
AMERICA FIRST COMMITTEE TESTIMONY

TO: MEMBERS OF THE SUNSET ADVISORY COMMISSION
FROM: JAMES LEE MURPHY, ESQ. /AMERICA FIRST COMMITTEE
SUBJECT: LEGISLATION TO IMPLEMENT RECOMMENDATIONS OF THE SUNSET COMMISSION REVIEW OF THE LOWER COLORADO RIVER AUTHORITY
DATE: DECEMBER 17, 2018

EXECUTIVE SUMMARY

James Lee Murphy is recognized globally as an expert in water law and policy. Before entering private practice, he spent 9 years at the Guadalupe-Blanco River Authority, where he served as Executive Manager for Water Resources and Utility Operations. He directed GBRA's legislative and policy initiatives with staff and members of the Texas Legislature, including drafting legislation important to South Central Texas. His legislative achievements are as diverse as drafting Chapter 18 of the Texas Water Code, creating rules and a path forward for seawater desalination in Texas, and providing immunity from personal liability for those serving as Groundwater Conservation District board members.

Mr. Murphy has prepared and delivered testimony before the Texas Legislature, state agencies, and elected officials; and is a frequent public speaker, recognized as a Global Water Leader by Global Water International at their annual conference in Abu Dhabi. He has presented at numerous legal and professional associations, including policymaking roles at the Alliance for the Improvement of American Infrastructure, the Texas Water Conservation Association, the National Water Supply Alliance, and the National Water Resources Association. Prior to GBRA, James served for 16 years as General Counsel at the Trinity River Authority. James was retained by the America First Committee to remove roadblocks hindering development of sustainable, long-term regional, multi-sourced, water supply projects. His focus is on law and policy necessary to restore rational, balanced water supply planning to the State of Texas, and its industries, utilizing private capital to meet the growing demand for long-term water supply.

TESTIMONY OF JAMES LEE MURPHY

Members of the Commission, I am James Lee Murphy. For the past thirty years I've served the public in one State Agency (*Texas Water Commission, predecessor to the Texas Commission on Environmental Quality*) and two River Authorities. As Executive Manager (at the Guadalupe-Blanco River Authority I was responsible for (*South Central Texas regional*) water planning and I developed the initial Simsboro (*Aquifer*) project, that later became the SAWS Vista Ridge Project.

Today I represent the America First Committee, along with a diverse coalition of disparate interests united in asking the Sunset Advisory Commission to recommend legislation to get LCRA out of the groundwater development business and return to their core mission of managing the water supply and environmental flows along the Colorado River.

LCRA has enough to do with managing reservoirs and surface water supply, protecting existing water rights from diminution, preserving environmental flows and avoiding catastrophic flooding. It is an acknowledged fact that groundwater contributes to existing water rights. Allowing LCRA to pursue the development of groundwater supplies will inevitably provide a conflict of interest. There's a more important reason why LCRA shouldn't be in the groundwater development business.

LCRA doesn't need the water, and neither do any of the political subdivisions in its service area. LCRA hasn't identified uses for the groundwater it intends to develop, and Lost Pines and Post Oak Savannah (*Groundwater Conservation Districts*) have already permitted almost 90,000 acre-feet of groundwater that is presently available to serve the actual needs of any entities in the LCRA service area (*Forestar has 28,500 acre-feet, 46,000 acre-feet to EndOP/Recharge, and San Antonio is trying to sell 15,000 acre-feet from their Vista Ridge Project*).

Despite intense political pressure from the Austin water lobby, no municipality has invested in this surplus. San Antonio's Vista Ridge is the only significant Simsboro project to date. This ugly duckling was rejected by SAWS Staff, and only the willfulness of SAWS CEO Robert Puente & intense lobbying by out of state developers led to the city council to approve it.

Texas groundwater policy has been hijacked by private speculators bent on manipulating local governments to the tune of billions of dollars in unnecessary and duplicative groundwater projects. Governor Abbott has warned Texas not to follow the "California model", yet it seems LCRA is intent on doing so. Ironically, California is now investing billions in an effort to undo the damage to both the economy and environment caused by unrestricted groundwater mining at the very time LCRA is leading Texas down the same path with no regard for the costly ruin that lies ahead.

From day one we've been fighting Robert Puente and his wasteful Vista Ridge Project. Mr. Puente has used his prestige as a former legislator to sway many at the Capitol that taking water from rural and agricultural areas is preferable to sustainable regional projects based on multiple sources of supply. He has even insinuated his chief lobbyist, Hope Wells, as President of the Texas Water Conservation Association in an effort use that organization to promote the interests of private speculators in groundwater.

In a better world LCRA would be a shield between rapacious speculators and municipalities, developing groundwater on a regional basis at the lowest cost and environmental impact while protecting property rights. That's what Bill West and I had in mind at GBRA. Sadly, we don't live in that better world.

The Water Code was intended to prevent speculation in surface and groundwater permit applications. A handful of Austin lawyers have effectively eliminated the requirement to demonstrate need by an actual project for which public funds have been committed and replaced it with their clients need to speculate in the municipal groundwater supply. The Commission should recommend that the 86th Legislature adopt the legislation attached to the handout to restore LCRA to its principal mission of managing the Colorado River.

I am available to answer any questions you may have and look forward to your assistance in this matter.

James Lee Murphy is the Executive Director and General Counsel of the America First PAC. He has a 30-year career in executive management of water and is a recognized Global Water Leader in the area of water supply planning. For more information on the America First Groundwater reform project, send an email to James Lee Murphy at jamesleemurphyesq@att.net.

By: _____

H.B. No. _____

A BILL TO BE ENTITLED

AN ACT

relating to the powers and duties of the Lower Colorado River Authority.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 8503.004 (r), Special District Local Laws Code, is amended to read as follows:

(r-1) As a necessary aid to the conservation, control, preservation, purification, and distribution of surface waters and groundwater of the Colorado River and its tributaries within the boundaries of the authority, the authority shall collect data on the surface groundwater exchange in the Colorado River basin, and identify all negative impacts of groundwater withdrawals on the Colorado River flow. The authority is delegated the responsibility and the right to defend surface water rights against infringement or diminishment by groundwater withdrawals ~~may construct, own, operate, maintain, or otherwise provide sewage gathering, treatment, and disposal services, including waste disposal services, and may make contracts regarding those services with the United States, this state, counties, municipalities, and others. The authority shall charge the actual cost of those services.~~

(r-2) The authority may construct, own, operate, maintain, or otherwise provide sewage gathering, treatment, and disposal services, including waste disposal services, and may make contracts regarding those services with the United States, this state, counties, municipalities, and others. The authority shall charge the actual cost of those services.

SECTION 2. Section 8503.005 Special District Local Laws Code, is amended by the addition of Section 8503.005 (h) to read as follows:

(h) The authority may not finance, develop, own or operate groundwater well fields or facilities related to the development, transportation or any other use of groundwater. The authority may from time to time contract with public or private entities for the purchase and transportation of groundwater to supplement existing surface water supplies, provided however that any such use by the authority must be specifically authorized and approved by a groundwater conservation district with jurisdiction over the source of groundwater.

SECTION 3. This Act takes effect September 1, 2019.