

ORDINANCE NO. 0-9AAA

AN ORDINANCE DESIGNATING THE LIVINGSTON DAM (INCLUDING ITS EARTHEN EMBANKMENT, SPILLWAY AND OUTLET WORKS) AND THE AREA ADJACENT THERETO TO BE A RESTRICTED AREA; DEFINING UNAUTHORIZED PERSON; DECLARING UNAUTHORIZED ENTRY TO BE A TRESPASS; PROVIDING FOR THE ENFORCEMENT OF THIS ORDINANCE; PROVIDING PENALTIES FOR THE VIOLATION OF THIS ORDINANCE; REPEALING ORDINANCE 0-9AA; AND, SPECIFYING CERTAIN ADMINISTRATIVE MATTERS.

Preamble

WHEREAS, the operation and maintenance of Livingston Dam (including its earthen embankment, spillway, and outlet works) and adjacent areas in Polk and San Jacinto Counties, Texas, may involve equipment and machinery which are dangerous and from which members of the general public must be protected for their own health, safety, and welfare; and

WHEREAS, the Livingston Dam is property of the Authority which requires protection to prevent damage thereto; and

WHEREAS, Section 5-A of the Article 8280-188, Revised Civil Statutes of Texas, provides:

"(a) The Board of Directors of the Authority shall have the power to adopt and promulgate all reasonable regulations to regulate residence, hunting, fishing, boating, camping and all recreational and business privileges on all lands and easements owned by the Authority and to protect the property of the Authority; provided, however, that such regulations shall not include any provisions for the collection of fees or the requirement of permits and/or licenses for boat inspections, non-commercial fishing, the use on lakes owned by the Authority of boats operated for non-commercial purposes, and hunting except for the use of duck blinds constructed, operated and maintained by the Authority.

"(b) The Board of Directors of the Authority shall have the right to make contracts with responsible persons for the construction and operation of any facility on the Authority's property, fixing the compensation to be charged for service by any such facility to the end that the same be reasonable, and requiring adequate bond from any such contracting person, association or corporation, payable to the Authority and to be of such amount and condition as the Board of Directors of the Authority may in its discretion deem appropriate, and such contracts may provide for forfeiture of the particular franchise in case of a failure of the licensee to render adequate public service.

"(c) The Authority may prescribe reasonable penalties for the breach of any regulation of the Authority, which penalties shall not exceed fines of more than Two Hundred Dollars (\$200.00) or imprisonment for not more than thirty (30) days, or may provide both such fine and such imprisonment. The penalties hereby authorized shall be in addition to any other penalties provided by the laws of Texas and may be enforced by complaints filed in the appropriate court of jurisdiction in the county in which the violation occurred, provided, however that no rule or regulation which provides a penalty for the violation thereof shall be in effect, as to enforcement of the penalty, until five (5) days next after the Authority may have caused a substantive statement of the particular rule or regulation and the penalty for the violation thereof to be published, once a week for two (2) consecutive weeks in the district. The substantive statement so to be published shall be as condensed as is possible to afford an intelligent direction of the mind

to the act forbidden by the rule or regulation; the one notice may embrace any number of regulations; there must be embraced in the notice advice that breach of the particular regulation or regulations, will subject the violator to the infliction of a penalty, and there also shall be included in the notice advice that the full text of the regulations sought to be enforced is on file in the principal office of the Authority, where the same may be read by any interested person. Five (5) days after the second publication of the notice hereby required, the advertised regulation shall be in effect, and ignorance of any such regulation shall not constitute a defense to a prosecution for the enforcement of a penalty; and, the rules and regulations authorized hereby, after the required publication shall be judicially known to the courts and shall be considered of a nature like unto that of valid penal ordinances of a city of the state.

