

APPLICATION OF	§	
BLUE WATER VISTA RIDGE LLC	§	BEFORE THE
FOR AMENDMENT TO DRILLING AND	§	
OPERATING PERMIT NO.	§	POST OAK SAVANNAH
POS-D&O/A&M-0001D AND FOR	§	GROUNDWATER CONSERVATION
AMENDMENT TO TRANSPORT	§	DISTRICT
PERMIT NO. POS-T-0001B	§	

APPLICANT'S STATEMENT OF POSITION ON PARTY STATUS

1. Blue Water Vista Ridge LLC ("BWVR") has filed an application (the "Application") with the Post Oak Savannah Groundwater Conservation District (the "District") for four amendments to Drilling and Operating Permit No. POS-D&O/A&M-0001d (the "Operating Permit") and to Transport Permit No. POS-T-0001d (the "Transport Permit").

2. The BWVR wells at issue are all *Simsboro* wells. The Carrizo-Wilcox Aquifer is a major aquifer in Texas, and there are four individual formations within the Carrizo-Wilcox in Milam and Burleson Counties, which, from upper to lower units, are the Carrizo Formation, the Calvert Bluff Formation, the Simsboro Formation, and the Hooper Formation. These formations are separate, distinct, and independent. The Simsboro is confined by thick layers of impermeable clay, such that production of water from the Simsboro does not materially impact even the next closest formation (the Calvert Bluff), let alone other aquifers overlying the Carrizo-Wilcox. A readily-observable product of the Simsboro's confined geology is the hydrostatic pressure within the aquifer that creates approximately 2,000 feet of artesian lift in the vicinity of the Vista Ridge well field. The top of the Simsboro in the Vista Ridge well field is approximately 2,200 feet in depth.

3. On August 2, 2019, the District declared BWVR's Application administratively complete. The preliminary hearing on the Application has been set for October 3, 2019.

I. Two Potential Parties have sought to intervene in this proceeding.

4. Curtis Chubb (“Chubb”) submitted a written request to the District on September 23, 2019, to be designated an “affected person” in these proceedings. Chubb owns property at 830 County Road 330, Milano, Texas 76556—about 17 miles north of the Vista Ridge well field. A map showing the location of Mr. Chubb’s property and its distance from the Vista Ridge well field is attached as Ex. A. Chubb’s hearing request does not identify any groundwater well on his property, let alone a Simsboro well. In fact, Chubb does not own any rights to the groundwater beneath his property. He seeks to intervene based on his ownership of land over the Simsboro.

5. Sidney Zgabay (“Zgabay”) submitted a written request to the District on September 26, 2019, to be designated an “affected person” in these proceedings. Zgabay owns property at 8710 W. Hwy. 21, Caldwell, Texas 77836, to the east of the Vista Ridge well field. A map showing the location of Mr. Zgabay’s property and its distance from the Vista Ridge well field is attached as Ex. B. Zgabay has a groundwater well on his property, but admits that the well is at a depth between 450 and 500 feet—*i.e.*, not a Simsboro well. A cross-section showing Mr. Zgabay’s well in relation to the Vista Ridge wells in the Simsboro aquifer is attached as Ex. C.

II. The Potential Parties must have a “personal justiciable interest” to contest BWVR’s Application.

6. Chapter 36 of the Texas Water Code requires a groundwater conservation district such as the District to adopt procedural rules that “limit participation” in a hearing on a contested application to persons:

who have a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest that is within a district’s regulatory authority and affected by a permit or permit amendment application, not including persons who have an interest common to members of the public.

TEX. WATER CODE § 36.415(b)(2).

7. The District complied with the Legislature’s requirement and adopted Rules to limit participation in its hearing process. Under the District’s Rules, a person must be an “affected person” in order to be a party to BWVR’s Application, including the right to “testify, offer any evidence, or file any document.” *See* Dist. Rule 14.3.2. An “affected person” is defined as a person who has “a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application.” *See* Dist. Rule 1.1. Importantly, an “interest common to members of the general public” does *not* qualify as such a justiciable interest. *See* Dist. Rule 1.1. Also importantly, the District’s “affected person” determination “shall” take into account, among other things: (a) “distance restrictions . . . imposed by law on the affected interest” including the person’s “proximity to well locations”; (b) “whether a reasonable relationship exists between the interest claimed and the activity regulated” and the “likely impact of the regulated activity on use of the impacted natural resource by the person.” *See* Dist. Rule 1.1.

8. The burden of proof to establish a personal justiciable interest is on the person making a request for party status—here, Chubb and Zgabay. *See* Dist. Rule 7.5.3. To meet such burden of proof, the potential parties must demonstrate their personal justiciable interests, *in writing*, at least five business days before the preliminary hearing. *See* Dist. Rules 7.5.3, 14.2.4, 14.5.3.b.

9. Thus, the Legislature and this District have not broadly conferred standing to any landowner over the subject aquifer. Instead, the Legislature and this District have limited participation in well permit application hearings to those *actually harmed*. Well permit hearings are highly specialized matters, involving expert-driven, technical questions such as well spacing and hydrologic impact on wells that might be potentially affected. By not conferring standing to

“any landowner,” and instead directing groundwater conservation districts to “limit participation” in those hearings, the Legislature and this District signaled their plain intent to keep well permit hearings tied to technical issues, and to prevent those hearings from devolving into thinly-disguised political protests.

10. A person cannot request a contested case hearing unless he first establishes that he is an affected person. *See id.* § 36.415(b)(3).

III. A “personal justiciable interest” requires a well in the same aquifer as at issue under the Application.

11. Chubb and Zgabay’s requests for party status rest on the notion that any landowner over an aquifer is entitled to protest a well application, regardless of whether they have a well in the affected aquifer. On the contrary, the District has an obligation to limit party status to those landowners actually affected by a well application. TEX. WATER CODE § 36.415(b)(2).

12. The requirement of showing actual or imminent injury, rather than hypothetical or speculative injury, applies to groundwater resources in the same way that it applies to land ownership. *See Collins v. Tex. Natural Res. Conservation Comm’n*, 94 S.W.3d 876, 882 (Tex. App.—Austin 2002, no pet.) (affirming agency denial of a hearing request by landowner alleging potential harm to groundwater resources 1.3 miles away from facility because landowner failed to demonstrate he was an “affected person”).

13. Chubb and Zgabay assert that they have property rights in groundwater. As a factual and legal matter (as demonstrated below), Chubb is incorrect. But, in any case, having property rights in groundwater is simply not enough—alone—to establish standing. BWVR does not dispute that landowners have certain groundwater rights that are one of the sticks in the bundle of rights that comes with land ownership in Texas. TEX. WATER CODE § 36.002(a) (“The legislature recognizes that a landowner owns the groundwater below the surface of the

landowner's land as real property.”). However, inchoate ownership rights in groundwater—standing alone—simply do not confer universal standing to challenge any and every action that might hypothetically affect a groundwater resource under one's property, regardless of actual injury. The Carrizo-Wilcox Aquifer, of which the Simsboro is a component, stretches from the Rio Grande in south Texas to the Louisiana border in east Texas. A map showing the extent of the Carrizo-Wilcox aquifer is attached as Ex. D. The central Texas portion of the Carrizo-Wilcox alone is a vast aquifer that underlies several counties and, according to the Texas Water Development Board, contains 1 billion acre-feet of water in storage. It cannot be that every landowner over that vast area of land can protest any application to withdraw water from any groundwater district overlying the aquifer, regardless of facts that would demonstrate injury (such as ownership of a well in the affected aquifer and proximity to the proposed well). Such a rule would be entirely unworkable and would turn well application hearings, which turn on technical questions such as compliance with well spacing regulations, into political circuses bearing no relation to the technical questions actually at issue, nor to the actual injury of the protesting parties.

14. If land ownership alone were enough to confer standing, then any landowner anywhere could challenge any environmental permit. That is not the law, and loosening standing requirements by removing the actual injury requirement would create a nightmare for regulatory agencies such as this District. See *Tex. Disposal Sys. Landfill, Inc. v. Tex. Comm'n on Env'tl. Quality*, 259 S.W.3d 361 (Tex. App—Amarillo 2008, no pet.) (“[L]ike the chance of a pig growing wings, the purported injury that might befall [a landfill owner located 200 miles away] is mere speculation, and as such, it falls short of establishing a justiciable interest and standing.”).

