

**Synopsis of Meeting with TCEQ
Regarding the Town of Addison's
Violation of its Water Use Permit
March 30, 2015**

On March 30, 2015 representatives of the City of Farmers Branch and Landowners who live along Farmers Branch Creek met with the TCEQ to discuss the current status of TCEQ's dealings with the Town of Addison regarding Addison's continued noncompliance with their water use permit related to the Vitruvian Park development and Addison's recent application to amend that permit.

Attendees at the meeting included:

- for the City of Farmers Branch - Bob Phelps, Mayor, Gary Greer, City Manager, Shane Davis, Landfill Manager, Katie Evans, Environmental and Health Manager, Jeff Civins and Carie Goodman McKinney, Counsel with Haynes and Boone, and James Machin, Consultant with TRC;
- for the Landowners - Todd Womble, John Brownlee, Mike Bomgardner and Scott Deatherage, Counsel with Gardere;
- for TCEQ - James Sallans, Legal, Ron Ellis, Manager, Water Rights and Permitting Section, Dr. Kathy Alexander, Technical Specialist, Chris Peters, Water Rights, Tony Walker, Director, TCEQ Region 4, and Jeff Tate, Water, TCEQ Region 4.

We began the meeting by thanking the TCEQ for initiating enforcement action against Addison for violating its permit. We noted our surprise at Addison's reaction to TCEQ's notice of enforcement; instead of taking steps to conform its actions to the terms of the permit, Addison filed an application to amend its permit to conform the permit to its actions. We noted that the permit provisions that Addison was seeking to change were included to protect the Creek and emphasized that both the City and the Landowners would oppose the permit amendment and would consider asking for a contested case hearing. We noted too that in the meantime Addison remains out of compliance with its permit, and we expressed our hope that TCEQ would issue an enforcement order that requires compliance and imposes sanctions for past and continuing non-compliance to give Addison an incentive to comply quickly.

The Landowners provided a brief slide show to help the TCEQ staff who are new to this matter understand the impacts of Addison's noncompliance on Farmers Branch Creek and Addison's disregard for the permit terms, the law, its neighbors and the Creek. We discussed the requirements in the permit that are most important to the City and the Landowners and to the health of the Creek – maintenance of continual flow, installation of a native vegetation riparian buffer, and obtaining makeup water from the Trinity rather than the Woodbine Aquifer. Addison has violated and continues to violate these permit requirements.

Jim Sallans of TCEQ explained that the TCEQ enforcement division is working on an enforcement order that would include ordering provisions and a penalty. He explained that the goal of the order is comprehensive compliance with strong and specific ordering provisions so that TCEQ does not receive another complaint that Addison is violating its permit. In his view, compliance would mean that they have to maintain reservoir elevations at all times, that they

can't "make up" flow at the end of a month, that they must put in a riparian buffer, and that they must drill a well to the Trinity Aquifer for makeup water. If Addison violates the order, the agency can take administrative enforce action or they can refer the matter to the Attorney General to enforce in court. Although he could not say when an order would be issued, he said that the agency is continuing to work with Addison and would prefer that they get into compliance before the order is issued. He assured us that Addison has committed to maintaining the water elevation in both of the reservoirs and to pass through flows that come into the development.

Mr. Sallans explained that the ordering provisions could be more specific than the permit but could not necessarily add requirements not otherwise in the permit. We noted that, because Addison has been out of compliance, the agency should be able to require actions that go beyond the permit provisions and allow the agency to verify that Addison is doing what is required to stay in compliance with the permit. Such requirements as monitoring inflows and matching them to the outflows, posting evaporation calculations and pumping data on a public website, and monitoring water quality would give the agency some way to verify compliance with the permit terms. The order should also include penalties for all past and any continuing violations to encourage quick action on Addison's part.

Mayor Phelps expressed his belief that Addison is just avoiding compliance and does not believe TCEQ will take any meaningful action. The Landowners expressed frustration too that they, the City, and the environment are the only ones being penalized for Addison's actions. Together we requested that the agency take strong and decisive action with significant penalties that provide the incentive for Addison to come into compliance.