"(d) It further is expressly provided that the Authority shall have the power to employ and constitute its own law enforcement officers, and any such officer or law enforcement officer of any other governmental entity shall have the power to make arrests when necessary to prevent or abate the commission of any offense against the regulations of the Authority, and against the laws of the State of Texas, when any such offense, or threatened offense, occurs upon any land, water or easement owned or controlled by the Authority."

and

WHEREAS, Livingston Dam and the adjacent areas, regulation of which is contemplated under this Ordinance, are located solely on lands owned by the Authority.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE TRINITY RIVER AUTHORITY OF TEXAS:

1. THAT ORDINANCE NO. 0-9AA PASSED AND APPROVED BY THE BOARD OF DIRECTORS OF THE TRINITY RIVER AUTHORITY ON JUNE 23, 1982 IS HEREBY REPEALED;
2. The Livingston Dam (including its earthen embankment, spillway and outlet works) and the area adjacent thereto in Polk and San Jacinto Counties, Texas is hereby designated as a restricted area. This restricted area is shown by the plat attached hereto as Exhibit "A" and is specifically described as follows:

BEING 333.681 ACRES OF LAND SITUATED IN THE J. D. MARTINEZ SURVEY, A-30, AND THE A. R. GARNER SURVEY, A-16, IN SAN JACINTO COUNTY, TEXAS, AND IN THE W. PACE SURVEY, A-60, AND THE T. BRADLEY SURVEY, A-98, IN POLK COUNTY, TEXAS, AND SAID 333.681 ACRE TRACT IS THE RESTRICTED AREA SURROUNDING THE LAKE LIVINGSTON DAM AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT STATION 0+49.46 ON THE LAKE LIVINGSTON DAM, SAID POINT BEING AT THE INTERSECTION OF A FENCE WITH SAID LAKE LIVINGSTON DAM;

THENCE IN A SOUTHERLY DIRECTION ALONG SAID FENCE WITH ITS MEANDERS AS FOLLOWS:

S. 60 DEG. 16' 17" E. 68.17 FT.,  
S. 12 DEG. 47' 40" W. 139.96 FT.,  
S. 16 DEG. 39' 07" E. 287.67 FT., AND  
N. 64 DEG. 50' 34" E. 246.68 FT. TO THE INTERSECTION  
OF SAID FENCE WITH THE SOUTHEAST LINE OF THE 128.94 ACRE TRACT ACQUIRED  
FROM MRS. D. M. HALE FOR THE LAKE LIVINGSTON RESERVOIR:

THENCE N. 59 DEG. 52' 00" E. 1449.32 FT. ALONG SAID FENCE, SAME BEING THE SOUTHEAST LINE OF SAID HALE 128.94 ACRE TRACT, TO A TWO-INCH IRON PIPE MARKING THE SOUTH COMMON CORNER BETWEEN SAID HALE 128.94 ACRE FEE ACQUISITION TRACT AND THE 49.22 ACRE TRACT ACQUIRED FROM W. A. McELHANNON, ET. AL. FOR THE LAKE LIVINGSTON RESERVOIR:

THENCE N. 59 DEG. 30' 00" E. 146.92 FT. ALONG SAID FENCE, SAME BEING THE SOUTHEAST LINE OF SAID McELHANNON 49.22 ACRE ACQUISITION TRACT, TO AN ANGLE POINT IN SAID FENCE;

THENCE IN A NORTHEASTERLY DIRECTION ALONG SAID FENCE WITH ITS MEANDERS AS FOLLOWS:

N. 43 DEG. 30' 47" E. 331.09 FT.,  
N. 61 DEG. 28' 54" E. 333.57 FT.,  
N. 47 DEG. 12' 02" E. 447.84 FT.,  
N. 53 DEG. 46' 53" E. 326.65 FT.,  
N. 49 DEG. 35' 31" E. 469.77 FT.,  
N. 50 DEG. 30' 32" E. 285.04 FT.,  
N. 55 DEG. 58' 37" E. 247.53 FT.,  
N. 56 DEG. 27' 03" E. 303.60 FT.,  
N. 46 DEG. 41' 35" E. 207.48 FT.,  
N. 36 DEG. 40' 43" E. 370.77 FT., CROSSING THE COMMON SURVEY LINE LEAVING SAID J. D. MARTINEZ SURVEY, A-30, AND ENTERING SAID A. R. GARNER SURVEY, A-16,