15. It is a reasonable application of this District's Rules, therefore, for the District to require that a person have an actual groundwater well that produces from the aquifer which is the subject of the application—or, at a bare minimum, concrete, imminent plans for such a well—to have standing to challenge another person's application for a well. It is also a reasonable application of this District's Rules to require that the landowner's well be within reasonable proximity of the proposed well at issue. Both of these limitations are directly tied to the foundational component of standing—actual or imminent injury. As a practical matter, without such reasonable, common-sense limitations, the District would be required to allow any landowner over the entire aquifer to demand a contested case to protest any application for a well permit. The Legislature has mandated that groundwater conservation districts “limit participation” in permit hearings, and the District has discretion to draw the line in this manner. *See R.R. Comm'n v. Ennis Transp. Co.*, 695 S.W.2d 706, 710 (Tex. App.—Austin 1985, writ ref'd n.r.e.).¹

16. The Lost Pines Groundwater Conservation District affirmed this very conclusion regarding the Simsboro in the End Op case (SOAH Docket No. 952-13-5210). The Administrative Law Judge concluded that landowners near the applicable Simsboro wells did not have standing to be an “affected person” because they were “not using and have not shown that they intend to use groundwater that will be drawn from the Simsboro.” A copy of the ALJ's order is attached as Ex. E. The Lost Pines Groundwater Conservation District agreed with this result by its January 19, 2015 Order. A copy of the Lost Pines GCD's order is attached as Ex. F. The Lost Pines decision was affirmed on appeal on jurisdictional grounds, with one justice explicitly affirming the standing decision, rendering the Lost Pines District's decision final and

¹ Environmental concerns do not alter the analysis. *See Save Our Springs Alliance v. City of Dripping Springs*, 304 S.W.3d 871, 880 (Tex. App.—Austin 2010, pet. denied) (“In sum, we do not find any Texas case in which an alleged injury to a plaintiff's environmental, scientific, or recreational interests conferred standing in the absence of allegations that the plaintiff has an interest in property affected by the defendants' actions.”).

unchallenged. *End Op, L.P. v. Meyer*, 2018 Tex. App. LEXIS 6934 (Tex. App.—Austin 2018, no pet.). That final decision should be followed in this case as well.²

IV. The Potential Parties do not have an actual or imminent Simsboro well.

17. There are two potential parties who have sought to be admitted in these proceedings—Chubb and Zgabay.

18. Chubb has no personal justiciable interest to protest BWVR’s Application. Chubb has no ownership of the groundwater beneath his land whatsoever. The property deed to Chubb expressly reserves “all of the groundwater in and under” the land from being conveyed to him. *See* Ex. G. As a result, Chubb has no actual or imminent injury from BWVR’s groundwater wells. Even if Chubb owned his groundwater rights, those rights are subject to a lease that has been assigned to Blue Water. The lease, which Chubb obliquely acknowledges in his hearing request, has been pooled, and is in effect today as a matter of public record. A copy of the Fifty-Third Amendment and Ratification of Designation of Collective Water Development and Production Unit is attached as Ex. H. Finally, even if Chubb owned the groundwater beneath his land, and his groundwater rights were not leased, he still would not be an affected person. Chubb’s property is 17 miles from the Vista Ridge well field. Chubb does not have a Simsboro well, nor any imminent plans to drill a Simsboro well. Moreover, Chubb’s hearing request does not identify any well that he claims is affected, nor could he, since he holds no ownership right to the groundwater beneath his land.

² While the Administrative Law Judge in the pending Lower Colorado River Authority case (SOAH Docket No. 952-19-0705) allowed persons with a groundwater well to participate even if the well is not connected to the Simsboro, there are two simple reasons not to rely on that ruling here. First, this was done in the context of the applicant itself not challenging their party status, thereby seeking to avoid any possibility of a district court reversal. Second, the Lost Pines District has not yet had the opportunity to affirm or reverse this conclusion, since it directly contradicts the Lost Pines District’s prior conclusion in the *End Op* case.

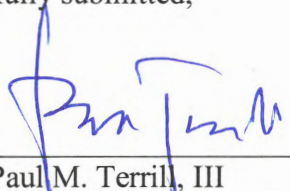
19. The only other person to timely file a written request for affected party status is Zgabay. Zgabay also has no personal justiciable interest to protest BWVR's Application. Although Zgabay owns the groundwater beneath his land and has a groundwater well on the property, there is one critical fact that defeats his standing—the well on his property is not a Simsboro well, and, in fact, is several hydrologically-separate formations above the Simsboro. According to this hearing request, Zgabay's well is between 450-500 feet deep, which places his well in the Queen City Aquifer. Zgabay's well in the Queen City Aquifer is more than 1,700 feet above the top of the Simsboro, and there are several formations between the Queen City and the Simsboro. *See Ex. C.* As noted earlier, the Simsboro is a confined aquifer, with thick layers of impermeable clay resulting in artesian conditions in the Simsboro. Production of water in the Simsboro bears no reasonable relationship to a shallow well in the Queen City, separated by 1,700 feet and multiple confining formations. Put another way, BWVR's Application for 4,842 acre-feet of annual production from the Simsboro aquifer will not impact Zgabay's use of his Queen City well. Zgabay does not have a Simsboro well, nor will pumping from the hydrologically separate Simsboro aquifer affect his well that is four formations above the Simsboro. Therefore, Zgabay is not an affected party.

20. One of the irreducible constitutional minimums of standing is that, to be an injury in fact, the harm to the plaintiff from the defendant's conduct must be actual or imminent, not conjectural or hypothetical. *See Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992); *Brown v. Todd*, 53 S.W.3d 297, 302 (Tex. 2001). Neither Chubb nor Zgabay has an "actual or imminent" Simsboro well. Under basic standing principles, neither Chubb nor Zgabay have met their burden to show actual or imminent harm.

21. Land ownership over an aquifer—standing alone—is not sufficient to protest a groundwater well application; nor is ownership of a well that produces from an aquifer that is hydrologically separate from the Simsboro Formation of the Carrizo-Wilcox Aquifer. Without a well in the Simsboro, Chubb and Zgabay cannot distinguish themselves from any other landowner in the entire District. The District should deny Chubb and Zgabay’s standing to challenge BWVR’s Application, because they have failed to carry their burden to demonstrate an interest that will be harmed by BWVR’s Application, and their complaints are instead common to members of the public. *See* Dist. Rule 1.1.

Respectfully submitted,

By: _____


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**ATTORNEY FOR BLUE WATER
VISTA RIDGE, LLC**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served as indicated on October 3, 2019, to the following:

VIA E-MAIL

Curtis Chubb
830 County Road 330
Milano, Texas 76556
texas.rain@centurylink.net

VIA FIRST-CLASS MAIL

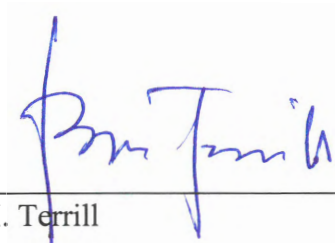
Sidney Zgabay
8710 W. St. Hwy 21
Caldwell, Texas 77836

VIA E-MAIL






Judith McGeary
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Cameron, Texas 76520-0962
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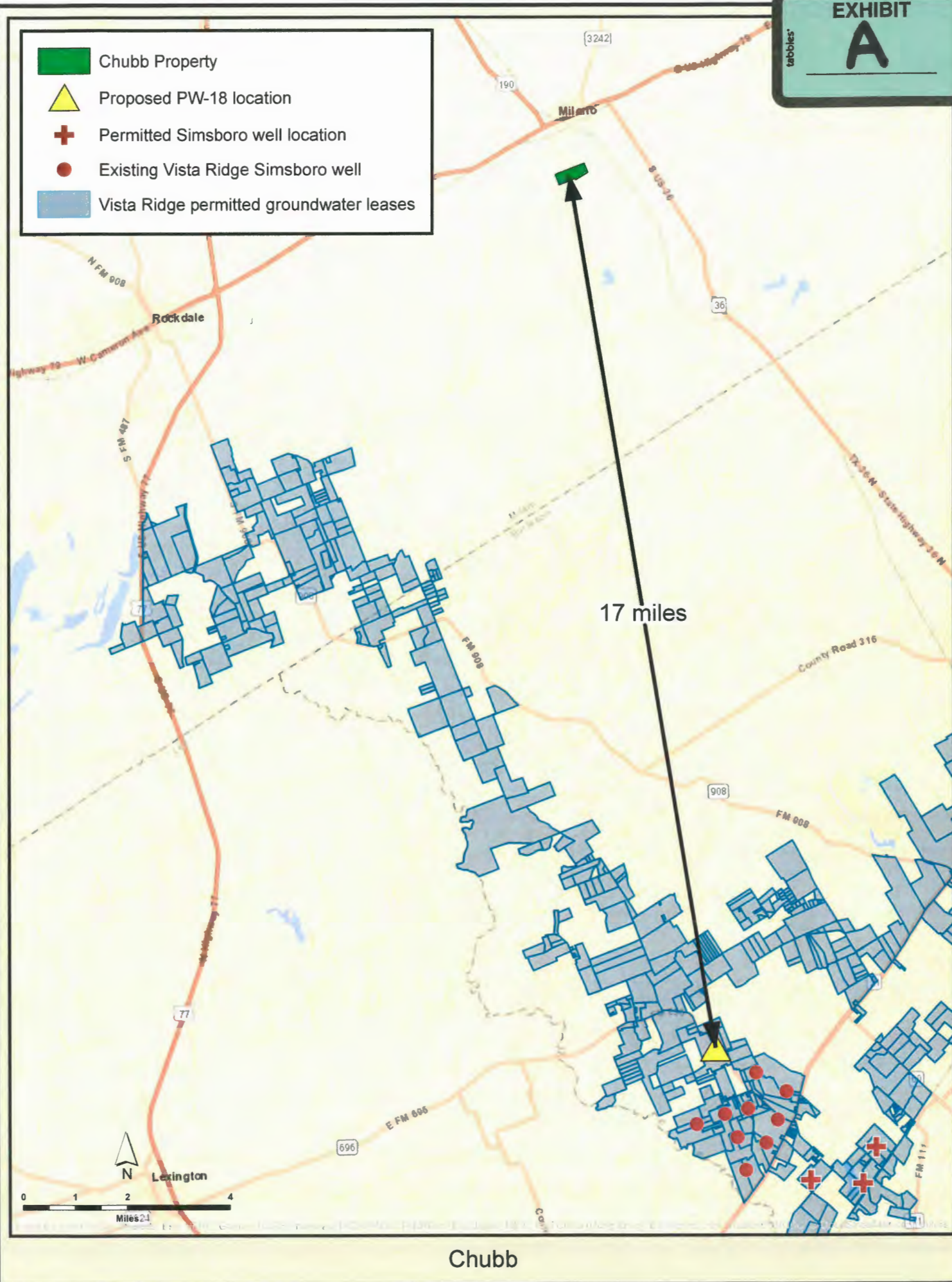
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Paul M. Terrill

