

**NORTH FORK GUADALUPE RIVER PROPOSED DAM:** Ron Duke of Kerr County reported on the proposed private recreational dam located on the North Fork Guadalupe River, which if permitted will be their 15<sup>th</sup> dam/obstruction in Kerr County alone. The update and attached TPWD Office Memorandum also offers helpful insight for the proposed private recreational dam on the South Llano River, TCEQ Permit Application #13524.

Ron Duke wrote the following:

“TPWD granted us Contested Case Hearing status on the proposed North Fork private dam permit. TPWD has referred the Permit to SOAH (State Office of Administrative Hearings) and they will give us a date for the Hearing on/after Sept. 29th.”

TPWD memo on it attached and below is TPWD assessment from last paragraph of their attached PDF.

TPWD's Attorney Bridgett Meyer wrote:

"TPWD will neither grant nor deny the permit until the conclusion of the hearing. However, I have attached to this email TPWD's preliminary assessment of the application at issue. This document reflects the position that TPWD will take at the hearing."

A new dam limits fish being able to move through the site between deeper reaches that may serve as refuge during drought, or to recolonize upstream after dry periods. Flat Rock Creek has already experienced impairment and fragmentation from previously constructed dams, but this does not negate the potential additional impacts caused by an additional dam. The application fails to demonstrate how these impacts would be avoided; therefore, the application does not support a finding that the disturbance would not damage or injuriously affect any island, reef, bar, channel, river, creek, or bayou used for navigation, or any oysters, oyster beds, fish, or wildlife in or near the water used in the operation. Nor does it demonstrate whether the proposed disturbance will damage or injuriously affect oysters, oyster beds, or fish-inhabiting waters thereof or adjacent thereto.

### **Conclusions**

Dams and low-water crossings increase the rate of water loss, decrease hydrologic connectivity, and change flow levels and paths, which adversely affects aquatic fish and macroinvertebrate communities, in-stream habitats, in-stream flows, and channel morphology and stability. The application fails to demonstrate how the proposed dam avoids these injurious effects; therefore, TPWD cannot affirmatively

find that the application meets the requirements of Parks and Wildlife Code Section 86.004 and 31 TAC 69.108.

Because TPWD cannot affirmatively find that the requirements of Texas Parks and Wildlife Code Sections 86.004(1), 86.004(3),86.004(4), 86.004(5) and 31 Texas Administrative Code Section 69.108(b)(1) have been met, TPWD should not issue a sand and gravel permit for this project.”

Ron Duke reported, “TPWD not only granted us Contested Case Hearing status but at the SOAH Hearing TPWD will oppose the Dam Permit. That is awesome!”