



NORTH TEXAS MUNICIPAL WATER DISTRICT

501 E. Brown Street
Wylie, Texas 75098
(972) 442-5405

Legislation Text

09/24/2024

File #: 24-6060, Addendum

Regional Water System

Agreement on Oklahoma-Texas State Boundary, Texoma Area Boundary and North Texas Municipal Water District's Lake Texoma Pump Station

SUBJECT

Adopt a resolution authorizing the Executive Director to finalize negotiations and execute an agreement with the Oklahoma Red River Boundary Commission (OK RRBC or the Commission) and authorize the Executive Director to remit consideration to the State of Oklahoma at a not-to-exceed amount set by the Board of Directors.

PURPOSE

This agreement would reduce risks associated with NTMWD's Lake Texoma water supply by redrawing the Oklahoma-Texas state boundary so that the Lake Texoma Pump Station is physically located wholly within the boundary of the State of Texas. The Commission is tasked with re-drawing the Texas-Oklahoma boundary in the area of the Lake Texoma Pump Station and has completed its review of the issue and is prepared to finalize the boundary change. NTMWD has also entered into a Memorandum of Understanding with the OK RRBC to compensate the contracted experts who reviewed the issue on behalf of the Commission.

RECOMMENDATION

The Executive Director and NTMWD staff recommend the Board of Directors authorize the Executive Director to execute an agreement as follows:

Party:	Oklahoma Red River Boundary Commission
Scope:	Execution of agreement and funding with the Oklahoma Red River Boundary Commission for the purpose of retaining professional services firms to review the boundary matter on behalf of the Commission
Project:	No. 101-0586-21, Red River Boundary Compact Commission
Amount:	\$10,000,000 and additional professional services up to \$300,000
Committee:	This will be an item on the September 26, 2024, Legislative Committee agenda.

DRIVER(S) FOR THIS PROJECT

Strategic Objective:	1.4 Reliable and Resilient Systems 3.2 Engaged Members, Customers, and Stakeholders
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<input checked="" type="checkbox"/> Regulatory Compliance	<input type="checkbox"/> Asset Condition
<input type="checkbox"/> Capacity	<input checked="" type="checkbox"/> Redundancy/Resiliency
<input type="checkbox"/> Relocation or External Requests	<input type="checkbox"/> Operational Efficiency
<input type="checkbox"/> Safety	<input type="checkbox"/> Administrative
<input type="checkbox"/> Policy	<input type="checkbox"/> Other

BACKGROUND

Texas and Oklahoma entered into the Red River Boundary Compact in 2000. This Compact established the Texas-Oklahoma state boundary as the vegetation line of the south bank of the Red River and directed the joint Red River Boundary Commission to establish the state boundary in Lake Texoma using the United States Army Corps of Engineers’ Lake Texoma pre-construction survey.

At the time the Commission was establishing the boundary in Lake Texoma, the pre-construction survey could not be located, and the Texas General Land Office instead used the indefinite state boundary on United States Geological Survey "quad" maps. State surveyors did not visually inspect the proposed boundary prior to establishing it. This indefinite boundary resulted in a majority of NTMWD’s Lake Texoma Pump Station being located within the State of Oklahoma.

The boundary issue went unnoticed until 2010, when the District attempted to resume pumping from Lake Texoma after zebra mussels, a federally recognized invasive species, were found in 2009. Because the pump station is partially in Oklahoma, the Federal Lacey Act applied and prohibited the transport of water containing invasive species across the state boundary. Pumps remained shut off from 2009 until 2014, while NTMWD sought a legislative exemption to the Lacey Act and built the Texoma to Wylie Water Treatment Plant pipeline.

In 2014, both Governors signed a Memorandum of Agreement recognizing that the pump station could continue to operate, but the agreement does not protect against other federal interstate laws, including the Endangered Species Act, which could again result in the pump station being shut down. Thus, the partial location of the Lake Texoma pump station outside of the recognized boundary of the State of Texas poses a threat to the reliability of operations for this crucial regional water supply. The only permanent and complete solution is to accurately restate the boundary through the action of both the Texas and Oklahoma Red River Boundary Commissions.

In April of 2021, the Oklahoma Legislature re-established the OK RRBC and directed it to redraw the boundary in a very limited area surrounding the Lake Texoma Pump Station. The following actions were taken after the re-established of the commission:

- August 2021 - the Texas Red River Boundary Commission met to review the issue and approved a proposed boundary recommendation to the Oklahoma Commission.
- April 2023 - the OK RRBC met and appointed the President of the University of Oklahoma (OU), Joe Harroz, to undertake a review of the issue on behalf of the Commission.
- October 2023 - the OK RRBC met a second time and agreed to a Memorandum of Understanding

that provided for NTMWD to pay the expenses associated with the retention of contract experts to advise the Commission, including two law firms, an engineering firm and a surveyor. NTMWD's Board of Directors subsequently approved the same MOU in November of 2023.

- June 2024 - the OK RRBC met a third time to receive a report from the contracted experts. That report was in line with NTMWD's counsel's long-standing opinions and recommendations regarding the boundary change. OU was appointed by the OK RRBC to negotiate on its behalf.
- Following that meeting, NTMWD began negotiations with staff from the OU, on behalf of the OK RRBC, to finalize the boundary change.

CURRENT ACTION

- Negotiations have led to a tentative agreement with the OK RRBC for NTMWD to remit consideration to the State of Oklahoma as compensation for the OK RRBC taking action to resolve the boundary issue and ensure that the Lake Texoma Pump Station is located wholly within the State of Texas.
- Total compensation of \$10,000,000 would be paid to the State's General Fund while encumbering the funds used for water projects as defined in the agreement.
- NTMWD has compensated the contracted professionals reviewing the issue on behalf of OK RRBC and staff requires additional authorization to complete the payment of outstanding invoices.
- NTMWD has partnered with the Greater Texoma Utility Authority (GTUA) in the construction, operation, and maintenance of the pump station since the inception of the facility in 1985. All costs associated with the pump station are shared with GTUA on an 80/20 percentage split. It is the intent of both organizations that the costs associated with this agreement will be similarly split in accordance with our current cost-share agreement.

FUNDING

Funding of \$10,300,000 in the Regional Water System Capital Improvement Fund is available for this agreement. NTMWD will invoice GTUA their share of cost after final payments are made.