-  Chubb Property
-  Proposed PW-18 location
-  Permitted Simsboro well location
-  Existing Vista Ridge Simsboro well
-  Vista Ridge permitted groundwater leases

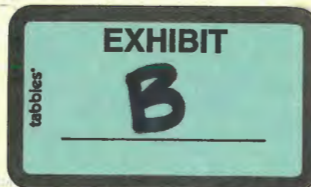


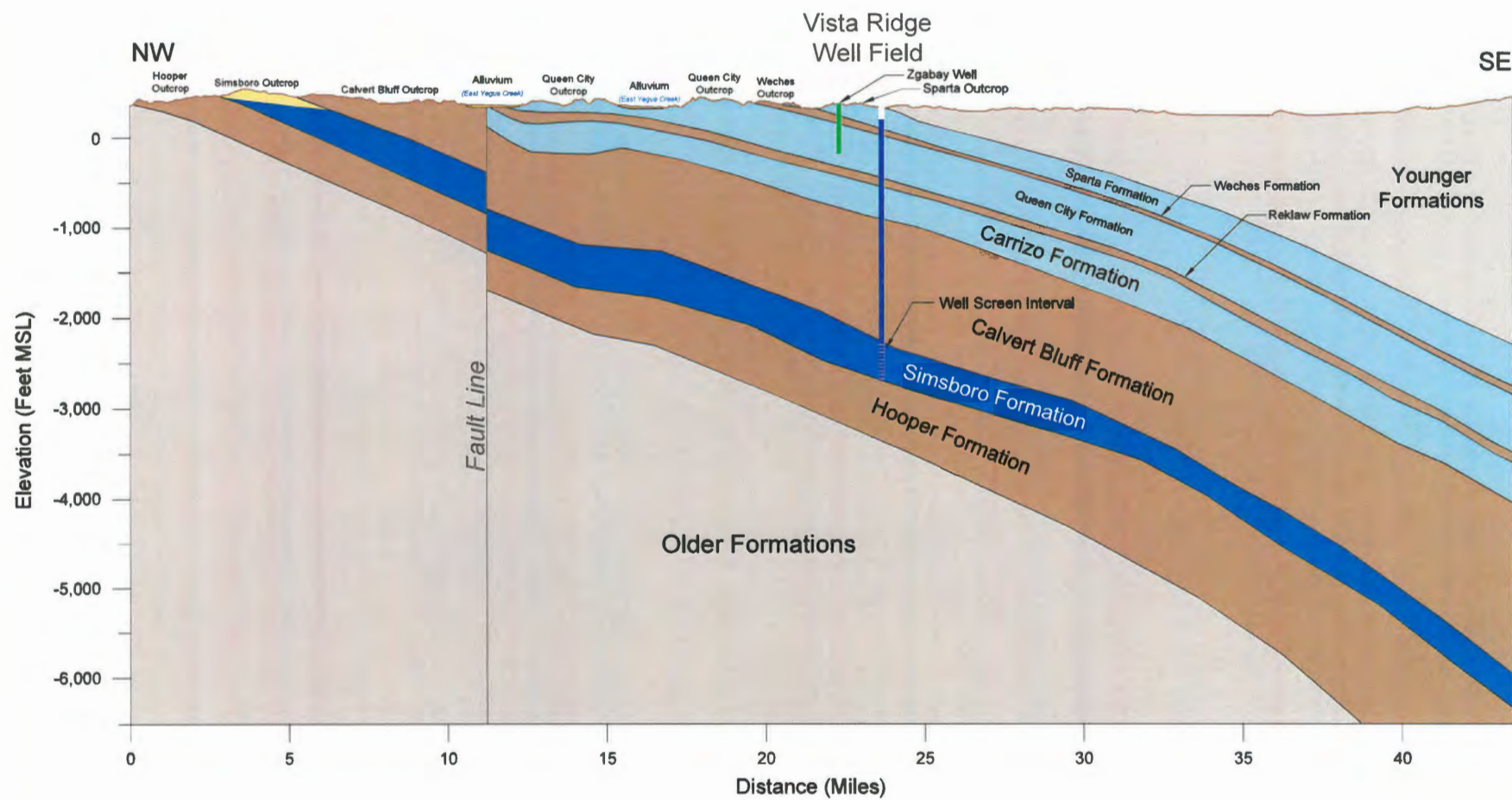
-  Zgabay Well
-  Proposed PW-18 location
-  Permitted Simsboro well location
-  Existing Vista Ridge Simsboro well
-  Vista Ridge permitted groundwater leases

Zgabay Well
Completed Depth: 560'
Approximate Top of Simsboro: 2,200'



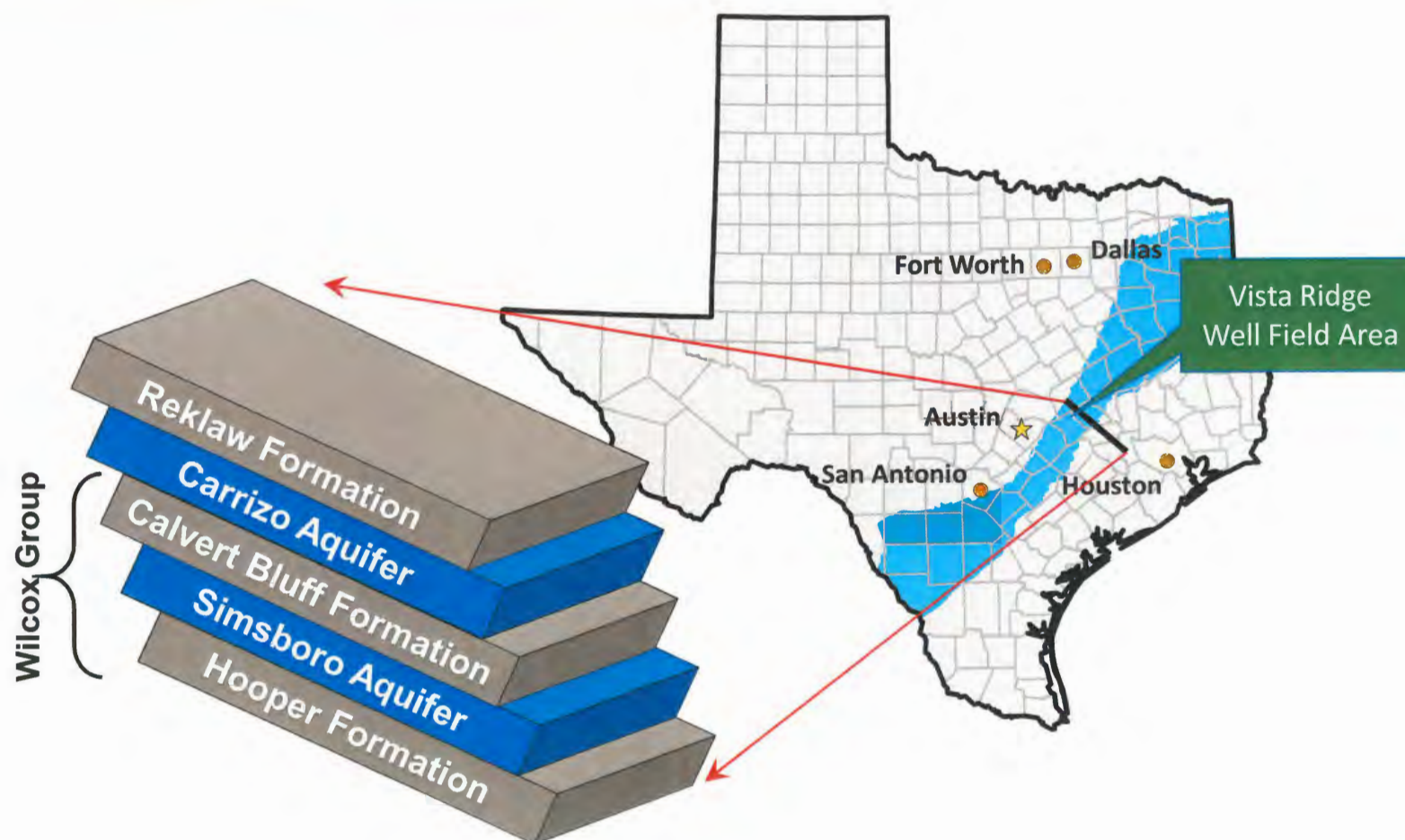
Zgabay





Cross Section Diagram

Carrizo-Wilcox Aquifer





SOAH DOCKET NO. 952-13-5210

APPLICATIONS OF END OP, L.P. FOR § BEFORE THE STATE OFFICE
WELL REGISTRATION, OPERATING §
PERMITS, AND TRANSFER PERMITS § OF
§
§ ADMINISTRATIVE HEARINGS

ORDER NO. 3

**DENYING ENVIRONMENTAL STEWARDSHIP, BETTE BROWN, ANDREW MEYER
 AND DARWYN HANNA PARTY STATUS, AND GRANTING AQUA WATER SUPPLY
 CORPORATION PARTY STATUS**

I. INTRODUCTION

In 2007, End Op, L.P. ("End Op") filed Applications for groundwater permits with the Lost Pines Groundwater Conservation District ("the District") seeking to withdraw water from the Simsboro Aquifer ("Simsboro"). The District imposed a moratorium on End Op's applications, preventing action on them until January 2013. On March 18, 2013 the District posted notice that a hearing would be held to consider End Op's applications on April 17, 2013.

Prior to the hearing and pursuant to the District's Rule 14.3(D),¹ Aqua Water Supply Corporation ("Aqua") filed a timely request for a contested case hearing on End Op's applications. On April 18, 2013, public comment on End Op's applications was conducted and closed, and the District's Board of Directors (the "Board") set a preliminary hearing on Aqua's request for May 15, 2013. On May 8, 2013, Environmental Stewardship ("ES"), Bette Brown, Andrew Meyer, and Darwyn Hanna (collectively, the "Landowners") filed requests for party status in any contested case hearing on End Op's Applications.

