden by the succeeding provisions of this ordinance, unless such act, or such maintenance shall have first been expressly authorized by the Authority. To cause a nuisance is a misdemeanor and is punishable by law.

S. Seaplane: An aircraft designed to maneuver on water.

SECTION 3: APPLICABILITY OF THE TEXAS WATER SAFETY ACT AND RULES AND REGULATIONS MADE PURSUANT THERETO.

A. All the terms and provisions of the Texas Water Safety Act shall be applicable to the Reservoir and, where appropriate, to other adjacent Project lands.

B. All rules and regulations promulgated by the Texas Parks and Wildlife Department pursuant to the Texas Water Safety Act shall likewise be applicable to the Reservoir and, where appropriate, to other adjacent Project lands.

SECTION 4: APPLICABILITY OF THE U.S. ARMY CORPS OF ENGINEERS RULES AND REGULATIONS.

A. All appropriate rules and regulations of the U.S. Army Corps of Engineers including provisions of the General Permit, Application No. 11442, shall be applicable to the Reservoir and, where appropriate, to other Project lands.

SECTION 5: CONSTRUCTION, PLACEMENT, OPERATION AND MAINTENANCE OF PIERS, BULKHEADS, WHARVES, BOATHOUSES, DOCKS, BARGES, BUILDINGS, BOAT-SLIPS, BOATSTALLS, FIXTURES OR OTHER FACILITIES ON PROJECT LANDS.

A. The Trinity River Authority has the sole discretion whether to permit or deny any structure of any type or character to be located on land owned or water owned or controlled by the Authority. If approved, the structure will be subject to an allocated area and will be permitted within guidelines established by the Authority.

B. It shall be unlawful to construct, place, or operate any pier, bulkhead, wharf, boathouse, dock, barge, building, boatslip, boatstall, fixture or other facility of any kind or character on the Project lands owned or regulated by the Authority or under easement to the Authority unless an application has been submitted, the Authority has granted written authorization for such construction, placement or operation, the Authority has inspected the facility, a license been issued by the Authority and/or a Joint Use Agreement has been executed by each land owner of the land abutting the Project lands. An application for such authorization or license shall be submitted to the Authority on the form provided by the Authority.

C. Prior to the granting of any license the applicant must pay the license fee prescribed from time to time by the Authority's Board of Directors.

D. Persons constructing or placing facilities on Project lands prior to obtaining the Authority's authorization or contrary to the plans and specifications agreed on by the Authority may either be required to remove said facilities or to pay a post construction fee.

E. The Authority may refuse to issue or to reissue or may revoke or suspend an authorization or a license, if, at any time:

(1) Piers and wharves, stationary or floating, and any other structures extending into the Reservoir are not constructed within the dimensional limits, and to the specifications prescribed by the applicant to the Authority in the application.

(2) Any floating piers, docks, boathouses, barges and other floating facilities are not securely moored at all times in a manner approved by the Authority.

(3) Any floating piers, docks, boathouses, barges and other floating facilities are not supported by floating pontoons of styrofoam, polyethylene, wood or other material approved by the Authority. (Oil drums, chemical drums and any type of hollow metal drums not specifically manufactured for floating purposes are prohibited from use as supporting material for floating piers, docks, boathouses, barges and other floating facilities.)

(4) Any facilities covered by this section which are not equipped with safety features when, in discretion of the Authority, such features are deemed to be necessary.

(5) The applicant or licensee, in the opinion of the Authority, due to financial instability or irresponsibility or due to inability to use or to the lack of use of due diligence in the operation of his installation, is likely to inconvenience, discomfort, endanger or injure the public or is likely, in any way, to adversely affect the well being of the public.

(6) The applicant or licensee violates any other rules and regulations that are presently in effect or that may be established from time to time, by the Authority to insure the health, safety, comfort and convenience of the public.

(7) The licensee does not maintain licensed facilities in accordance with the provisions of the General Permit, application #11442.

F. Subsection C above shall not apply to bulkheads, riprap or soil conservation measures that have been authorized by the Authority.

G. All such licenses shall be effective for the period of time stated therein. Upon expiration of the stated term, if the licensee and his installation are deemed by the Authority to be in compliance with all rules, regulations and standards set forth herein and established elsewhere, and if he pays the then applicable license fee, if any, the license shall be renewed. If the license is not renewed, or if the license has been revoked or suspended, the licensee may be required to remove, at his own expense, any improvements that were constructed or used in the operation authorized in said license and that belong to licensee.

SECTION 6: COMMERCIAL VENTURES AND OPERATIONS ON PROJECT LANDS.

A. It shall be unlawful for any person or persons to construct, operate, or engage, otherwise, in any commercial operation including but not limited to marinas, piers, wharves, boathouses, docks or other installations of any kind, on Project lands owned in fee simple or regulated by the Authority unless the Authority has granted a contract for such operation and the applicant has paid the fees as specified by the Authority's Board of Directors through the applicable resolution.

B. From time to time the Authority's Board of Directors may designate: Certain areas for the development of commercial marina operations and may restrict the number of such operations as well as the type of operation in conjunction with the facilities to be offered for public recreational use.

