



Mr. Robert Thompson

University of Texas at San Antonio

Texas water quality, or the lack thereof

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**MEETING ROOM:
FLN 3.01.06**

MEETING LINK:

[HTTPS://UTSA.ZOOM.US/J/98136953955?PWD=PTF6LOE0DU75CH1ZCAMAQBMSH7DA3S.1](https://utsa.zoom.us/j/98136953955?pwd=PTF6LOE0DU75CH1ZCAMAQBMSH7DA3S.1)

Born and raised in Oklahoma, attended Oklahoma State University in 1958-1963, Mechanical Engineering
1963: entered Air Force as an engineer working in Nuclear Weapon Development

1965: Air Force Flight School

1966: Assigned to HAHN AFB in Germany as a nuclear weapons pilot

1970: Exit Air force - Texas Air National Guard

1970: Enrolled in St. Mary's Law School

1973: Graduated from Law School, licensed to practice law in Texas

1974: Working for Texas National Guard

1979: Elected to San Antonio City Council

1992: Left City Council for Full time Law Practice

2004: Senior lecturer at UTSA for Environmental Law-Present

ABSTRACT

Texas water law has always suffered from a lack of certainty and definition. Some of our water quality falls within the reach of the federal clean water act. The regulation and enforcement of which is accomplished by the environmental protection agency (EPA). The reach of the CWA is defined by surface water within the bounds of the "waters of the United States". Your question is: what are waters of the United States? You have just been given the problem; the supreme court gave definition to this vacillating question in the case of *Sackett v. EPA*. I hope you are asking about control of pollution, not within this definition. Welcome to the dilemma, do we attempt to enlarge the reach of the as announced by *Sackett* or develop state water pollution laws to be enforced by each states law and implementing regulations. The great philosopher Yoga Bera said "when you come to a fork in the road take it" I believe that each of the fifty states are left with the obligation of keeping its surface waters pollution free and acceptable for recreational and fishing uses.

As each state approaches its unique fork in the road the required first step is to clearly and completely define its unique water pollution problems. With this "first step requirements" and approach the regulatory aspect of the dilemma, you must decide what shall be the measuring stick for this effort. Shall it be a health standard, cost allocations, or aesthetic preservation? I believe the first two options are mutually exclusive, with aesthetic protection being a companion of either one.

Being a tenant on this rock named earth, I believe health is the highest priority and must deserve our best efforts. Cost drives us into a zero-sum game; health standards must be objectively defined and monitored. Not only for our own good health, but for future generations

Narrowing our focus to Texas surface waters. We must equate our obligations for clean water to the effort expended on our oil and gas regulations. In closing answer these questions, what if we don't?