At the May 15th hearing, the District considered the timeliness of the Landowners' requests for party status and reached the conclusion that the Landowners' requests were timely. The District then designated the Landowners as parties for this contested case hearing at the

¹ District Rule 14.3(D) provides that: "A request for a contested case hearing on the Application, to be conducted under Rule 14.4, must be made in writing and filed with the District no later than the 5th day before the date of the Board meeting at which the Application will be considered."

May 15th hearing and referred the issue of the Landowners' standing to the State Office of Administrative Hearings ("SOAH").

II. PARTIES' ARGUMENTS AND ALJ'S ANALYSIS

A. Timeliness

1. End Op Argues Landowners' Requests for Party Status Were Improper and Untimely and Should Be Denied.

First, End Op argues that the Landowners' requests for party status should be denied because a person may not be a party in a contested case proceeding on groundwater permit unless they filed a timely request for a contested case hearing. End Op points to Chapter 36 of the Texas Water Code, which requires groundwater districts to adopt procedural rules limiting participation in a hearing on a contested application to persons with standing² and provides that when hearings are conducted by SOAH only Subchapters C, D, and F of the Administrative Procedure Act ("APA") and district rules consistent with the procedural rules of SOAH apply.³ End Op claims that Chapter 36 does not permit a groundwater district or an Administrative Law Judge ("ALJ") with SOAH to designate a person who has not timely requested a contested case hearing as a party because to do so would violate the District's own procedural rules concerning party status. Since the Landowners did not file such requests, End Op argues, neither the District nor the ALJ may designate them as parties.

Second, End Op claims that the Landowners' requests for party status are untimely and should be denied because they had notice and ample time to request a contested case hearing or party status and did not make such requests. Third, End Op argues that granting party status is unnecessary because the Landowners' interests are already protected by the District. Finally, End Op claims that granting the Landowners party status would render the District's Rule 14.3(D) a nullity, would add considerable delay to an already greatly delayed venture, would burden End Op with substantial additional expense, and would create a loophole precedent which would allow for a continuous flow of new requests for party status beyond the proper deadline.

² See Tex. Water Code § 36.415.

³ See Tex. Water Code § 36.416.

2. Landowners Argue That Since the District Has Already Determined that Landowners' Requests for Party Status Were Timely, It Is Unnecessary for This ALJ to Revisit the Issue of Timeliness.

Landowners note that the District has already determined that Landowners' requests for party status were timely. The Landowners argued that, under District rules, a request for party status presents a separate and independent question apart from whether to grant a request for a contested case hearing. Since the District determined that Protestants requests for party status were timely, they argue, it is unnecessary for this ALJ to revisit the issue.

3. ALJ'S Analysis

District Rule 14.3(D) contemplates who may request a contested case hearing on a permit application.⁴ After a hearing has been properly requested, Rule 14.3(E) governs the District's consideration of that request.⁵ Rule 14.3(E) gives the Board the authority to grant or deny the request at its meeting, to designate parties at its meeting, or to schedule a preliminary hearing where the Board will make a determination of those issues.⁶ End Op admits that Aqua filed a timely request for a contested case hearing on End Op's Applications. Accordingly, the Board was then given the authority to consider that request under Rule 14.3(E). The Board was entirely within its authority when it scheduled such a hearing for May 15, 2013. Under Rule 14.3(E), the Board has the authority to designate parties at this hearing.⁷ The Landowners' requests for party status were filed on May 8, 2013. There is nothing in the District's rules that states that the

⁴ District Rule 14.3(D) reads: "Request for contested case hearing. A request for a contested case hearing on the Application, to be conducted under Rule 14.4, must be made in writing and filed with the District no later than the 5th day before the date of the Board meeting at which the Application will be considered. A request for a contested case hearing may be granted if the request is made by: (1) the General Manager; (2) the applicant; or (3) a person who has a personal justiciable interest that is related to a legal right, duty, privilege, power, or economic interest that is within the District's regulatory authority and that is affected by the Board's action on the Application, not including persons who have an interest common to members of the public."

⁵ District Rule 14.3(E) reads: "Consideration of request for contested case hearing. (1) If the District receives a timely-filed request for a contested case hearing on the Application, then, at its meeting, the Board may: (a) determine whether to grant or deny a request for a contested case; (b) designate parties... (e) schedule a preliminary hearing at which the Board will determine all of the matters described in subsections (a) to (e) or any matters described in those subsections that were not decided at the meeting."

⁶ *Id.*

⁷ *Id.*

Board may not consider requests that were filed before the date it holds its hearing pursuant to Rule 14.3(E). Accordingly, the Landowners' requests for party status are procedurally adequate.

B. Standing

Having found Landowners' requests for party status procedurally adequate, the next issue is whether the Landowners meet the mandatory standing test set out in section 36.415(b)(2) of the Texas Water Code. This test, which embodies constitutional standing principles, requires that groundwater districts:

limit participation in a hearing on a contested application to persons who have a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest that is within a district's regulatory authority and affected by a permit or permit amendment application, not including persons who have an interest common to members of the public.⁸

In *City of Waco v. Tex. Com'n on Environmental Quality*, the Court of Appeals in Austin determined "an affected person"⁹ must meet the following requirements to have standing to request a contested case hearing before Texas Commission on Environmental Quality ("TCEQ"):¹⁰

- (1) an "injury in fact" from the issuance of the permit as proposed—an invasion of a "legally protected interest" that is (a) "concrete and particularized" and (b) "actual or imminent, not conjectural or hypothetical";
- (2) the injury must be "fairly traceable" to the issuance of the permit as proposed, as opposed to the independent actions of third parties or other alternative causes unrelated to the permit; and
- (3) it must be likely, and not merely speculative, that the injury will be redressed by a favorable decision on its complaints regarding the proposed permit (i.e., refusing to grant the permit or imposing additional conditions).¹¹

⁸ Tex. Water Code § 36.415(b)(2).

⁹ "Affected person" is defined in § 5.115 of the Texas Administrative Code as one "who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest" in the matter at issue, and not merely an "interest common to members of the general public" – a definition that is essentially identical to § 36.415(b)(2) of the Texas Water Code. Additionally, the District adopted the same definition in Section 1, Rule 1.1 of its Rules and Regulations.

¹⁰ Although Landowners are requesting party status, not a contested case hearing, the analysis of the meaning of a "justiciable interest" is applicable.

¹¹ *City of Waco v. Texas Com'n on Environmental Quality*, 346 S.W.3d 781, 802 (Tex.App.-Austin 2011), reh'g overruled (Aug. 2, 2011), review denied (June 29, 2012), order vacated (Feb. 1, 2013), *rev'd*, 11-0729, 2013 WL 4493018 (Tex. 2013); *See Brown v. Todd*, 53 S.W.3d 297, 305 (Tex. 2001) (quoting *Raines v. Byrd*, 521 U.S. 811,

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The burden is upon the Landowners to present evidence establishing each of these elements, showing they possess a qualifying personal justiciable interest.

1. Landowners' Position

The Landowners argue that under section 36.002 of the Texas Water Code, they own the groundwater beneath their respective properties as a real property interest. Accordingly, they argue they possess standing to challenge the deprivation or divestment of their property interests (what they refer to as a "taking") by virtue of being landowners whose property sits above the aquifer at issue in this case.

The Landowners agree with End Op that a person seeking party status must (1) establish an injury in fact that is (2) fairly traceable to the issuance of the permit as proposed and (3) that it is likely, not merely speculative, that the injury will be redressed by a favorable decision on its complaints regarding the proposed permit. The Landowners argue, however, that particular treatment is given to questions of fact related to standing that overlap with the merits of a case. They argue that they need not prove the merits of their case in order to demonstrate a potential impact, but rather need only show that a fact issue exists. To be deemed an affected person, they argue that they need only show a potential impact.

Landowners also argue that they have demonstrated the necessary justiciable interest with regard to End Op's Applications to warrant admission as parties. The ownership of land over the aquifer at issue, they argue, which brings with it a real property interest in the water beneath the land, constitutes a legally protected interest under the Water Code. Since this interest is protected, they maintain that there is no need to demonstrate ownership of a well or intent to drill a well in order to demonstrate that interest. The Landowners claim that it is undisputed that End Op's pumping operations will result in a drawdown of water within the aquifer extending to their

818-19 (1997), *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61 (1992); *Stop the Ordinances Please v. City of New Braunfels*, 306 S.W.3d 919, 926-27 (Tex.App.-Austin 2010, no pet.); *Save Our Springs Alliance, Inc. v. City of Dripping Springs*, 304 S.W.3d 871, 878 (Tex.App.-Austin 2010, pet. denied). Although the *City of Waco* case has been reversed by the Texas Supreme Court, the relevant law on injury-in-fact, relied upon in many other Texas cases, remains valid law. The *City of Waco* case was reversed on grounds other than the law relating to injury-in-fact related to party status.

respective properties. They argue that this drawdown will make it more difficult for each of the Landowners to access water in the aquifer and will make it more likely that they will lose access altogether. They state that this drawdown constitutes the necessary injury in fact required for party standing and that the potential injury would be fairly traceable to End Op's operations.

Further, they argue that demonstrated use of said groundwater is not required for standing. In response to End Op's argument that the Landowners lack standing because they do not have wells or plans to develop wells on their property, the Landowners cite *Edwards Aquifer Authority v. Day* for the proposition that their standing is not affected by use, non-use, or intended use of the groundwater.¹² Landowners argue instead that a person seeking party status must only demonstrate a potential impact, and must only raise a question of fact on issues where standing and the merits overlap.