C. Any commercial venture or operation engaged in or operated under an Authority contract and all installations thereof, shall be subject to periodic inspections by authorized representatives of the Authority during business hours.

D. All operations of a commercial nature existing under prior contract (as authorized prior to the adoption of the herein described ordinance by the Authority's Board of Directors) may continue to operate under the provisions of the existing contract until such time as the applicable contract shall expire.

SECTION 7: SPECIAL RULES AND REGULATIONS PERTAINING TO VESSELS.

A. It shall be unlawful for any person to:

- (1) Leave any private vessel unattended on or in the Reservoir unless such vessel is securely moored or anchored and suitably flagged and lighted so as not to create a hazard, except in the case of an emergency. The term "unattended", as used in the preceding sentence, does not include vessels properly moored in or at a licensed marina or a licensed facility.

- (2) Anchor, moor, or dock any vessel for a period exceeding twenty-four (24) hours anywhere on or in the Reservoir except in a licensed marina or to a facility which is currently licensed by the Authority.

- (3) Hold, conduct or participate in any racing event involving muffled or unmuffled motorized vessel(s) unless the Authority has granted prior written authorization. Any applicant requesting written authorization shall be required to comply with Title 33, Code of Federal Regulations, Part 100 - U.S. Coast Guard Regulations as well as all provisions of the Texas Water Safety Act. Any such applicant seeking the Authority's authorization to conduct such an event shall be required to obtain sponsorship from a marina or other commercial operation on Lake Livingston holding a valid Authority license as outlined in Section 6 herein. The applicant shall pay the applicable fee as prescribed by the Authority's Board of Directors should written authorization be granted to stage the event. No authorization shall be granted for any racing activity to be held within one hundred (100) yards of the shoreline of Lake Livingston. The Project Manager shall be authorized to establish geographical zones upon the surface of Lake Livingston and to limit the number of events to be authorized in any zone during a calendar year. Requests shall be considered as received. An event will be considered as not exceeding five (5) hours per day on any two consecutive days.

B. The term "private vessel" as used in Subsection A, above, means all vessels other than vessels owned or operated by an agency or political subdivision of the State of Texas or an agency of the United States Government and engaged in the performance of duty.

C. All vessels on or in the Reservoir shall be subject to inspection by authorized representatives of the Authority at all times.

SECTION 8: SPECIAL RULES AND REGULATIONS PERTAINING TO SEAPLANES.

A. All Authority rules and regulations shall apply.

B. U.S. Coast Guard rules found in CF-169 Publication shall be adhered to.

C. All local, state or federal regulations shall apply to any seaplane using an Authority reservoir or lake.

D. When in the air, seaplane activity is governed by all applicable federal air regulations.

E. No low formation flying or unnecessary low passes will be made over the reservoir.

F. Seaplane activity may be hazardous due to underwater obstacles and increased boating activity on Livingston Reservoir. The Authority assumes no responsibility or liability for seaplane activity. Persons operating seaplanes will be required to execute a liability disclaimer.

SECTION 9: DESIGNATION OF CERTAIN AREAS FOR BATHING, FISHING, SWIMMING, WATER-SKIING AND/OR AQUAPLANING; RESTRICTION OF SPEED OF VESSELS.

A. From time to time the Authority's Board of Directors may designate:

- (1) certain areas for bathing, fishing, swimming, water-skiing and/or aquaplaning.
- (2) areas in which vessels shall not exceed a maximum speed; and
- (3) areas in which individuals and/or vessels are not permitted.

B. All such areas shall be marked by buoys and/or signs stating the designation. Persons requesting the designation may be required to bear the expense of placement or replacement of said buoys or signs.

C. It shall be unlawful to engage in any activity violative of a specified designation.

D. This section shall not apply to vessels owned or operated by an agency or political subdivision of the State of Texas or an agency of the United States government and engaged in the performance of duty.

SECTION 10: THROWING OR DEPOSITING OF GLASS BOTTLES, CANS AND OTHER SUBSTANCES IN OR ON THE RESERVOIR OR CERTAIN PROJECT LANDS; COLLECTION AND REMOVAL REQUIRED BY OWNERS AND OPERATORS OF COMMERCIAL VENTURES AND OPERATIONS.

A. It shall be unlawful for any person to throw or deposit in or upon any waters of the Reservoir or any Project lands owned, regulated or controlled by the Authority any of these substances:

- (1) any form of litter including but not limited to glass bottles, glass, nails, tacks, wire, cans, etc.;
- (2) the contents of a marine toilet;

(3) refuse, garbage, rubbish or junk as same is defined and construed in legislative acts codified as Article 6674v2, Revised Civil Statutes of Texas (Supp. 1974-75); or

(4) any other substance likely to injure any person, animal or vessel.

B. The owners and/or operators of all commercial ventures and operations, including but not limited to licensed marinas, shall, as to the four (4) categories of substances mentioned in the preceding subsection:

- (1) provide on-site facilities satisfactory to the Authority for the collection thereof, and
- (2) make arrangements satisfactory to the Authority for the timely removal of such collected substances from the premises.

