

Power struggle on water planning

Wildlife refuge at site of reservoir pits local officials against feds

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By EMILY RAMSHAW / The Dallas Morning News

AUSTIN – It came as a slap in the face to Dallas officials: The federal government was taking control of land the city hoped to use for a major reservoir.

And it quickly grew into a statewide affront; Gov. Rick Perry and the Texas Water Development Board warned that the state's water planning was in jeopardy.

Now, nearly seven months after U.S. Fish and Wildlife Service officials declared the East Texas site of the proposed Fastrill reservoir a national refuge, lawsuits are flying. And more than just this particular reservoir is at stake, experts say. The case could be an important measure of local control and whether the federal government can override decades of state and local water planning.

Both Dallas and the state filed suit against the wildlife service and the U.S. Department of the Interior on Wednesday, hoping to keep the Fastrill reservoir on state and regional water plans.

Federal officials agreed late Thursday to delay any action on the land until Feb. 1, lawyers for the city said, but gave no ground on whether the refuge should be created.

Environmentalists say they'll fight to protect the 25,000 acres of forested wetlands – a safe harbor for migrating waterfowl – and to force Dallas to look toward serious conservation measures instead.

But as Texas lawmakers gear up to set far-reaching water-supply policy in the legislative session that started this week, state officials are concerned about what will happen if the federal government can scratch plans for reservoirs after years of work.

"The idea of hiding behind 'Gosh, this is the only habitat we've got for these particular birds' is very bad public policy," Mr. Perry said Thursday. "The state needs to be able to deal with its issues of growth, whether it's where we build our highways or where we build our reservoirs."

Pace slows

By the 1950s, Texas' population was booming, and water planning revolved around new reservoirs. The state had already built 60 and would construct a total of 180 by 1980. But the pace of new reservoir construction has slowed since, the result of waning high-quality sites, escalating costs, and greater attention to environmental concerns.

Today, Texas has close to 200 reservoirs, many of which are strained by drought. And while current state and local water plans favor conservation measures and water recycling, they still call for 14 new reservoirs to meet 2060 needs – four of which would provide water to North Texas.

But if the Fastrill situation is any indication, planners say, these new reservoirs won't be easy to come by. Environmental groups continue to rally behind opponents of these massive reservoir projects, accusing big cities of sucking their neighbors dry just to water lawns and fill pools. Their battle cry is conservation, and they spearhead petition campaigns that often catch the eye of federal agencies.

The proposed Marvin Nichols reservoir – an even bigger water source that state and Dallas officials are keen to build on the Sulphur River in northeast Texas – has been hotly contested as well.

"If Dallas becomes serious about water conservation and using existing water supply reservoirs to meet any remaining needs, the prospect of building a new reservoir won't be in the picture," Ken Kramer, state director of the Sierra Club, said in response to Wednesday's lawsuits.

Economical location

Water planners first set their sights on a future Lake Fastrill in 1961, believing the site on the upper Neches River would be a relatively close and economical potential water source for Dallas. City officials have kept the site in their back pocket since and recently, they moved it to a short list of likely new reservoirs.

The site is also on the state water board's list of recommended reservoirs for North Texas – expected to provide more than 112,000 acre-feet of water per year by 2050.

But water planners aren't the only ones who've had their eyes on the Neches River.

Elizabeth Slown, spokeswoman for the southwest region of U.S. Fish and Wildlife, said the agency has long considered the marshy area one of Texas' best and last migratory bird habitats. She said plans for the Neches National Wildlife Refuge, which spans 38 miles of the river, were in the works 20 years ago. Environmental groups collected nearly 10,000 signatures in favor of the refuge, which is also home to otters and bobcats.

"What you've got through Texas is really a flyway for migrating birds, an interstate highway for ducks," Ms. Slown said. "This is a place where they stop to rest and feed. And that's what excited us so much."

Dallas and state officials say they saw the benefit of a refuge, and tried repeatedly to come up with a solution that would've allowed for a reservoir and an environmentally protected area. In repeated letters to Fish and Wildlife officials, Mr. Perry and the Texas Water Development Board asked that the agency slow down and give environmentalists and engineers until December 2006 to find a win-win situation – one that wouldn't endanger North Texas' future water supply.

But in June, Dallas officials got a disappointing surprise – a news release from Fish and Wildlife telling them the refuge was a done deal.

"We were working very fast to see if we could combine both," Dallas City Council member Ed Oakley said. "And then Fish and Wildlife short-circuited the process."

Agency officials say the decision should've come as no surprise; water planners and conservationists negotiated for almost a year. They said they considered the alternative sites

Dallas had suggested – but none of them were as environmentally sensitive as the Fastrill reservoir site.

Few lake sites

Jody Puckett, director of Dallas Water Utilities, said city officials are now grappling with the opposite problem: "There are a limited number of locations in this state to build a lake."

Fish and Wildlife officials said that they're not at liberty to talk about the lawsuit but that their mandate is to protect natural resources.

"We get sued every day," Ms. Slown said Wednesday before the lawsuits were filed. "It's not like we did this overnight. There was a lot of listening to local parties."

While the governor, the Texas water board and most members of the Dallas City Council are a unified front, Fish and Wildlife has found an unexpected ally in Dallas Mayor Laura Miller. She blames the city for not getting the reservoir tied up sooner, and said the federal agency can't be reproached for stepping in while Dallas was dawdling.

"To me, just leaving all your options open is not an answer – it's irresponsible," Ms. Miller said. "We have virtually no conservation program, to the point that we run our own sprinklers in the summertime. Why wouldn't Texas want to preserve one of its last great bottomland hardwood forests?"

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