ES, which owns property in Bastrop County near the Colorado River, additionally argues that it has demonstrated a justiciable interest by virtue of the impact of the proposed permits on the Colorado River's flow. ES argues that the proximity of its property to the river gives it a level of access not common to the general public. ES claims that the damage to its interest is that the pumping to be authorized by the permits would reduce the natural inflows to the Colorado River from Simsboro, reducing the flow of the river and reducing ES's ability to use and enjoy the river and the property it owns near the river.

2. End Op's Position

End Op argues that even if Landowners had filed proper and timely requests, Landowners fail to meet the mandatory standing test set out in Tex. Water Code § 36.415(b)(2) and thus may not participate in the contested case hearing on End Op's applications. End Op maintains that the Landowners fail to meet the test because (1) groundwater ownership alone is insufficient to establish standing, (2) non-use of groundwater is a relevant factor when analyzing standing, and (3) an injury in fact that is traceable and redressable, not system-wide effects, is the standard.

¹² *Edwards Aquifer Auth. v. Day*, 369 S.W.3d 814 (Tex. 2012), reh'g denied (June 8, 2012).

a. Groundwater ownership alone is insufficient to establish standing.

End Op argues that mere ownership of groundwater under Texas Water Code section 36.002 as a real property interest does not satisfy the standing test. In *City of Waco*, End Op notes, the court found that the city possessed the requisite legally protected interest to have standing, as an affected person under the Water Code, in light of undisputed evidence that the city had ownership rights over the water, used the water as the sole supply for its municipal water utility, had an obligation to treat the water, and experienced escalating treatment costs.¹³ End Op argues that when the court relied on this combination of factors, instead of relying on ownership alone, it established that mere ownership was insufficient to convey standing.

End Op also claims that the Landowners' reliance on *Edwards Aquifer Authority v. Day* is misplaced. End Op argues that *Day* addresses whether landowners have an interest in groundwater that is compensable under the Takings Clause of the Texas Constitution, not what factors are necessary to obtain third-party standing in a contested case hearing on an applicant's permit. End Op takes the position that the analysis in *Day* addressing whether non-use as the basis for denial of a permit application constitutes a constitutional taking without compensation does not bear on the issue of whether use or non-use establishes a legally protected interest distinct from the general public.

b. Showing a potential impact on system-wide groundwater levels is insufficient; Landowners must prove a specific injury in fact that is traceable and redressable.

End Op also argues that demonstrating a potential impact to groundwater levels, without offering proof of a specific injury to their exercise of their groundwater rights, is insufficient to obtain standing. End Op claims that under *City of Waco*, a potential party must establish both that it has a legally protected personal justiciable interest and an injury to its legally protected

¹³ *City of Waco*, 346 S.W.3d at 809 ("These undisputed facts establish, as a matter of law, the type of interest, rooted in property rights, that constitute legally protected interests, distinct from those of the general public) (*emphasis added*).

interest.¹⁴ Further, End Op argues, *City of Waco* expressly dismisses that “allegation or proof of some or any ‘potential’ for harm, however remote, are sufficient” and instead expressly states that the “required ‘potential harm’... must be more than speculative.”¹⁵ End Op cites *United Copper* and *Heat Energy* to demonstrate this injury requirement, arguing that the injury or potential harm that conferred standing was established through proof of potential injury unique to each complainant and different from that suffered by the general public. In *United Copper*, the “potential harm” that conferred standing was established by United Copper’s own data indicating that its operations would increase levels of lead and copper particulate at Grissom’s home and his child’s school, together with proof that Grissom and his child suffered from “serious asthma.”¹⁶ In *Heat Energy*, the “potential harm” was established where the association member’s house was located one-and-a-half blocks from the facility, the permit applicant had acknowledged in another Commission proceeding that the facility indeed emitted odors, and the association member claimed to detect strong odors coming from it.¹⁷ The member in *Heat Energy* testified the odors affected his breathing, and that he had sought medical attention for throat problems caused by the odors.¹⁸ End Op argues that none of the Landowners can establish such a concrete and particularized, actual or imminent injury that is traceable and redressable because they have not presented evidence of a unique injury not common to the general public as was the case in *United Copper* and *Heat Energy*.

End Op further argues that the Landowners’ claim that a system-wide drawdown will occur if End Op’s applications are granted is merely a prediction based on an uncertain mathematical model that cannot by itself establish a specific injury for either persons who do not own wells or persons who own wells that produce from a formation other than the Simsboro aquifer.

¹⁴ *City of Waco* 346 S.W.3d 781 at 810.

¹⁵ *City of Waco* 346 S.W.3d 781 at 805.

¹⁶ *United Copper Indus., Inc. v. Grissom*, 17 S.W.3d 797, 803-04 (Tex.App.-Austin 2000, pet. dism’d).

¹⁷ *Heat Energy Advanced Tech., Inc. v. W. Dallas Coal. for Env’t. Justice*, 962 S.W.2d 288, 295 (Tex.App.-Austin 1998, pet. denied).

¹⁸ *Heat Energy*, 962 S.W.2d at 295.

i. Environmental Stewardship

End Op argues that ES has not established a specific injury in fact that is traceable and redressable. First, End Op argues that since ES does not have a well and has no existing use, it does not have the requisite legally protected interest, separate and distinct from other landowners that could give rise to a personal justiciable interest as described in *City of Waco*. Second, End Op argues that ES has no specific injury that is traceable and redressable and not merely speculative or hypothetical. End Op points to the Landowners' own expert, who conceded that existing pumping can cause drawdowns and that no specific analysis was performed with regard to any of the Landowners' properties. Third, End Op argues that the record establishes that ES is barred from drilling a well by district rules, and that it is impossible for the claimed drawdown to adversely affect ES's groundwater ownership interest when they cannot drill a well. End Op also claims that any hypothetical impact on the surface flow of the Colorado River would be an impact to the general public regardless of groundwater ownership.

ii. Andrew Meyer

End Op argues that Andrew Meyer has not established a legally protected interest that may give rise to a personal justiciable interest and specific injury because he does not have a well, has not filed a permit application, and has no plans to do so.

iii. Darwyn Hanna

End Op argues that Darwyn Hanna has not established a legally protected interest that may give rise to a personal justiciable interest and specific injury because he does not have a well and sees no need to drill so long as Aqua is his service provider.

iv. Bette Brown

End Op concedes that Ms. Brown has two wells but notes that neither well is registered with the District. End Op argues that while Ms. Brown's alleged current use could help her establish a legally protected interest that may give rise to a personal justiciable interest as outlined in *City of Waco*, Ms. Brown must still establish a specific injury. End Op argues that Ms. Brown has submitted no evidence of specific injury since Ms. Brown has provided no evidence on the amount of use or depth of the operating well, nor has her expert conducted any analysis with regard to the potential impact of End Op's permits on Ms. Brown's wells. Finally, End Op argues that Ms. Brown's wells are not in the Simsboro formation.

3. ALJ's Analysis

The Texas Supreme Court ruled that for a party to have standing to challenge a governmental action, it "must demonstrate a particularized interest in a conflict distinct from that sustained by the public at large."¹⁹ The issue, in other words, is "whether the particular plaintiff has a sufficient personal stake in the controversy to assure the presence of an actual controversy that the judicial declaration sought would resolve."²⁰ As previously discussed, in *City of Waco*, the Court of Appeals determined "an affected person" must have an injury in fact that is concrete, actual, fairly traceable, and likely to be redressed by a favorable decision to have standing to request a contested case hearing before TCEQ. Accordingly, to prevail, the Landowners must show a concrete, particularized injury-in-fact that must be more than speculative, and there must be some evidence that would tend to show that the legally protected interests will be affected by the action.²¹ The *United Copper* and *Heat Energy* further show that the person seeking standing must (1) establish that it has a legally protected personal justiciable interest and (2) demonstrate injury of that personal interest that is concrete, particularized, and not speculative.

¹⁹ *S. Tex. Water Auth. v. Lomas*, 223 S.W.3d 304, 307 (Tex. 2007).

²⁰ *City of Waco* 346 S.W.3d at 801-02.

²¹ *City of Waco*, 346 S.W.3d at 805; *See Save Our Springs Alliance, Inc.*, 304 S.W.3d at 883.

a. Environmental Stewardship, Andrew Meyer, and Darwyn Hanna

The Landowners, ES, Meyer, and Hanna, who do not have wells,²² are not like the association member in *Heat Energy*. In *Heat Energy*, the odors from the facility were negatively affecting the member and his use of his property. Here, unlike the member in *Heat Energy*, the Landowners in this case cannot demonstrate a particularized injury that is not common to the general public because owning land and the groundwater under the land is not sufficient to show a particularized injury, especially since the Landowners are not using and have not shown that they intend to use groundwater that will be drawn from the Simsboro. Similarly, the Landowners are not like the Gissom family in *United Copper*. In *United Copper*, the potential harm that conferred standing was not just that United Copper's data indicated that its operations would increase the amount of particulates in the air, there was proof that Grissom and his son were injured on a personal level. Here, End Op's data may indicate a potential for aquifer drawdown at some time in the future, but these Landowners cannot demonstrate that they suffer a particularized and concrete injury that is not common to the general public. In the universe of *United Copper*, they would resemble citizens concerned about particulate pollution in general. It is not enough that these Landowners possess an ownership right in the groundwater; that right must be potentially impaired in order for them to possess standing.²³ System-wide aquifer drawdowns affect the general public (all persons who own rights to the groundwater contained within that aquifer). Aqua, a well owner situated in the same field where End Op plans to operate, possesses the requisite protected interest and specific injury. However, without demonstrating ownership of wells or plans to exercise their groundwater rights, the Landowners lack a personal justiciable interest and therefore lack standing to participate in a contested case hearing on End Op's applications.