It shall be unlawful for the owner and/or operator of any commercial venture or operation to fail to provide the aforesaid on-site collection facilities or to make the aforesaid removal arrangements.

C. Detection or reports of present or potential pollution from oil, gas or other hydrocarbons, from raw sewage, from toxic waste, from garbage, or from any other unpermitted discharge, shall be promptly and vigorously investigated by the Authority and reported to all governmental agencies having jurisdiction thereof, including the investigative and enforcement resources of the Environmental Protection Agency, the Texas Railroad Commission, the Texas Natural Resource Conservation Commission and the Texas Department of Health, as well as any other federal, state or local agency having jurisdiction of such matter.

D. If the operator or other person responsible for such pollution or in possession or control of the premises where such pollution occurs or where the act causing such pollution was committed fails to take immediate and effective remedial action to correct such pollution, the Authority may do so. Removal operations will be at the sole expense of the operator or other person responsible for such pollution or in possession or control of the premises where such pollution occurs or where the act causing such pollution was committed. The Authority is under no legal or other obligation to correct such pollution on behalf of the operator or other person responsible for such pollution or in possession or control of the premises where such pollution occurs or where the act causing such pollution was committed, but if such action is taken by the Authority, such operator or other person shall be liable to forthwith reimburse the Authority for all costs incurred by the Authority in taking such action. Failure of the operator or other responsible person to promptly reimburse the Authority for such pollution clean-up costs will result in legal action by the Authority to enforce the liability for same.

E. The Authority may enjoin operations by any entity, or suspend any permit previously granted by the Authority for any operation when it appears that the provisions of this article are being, have been or will be violated.

SECTION 11: ABANDONMENT OF PERSONAL PROPERTY, FIXTURES AND/OR OTHER FACILITIES.

- A. It shall be unlawful to abandon personal property, including vessels, fixtures and/or other facilities on Project lands owned or regulated by the Authority. (Fixtures and/or other facilities in this section refer to piers, wharves, boathouses, docks, barges, buildings, boatstalls or other improvements of any kind located on Project lands owned or regulated by the Authority.)
- B. If personal property is left unattended for a period in excess of forty-eight (48) hours, it will be deemed to have been abandoned.
- C. Fixtures and/or other facilities unlicensed for a period of sixty (60) days from date of notification the license has expired, will be deemed to have been abandoned.
- D. Abandoned personal property, fixtures and/or other facilities may be impounded and/or removed from lands owned or regulated by the Authority and held in custody by the Project Manager. Such abandoned property may be reclaimed by the payment of cost to the Authority for impoundment.
- E. Abandoned property which has been impounded and which has not been reclaimed within ninety (90) days from date of impoundment by the payment of the above specified charge, may be sold, destroyed, converted to the Authority's use or otherwise disposed of by the Authority as it, in its sole discretion, deems appropriate, without notice.
- F. No responsibility will be assumed by the Authority for any property left unattended on lands owned or regulated by the Authority.

SECTION 12: PRIVATE NOTICES AND ADVERTISEMENTS.

It shall be unlawful to place private notices and advertisements on Project lands owned or regulated by the Authority except when authorized in writing by the Authority and only then when necessary for the convenience and guidance of the public.

SECTION 13: EXPLOSIVES.

It shall be unlawful for any person to possess, discharge, fire or explode any explosive of any nature, including but not limited to firecrackers, all types of fireworks and dynamites, upon, across, into or onto Project lands owned or regulated by the Authority without prior written approval from the Project Manager.

SECTION 14: DISCHARGE OF RIFLES, SIDE ARMS, SHOTGUNS OR OTHER FIREARMS.

- A. It shall be unlawful for any person to discharge a rifle, side arm or shotgun except in the course of permitted hunting as authorized in Section 15, or any other firearm upon, across, into or onto Project lands owned or regulated by the Authority.
- B. Subsection A, above, shall not apply to the following persons in the act of performing their duty:
 - (1) duly authorized agents or employees of the Authority;
 - (2) Sheriffs, Deputy Sheriffs, Constables and other peace officers of Polk, San Jacinto, Walker, Trinity, Houston, or Madison Counties, Texas;
 - (3) duly authorized employees of the Texas Department of Public Safety, the Texas Parks and Wildlife Department, the Texas Department of Corrections; or
 - (4) any other duly authorized peace or law enforcement officers of the State of Texas or the United States government.

SECTION 15: HUNTING.

- A. It shall be unlawful to hunt on lands owned in fee simple or regulated by the Authority except as permitted in Subsections B and C, below.
- B. The hunting of waterfowl is permitted in accordance with state law in areas more than two hundred (200) yards waterward from the Authority's fee line at the 131' Mean Sea Level elevation and two hundred (200) yards from another blind.
- C. Hunting may be permitted in other specified areas as permitted by law and as designated by the Board of Directors.

SECTION 16: CAMPING.

It shall be unlawful for any person to camp on lands owned in fee simple or regulated by the Authority except in or on those areas designated for such activities.

SECTION 17: DESTRUCTION, DAMAGE, DEFACEMENT OR REMOVAL OF THE AUTHORITY'S PROPERTY.

