



Todd Interests  
400 N Ervay St  
Dallas, TX 75201

June 6, 2023

Texas Parks and Wildlife Commission  
4200 Smith School Road  
Austin, TX 78744

RE: June 10<sup>th</sup> Commission Contemplating the Use of Eminent Domain on Property Recently Acquired by Todd Interests in Freestone County.

Dear Texas Parks and Wildlife Commission Members:

We cannot begin to express our astonishment that officials appointed by Governor Abbott and approved by Lt. Governor Patrick and the Texas Senate are considering the condemnation of private property that TPWD had numerous opportunities to acquire.

Is this how you fulfill Governor Abbott's promise that "Texas is wide open for business"? As a family-owned, Texas-based business and longtime supporters of our state's pro-business policies, we sincerely hope not.

In 1968 Texas Power and Light Company, Texas Electric Service Company, and Dallas Power and Light Company (now collectively, "Luminant") began the construction of a new power plant and an adjacent cooling lake in Freestone County. While the lake was constructed to support the coal-fired power plant, Luminant allowed TPWD to lease a portion of the land at no cost. The plant closed in 2018, taking hundreds of jobs from the county. At that time, Luminant made known to TPWD its intention to sell the lake and the land around it. TPWD told Luminant that it had no interest in acquiring the Property. In 2020, prior to publicly marketing the property for sale, Luminant again asked TPWD if it would like to purchase the lake and surrounding land. TPWD said it had no interest acquiring all of the land or the lake and did not have the funds to purchase the land TPWD had leased.

Our firm became aware of the opportunity to purchase the property through an October 5, 2021 article in the Dallas Morning News, advertising the Property for sale. We knew that TPWD leased a portion of the Property for 50 years, and that during that half-century span it failed to express any interest in acquiring from the property from Luminant. After Luminant enlisted a real estate firm to market Fairfield Lake in 2021 for \$110 million, TPWD still took no action. We had no reason to believe that the State of Texas wanted to acquire Fairfield Lake when we made an offer on the Property. So, on April 21, 2022 – four years after TPWD was given notice of Luminant's intent to dispose of the Property – Todd Interests, a willing buyer, executed a binding contract of sale with Luminant, a willing seller.

Five months later, after spending hundreds of thousands of dollars in due diligence, Todd Interests met with Chairman Beaver Aplin per his request and Luminant's encouragement. Since that September 2022 meeting, we engaged in good faith conversations with Chairman Aplin, despite no legal obligation to do so, even sharing the appraised value of the water rights as a means for this to be a profitable venture for TPWD. The State of Texas, however, has spent the last eight months working to derail our transaction and diminish



our transactional rights. Chairman Aplin made no secret of his desire for our transaction to fail, and after we refused to simply walk away from our business transaction he made numerous verbal threats, apparently orchestrated multiple failed legislative actions and in our opinion, spoke many untruths. These, along with many other actions, have been catalogued diligently by our firm and others. While receiving much interference and efforts of sabotage, we did not receive a written proposal to purchase our contractual right until May 12, 2023 – eight months after engaging in conversations with Chairman Aplin. We responded in good faith to the proposal on May 23<sup>rd</sup>. We never heard from Chairman Aplin again. On June 1, 2023 we fulfilled our contractual obligation and purchased the Property from Luminant. Since taking title we have begun executing our development plan and executed millions of dollars in related contracts. Much of our construction equipment arrived onsite yesterday. While Chairman Aplin no longer engaged with us, on June 1<sup>st</sup>, while we were in the process of closing, he once again tried to scuttle our transaction by sending an offer directly to Luminant to purchase the Property, at a discount to what we paid.

Additionally, the esteemed Attorney General Ken Paxton’s office sent a letter directing us to preserve evidence as if we had been involved in a crime. We assume this was purely an effort of intimidation as it contains nothing of legal substance – simply theatrics for the media in an effort to interfere with our lawful contract. The letter is dated May 25<sup>th</sup>, the same date that articles of impeachment were filed against the Attorney General.

TPWD, like many other state agencies, has the power of eminent domain. We were, however, surprised to learn of the hearing based on the national precedent condemnation would set. TPWD declined an opportunity to purchase the Property. Twice. It then tried to interfere with the contractual rights of private parties through threats, intimidation and misstatements of facts, trying to purchase the property for less than we were paying. But now it seems to imply it will willingly spend many times that amount to acquire the Property through Condemnation. Interestingly, the only funds presently appropriated, through SB 30, are “to purchase from a willing seller.” Members of the Texas House and the Texas Senate have repeatedly demonstrated their opposition to the use of condemnation to acquire Fairfield Lake. Neither House Bill 2332 nor Senate Bill 1656 made it out of committee, let alone got a floor vote.

Most striking is the activist message Chairman Aplin, Jeff Hildebrand, Blake Rowling, Dick Scott, James Abell, Oliver Bell, Paul Foster, Ana Gallo, Bobby Patton, Lee Bass, and Dan Friedkin would send to the entire nation on behalf of The State of Texas. A state once considered the vanguard of private property rights would now take from its citizens and diminish the rights of sellers, buyers, and private-property owners of every order. This would be in direct conflict to how the lady and gentlemen of the TPWD Commission have built their private businesses.

We have fulfilled our duty as Texans by engaging in good faith efforts with TPWD since the day we first met. We now ask the TPWD Commission to respect our rights as we fulfill our duty to our financial partners and family.

Sincerely,

Patrick Todd  
Managing Partner

Shawn Todd  
CEO & Partner

Philip Todd  
Partner