Furthermore, ES's argument that the water flow of the Colorado River will be negatively impacted by the potential drawdown, thereby impacting its use and enjoyment, is an interest shared by the general public. In addition, there is no credible evidence that the water flow of the

²² Mr. Hanna will likely never build a well so long as he can obtain water from Aqua. Although Mr. Meyer may build a well at some point in the future, he has not filed a permit application for a well.

²³ End Op presented evidence that, even if the Landowners were to build wells, some of the Landowners would not draw their water from the Simsboro, given the formation of the Simsboro and the closer proximity of other aquifers to the Landowners' property and associated groundwater.

Docket No. 952-13-5210**Order No. 3****Page 12**

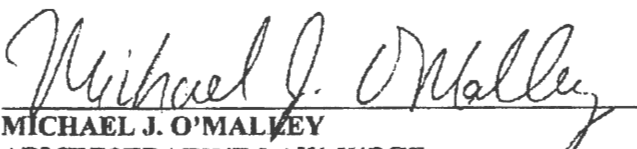
Colorado River will be impacted to such a degree (or at all) that ES's enjoyment of the river will be negatively impacted.²⁴ Finally, the record shows that ES cannot drill a well that complies with the District rules. Although it may be able to seek a variance, it is unlikely given the size of ES's lot and the cost to build a well, that ES will ever build a well.

b. Bette Brown

The facts concerning Bette Brown's request for party standing are slightly different from the other Landowners. The record demonstrates that she has two wells on her property. However, Ms. Brown must still establish a specific injury to a personal justiciable interest. Neither of Ms. Brown's two wells are registered or permitted with the District. Ms. Brown has submitted no evidence demonstrating that her wells draw from the Simsboro aquifer, no evidence on the amount of use or depth of the well that is operational, and no expert analysis with regard to the potential impact of End Op's permits on Ms. Brown's operational well. Without any such showing, Ms. Brown has not demonstrated a potential impact on her groundwater interest. For this reason, along with the reasoning expressed above with regards to the other Landowners, Ms. Brown lacks a personal justiciable interest and therefore lacks standing to participate in a contested case hearing on End Op's applications.

Accordingly, the Landowners' Requests (the requests of ES, Meyer, Hanna, and Brown) for Party Standing are **DENIED**. Aqua's request for party status is **GRANTED**.

SIGNED September 25, 2013.


MICHAEL J. O'MALLEY
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARING

²⁴ Not only is there no credible evidence to support this argument, any impact on water flow is highly speculative.



LOST PINES GROUNDWATER CONSERVATION DISTRICT

AN ORDER DENYING PARTY STATUS TO ENVIRONMENTAL STEWARDSHIP, DARWYN HANNA, BETTE BROWN, ANDREW MEYER, AND F.D. BROWN IN CONSIDERING APPLICATIONS OF END OP, L.P. FOR OPERATING PERMITS AND TRANSPORT PERMITS

WHEREAS, End Op, L.P. ("Applicant") submitted applications for Operating Permits and Transport Permits for 14 wells in Bastrop and Lee Counties seeking authorization to withdraw an aggregate of 56,000 acre-feet per year from the Simsboro aquifer to be used for municipal purposes in Travis and Williamson Counties (the "Applications"); and

WHEREAS, after proper notice under District Rule 14.3.C, the Board of Directors of the District (the "Board") held a public hearing on the Applications at 5:00 p.m. on April 18, 2013, at the American Legion Hall in Giddings, Texas; and

WHEREAS, on April 10, 2013, Aqua Water Supply Corporation ("Aqua") submitted to the District a request for a contested case hearing on the Applications; and

WHEREAS, on May 8, 2013, Environmental Stewardship, Darwyn Hanna, Bette Brown, Andrew Meyer, and F.D. Brown (collectively, the "Landowners"), filed requests to be designated as parties in any contested case hearing held on the Applications.

WHEREAS, on May 9, 2013, Applicant requested that the District contract with the State Office of Administrative Hearings ("SOAH") to conduct a hearing on Aqua's request for a contested case hearing; and

WHEREAS, on June 19, 2013, the District issued an order that: (1) granted Aqua's request for a contested case hearing on the Applications; (2) denied all other requests for a contested case hearing on the Applications, if any, as untimely under the District rules; (3) authorized the General Manager to enter into a contract with SOAH to conduct a contested case hearing on the Applications; (4) found that the requests for party status filed by the Landowners were timely under the District rules; and (5) referred the issue of whether the Landowners have standing to participate in the contested case hearing as parties at SOAH; and

WHEREAS, after a preliminary hearing on August 12, 2013, the Administrative Law Judge ("ALJ") determined that Aqua had standing as a party under the provisions of Chapter 36, Water Code, to participate in this contested case hearing and that the Landowners had not demonstrated the required interest to participate as parties in the contested case hearing; and

WHEREAS, On October 7, 2013, the Landowners filed a Request for Certified Question or, Alternatively, Request for Permission to Seek Interlocutory Appeal of Order No. 3, and Motion to Abate, or, Alternatively, Request for Provisional Party Status; and

An Order Denying Party Status to Environmental Stewardship, Darwyn Hanna, Bette Brown,
Andrew Meyer, and F.D. Brown in Considering the Applications of End Op, LP

Page 2

WHEREAS, on October 10, 2013, End Op, L.P., the General Manager of the District, and Aqua Water Supply Corporation responded to the Landowner's motions, and on October 14, 2013, the Landowners filed a reply to those responses; and

WHEREAS, on October 15, 2013, the Administrative Law Judge issued Order No. 5 denying the Landowners Request for Certified Question or, Alternatively, Request for Permission to Seek Interlocutory Appeal of Order No. 3, and Motion to Abate, or, Alternatively, Request for Provisional Party Status because neither the District Rules or SOAH Rules to certify an issue to the District, nor is there authority to convert an interim order to a Proposal for Decision; and

WHEREAS, on September 10, 2014 the Board held the Final Hearing on the End Op, L.P. Applications and voted to deny Party Status to the Landowners as set forth in this Order.

NOW THEREFORE, the Board ORDERS that:

1. Environmental Stewardship, Darwyn Hanna, Bette Brown, Andrew Meyer, and F.D. Brown are hereby denied party status.
2. The Board hereby adopts the evidence presented, the Findings of Fact and the Conclusions of Law in the Administrative Law Judge's Order No. 3.

ISSUED:



President, Lost Pines Groundwater
Conservation District Board of Directors

Date: 1-19-15

76057

EXHIBIT

G

WARRANTY DEED WITH VENDOR'S LIEN

DATE: September 3, 2003

GRANTOR: Larry E. Sanders and Harry D. Vowell, d/b/a S&V, acting
by and through Harry D. Vowell, Individually and as Agent
and Attorney in Fact for Larry E. Sanders

GRANTOR'S MAILING ADDRESS (including county):

P. O. Box 2505, Longview, Gregg County, Texas, 75606

GRANTEE: Curtis E. Chubb

GRANTEE'S MAILING ADDRESS (including county):

P. O. Box 1360, Blanco, Blanco County, Texas, 78606

CONSIDERATION:

1.) Ten Dollars (\$10.00) cash and other good and
valuable consideration in hand paid by Grantee herein
to Grantor herein, the receipt of which is hereby
acknowledged and confessed, and

2.) One Hundred Eleven Thousand Seven Hundred Dollars
(\$111,700.00) advanced by CAPITAL FARM CREDIT, FLCA,
at the special instance and request of the Grantee,
the receipt of which is hereby acknowledged and for
which the Grantee has executed and delivered to the
said CAPITAL FARM CREDIT, FLCA, his one certain pro-
missory note for such amount, bearing interest and
being due and payable in accordance with the terms
as contained in said note. Said note contains the
usual acceleration of maturity, tax, insurance and
attorney's fee clauses, and the Vendor's Lien and
superior title herein reserved are hereby trans-
ferred and conveyed to the said CAPITAL FARM CREDIT,
FLCA, to secure the payment of said note. The pay-
ment of said note is further secured by a Deed of
Trust executed by Grantee herein, Curtis E. Chubb,
to Ben R. Novosad, Trustee, for the use and benefit
of CAPITAL FARM CREDIT, FLCA, bearing even date
herewith.