A. It shall be unlawful for any person to:

- (1) Destroy, damage or deface any of the Authority's property, including but not limited to trees or other vegetation, timber or improvements of any nature existing or placed on Project lands; or
- (2) Remove from Project lands owned or regulated by the Authority, any of the Authority's property, including but not limited to trees or other vegetation, timber, rock or other minerals, or improvements of any nature existing or placed on said lands without prior written approval of the Authority.

B. Violation of Subsection A, above, is punishable by:

- (1) penalty of immediate removal from said Project lands,
- (2) revocation or cancellation of any permitted privileges, or
- (3) prosecution under Section 19 of this Ordinance.

SECTION 18: MODIFICATION OF NATURAL CONDITIONS OF TOPOGRAPHY AND TERRAIN OF PROJECT LANDS.

A. It shall be unlawful to modify the natural conditions of topography and terrain of the Project lands, as such conditions existed when said Project lands were acquired by the Authority by excavating, filling, dredging or any other means unless a Joint Use Agreement has been executed pursuant to Section 5 of this ordinance (if applicable) and the Authority has issued a license authorizing such modification to each landowner abutting such modification. The issuance of a license by the Authority for modification does not preclude the necessity of a Section 404 Permit from the U.S. Army Corps of Engineers.

B. Prior to the granting of any such authorization the applicant may be required to pay the fee prescribed from time to time by the Authority's Board of Directors.

C. If such modification shall be made without authorization or if modification is contrary to plans and specifications agreed to by the Authority:

- (1) The modifier may be required to return said Project lands to their natural conditions of topography or terrain as such conditions existed when the Project lands were acquired by the Authority.
- (2) The modifier may be required to pay a retroactive fee covering the period of time from the modification to the authorization.

SECTION 19: SOLICITATION OF BUSINESS.

It shall be unlawful for any person, firm or corporation or the representatives thereof to engage in or solicit any business within or upon Project lands unless such is authorized by the Project Manager.

SECTION 20: VIOLATION OF OR FAILURE TO COMPLY WITH ORDINANCE DEEMED A MISDEMEANOR; PUNISHMENT ON CONVICTION PRESCRIBED; COURT COSTS; INABILITY TO PAY FINE.

A. The doing of any act forbidden to be done by this Ordinance or by regulation of the Authority or the failure to do any act required by the provisions of this Ordinance, or the aiding or abetting of either, so far as on land and easement owned or regulated by the Authority, shall be deemed a misdemeanor, which, in case of a lawful conviction therefor, shall be punishable by current penalties under State Penal Code for Class C misdemeanors. Each twenty-four (24) hour period of any violation constitutes a separate offense.

B. The penalty hereby authorized shall be in addition to any other penalties provided by the laws of Texas and may be enforced by complaint filed in the appropriate court of jurisdiction in the county in which the violation occurred, or if the violation occurs within four hundred (400) yards of the boundary of any two counties, then the complaint may be filed in the appropriate court of jurisdiction in either county, provided, however, that no rule or regulation which provides a penalty for the violation thereof shall be in effect, as to enforcement of the penalty until five (5) days next after the Authority may have caused a substantive statement of the particular rule or regulation and the penalty for the violation thereof to be published, once a week for two (2) consecutive weeks in the district. The substantive statements so to be published shall be as condensed as is possible to afford an intelligent direction of the mind to the act forbidden by the rule or regulation; the one notice may embrace any number of regulations; there must be embraced in the notice advice that the breach of the particular regulation

or regulations will subject the violator to the infliction of a penalty, and there also shall be included in the notice advice that the full text of the regulation sought to be enforced is on file in the principal office of the Authority, where the same may be read by an interested person. Five (5) days after the second publication of the notice hereby required, the advertised regulation shall be in effect, and ignorance of such regulation shall not constitute a defense to a prosecution for the enforcement of a penalty; and, the rules and regulations authorized hereby, after the required publication, shall judicially be known to the courts and shall be considered of a nature like unto that of valid penal ordinances of a city of the State.

SECTION 21: EMERGENCY PROCEDURES.

- A. In order to protect properties and provide for the general welfare of the public, all access to Lake Livingston Project may be restricted when it is deemed necessary.
- B. Watercraft or persons found upon the Authority property during times of restriction, without prior consent of the Authority or by virtue of other lawful reason, shall be guilty of a nuisance under Section 2:R.

SECTION 22: ADMINISTRATIVE MATTERS.

- A. The Project Manager is responsible to the Regional Manager of the Authority's Southern Region, who is responsible to the Authority's General Manager, who is totally responsible to the Authority's Board of Directors and Executive Committee for the conduct of the business of the Authority. Nothing in this Ordinance shall be construed to alter the aforesaid responsibilities and the corollary authority of the said Regional Manager and General Manager to discharge their respective responsibilities.
- B. The Authority's General Manager may authorize the Project Manager to designate personnel subordinate to the Project Manager as representatives for the purposes of accepting for filing all applications mentioned in the Ordinance, granting authorizations or licenses or revoking authorizations or licenses and receiving monies in payment therefor; provided, however, that the designation of such representatives shall not relieve the Project Manager of his responsibilities under this Ordinance, including the handling, custody, depositing and accounting for monies received in payment for licenses.
- C. The Project Manager and all of his authorized representatives shall each give a bond in such amounts as are prescribed by the General Manager and all such bonds shall be approved by the General Manager.
- D. Any person seeking to appeal the act of a Project Manager shall address his appeal in writing to the Authority's Board of Directors via the Regional Manager of the Authority's Southern Region and the Authority's General Manager in that order.

