

To: Alan Leonard
Project Manager – SJRA Sunset Review
Sunset Advisory Commission
Attn: SJRA, P.O. Box 13066, Austin, Texas 78711

July 29, 2020

From: Lake Conroe Association
P.O. Box 376
Willis, TX 77378

Mr. Leonard,

We want to thank you for the opportunity to formally comment regarding the Sunset Commission Review of the San Jacinto River Authority (SJRA). Our understanding of the purpose of the sunset process is to undertake an objective and thorough review of the purpose, governance, efficiency and adherence to the primary mission and principles of the state organization under review. The Lake Conroe Association (LCA) is a nonprofit organization created in 1977 by a group of residents and businesspeople whose single goal was improving the quality of the lake. We have led and organized many efforts in the past, often in partnership with the SJRA, to fight invasive species, oppose harmful commercial developments in areas adjacent to the lake, and provide donations to first responders to improve safety on the lake. The LCA has had a long and important role involving Lake Conroe.

Our Concerns - After this long and very amicable relationship between the SJRA and the LCA, spanning over 40 years, we now have concerns that since mid-2018 the SJRA is failing in its primary purpose to beneficially use and conserve the water resources of Lake Conroe. The SJRA relationship with the LCA has become adversarial and unresponsive to our concerns and to the views of thousands of residents who live or work near the lake.

Our primary complaint involves the SJRA Board failing to meet their stated goals of honest, objective, and transparent decisions as it regards the Seasonal Lake Lowering Program (SLLP) adopted by the SJRA Board. The SLLP is a major project and a very contentious issue, yet it is not addressed in the Self Evaluation Report that the SJRA provided to the Sunset Review Commission. Omission of something this significant is a clear example of the actions we are concerned about.

Context - Lake Conroe was filled in 1973 and has been managed for over 45 years as a water supply reservoir. In August of 2017 Hurricane Harvey hit Houston and the surrounding areas with unprecedented rainfall totaling 30 to 50 inches across a massive area. Hurricane Harvey has been classified as an 800-1000-year rain / flood event and it caused significant flooding, property damage, and loss of life. Lake Conroe's normal pool level as a water supply reservoir is at 201' above mean sea level (msl) and it has a flood easement level of 207' above msl. Until Harvey only one major storm event (1994 Floods) has occurred since the lake was created contributing to flooding on the lake. The 1994 Floods and Hurricane Harvey also required high release rates from the dam contributing to downstream flooding. These significant dam release rates in 1994 and during Harvey were required to save the Lake Conroe dam from failure. Had the dam been breached it would have caused significantly more water to flow downstream and a significant long-term loss of drinking water. The SJRA was sued regarding the 1994 Floods but the courts ultimately found that the dam and dam operations were consistent with the intended dam design and no fault was attributed to the SJRA. A similar suit against the SJRA has been filed regarding Harvey but is unsettled.

In the Harvey aftermath downstream communities, area politicians, and media based in Harris County and the City of Houston inaccurately attributed most of the cause of their flooding during Harvey to the Lake Conroe Dam releases. These claims have endured despite multiple sets of actual measurements showing that the contribution from Lake Conroe was in the order of 12-18% of the peak flows into the Lake Houston area. The remaining 82-88% came from multiple uncontrolled streams and rivers flowing into the Lake Houston basin at the same time as the waters from Lake Conroe. As proven by the 2019 Tropical Storm Imelda the Lake Houston area will flood even if no water is released from Lake Conroe. Dozens of significant rain events occurring over many years have caused no flooding downstream of Lake Conroe before the implementation of seasonal lowering. The SLLP is not needed.

The Genesis of Our Concerns - In 2018 Governor Abbot reconstituted the SJRA Board with new members that lived in the Harris County Harvey flooded areas. To assist in flood recovery and future flood mitigation federal and state funds were obtained to dredge the West Fork of the San Jacinto River below Lake Conroe and upstream of Lake Houston. The SJRA Management recommended to the SJRA Board that a temporary lowering of Lake Conroe be implemented to avoid disruption of the West Fork dredging. The details of the original proposal recommended 0.5 feet of lowering in the spring and 1.0 feet of lowering in the fall. Inexplicably the proposal was altered by the SJRA Board President to levels that were twice the SJRA staff proposal (1 foot in the spring and 2 feet in the fall) without any public notice, technical basis for the change , or study of the negative impacts. This marked the first time in recent memory the Board overruled the SJRA technical staff recommendations.

