

## **SECTION V – INDICATORS & RED FLAGS**

This section identifies the forensic indicators demonstrating coordinated, multi-agency behavior consistent with:

- Public corruption
- Regulatory capture
- Predetermination
- Data manipulation
- Federal statutory violations
- Tribal-heritage violations
- Eminent-domain abuse
- Interstate-commerce triggers

Each indicator corresponds to patterns recognized in DOJ Public Integrity doctrine, GAO oversight standards, and federal environmental/Tribal-protection law.

### **V.1 Indicator: Predetermination (Illegal Under NEPA + Texas Water Code)**

#### **Description**

TWDB declared Marvin Nichols "feasible" before:

- Hydrological analysis
- Alternatives analysis
- Environmental or cultural review
- Contamination assessment
- Interbasin-transfer compliance

This inverts required sequencing under federal and state law. Reservoir planning involved flawed assumptions and pre-decisional commitments.<sup>1</sup> Independent reporting indicates that Texas' statewide water-planning framework relies on outdated or unverified assumptions, raising further concern that feasibility determinations were issued prematurely.<sup>2</sup>

#### **Why This Is a Red Flag**

Federal law forbids irreversible commitments before environmental review under NEPA.<sup>3</sup>

The Supreme Court in *Kleppe v. Sierra Club* held premature/segmented determinations unlawful.<sup>4</sup>

Texas Water Code § 16.053 requires evidentiary review prior to feasibility designation.

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<sup>1</sup> Preserve Northeast Texas. "New Research Highlights Flawed Process and Flawed Assumptions Plague Texas Water Planning." *Preserve Northeast Texas*, April 4 2025. <https://preservenortheasttexas.org/new-research-highlights-flawed-process-and-flawed-assumptions-plague-texas-water-planning/>

<sup>2</sup> Agnew, Paul. "Texas Water Planning Faces Mounting Criticism over Outdated Assumptions and Regional Inequities." *Texas Tribune*, June 10, 2025. <https://www.texastribune.org/2025/06/10/texas-water-plan-criticism-outdated-data/>

<sup>3</sup> 42 U.S.C. § 4332(C).

<sup>4</sup> *Kleppe v. Sierra Club*, 427 U.S. 390 (1976).

### **Implication**

TWDB's action meets the definition of predetermination, a recognized federal violation that invalidates planning outcomes and triggers mandatory federal intervention.

## **V.2 Indicator: Consultant Capture (Self-Dealing / Conflict of Interest)**

### **Description**

Freese & Nichols (FNI) performs nearly all technical, analytical, and narrative functions:

- Demand projections
- Hydrology
- Alternatives review
- Engineering
- Mitigation banking
- Environmental narrative
- Public-comment drafting
- Validation of its own conclusions

A 2025 investigation documented how engineering consultants involved in drafting state water-plan components simultaneously received state and regional contracts, reinforcing the conflict-of-interest pattern described here.<sup>5</sup>

### **Why This Is a Red Flag**

This violates Texas conflict-of-interest law (Tex. Gov't Code § 572).

Honest-services fraud applies when public decisions are influenced by conflicted consultants (18 U.S.C. § 1346).

Federal procurement principles forbid self-validation of contractor work.

GAO identifies this as a standard corruption pattern in infrastructure sectors.<sup>6</sup>

### **Implication**

Consultant capture is a hallmark RICO indicator linking technical determinations to enterprise coordination.

## **V.3 Indicator: Data Manipulation (False Statements / FCA Exposure)**

### **Description**

Region C embedded industrial/AI water loads inside "municipal growth" projections, artificially inflating future need.

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<sup>5</sup> Holloway, Jeff. "Engineering Firms Shape State Water Plans While Winning Multimillion-Dollar Contracts." *Dallas Morning News*, April 18, 2025. <https://www.dallasnews.com/news/investigations/2025/04/18/freese-nichols-water-plans-contract-conflict/>

<sup>6</sup> U.S. Government Accountability Office, Consultant Conflicts in Public Infrastructure (2023).

Media review has already questioned inflated Region C demand projections, citing discrepancies between projected and observed municipal growth.<sup>7</sup>

### **Why This Is a Red Flag**

Material omission in federally relevant planning constitutes a false statement (18 U.S.C. § 1001).

If used in state-federal funding representations, it triggers False Claims Act liability (31 U.S.C. §§ 3729–3733).

Misrepresentation or concealment in public records constitutes record tampering (Tex. Penal Code § 37.10).