N. 38 DEG. 39' 50" E. 893.26 FT.,  
N. 38 DEG. 20' 00" E. 531.82 FT.,  
N. 23 DEG. 08' 03" E. 369.19 FT.,  
N. 53 DEG. 27' 48" E. 1511.67 FT.,  
N. 54 DEG. 01' 54" E., AT 1746.28 FT. PAST THE NORTHWEST END OF A BARRICADE ERECTED BY THE TRINITY RIVER AUTHORITY (THE SOUTHEAST END OF SAID BARRICADE BEARS S. 40 DEG. 20' 02" E. 117.61 FT.), CONTINUING N. 54 DEG. 01' 54" E. FOR A TOTAL DISTANCE OF 1953.60 FT., AND N. 23 DEG. 59' 58" E. 84.52 FT. TO THE INTERSECTION OF SAID FENCE WITH THE SOUTH EDGE OF A CONCRETE WING WALL AT THE SOUTHEAST EDGE OF THE LAKE LIVINGSTON DAM OUTLET WORKS CHANNEL;

THENCE S. 86 DEG. 03' 16" E. 52.37 FT. ALONG THE SOUTH EDGE OF SAID WING WALL TO AN ANGLE POINT IN SAME;

THENCE S. 40 DEG. 39' 00" E. 33.69 FT. ALONG THE SOUTH EDGE OF SAID WING WALL TO A POINT AT THE END OF SAME;

THENCE N. 49 DEG. 21' 53" E. 76.87 FT., CROSSING SAID OUTLET WORKS CHANNEL, TO A POINT ON THE NORTH EDGE AT THE END OF THE WING WALL ON THE NORTH SIDE OF SAID OUTLET WORKS CHANNEL;

THENCE N. 40 DEG. 41' 46" W. 33.32 FT. ALONG THE NORTH EDGE OF SAID WING WALL TO AN ANGLE POINT IN SAME;

THENCE N. 04 DEG. 19' 07" E. 51.70 FT. ALONG THE NORTH EDGE OF SAID WING WALL TO ITS INTERSECTION WITH A FENCE LINE;

THENCE N. 80 DEG. 51' 47" E. 85.91 FT. ALONG SAID FENCE LINE TO AN ANGLE POINT IN SAME;

THENCE S. 50 DEG. 13' 39" E. 68.97 FT. ALONG SAID FENCE LINE TO AN ANGLE POINT IN SAME;

THENCE N. 89 DEG. 39' 06" E. 39.04 FT. ALONG SAID FENCE LINE TO AN ANGLE POINT IN SAME;

THENCE S. 89 DEG. 45' 15" E. 904.55 FT., CROSSING THE COUNTY LINE LEAVING SAN JACINTO COUNTY AND ENTERING POLK COUNTY, SAME BEING THE COMMON SURVEY LINE BETWEEN SAID GARNER AND PACE SURVEYS, TO A POINT ON THE WEST BANK OF THE SPILLWAY FOR THE LAKE LIVINGSTON RESERVOIR;

THENCE N. 73 DEG. 01' 00" E. 1198.03 FT., CROSSING SAID LAKE LIVINGSTON RESERVOIR SPILLWAY, TO A POINT ON THE EAST BANK OF SAME;

THENCE N. 16 DEG. 59' 00" W. 509.05 FT. TO A POINT IN A FENCE FOR CORNER;

THENCE N. 54 DEG. 19' 06" E. 706.68 FT. ALONG SAID FENCE TO AN ANGLE POINT IN SAME;

THENCE N. 36 DEG. 42' 37" E. 427.42 FT. ALONG SAID FENCE, CROSSING THE COMMON SURVEY LINE LEAVING SAID PACE SURVEY AND ENTERING SAID BRADLEY SURVEY, TO AN ANGLE POINT IN SAID FENCE.