E. The Authority's General Manager shall:

- (1) cause this Ordinance to be published in pamphlet form suitable for public dissemination and to be made available to the public in the Project area;
- (2) cause a certified copy of this Ordinance summarily to be filed with the Texas Highway Department and the Texas Parks and Wildlife Department as required by the Texas Water Safety Act; and
- (3) cause a copy of this Ordinance to be published in a newspaper of general circulation in each of Polk, San Jacinto, Walker, Trinity, Madison and Houston Counties once each week for two (2) consecutive weeks in order to comply with the provisions of Section (c) of Article 7880-7, Revised Civil Statutes of Texas (codified as Texas Water Code, 51.129, V.T.C.A.).

SECTION 23: REVOCATION OR SUSPENSION OF LICENSE.

- A. The Trinity River Authority shall have the right to revoke, to suspend, or to refuse to reissue the license of any licensee upon violation of the rules, regulations, standards or ordinances of the Trinity River Authority.
- B. Proceedings under this Article shall be begun by filing with the Board a statement in writing and under oath. Said statement may be made by any person or persons. Said statement shall set forth the rules, regulations, standards or ordinances with which the licensee has failed to comply and shall set out the manner in which the licensee has violated or failed to comply with such rules, regulations, standards or ordinances. Upon the receipt of the statement, the President of the Board shall set a time and place for hearing and shall cause a copy of the statement, together with a notice of the time and place fixed for hearing, to be served on the respondent-licensee or his counsel at least ten (10) days prior thereto. Notice shall be sufficient if sent by registered or certified mail to the respondent-licensee at the address shown on his most recent application for license. If no such address is available, the Board shall cause to be published, once a week for two (2) consecutive weeks, a notice of the hearing in a newspaper published in the county wherein respondent-licensee was last known to operate his installation on Authority-owned or regulated property, and shall mail a copy of such statement and of such notice to the respondent-licensee's last known address. When publication of the notice is necessary, the date of the hearing shall be not less than ten (10) days after the date of the last

publication of notice. At said hearing the respondent-licensee shall have the right to produce witnesses or evidence in his own behalf; and to cross-examine witnesses. The Board or a committee designated by the Board shall hereupon determine the allegations in the statements upon their merits. If requested by the respondent-licensee, the Board or its designated committee shall give in writing the reasons for its decision.

C. Any person whose license to operate an installation on Authority-owned or regulated property has been revoked, suspended, or not reissued by the Board may, within twenty (20) days after the making and entering of such order, take an appeal to a district court of appropriate jurisdiction, but the decision of the Board shall not be enjoined or stayed except on application to such district court after notice to the Board. The proceeding on appeal shall be under the substantial evidence rule.

D. Upon application, the Board may reissue a license to operate an installation on Authority-owned or regulated land to a person whose license has been revoked, suspended, or not reissued, but such application, in the case of revocation, shall not be made prior to one (1) year after the cancellation or revocation, and shall be made in such manner as the Board may require.

SECTION 24: OTHER RULES AND REGULATIONS AFFECTING THE PROJECT OR INDIVIDUAL FACILITIES THEREOF.

Nothing herein shall preclude the Authority's Board of Directors from promulgating rules and regulations governing the use of flowage easement areas, recreation areas and facilities, park facilities in general, and particular park facilities.

SECTION 25: SEVERABILITY CLAUSE.


If any provision, section, subsection, sentence, clause or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid (or for any reason unenforceable), the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the Authority's Board of Directors in adopting this Ordinance, that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion, provision or regulation, and to this end all provisions of this Ordinance are declared to be severable.

SECTION 26: CONFLICTING ORDINANCES.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict only.

EXECUTORY PAGE

PASSED AND APPROVED as Ordinance 0-20AAAA by action of the Board of Directors on the 27th day of October, 1993, A.D.



T. WALTER ERWIN III, President
Board of Directors
Trinity River Authority of Texas

Attest:




JAMES L. MURPHY, Secretary
Trinity River Authority of Texas

Order Authorizing Regulation of On-site Sewage
Facilities, June 6, 2000, from TNRCC

Robert J. Huston, *Chairman*
R. B. "Ralph" Marquez, *Commissioner*
John M. Baker, *Commissioner*
Jeffrey A. Saitas, *Executive Director*



TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

Protecting Texas by Reducing and Preventing Pollution

June 6, 2000

Mr. Richard Gerard, R.S.
Area Administrator, Lake Livingston
Trinity River Authority
P.O. Box 360
Livingston, Texas 77351

RE: Order authorizing regulation of on-site sewage facilities

Dear Mr. Gerard:

Enclosed is a certified copy of an order issued by the Commission regarding the referenced matter.

