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State approves city's bid to sell **Caddo Lake** water;
Agency says decision follows law; opponents vow to protect
resource

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The state's top environmental regulator on Friday approved a bid by the city of Marshall to sell water from **Caddo Lake's** watershed to private industry, a decision that lake advocates say threatens Texas's only naturally formed lake.

Jeff Saitas, director of the Texas Natural Resource Conservation Commission, signed off on the proposal. His office also issued detailed comments explaining that no environmental assessment of the plan was required under state law because the city has had the right to use the water since 1947.

The decision clears the way for Marshall to commercially sell raw water from Cypress Creek, about 15 miles upstream of Caddo, to a proposed power plant or other industrial users.

Marshall officials did not return calls for comment Friday.

Lake advocates - including nearby residents, a foundation created by musician Don Henley to protect Caddo, a Shreveport environmental lawyer and a prominent **Dallas** oilman - say they will seek a full commission review of Mr. Saitas' decision. And if necessary, they say, they will launch a legal fight, including state and federal regulatory and court challenges.

"We have the resources to do it, and we're going to stay with it," said Dwight Shellman, director of Mr. Henley's **Caddo Lake** Institute. "If it's got to go to the Supreme Court, that's where it's got to go. We think that both the permit and [the commission's] comments indicate a number of violations of state law."

The commission's decision came after another state agency, the Texas Parks and Wildlife Department, warned in writing that Marshall's proposal would almost double the amount of water the city takes from the **Caddo Lake** watershed.

Marshall uses the creek for its municipal water supply, taking an average of 5 million to 6 million gallons of water a day, or about 2.25 billion gallons a year. A series of water rights issued by the state in 1947 and 1956 allows the city to pump up to about 14.28 million gallons per day, or about 5.2 billion gallons a year.

The parks and wildlife letter complained that the natural resource commission was ignoring state law in refusing to conduct a formal hearing and a detailed environmental assessment to ensure no adverse environmental impact "of greater magnitude" than posed by the city's previous use of its water rights.

Defending the decision

But the commission director said his agency followed state law. In his written response to comments on the proposal, Mr. Saitas said he recognized "the significance and beauty of this lake." But he added that the Texas water code required his agency to view Marshall's request as if it already were using all of the 5.2 billion gallons of water it is permitted to take yearly from Cypress Creek.

"TNRCC's rules do not require new environmental restrictions," even if no environmental assessments were done before the original water rights were granted, and new scientific understanding in the 54 years since then might show that the lake could be damaged, Mr. Saitas said.

State law also allowed for no consideration that other area water sources could be tapped for industry, or that there might be significant economic pros and or environmental cons to Marshall's plan, his statement added.

Brewing controversy

The dispute began last summer when Marshall asked for state approval to sell to industry some of the water it is allowed to take just above **Caddo Lake**.

A similar request was denied by a state district court in 1986 because the city lacked potential buyers. But it now has a contract to sell about 5.5 million gallons of water a day to an Entergy Corp. power plant being built south of town.

Months of controversy prompted Entergy to negotiate an agreement in January to buy water from Longview. The company has not said which city will supply the plant. An Entergy spokesman said Friday that a decision will probably be announced within a few weeks.

Marshall officials say they need to change their water permit to ensure future growth, and they contend that their plan won't hurt the lake.

But lake advocates and a number of scientific experts, including officials with the U.S. Fish and Wildlife Service, have countered that selling Caddo's watershed to industry would threaten an internationally recognized environmental treasure.

Caddo Lake is one of only 15 water bodies in the United States declared wetlands of international significance under the 1971 Ramsar Treaty.

A primeval expanse of shallow pools, sloughs and cypress mazes stretching for 21 miles along the Texas-Louisiana border, the lake is the state's most diverse in aquatic life.

Its ecosystem includes 44 species listed federally as endangered or threatened. Its cypress brakes, which include trees more than 375 years old, are considered by some botanists to be the most pristine and significant examples of bald cypress swamps in the southern United States.

Fund proposed

Marshall officials initially promised to create a fund to buy water from Lake O' the Pines, upstream of Caddo, to replace what Entergy takes from the watershed during dry spells. But they concede that the fund probably won't materialize if Entergy doesn't buy water from the city.

A hydrology expert hired by Mr. Henley's group found that the fund was inadequate and that Marshall's plan could badly tax the lake. A fish and wildlife service hydrologist who reviewed Entergy's opposing hydrology study said it appeared scientifically flawed.

But in his comments issued Friday, the natural resource commission director stated that the existence or lack of any mitigation fund or water replacement plan could not be a factor in his agency's decision.

Even the fact that Marshall has violated its water permit for decades could have no bearing on the decision to allow the industrial water sales, he said.

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