PROPERTY (including any improvements):

All that certain lot, tract or parcel of land,
containing 83.166 acres, being out of and a part
of the Jno. Nolan and Eli Williams Surveys in
Milam County, Texas, and being more particularly
described as follows, to-wit:

PROPERTY (including any improvements):

In Re: 83.166 Acres out of a
166.737 Acre Tract
Jno. Nolan Survey, A-286
Eli Williams Survey, A-380
Milam County, Texas



All that certain tract or parcel of land situated in Milam County, Texas, being part of the Jno. Nolan Survey, Abstract No. 286 and the Eli Williams Survey, Abstract No. 380 and being part of a 166 $\frac{1}{4}$ acre tract (166.737 acres surveyed by me this date) as conveyed from Robert D. Barger, et ux to Larry E. Sanders and Harry D. Vowell DBA S&V by Deed dated July 29, 2002 and being recorded in Volume 881, Page 083 of the Official Records of said Milam County and being more particularly described by metes and bounds as follows, to wit:

BEGINNING at an iron pin set at a fence corner post on a common line between said Williams Survey and said Nolan Survey, same being the South line of Milano Truck Lot 89, Burnett Addition (Plat Records - Cabinet A, Slide 6A&B), Town of Milano, for the Northwest corner of a Lee C. Keen "Fourth Tract" - 6 acres (286/329) and for a common Northeast corner of said original 166 $\frac{1}{4}$ acre tract and of this tract;

THENCE with an occupied common line as fenced between said original 166 $\frac{1}{4}$ acre tract and said Keen 6 acre tract and a Lee C. Keen "Third Tract" - 62 $\frac{1}{2}$ acres (286/329), respectively, as follows:

S18°46'06"E - 884.79 feet to an iron pin set at a fence corner post for an interior ell corner of this tract;
S20°27'31"E - 100.75 feet to an iron pin set for the Southeast corner of this tract;

THENCE entering said original 166 $\frac{1}{4}$ acre tract for division as follows:

S62°32'52"W - 1867.71 feet to an iron pin set for an exterior ell corner of this tract;
N27°27'08"W - 100.00 feet to an iron pin set at a fence corner post for an interior ell corner of this tract;
S69°16'13"W - 1260.47 feet to an iron pin set on a common line between the East line of County Road No. 330 and said original 166 $\frac{1}{4}$ acre tract for the Southwest corner of this tract;

THENCE with an occupied common line as fenced between the East and South lines, respectively, of said County Road No. 330 and said original 166 $\frac{1}{4}$ acre tract as follows:

N19°00'00"W (Deed Bearing) - 709.14 feet to a fence corner post for an interior ell corner of this tract;

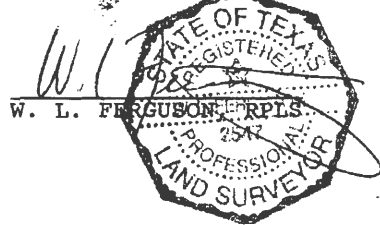
- 1 -

N19°35'37"W - 422.80 feet to a fence corner post for
 the Northwest corner of this tract;
 N09°40'13"E - 44.84 feet to a fence corner post for an
 exterior ell corner of this tract;
 N26°58'15"E - 11.08 feet to a fence corner post for an
 exterior ell corner of this tract;
 N43°49'43"E - 108.12 feet to a fence corner post for an
 exterior ell corner of this tract;
 N66°02'41"E - 136.82 feet to a fence corner post for an
 exterior ell corner of this tract;
 N68°31'28"E - 83.67 feet to a fence corner post for an
 exterior ell corner of this tract;
 N69°47'08"E - 71.41 feet to a fence corner post for an
 exterior ell corner of this tract;
 N72°21'36"E - 126.25 feet to a fence corner post for an
 exterior ell corner of this tract;
 N75°50'31"E - 200.53 feet to a fence corner post for an
 interior ell corner of this tract;
 N67°52'55"E - 173.08 feet to a fence corner post for an
 exterior ell corner of this tract;
 N72°59'55"E, at 75.00 feet passing a fence corner post at a
 turn of said road to the North for the Southwest corner
 of Milano Truck Lot 91 (Burnett Addition), continuing
 on with an occupied South line of Truck Lots 91 and 90,
 respectively, for a total distance of 1185.58 feet to a
 fence corner post for an interior ell corner of this
 tract;

THENCE N70°40'48"E - 1026.78 feet with an occupied common line as
 fenced between said original 166½ acre tract and Milano Truck
 Lots 90 and 89, respectively, to the PLACE OF BEGINNING and
 containing 83.166 Acres of Land.

I, W. L. Ferguson, Registered Professional Land Surveyor No. 2547
 in the State of Texas, do hereby certify that the above survey
 was performed on the ground under my supervision and that the
 field notes hereon are true and correct to the best of my
 knowledge.

Given under my hand and seal this 21st day of July, 2003.



RESERVATIONS FROM AND EXCEPTIONS TO CONVEYANCE AND WARRANTY:

This property is subject to ^{existing} ~~existing~~ easements, rights-of-way and prescriptive ^{rights} ~~rights~~, whether of record or not; all presently recorded restrictions, reservations, covenants, conditions, oil and gas leases, mineral severances and other instruments other than liens and conveyances that affect the property, specifically the following:

A.) Memorandum of Groundwater Lease executed by S&V Partnership to Metropolitan Water Company, L.P., dated the 6th day of March, 2003, of record in Volume 899 page 643, Official Records of Milam County, Texas.

B.) Ratification of Groundwater Lease between S&V Partnership, et al, and Metropolitan Water Company, L.P., dated March 6, 2003, of record in Volume 901 page 761, Official Records of Milam County, Texas.

C.) Amendment and Ratification of Groundwater Lease between S&V Partnership and Metropolitan Water Company, dated June 23, 2003, of record in Volume 912 page 327, Official Records of Milam County, Texas.

D.) Further, Seller hereby reserves (i) all of the groundwater in and under the herein described 83.18 +/- acres of land (the Property) together with the right of reasonable ingress and egress using existing roads for the purpose of developing, producing and marketing same, and (ii) all benefits and rights of the "Lessor" in that certain Groundwater Lease dated March 6, 2003, by and between S&V Partnership, as Lessor, and Metropolitan Water Company, L.P., as Lessee (the "Groundwater Lease"), subject to the Groundwater Addendum dated the 3rd day of September 2003, signed by Seller, S&V Partnership, a Texas general partnership and Harry D. Vowell, Individually, and Buyer Curtis E. Chubb.

FURTHER, Seller/Grantor reserves seventy five per cent (75%) of the oil, gas and other minerals owned by Seller/Grantor.

Grantor, for the consideration and subject to the reservations from and exceptions to conveyance and warranty, grants, sells, and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in anywise belonging, to have and to hold it to Grantee, Grantee's heirs, executors, administrators, successors, or assigns forever. Grantor binds Grantor and Grantor's heirs, executors, administrators, and successors to warrant and forever defend all and singular the property to Grantee and Grantee's heirs, executors, administrators, successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the reservations from and exceptions to conveyance and warranty.

BUT it is expressly agreed that the VENDOR'S LIEN, as well as the Superior Title in and to the above described premises, is retained against the above described property, premises and improvements until the above described note and all interest thereon are fully paid according to the face, tenor, effect and reading thereof, when this Deed shall become absolute.

CAPITAL FARM CREDIT, FLCA, at Grantee's request has paid in cash to Grantor that portion of the purchase price of the property that is evidenced by the vendor's lien note herein described. The vendor's lien and superior title to the property are retained for the benefit of CAPITAL FARM CREDIT, FLCA, and are transferred to that party without recourse on Grantor.

When the context requires, singular nouns and pronouns include the plural.

EXECUTED this the 3rd day of September , A. D. 2003.

LARRY E. SANDERS and
HARRY E. VOWELL, d/b/a S&V

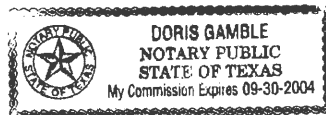
By: 

Harry D. Vowell, Individually
and as Agent and Attorney in Fact
for Larry E. Sanders

THE STATE OF TEXAS, X

COUNTY OF MILAM. X

THIS instrument was acknowledged before me,
on this the 3rd day of September, 2003, by Harry D. Vowell, acting
both Individually and in his capacity as Agent and Attorney in Fact for
Larry E. Sanders, acting for and on behalf of the said Larry E. Sanders.



Doris Gamble
Notary Public, State of Texas.

Notary's Name (Printed): Doris Gamble

My commission expires:

September 30, 2004



CLERK'S NOTICE: ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, RENTAL OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE, IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW.

FILED
AT 9:40 O'CLOCK A M
ON THE 5 DAY OF Sept
A.D., 20 03

STATE OF TEXAS

COUNTY OF MILAM

I hereby certify that this instrument was FILED on the date
and at the time stamped hereon by me and was duly
RECORDED in the Volume and Page of the Official Records
of Milam County, Texas.



La Verne Soefje
County Clerk, Milam County, Texas

VOL. 916 PAGE 619

RECORDED 4-5-03 CS100P

La Verne Soefje
COUNTY CLERK, MILAM COUNTY, TEXAS

BY Joan Pratt DEPUTY

BY Joan Pratt DEPUTY

JOAN PRATT

VOL. 916 PAGE 624
OFFICIAL RECORDS
MILAM COUNTY, TEXAS

C. GLASER
19A

**FIFTY-THIRD AMENDMENT AND RATIFICATION OF DESIGNATION
OF COLLECTIVE WATER DEVELOPMENT AND
PRODUCTION UNIT**

**METROPOLITAN WATER COMPANY, L.P.
PORTERS BRANCH COLLECTIVE WATER
DEVELOPMENT AND PRODUCTION UNIT**



THE STATE OF TEXAS

COUNTIES OF BURLESON
AND MILAM

§
§
§
§

KNOW ALL MEN BY THESE PRESENTS, THAT:

WHEREAS, by Designation of Collective Water Development and Production Unit dated December 25, 2000, recorded in Volume 538, Page 5 of the Official Public records of Burleson County; Volume 868, Page 813 of the Real Property Records of Lee County; and Volume 835, Page 308 of the Official Records of Milam County, Texas, **METROPOLITAN WATER COMPANY, L.P.** created the **PORTERS BRANCH COLLECTIVE WATER DEVELOPMENT AND PRODUCTION UNIT**; and

WHEREAS, by First Amendment and Ratification of Designation of Collective Water Development and Production Unit dated February 14, 2001, recorded in Volume 541, Page 226 of the Official Public Records of Burleson County; Volume 871, Page 284 of the Real Property Records of Lee County; and Volume 838, Page 772 of the Official Records of Milam County, Texas, **METROPOLITAN WATER COMPANY, L.P.** amended the above described Designation of Collective Water Development and Production Unit to include additional Groundwater Leases covering lands located within the boundaries of such unit; and