THENCE N. 19 DEG. 08' 04" E. 637.17 FT. ALONG SAID FENCE TO AN ANGLE POINT IN SAME;

THENCE N. 30 DEG. 51' 21" E. 101.25 FT. TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF F.M. HIGHWAY NO. 1988;

THENCE N. 14 DEG. 12' 00" E. 487.11 FT. ALONG THE WEST RIGHT-OF-WAY LINE OF SAID F.M. HIGHWAY NO. 1988 TO ITS INTERSECTION WITH THE SOUTH-RIGHT-OF-WAY LINE OF THE LIVINGSTON DAM ENTRANCE ROAD;

THENCE WITH SOUTH RIGHT-OF-WAY LINE AS FOLLOWS:

S. 81 DEG. 54' 18" W. 56.46 FT.  
N. 55 DEG. 11' 31" W. 42.50 FT.  
S. 78 DEG. 22' 52" W. 38.32 FT.  
S. 64 DEG. 53' 38" W. 38.79 FT.  
S. 48 DEG. 38' 05" W. 40.53 FT.  
S. 42 DEG. 44' 51" W. 149.33 FT.;

THENCE ALONG THE PERIMETER OF A PAVED PARKING LOT AS FOLLOWS:

S. 45 DEG. 57' 30" E. 103.53 FT.  
S. 33 DEG. 24' 07" W. 160.29 FT.  
N. 64 DEG. 36' 43" W. 142.16 FT.;

THENCE N. 39 DEG. 33' 19" W. 24.72 FT. TO AN ANGLE POINT IN A CHAIN LINK FENCE;

THENCE N. 17 DEG. 13' 03" W. 160.84 FT. ALONG SAID CHAIN LINK FENCE TO ITS CORNER;

THENCE S. 86 DEG. 36' 30" W. 319.46 FT. TO THE NORTHEAST CORNER OF A BOATHOUSE;

THENCE S. 66 DEG. 12' 56" W. 24.37 FT. ALONG THE NORTH WALL OF SAID BOATHOUSE TO ITS NORTHWEST CORNER;

THENCE S. 55 DEG. 07' 07" W. 104.00 FT. TO A POINT ON THE EAST BANK OF THE LAKE LIVINGSTON RESERVOIR;

THENCE S. 74 DEG. 22' 37" W. 4179.58 FT. ALONG THE GENERAL ALIGNMENT OF A LINE OF BUOYS IN THE LAKE LIVINGSTON RESERVOIR MARKING THE RESTRICTED AREA SURROUNDING THE SPILLWAY;

THENCE S. 40 DEG. 29' 00" E. 1529.09 FT. ALONG THE GENERAL ALIGNMENT OF ANOTHER LINE OF BUOYS AT THE SOUTHWEST LINE OF SAID RESTRICTED AREA TO A POINT AT THE EDGE OF THE RIP RAP, SAID POINT BEING LOCATED N. 40 DEG. 29' 00" W. 38.00 FT. FROM STATION 100+00 OF THE LAKE LIVINGSTON DAM;

THENCE S. 49 DEG. 31' 00" W. 9400.00 FT. ALONG A LINE 38 FT. PERPENDICULAR DISTANCE SOUTHWEST OF AND PARALLEL TO THE CENTERLINE OF SAID LAKE LIVINGSTON DAM, SAME BEING ALONG THE EDGE OF THE RIP RAP AND GENERALLY AT THE WATER'S EDGE OF SAID RESERVOIR, TO A POINT FOR CORNER;

THENCE WITH THE SOUTHWEST SHORELINE OF SAID LAKE LIVINGSTON RESERVOIR ALONG THE RIP RAP AND GENERALLY ALONG THE WATER'S EDGE AS FOLLOWS:

N. 87 DEG. 51' 00" W. 245.36 FT.,  
N. 50 DEG. 01' 10" W. 168.83 FT., and  
N. 19 DEG. 20' 59" E. 102.90 FT., TO ITS INTERSECTION WITH A