The Impact of Questionable SJRA Board Decisions - Since the SJRA Board reconstitution it has been evident that a simple majority of the SJRA Board has on multiple occasions 1.) ignored the recommendations of their own technical staff; 2.) discounted or ignored two independent technical studies and the final report concerning Hurricane Harvey from the Harris County Flood Control District regarding Lake Conroe's minor role in contributing to downstream flooding; 3.) conducted private meetings with City of Houston officials and select members of the SJRA Board to discuss the SLLP; and 4.) violated their required "duty of loyalty" to the SJRA Board by publicly lobbying residents in their home areas to address matters before the Board and ultimately influence the Board decisions. These claims can be substantiated via public records or through the information we have gathered in "public information act" requests made to the SJRA in March and June of 2020. We are collating the documents to fully support these claims. It will be provided to the Sunset Review Committee by Sept. 1, 2020.

The SJRA Self-Evaluation Report for the Sunset Review does not mention the SLLP which was in place eighteen months before the self-evaluation was prepared. It details the new Flood Management Division, but completely leaves out the SLLP and the significant negative public debate over the program. Section 3 of the Self-Evaluation Report is intended to provide significant milestones or events regarding the recent history of the SJRA. However, there is no mention of the SLLP in Section 3. Therefore, the significant change to Lake Conroe's primary purpose as a water supply reservoir due to the SLLP is completely and intentionally omitted.

The Lake Conroe Association filed a complaint with the Texas Commission on Environmental Quality (TCEQ) on June 30, 2020 about the SJRA's extension of the Seasonal Lake Conroe Lowering program citing it is illegal, ineffective, and wasteful. The SLLP is a violation of the TCEQ Certificate of Adjudication issued to the SJRA and the City of Houston for water in Lake Conroe and the Texas water conservation laws. A copy of LCA's complaint letter to TCEQ is attached to this letter as part of Attachment B. It is our hope you will read it in its entirety before finalizing your findings. To put our concerns with the SLLP in perspective, the annual lowering of 3 feet of surface water as happened in 2019 equals 34 billion gallons of drinking water dumped to the Gulf of Mexico. Limited rainfall in 2019 created moderate drought conditions making this waste of fresh water irresponsible. The 34 billion gallons wasted served no beneficial purpose for municipal, agricultural, or industrial water customers. This volume of state water when, conservatively valued at 5 cents per 1000 gallons, was worth \$17 million in lost revenue that could have lowered customers' water bills.

As the SJRA Board is appointed by the Governor our concerns and complaints were delivered to his office by letters and petitions signed by approximately 8000 residents in February. His office responded in March that the SLLP is temporary, which is incorrect, and that we should address our concerns to the SJRA Board. However, since our major concern is the Board itself, we have no recourse except the Sunset Review Commission and our complaint filed with the TCEQ. We strongly believe, based upon public statements and records obtained through our information requests, some members of the SJRA Board have clearly pursued a personal, biased, and nonpublic agenda, resulting in extending the SLLP. Extending the ineffective SLLP program will waste tens of billions of gallons of drinking water annually for at least three more years.

We request that you question the SJRA Board Members individually and collectively about the complaints and documentation from this letter. Please ask them to explain why the SLLP was extended contrary to the two independent engineering studies and after being presented to the public and to regulators as temporary in 2018. This extension violates the original TCEQ “discretion letter”. The TCEQ “discretion letter” was issued in 2018 because the SJRA represented the SLLP program to the TCEQ as temporary and its sole stated purpose was to complete dredging on the West Fork river. The original basis for the request to the TCEQ was dredging, not flood mitigation, and the dredging was completed in September 2019 within the SJRA stated “temporary” timeframe.

We will be happy to provide any further information that you should need regarding our concerns, and we request the opportunity to have some of our LCA Board members or technical experts speak to the Sunset Review Commission.

Sincerely,

Kevin Lacy

President of the Lake Conroe Association and submitted on behalf of the 8000 petition signers to end the SLLP

- Attachments –
- A. LCA Summary of the SJRA Self Evaluation and Picture of Dec 12, 2019 SJRA Board Meeting
 - B. LCA Press Release, Summary, and the Full Complaint to the TCEQ
 - C. LCA summary and Full Report from Freese and Nichols
 - D. LCA Summary and Full Report from Bleyl Engineering
 - E. SJRA Press Releases regarding Harvey flooding and the role of the Lake Conroe Dam Releases
 - F. SJRA CoH Press Releases indicating the temporary nature and conditions of the SLLP
 - G. SJRA letter to State Representative Lyle Larsen indicating the merits and limits of the SLLP
 - H. LCA and Beatty Petitions (8000 signatures) to end the SLLP and Cover Letter to the Governor.
 - I. Example of response from Governor’s office regarding the resident’s concerns about the SLLP