Should you have any questions, please contact Mr. Ken Graber of the Texas Natural Resource Conservation Commission's on-site sewage facilities program MC-178 at 512-239-4775.

Sincerely,

A handwritten signature in cursive script that reads "Joe Vogel".

Joe Vogel
Deputy Director
Office of Compliance and Enforcement



TEXAS NATURAL RESOURCE CONSERVATION COMMISSION



I hereby certify that this is a true and correct copy of a Texas Natural Resource Conservation Commission document, which is filed in the permanent records of the Commission. Given under my hand and the seal of office on

La Donna Castañuela JUN 06 2000

La Donna Castañuela, Chief Clerk
Texas Natural Resource
Conservation Commission

IN THE MATTER OF THE APPLICATION	§	BEFORE THE EXECUTIVE
FOR THE TRINITY RIVER AUTHORITY	§	DIRECTOR OF THE TEXAS
FOR A TEXAS HEALTH AND SAFETY	§	NATURAL RESOURCE
CODE §366.031 ORDER	§	CONSERVATION COMMISSION

MAY 30 2000

On _____ the Executive Director of the Texas Natural Resource Conservation Commission ("Commission" or "TNRCC"), considered the application of the Trinity River Authority, ("Applicant" or "TRA"), for an Order pursuant to §366.031, Texas Health and Safety Code ("Code"), and 30 Texas Administrative Code (TAC) §285.10 of the rules of the Commission.

No person has requested a public hearing on the application, therefore the Executive Director, on behalf of the Commission, is satisfied that the Applicant has satisfied the requirements of §366.031 of the Code and, therefore, the Commission finds that the TRA Resolution No. R-1048-1 should be approved.

FINDINGS OF FACT

1. The Trinity River Authority drafted a proposed resolution to regulate on-site sewage facilities.
2. On December 9, 1999, the Trinity River Authority caused notice to be published, in a newspaper regularly published and of general circulation, in TRA's area of jurisdiction, of a public meeting to be held on Friday, December 17, 1999.
3. The Trinity River Authority held a public meeting to discuss the proposed resolution on December 17, 1999.
4. Trinity River Authority Resolution No. R-1048-1 regulating on-site sewage facilities was adopted on April 26, 2000.
5. A certified copy of the minutes was submitted to the Texas Natural Resource Conservation Commission.
6. A certified copy of Trinity River Authority Resolution No. R-1048-1 was submitted to the Texas Natural Resource Conservation Commission.

7. The resolution is at least equivalent to the standards of the Texas Natural Resource Conservation Commission.

0005 3 0 MAY

CONCLUSIONS OF LAW

1. The above facts are conditions sufficient to issue this order pursuant to §366.031 of the Code.
2. Section 5.102 of the Texas Water Code authorizes the Commission to issue orders and make determinations necessary to effectuate the purposes of Chapter 366 of the Health and Safety Code.
3. Issuance of this order will effectuate the purposes of Chapter 366 of the Code.

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS NATURAL RESOURCE CONSERVATION COMMISSION THAT:

1. The Trinity River Authority is hereby authorized to implement Trinity River Authority Resolution No. R-1048-1 which regulates on-site sewage facilities.
2. Any amendments to Trinity River Authority Resolution No. R-1048-1 must be approved by the Texas Natural Resource Conservation Commission.
3. The Chief Clerk of the Commission is directed to forward a copy of this Order to the Applicant and all other parties and to issue the Order and cause it to be recorded in the files of the Commission.

Issued this date: MAY 30 2000

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

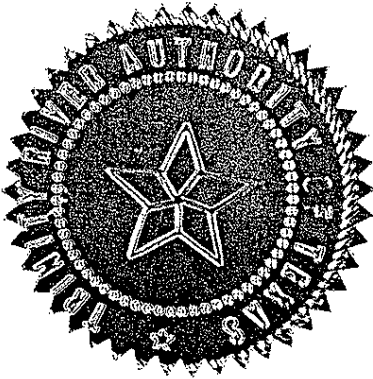


For The Commission

SECRETARY'S CERTIFICATE

I, the undersigned, Secretary of the Board of Directors of the Trinity River Authority of Texas, do certify that the attached is a true and correct copy of Resolution No. R-1048-1 which was unanimously adopted by the Board of Directors on April 26, 2000, and is contained in the official files of the Trinity River Authority of Texas.

I further certify that as Secretary of the Board of Directors I have legal custody of the official records of the Trinity River Authority of Texas.