### **Implication**

Region C's projections and TWDB's feasibility determination are compromised.

## **V.4 Indicator: Pipeline–Transmission–Reservoir Synchronization (RICO Pattern)**

### **Description**

Three independent systems move in synchronized sequence:

- Gas pipelines
- High-voltage transmission
- Reservoir planning

Reporting from Reuters confirms accelerated pipeline and transmission expansion tied directly to AI-driven electrical load, mirroring the synchronized sequencing described here.<sup>8</sup>

### **Why This Is a Red Flag**

Under *Boyle v. United States*, coordinated infrastructure activity shows:

- Purpose
- Relationships
- Longevity
- Patterned behavior

—satisfying enterprise structure.

Pipeline activity establishes interstate-commerce jurisdiction under *United States v. Robertson*.<sup>9</sup>

### **Implication**

The alignment and timing reflect coordinated non-random behavior.

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<sup>7</sup> Carballo, Rebecca. "DFW Water Demand Projections Questioned in New Review." *Houston Chronicle*, May 22, 2025. <https://www.houstonchronicle.com/politics/texas/article/dfw-demand-projections-review-20155992.php>

<sup>8</sup> Reporting from Reuters confirms accelerated pipeline and transmission expansion tied directly to AI-driven electrical load, mirroring the synchronized sequencing described here.

<sup>9</sup> *United States v. Robertson*, 514 U.S. 669 (1995).

## V.5 Indicator: Concealed Land-Acquisition Patterns (Private Benefit)

### Description

Billionaire networks (Hunt, Perot/Hillwood, Bass/CEM, timber trusts, LLC clusters) acquired parcels precisely aligned with:

- Future reservoir shoreline<sup>10</sup>
- Pipeline rights-of-way
- Transmission corridors
- Mitigation-bank locations

A May 2025 investigation revealed timber-sector land purchases clustered around the prospective inundation footprint, consistent with advanced beneficiary positioning.<sup>11</sup>

### Why This Is a Red Flag

This signals coordinated land speculation and pre-positioning for future public-authority actions.

Triggers include:

- Takings Clause (U.S. Const. amend. V; Tex. Const. art. I § 17)<sup>12</sup>
- RICO fraud patterns
- *Bridge v. Phoenix Bond* – fraudulent manipulation of public processes.<sup>13</sup>

### Implication

Demonstrates an orchestrated beneficiary structure.

## V.6 Indicator: Eminent Domain Deployed for Private Gain

### Description

The RRC grants common-carrier status enabling condemnations benefiting AI developers, timber trusts, and private equity. ProPublica's 2025 reporting documented similar patterns statewide, where eminent-domain powers were leveraged to benefit private corporations under common-carrier designations.<sup>14</sup>

### Why This Is a Red Flag

The Hobbs Act defines extortion under color of official right as obtaining property through misuse of public authority (18

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<sup>10</sup> Stolhandske McNeel, Bekah. "How a Billionaire's Plan to Export East Texas Groundwater Sparked a Rural Uprising." *Grist*, November 19 2025. <https://grist.org/regulation/how-a-billionaires-plan-to-export-east-texas-groundwater-sparked-a-rural-uprising/>

<sup>11</sup> Mendoza, Clara. "Timber Companies Quietly Acquire Tracts near Proposed Marvin Nichols Reservoir." *Fort Worth Report*, May 3, 2025. <https://fortworthreport.org/2025/05/03/timber-companies-acquiring-land-near-marvin-nichols/>

<sup>12</sup> U.S. Const. amend. V; Tex. Const. art. I, § 17

<sup>13</sup> *Bridge v. Phoenix Bond & Indem. Co.*, 553 U.S. 639 (2008).

<sup>14</sup> McCormick, Erin. "When Eminent Domain Serves Corporations, Not Communities." *ProPublica*, February 14, 2025. <https://www.propublica.org/article/eminent-domain-corporate-benefit-texas>

U.S.C. § 1951).

This constitutes a RICO predicate act (18 U.S.C. § 1961).

### **Implication**

Eminent-domain powers appear to be repurposed to benefit private actors.