FENCE;

THENCE ALONG SAID FENCE WITH ITS MEADERS AS FOLLOWS:

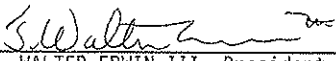
S. 81 DEG. 31' 01" W. 160.87 FT.,  
S. 78 DEG. 15' 32" W. 100.52 FT.,  
S. 11 DEG. 15' 15" E. 109.65 FT.,  
S. 17 DEG. 02' 51" E. 338.12 FT.,  
S. 31 DEG. 24' 03" E. 143.21 FT., AND

S. 60 DEG. 16' 17" E. 12.34 FT. TO THE PLACE OF BEGINNING AND CONTAINING WITHIN THESE BOUNDS 333.681 ACRES OF LAND.


3. It shall be unlawful for any unauthorized person to enter into or upon any portion of this restricted area. A person shall be deemed to be unauthorized if he does not have authority to so enter from the Authority's General Manager or his designated representative.
4. The provisions of this Ordinance shall be enforceable by duly authorized agents or employees of the Authority, which is empowered to employ and constitute its own law enforcement officers. Any such officer or law enforcement officer of any other governmental entity shall have the power to make arrests when necessary to prevent or abate the commission of any offense against this Ordinance.
5. The doing of any act forbidden to be done by this Ordinance, or the aiding or abetting thereof, shall be deemed a misdemeanor, which, in case of a lawful conviction therefor, shall be punishable by penalties which shall not exceed fines or maximum penalties under existing State Penal Code for Class C misdemeanors. The penalties hereby authorized shall be in addition to any other penalties provided by the laws of Texas and may be enforced by complaints filed in the appropriate court of jurisdiction in the county in which the violation occurred; provided, however, that no rule or regulation which provides a penalty for the violation thereof shall be in effect, as to the enforcement of the penalty, until five (5) days next after the Authority may have caused a substantive statement of the particular rule or regulation and the penalty for the violation thereof to be published, once a week for two (2) consecutive weeks in the district. The substantive statements so to be published shall be as condensed as possible to afford an intelligent direction of the mind to the act forbidden by the rule or regulation; the one notice may embrace any number of regulations; there must be embraced in the notice advice that breach of the particular regulation or regulations will subject the violator to the infliction of a penalty; and there also shall be included in the notice advice that the full text of the regulation sought to be enforced is on file in the principal office of the Authority, where same may be read by any interested person. Five (5) days after the second publication of the notice hereby required, the advertised regulation shall be in effect, and ignorance of such regulation shall not constitute a defense to a prosecution for the enforcement of a penalty and, the rules and regulations authorized thereby, after the required publication, shall judicially be known to the courts and shall be considered of a nature like unto that of valid penal ordinances of a city of the state.

6. The General Manager of the Authority shall:
- A. cause this restricted area to be clearly and visibly marked, identified and defined by signs -- or notices bearing the words "WARNING -- RESTRICTED AREA -- TRESPASSING PROHIBITED. TRINITY RIVER AUTHORITY OF TEXAS.";
  - B. cause a certified copy of this Ordinance summarily to be filed with the Texas Highway Department and by the Texas Parks and Wildlife Department as required by the Texas Water Safety Act;
  - C. cause a substantive statement of this Ordinance to be prepared and published in a newspaper of general circulation in each of Polk and San Jacinto Counties once a week for two (2) consecutive weeks in order to comply with the provisions of Section 5-A, of Article 8280-188, Revised Civil Statutes of Texas.

PASSED AND APPROVED this 27th day of October, 1993.

  
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T. WALTER ERWIN III, President  
Board of Directors  
Trinity River Authority of Texas

ATTEST:

  
\_\_\_\_\_  
JAMES L. MURPHY, Secretary  
Board of Director

# EXHIBIT A

## RESTRICTED AREA SURROUNDING THE LIVINGSTON DAM