James L. Murphy

JAMES L. MURPHY, Secretary
Board of Directors
Trinity River Authority of Texas

May 4, 2000

RESOLUTION NO. R-1048-1

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
TRINITY RIVER AUTHORITY OF TEXAS PERTAINING TO THE
ADOPTION OF RULES FOR THE REGULATION OF
ON-SITE SEWAGE FACILITIES AT LAKE LIVINGSTON
AND REPEALING RESOLUTION NO. R-1048

PREAMBLE

WHEREAS, the Trinity River Authority of Texas by Acts of 1955, 54th Texas Legislature, Chapter 518, as amended, compiled as TEX.REV.CIV.STAT.ANN.Article 8280-188 (Vernon Supp. 1971), hereinafter referred to as the "Act", was created as a conservation and reclamation district and is authorized by the Act, inter alia, to effectuate flood control and the conservation and use for all beneficial purposes, of storm and flood waters and unappropriated flow waters of the Trinity River watershed, and to store and conserve to the greatest beneficial use such waters, and the power to adopt through action of the Board of Directors, and powers permitted under Title 128, Revised Civil Statutes of the State of Texas; and

WHEREAS, the Trinity River Authority has constructed Lake Livingston for the beneficial use of the Authority; and

WHEREAS, the Authority, pursuant to its contract with the City of Houston, has an interest in protecting the water quality of Lake Livingston; and

WHEREAS, the Texas Natural Resource Conservation Commission has established Design Criteria for on-site sewage facilities to provide the citizens of this State with adequate public health protection and a minimum of environmental pollution; and

WHEREAS, the Legislature has enacted legislation, codified as Texas Health and Safety Code, Chapter 366, which authorizes a river authority to regulate the use of on-site sewage disposal facilities in its jurisdiction in order to abate or prevent pollution, or injury to public health arising out of the use of on-site sewage facilities; and

WHEREAS, due notice was given of a meeting and public hearing to determine whether the Board of Directors of the Trinity River Authority should adopt a Resolution controlling or prohibiting the installation or use of on-site sewage facilities on Lake Livingston; and

WHEREAS, said meeting and public hearing were held in accordance with the notice thereof, and evidence and arguments there presented were considered by the Board of Directors of the Trinity River Authority; and

WHEREAS, the Board of Directors of the Trinity River Authority has considered the matter and deemed it appropriate to adopt Resolution No. R-1048 thereby adopting rules regulating on-site sewage facilities to abate or prevent pollution, or injury to public health around Lake Livingston; and

WHEREAS, it is necessary to establish uniformity in all rules regulating on-site sewage facilities in Texas; and

WHEREAS, it is in the public interest that Resolution No. R-1048 be rescinded.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE TRINITY RIVER AUTHORITY OF TEXAS:

SECTION 1. THAT the matters and facts recited in the preamble hereof are hereby found and determined to be true and correct.

SECTION 2. THAT the use of on-site sewage facilities around Lake Livingston is causing or may cause pollution or is injuring or may injure the public health; and

SECTION 3. THAT Resolution No. R-1048 is hereby repealed and this Resolution for Lake Livingston entitled "A RESOLUTION PERTAINING TO THE ADOPTION OF RULES FOR THE REGULATION OF ON-SITE SEWAGE FACILITIES AT LAKE LIVINGSTON AND REPEALING RESOLUTION NO. R-1048" is hereby adopted.

SECTION 4. CONFLICTS. All Resolutions or parts of the Resolution for Lake Livingston not consistent with or in conflict with the provisions of this Resolution are hereby repealed.

SECTION 5. V.T.C.A., HEALTH & SAFETY CODE CHAPTER 366. The Trinity River Authority clearly understands the technical criteria, legal requirements, and administrative procedures and duties associated with regulating on-site sewage facilities, and does adopt and will fully enforce Chapter 366 of the Texas Health and Safety Code.

SECTION 6. AREA OF JURISDICTION. All the area known as Lake Livingston which includes all lake bed and islands plus certain areas adjacent to the lake located between the shoreline and a line parallel to the 131-foot msl(mean sea level) line, located at a distance of 2,000 feet from the 131-foot msl line, measured horizontally away from the lake.

SECTION 7. ON-SITE SEWAGE FACILITY RULES. Any structure discharging sewage into an on-site sewage facility within the jurisdictional area of Lake Livingston must comply with the Rules adopted in Section 8 of this Resolution.

SECTION 8. ON-SITE SEWAGE FACILITY RULES ADOPTED. The Rules ("Design Criteria for On-Site Sewage Facilities" and Administrative Rules 30 TAC 285.1 – 285.91). attached hereto, promulgated by the Texas Natural Resource Conservation Commission for on-site sewage systems are hereby adopted, and all officials and employees of the Trinity River Authority having duties under said Rules are authorized to perform such duties as are required of them under said Rules.

SECTION 9. INCORPORATION BY REFERENCE. The Design Criteria and all future amendments and revisions thereto are incorporated by reference and are thus made a part of these Rules. A copy of the current Design Criteria is attached to these Rules as Appendix I.

SECTION 10. AMENDMENTS. The Trinity River Authority wishing to adopt more stringent Rules for its On-Site Sewage Facility Resolution understands that the more stringent conflicting local Rule shall take precedence over the corresponding Texas Natural Resource Conservation Commission requirement. Listed below are the more stringent Rules adopted by the Trinity River Authority:

(a) RESTRICTED AREA.

The area adjacent to the normal shoreline of Lake Livingston lying within two parallel lines, one of which is the contour line of elevation 131-foot msl and the other of which is a line parallel to the 131-foot msl line, located at a distance of 75 feet from the 131-foot msl line, measured horizontally away from the lake. The Restricted Area also includes all the area of the lake bed including all islands.

(b) WATER QUALITY AREA.