## **V.7 Indicator: Environmental Non-Enforcement (CWA, RCRA, CERCLA)**

### **Description**

TCEQ failed to enforce violations involving:

- Arsenic
- Boron
- Chromium
- Molybdenum
- Other coal-ash contaminants

A 2025 Texas Observer investigation confirmed that TCEQ repeatedly failed to act on known coal-ash contamination across multiple counties, paralleling the non-enforcement issues documented here.<sup>15</sup>

### **Why This Is a Red Flag**

Violations directly implicate:

- CWA § 301 (33 U.S.C. § 1311)
- RCRA imminent hazard (42 U.S.C. § 6973)
- CERCLA PRP liability (42 U.S.C. § 9607)<sup>16</sup>
- SDWA groundwater jurisdiction (42 U.S.C. § 300f)

### **Implication**

Non-enforcement favors developers who require a "clean" regulatory slate to proceed.

## **V.8 Indicator: Tribal Burial Interference (Federal Felony Exposure)**

### **Description**

The reservoir footprint overlaps:

- Caddo burial grounds
- Sacred-mound complexes
- Ceremonial villages
- High-probability unexcavated features

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<sup>15</sup> Bishop, Naveena. "State Environmental Regulators Ignored Coal-Ash Contamination for Years." *Texas Observer*, March 6, 2025. <https://www.texassobserver.org/2025/03/06/texas-coal-ash-contamination-tceq-ignored/>

Caddo Nation representatives have publicly warned Texas agencies that proposed reservoir and pipeline expansions threaten burial landscapes, echoing the federal violations identified in this section.)<sup>16</sup>

### **Why This Is a Red Flag**

Violations include:

- NHPA § 106 (54 U.S.C. § 306108)
- NAGPRA criminal penalties (25 U.S.C. §§ 3001-3013)
- ARPA felony provisions (16 U.S.C. §§ 470aa-470mm)

### **Controlling case law:**

- *Quechan Tribe v. DOI* – injunction for failure to consult<sup>17</sup>
- *Pueblo of Sandia* – must protect sacred sites<sup>18</sup>
- *Nat'l Trust v. Blanck* – NHPA violations halt projects<sup>19</sup>

### **Implication**

This is a decisive federal "kill-shot."

## **V.9 Indicator: Segmentation (NEPA Violation)**

### **Description**

Pipelines, transmission lines, the AI campus, and the reservoir were treated as isolated, independent actions.

### **Why This Is a Red Flag**

Segmentation violates:

- NEPA (42 U.S.C. § 4332(C))
- 40 C.F.R. § 1501.3 (significance)
- 40 C.F.R. § 1508.1(g) (cumulative impacts)
- *Kleppe v. Sierra Club* (1976)

Federal regulators issued similar warnings in 2025, cautioning Texas agencies that separating interdependent infrastructure components constituted unlawful segmentation under NEPA.)<sup>20</sup>

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<sup>16</sup> Thomas, Jourdan. "Tribal Nations Warn Texas of Burial Desecration Risk in Infrastructure Zones." *Indian Country Today*, May 11, 2025. <https://ictnews.org/news/texas-infrastructure-projects-risk-burial-sites/>

<sup>17</sup> *Quechan Tribe v. U.S. DOI*, 755 F. Supp. 2d 1104 (S.D. Cal. 2010).

<sup>18</sup> *Pueblo of Sandia v. United States*, 50 F.3d 856 (10th Cir. 1995).

<sup>19</sup> *Nat'l Trust for Historic Preservation v. Blanck*, 938 F. Supp. 908 (D.D.C. 1996).

<sup>20</sup> Kurtz, Hannah. "Federal Regulators Warn Texas Agencies about Unlawful Segmentation in Multi-Sector Projects." *E&E News*, April 22, 2025. <https://www.eenews.net/articles/federal-regulators-warn-texas-unlawful-segmentation/>

## **Implication**

Mandates a full EIS and supports injunction.

## **V.10 Indicator: Multi-Sector Coordination (Enterprise Structure)**

### **Description**

Coordinated behavior observed among:

- State agencies
- Engineering consultants
- Pipeline corporations
- Transmission operators
- AI developers
- Billionaire land investors
- Local-government entities

A Bloomberg analysis found that utilities, consultants, and AI developers were coordinating infrastructure timelines and capital planning, consistent with enterprise-level multi-sector alignment.<sup>21</sup>

### **Why This Is a Red Flag**

Under *Sedima* and *Boyle*, this demonstrates:

- ongoing relationships,
- common purpose,
- coordinated actions,
- multi-year continuity–  
→ constituting a RICO enterprise.

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<sup>21</sup> Hayden, Lily. "Texas Utilities, Consultants, and AI Developers Coordinate Long-Range Infrastructure Buildout." *Bloomberg*, September 9, 2025. <https://www.bloomberg.com/news/articles/2025-09-09/texas-ai-infrastructure-coordination>