

5 October 2016

Dr. Benjamin Tuggle
U.S. Fish and Wildlife Service
500 Gold Avenue SW, RD Office
Albuquerque, NM 87102
RDTuggle@fws.gov

Dear Dr. Tuggle:

We are a group of concerned citizens, working under the name of Save The SMTX River, writing to express our concerns regarding the removal of Capes Dam (ocasionally also referred to as Thompson's Dam), a low-head diversion dam on the San Marcos River (Texas) that serves to create and promote habitat for Federally-protected, endangered species and their critical habitats - fountain darter (*Etheostoma fonticola*), San Marcos gambusia (*Gambusia georgei*), and Texas wild-rice (*Zizania texana*) - and provide a safe route for recreation on the river here.

The removal of Capes Dam is being recommended by USFWS as part of its implementation of the National Fish Passage Program. Mr Montagne included Capes Dam in his 2011 Texas Barrier Inventory, a comprehensive list of all dams in Texas that he recommends for removal. He has overseen USFWS grants to local groups totaling approximately \$78,000 to study the removal of Capes Dam. Although we trust USFWS officials and the experts they rely on have only the best intentions and a sincere desire to improve the ecology of the San Marcos River, we believe that this decision should not be finalized until it has been thoroughly and impartially reviewed.

The proposed removal of Capes Dam is to be paid by funds provided by the USFWS' **National Fish Passage Program**. *Attachment A* to this letter shows the cover page and aerial photograph used in the USFWS report presented to the San Marcos Mayor and City Council on Aug 16, 2016. This report was also presented to Texas Commission on Environmental Quality (TCEQ) as part of the City of San Marcos' submission to TCEQ as part of their Dam Safety Removal program, as required by Texas State Administrative Code, Chapter 299, Dams and Reservoirs.

We believe the consequences of the removal of Capes Dam as proposed are inappropriately characterized in a way that may allow an Environmental Assessment (EA) yielding a Finding of No Significant Impact (FONSI). This would allow USFWS to avoid the full analysis of this action required for an Environmental Impact Statement (EIS) to authorize such a major alteration in the river here.

The two reports that the USFWS official responsible for this project cites in support of its recommendation are from Watershed Systems Group (WSG), paid for & contracted by the City of San Marcos, and dated June 24, 2015 and Oct 12, 2015 (*Attachment H & I*). These two reports are what scientists label 'gray' literature because they have not been subjected to the scrutiny of a peer review process. WSG's President is Dr Thomas Hardy, biology professor at Texas State University (TSU, located in San Marcos), who is also the lead scientist for TSU's Meadows Center for Water and the Environment. The two reports from WSG were co-authored by Dr Hardy and Dr Nolan Raphelt, both working under the mantle of WSG, as was an earlier 2012 report (*Attachment K*). Although we respect Dr. Hardy and his colleagues and believe they

have only the best of intentions, as **Attachment B** shows there is considerable disagreement among experts regarding the validity of the findings from this source that amply demonstrate the need for a more thorough and impartial analysis of the potential consequences of removing Capes Dam.

Our main concerns are summarized in the pages following this letter:

- Lack of impartial peer review in predictions of ecological impact;
- Errors and discrepancies in USFWS specifications for the proposed project;
- Lack of concern for the historical significance of the river features connected to Capes Dam; and
- Failure to fully consider consequences for recreational usability or recreation-oriented alternatives to dam removal.

Please note there is considerable community support for our concerns about Capes Dam removal, as our Facebook community organization (Save the SMTX River) has 4,086 likes and our Facebook public group (Save Thompson's Island) has 4,427 members. Both sides of the controversy surrounding this issue have been extensively covered in local news (**Attachment M**) and many people will be outraged if USFWS declares a "Finding of No Significant Impact" and thus avoids a full NEPA EIS review process

What we seek is a **transparent, objective, independent, and science-based process** that assesses the impact of the removal of Capes Dam will have, for **all endangered species**, as well as the **historical nature of Capes Dam** and the surrounding area, and including a complete **review of ALL recreational opportunities**, which must include the impacts on swimming, fishing, and paddleboarding – common and very popular recreational uses that have been omitted from USFWS consideration.

We trust that you and others copied on this letter have the statutory and legal authority to assist our community in reaching a durable, long-term resolution to this dispute that respects all facets of the San Marcos River here.

Sincerely,



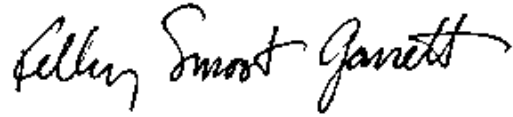
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Save the SMTX River is our FB page (<https://www.facebook.com/SaveOurSMTXRiver/>) and
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