The area lying within two parallel lines, one of which is a line parallel to the 131-foot msl line located at a distance of 75 feet from the 131-foot msl line, measured horizontally away from the lake, and the other of which is a line parallel to the 131-foot msl line located at a distance of 2,000 feet from the 131-foot msl line, measured horizontally away from the lake.

(c) REGULATIONS CONTROLLING THE DISCHARGE OF SEWAGE WITHIN THE RESTRICTED AREA.

No sewage discharges from on-site sewage facilities of any kind may be made within the Restricted Area. However, this does not prohibit the proper removal and disposal of wastes from boats and other watercraft. The Trinity River Authority may not license any on-site sewage facility in the Restricted Area which might allow interchange of sewage with lake water during times of flooding.

(d) LETTER OF AUTHORIZATION REQUIRED FOR ON-SITE SEWAGE FACILITIES INSTALLED ON ALL PROPERTIES.

A Letter of Authorization is required to construct, alter, extend, or repair an on-site sewage facility regardless of acreage.

(e) RENEWAL LICENSES.

In addition to the initial licensing procedure required by the Texas Natural Resource Conservation Commission, the Trinity River Authority shall periodically perform renewal inspections on all on-site sewage facilities within the Water Quality Area. Upon a finding by the Trinity River Authority that the use of an on-site sewage facility is not causing pollution or injury to the public health and is operated in the general conformance with the standards set out by the Texas Natural Resource Conservation

Commission, and upon receipt of the appropriate renewal fee, the Trinity River Authority shall issue a renewal license.

(f) MAINTENANCE REQUIREMENTS FOR SURFACE IRRIGATION SYSTEMS

Regardless of the population of the county, all required maintenance must be performed by a valid maintenance company or individual.

(g) GREYWATER.

All laundry water within the Water Quality Area shall be treated and disposed in an approved system. No untreated laundry water will be allowed to be disposed on the surface of the ground, through open pipes, in drainage areas, or into the waters of Lake Livingston.

SECTION 11. DUTIES AND POWERS. The General Manager of the Trinity River Authority shall designate a representative for the enforcement of these Rules within its jurisdictional area. The appointed individual(s) must be approved and certified by the Texas Natural Resource Conservation Commission before assuming the duties and responsibilities of the designated representative of the Trinity River Authority.

SECTION 12. COLLECTION OF FEES. All fees collected for permits and/or inspections shall be made payable to the Trinity River Authority of Texas.

SECTION 13. APPEALS. Persons aggrieved by an action or decision of the designated representative may appeal such action or decision to the General Manager of the Trinity River Authority.

SECTION 14. PENALTIES. This Resolution adopts and incorporates all applicable penalty provisions related to on-site sewage facilities, which includes, but is not limited to, those found in Chapters 341 and 366 of the Texas Health and Safety Code, Chapter 26, of the Texas Water Code and 30 TAC Chapter 285.

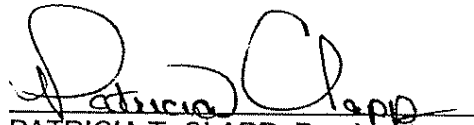
SECTION 15. SEVERABILITY. It is hereby declared to be in the intention of the Board of Directors of the Trinity River Authority that the phrases, clauses, sentences, paragraphs, and sections of this Resolution are severable, and if any phrase, clause, sentence, paragraph, or section of this Resolution should be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this Resolution, since the same would have been enacted by the Board of Directors without incorporation in this Resolution of such unconstitutional phrase, clause, sentence, paragraph, or section.

SECTION 16. RELINQUISHMENT OF RESOLUTION. If the Board of Directors of the Trinity River Authority decides that it no longer wishes to regulate on-site sewage facilities in its area of jurisdiction, the Board of Directors shall follow the procedures outlined below:


- (a) The Board of Directors shall inform the Texas Natural Resource Conservation Commission by certified mail at least 30 days before the published date of the public hearing notice that it wishes to relinquish its On-Site Sewage Facility Resolution.
- (b) The authorized agent shall post the required public notice in a newspaper regularly published or circulated in the area of jurisdiction at least 30 days prior to the anticipated date of action by the authorized agent.
- (c) The authorized agent shall send a copy of the public notice, a publisher's affidavit of public notice, and a certified copy of the minutes to the Texas Natural Resource Conservation Commission.
- (d) The executive director shall process the request for relinquishment and may issue an order relinquishing the Trinity River Authority to regulate on-site sewage facilities within the authorized agent's jurisdiction or may refer the request to relinquish to the Commission.
- (e) Prior to the issuance of a relinquishment order the local governmental entity and the executive director shall determine the exact date the authorized agent would surrender its authorized agent designation to the executive director.

SECTION 17. EFFECTIVE DATE. This Resolution shall be in full force and effect from and after its date of approval as required by law and upon the approval of the Texas Natural Resource Conservation Commission.

ADOPTED this 26th day of April, 2000.


PATRICIA T. CLAPP, President
Board of Directors
Trinity River Authority of Texas

ATTEST:


JAMES L. MURPHY, Secretary
Board of Directors

(SEAL)