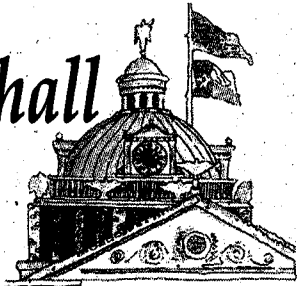


# The Marshall NEWS



# MESSENGER

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## Suits planned to stop water sale

By **REBECCA HOPKINS**  
News Messenger

The Caddo Lake Institute may be suing the city of Marshall, the state of Texas and the federal government in three separate lawsuits if a water mitigation agreement with the city can't be reached, said Dwight Shellman, CLI president at a Caddo Lake management meeting Friday night.

The lawsuits could begin as early as January, he told the group of about 30 Caddo Lake residents in the Karnack Community Center Friday. The residents had gathered for its monthly lake management meeting to discuss various Caddo Lake matters.

The city of Marshall may be receiving an agreement draft in a week that will outline the institute's desire to see any water the city sells to Entergy and other industries replaced from Lake O' the Pines, Shellman said.

But if the city rejects that agreement, which Shellman said he expects to happen, Shellman will soon begin filing lawsuits.

Both city and Entergy officials have said they have tried to work with Shellman on a water mitigation agreement that is adequate. No deal could be reached to which the city believed it could legally agree. And they've said they feel like the lake is protected

through an agreement with the Cypress Valley Navigation District.

But if issues that Shellman thinks should be addressed remain unaccounted for, he said the first may be a lawsuit against the Texas Natural Resource Conservation Commission. He would file that suit if that state agency approves the city's amendments to its water rights permit, he said. That approval is expected to happen.

The amendments would allow the city to sell up to 5.5 million gallons of raw water daily to Entergy from the Cypress Creek for a proposed power plant. And that has been a

controversial subject as Caddo residents and business owners expressed concern that the water use would harm the lake.

Then the CLI may sue the Rural Utility Service, a federal agency, which is in the process of considering a \$95 million loan to the Northeast Texas Electric Cooperative. RUS, which is part of the U.S. Department of Agriculture, requires an environmental assessment from NTEC as part of the loan process. But both the U.S. Environmental Protection Agency and U.S. Fish and Wildlife Service wrote letters to RUS stating that the assessment NTEC had

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# Suits planned to stop water sale

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submitted wasn't adequate.

The assessment had stated that no harm would come to the environment by the creation of the power plant. But it didn't look at the effect of water use on Caddo Lake. NTEC is in the process of providing more information to RUS on the matter. However, Shellman said if Caddo Lake groups don't deem the information adequate and the RUS still approves the loan, the CLI may sue RUS.

"There may likely be an attempt to still find no significant impact," Shellman said. "It is usually possible to take that to a federal district court and request that (the court rule) it was insufficiently done, which it probably will be."

Shellman is also researching the possibility of suing the city of Marshall under the Clean Water Act for its general treatment of the Cypress Creek, where the city currently withdraws water for its municipal use. He didn't elaborate, stating that he didn't have enough research to know exactly how that lawsuit would work.

"We also feel there may be federal litigation potential having to do with the Clean Water Act and Marshall's general treatment of Cypress Creek," Shellman said. "We are still researching that."

Hyperion Oil owner Albert Huddleston from Dallas may provide some of the finances for the litigation, but nothing has been committed, said Allison Griffin, a spokesperson with Allyn and Company. Huddleston hired the public relations firm to work with him on this Caddo Lake issue, she said.

"He hasn't really looked that far ahead," she said. "That's certainly a possibility if it comes to that."

He's been a past supporter of

the Caddo Lake Institute, she said. And Huddleston became interested in this most recent issue after reading an article about it in the *Dallas Morning News* this summer.

"He and his family have been to Caddo Lake on a number of occasions," Ms. Griffin said. "He wanted to see what he could do to help."

Huddleston asked Gov. Rick Perry to arrange a meeting of Caddo, city, Entergy, and state officials to discuss the issue in his office Wednesday. And he's gathered a team to begin working on a new agreement with the city that would mitigate its water, she said.

Some of the money to fight the lawsuits could come locally from the lake, offered Tony Novak, a Caddo resident who was at Friday's meeting. He suggested setting up a defense fund and even offered to give his own money to it.

And Shellman said Thursday that Don Henley may get involved either through a benefit concert or through media events. But so far there has been no need and nothing scheduled.

"That's been talked about," Shellman said about a concert. "Nothing's planned. We don't currently have a need to do that. There may be a need to make it really known that the city of Marshall and Entergy are precipitating this."

"The people involved in this are committed to seeing this all the through until there is an agreement that really does address the needs of Caddo Lake."

Shellman said practically, the institute may file the lawsuits subsequently in order to conserve funds. But the litigation could take months or years. And he said either the Caddo Lake Institute, or he, personally as a Caddo Lake property owner, would file the lawsuits.