WHEREAS, by Second Amendment and Ratification of Designation of Collective Water Development and Production Unit dated May 22, 2001, recorded in Volume 548, Page 556 of the Official Public Records of Burleson County; Volume 876, Page 888 of the Real Property Records of Lee County; and Volume 846, Page 379 of the Official Records of Milam County, Texas, **METROPOLITAN WATER COMPANY, L.P.** amended the above described Designation of Collective Water Development and Production Unit to include additional Groundwater Leases covering lands located within the boundaries of such unit; and

WHEREAS, by Third Amendment and Ratification of Designation of Collective Water Development and Production Unit dated September 17, 2001, recorded in Volume 555, Page 644 of the Official Public Records of Burleson County; Volume 882, Page 76 of the Real Property Records of Lee County; and Volume 854, Page 449 of the Official Records of Milam County, Texas, **METROPOLITAN WATER COMPANY, L.P.** amended the above described Designation of Collective Water Development and Production Unit to include additional Groundwater Leases covering lands located within the boundaries of such unit; and

WHEREAS, by Fourth Amendment and Ratification of Designation of Collective Water Development and Production Unit dated December 25, 2001, recorded in Volume 563, Page 105 of the Official Public Records of Burleson County; Volume 887, Page 635 of the Real Property Records of Lee County; and Volume 863, Page 329 of the Official Records of Milam County, Texas, **METROPOLITAN WATER COMPANY, L.P.** amended the above described Designation of Collective Water Development and Production Unit to include additional Groundwater Leases covering lands located within the boundaries of such unit; and

WHEREAS, by Fifth Amendment and Ratification of Designation of Collective Water Development and Production Unit dated April 20, 2002, recorded in Volume 571, Page 772 of the Official Public Records of Burleson County; Volume 894, Page 344 of the Real Property Records of Lee County; and Volume 872, Page 11 of the Official Records of Milam County, Texas, **METROPOLITAN WATER COMPANY, L.P.** amended the above described Designation of Collective Water Development and Production Unit to include additional Groundwater Leases covering lands located within the boundaries of such unit; and

WHEREAS, by Sixth Amendment and Ratification of Designation of Collective Water Development and Production Unit dated September 7, 2002, recorded in Volume 581, Page 731 of the Official Public Records of Burleson County; Volume 902, Page 34 of the Real Property Records of Lee County; and Volume 886, Page 801 of the Official Records of Milam County, Texas, **METROPOLITAN WATER COMPANY, L.P.** amended the above described Designation of Collective Water Development and Production Unit to

include additional Groundwater Leases covering lands located within the boundaries of such unit; and

WHEREAS, by Seventh Amendment and Ratification of Designation of Collective Water Development and Production Unit dated December 32, 2002, recorded in Volume 590, Page 335 of the Official Public Records of Burleson County; Volume 910, Page 608 of the Real Property Records of Lee County; and Volume 894, Page 183 of the Official Records of Milam County, Texas, **METROPOLITAN WATER COMPANY, L.P.** amended the above described Designation of Collective Water Development and Production Unit to include additional Groundwater Leases covering lands located within the boundaries of such unit; and

WHEREAS, by Eighth Amendment and Ratification of Designation of Collective Water Development and Production Unit dated January 23, 2003, recorded in Volume 593, Page 548 of the Official Public Records of Burleson County; Volume 915, Page 73 of the Real Property Records of Lee County; and Volume 898, Page 574 of the Official Records of Milam County, Texas, **METROPOLITAN WATER COMPANY, L.P. and CARRIZO-WILCOX WATER ALLIANCE, L.L.C.** amended the above described Designation of Collective Water Development and Production Unit to include additional Groundwater Leases covering lands located within the boundaries of such unit; and

WHEREAS, by Ninth Amendment and Ratification of Designation of Collective Water Development and Production Unit dated July 4, 2011, recorded in Volume 847, Page 639 of the Official Public Records of Burleson County and Volume 1159, Page 440 of the Official Records of Milam County, Texas, **METROPOLITAN WATER COMPANY, L.P.** amended the above described Designation of Collective Water Development and Production Unit by revising the listing of the leases covered by and included in Said Unit, by revising the plat depicting the lands covered by Said Unit and to delete Exhibit "C" of Said Unit entirely; and

WHEREAS, by Tenth Amendment and Ratification of Designation of Collective Water Development and Production Unit dated December 18, 2014, recorded in Volume 984, Page 464 of the Official Public Records of Burleson County and Volume 1242, Page 639 of the Official Records of Milam County, Texas, **METROPOLITAN WATER**

COMPANY, L.P. amended the above described Designation of Collective Water Development and Production Unit to include additional leases and lands to be covered by and included in Said Unit; and

WHEREAS, by Eleventh Amendment and Ratification of Designation of Collective Water Development and Production Unit dated February 4, 2015, recorded in Volume 991, Page 74 of the Official Public Records of Burleson County, Texas, **METROPOLITAN WATER COMPANY, L.P.** amended the above described Designation of Collective Water Development and Production Unit to include an additional lease and lands to be covered by and included in Said Unit; and

WHEREAS, by Twelfth Amendment and Ratification of Designation of Collective Water Development and Production Unit dated March 5, 2015, recorded in Volume 994, Page 290 of the Official Public Records of Burleson County, Texas, **METROPOLITAN WATER COMPANY, L.P.** amended the above described Designation of Collective Water Development and Production Unit to include an additional lease and lands to be covered by and included in Said Unit; and

WHEREAS, by Thirteenth Amendment and Ratification of Designation of Collective Water Development and Production Unit dated April 1, 2015, recorded in Volume 997, Page 798 of the Official Public Records of Burleson County, Texas, **METROPOLITAN WATER COMPANY, L.P.** amended the above described Designation of Collective Water Development and Production Unit to include an additional lease and lands to be covered by and included in Said Unit; and

WHEREAS, by Fourteenth Amendment and Ratification of Designation of Collective Water Development and Production Unit dated April 29, 2015, recorded in Volume 1000, Page 741 of the Official Public Records of Burleson County, Texas, **METROPOLITAN WATER COMPANY, L.P.** amended the above described Designation of Collective Water Development and Production Unit to include an additional lease and lands to be covered by and included in Said Unit; and

WHEREAS, by Fifteenth Amendment and Ratification of Designation of Collective Water Development and Production Unit dated May 18, 2015, recorded in Volume 1003, Page 654 of the Official Public Records of Burleson County, Texas, **METROPOLITAN**

WATER COMPANY, L.P. amended the above described Designation of Collective Water Development and Production Unit to include an additional lease and lands to be covered by and included in Said Unit; and

WHEREAS, by Sixteenth Amendment and Ratification of Designation of Collective Water Development and Production Unit dated June 5, 2015, recorded in Volume 1005, Page 645 of the Official Public Records of Burleson County, Texas, and recorded in Volume 1256, Page 586 of the Official Records of Milam County, Texas, **METROPOLITAN WATER COMPANY, L.P.** amended the above described Designation of Collective Water Development and Production Unit to include an additional lease and lands to be covered by and included in Said Unit; and

WHEREAS, by Seventeenth Amendment and Ratification of Designation of Collective Water Development and Production Unit dated June 22, 2015, recorded in Volume 1008, Page 72 of the Official Public Records of Burleson County, Texas, **METROPOLITAN WATER COMPANY, L.P.** amended the above described Designation of Collective Water Development and Production Unit to include an additional lease and lands to be covered by and included in Said Unit; and

WHEREAS, by Eighteenth Amendment and Ratification of Designation of Collective Water Development and Production Unit dated June 30, 2015, recorded in Volume 1009, Page 209 of the Official Public Records of Burleson County, Texas, **METROPOLITAN WATER COMPANY, L.P.** amended the above described Designation of Collective Water Development and Production Unit to include an additional lease and lands to be covered by and included in Said Unit; and

WHEREAS, by Nineteenth Amendment and Ratification of Designation of Collective Water Development and Production Unit dated July 7, 2015, recorded in Volume 1009, Page 745 of the Official Public Records of Burleson County, Texas, **METROPOLITAN WATER COMPANY, L.P.** amended the above described Designation of Collective Water Development and Production Unit to include an additional lease and lands to be covered by and included in Said Unit; and

WHEREAS, by Twentieth Amendment and Ratification of Designation of Collective Water Development and Production Unit dated July 14, 2015, recorded in Volume 1010,

Page 406 of the Official Public Records of Burleson County, Texas and in Volume 1259, Page 261 of the Official Records of Milam County, Texas, **METROPOLITAN WATER COMPANY, L.P.** amended the above described Designation of Collective Water Development and Production Unit to include an additional lease and lands to be covered by and included in Said Unit; and

WHEREAS, by Twenty-First Amendment and Ratification of Designation of Collective Water Development and Production Unit dated July 31, 2015, recorded in Volume 1013, Page 557 of the Official Public Records of Burleson County, Texas and in Volume 1260, Page 687 of the Official Records of Milam County, Texas, **METROPOLITAN WATER COMPANY, L.P.** amended the above described Designation of Collective Water Development and Production Unit to include an additional lease and lands to be covered by and included in Said Unit; and

WHEREAS, by Twenty-Second Amendment and Ratification of Designation of Collective Water Development and Production Unit dated August 31, 2015, recorded in Volume 1017, Page 194 of the Official Public Records of Burleson County, Texas, **METROPOLITAN WATER COMPANY, L.P.** amended the above described Designation of Collective Water Development and Production Unit to include an additional lease and lands to be covered by and included in Said Unit; and

WHEREAS, by Twenty-Third Amendment and Ratification of Designation of Collective Water Development and Production Unit dated September 18, 2015, recorded in Volume 1019, Page 838 of the Official Public Records of Burleson County, Texas, **METROPOLITAN WATER COMPANY, L.P.** amended the above described Designation of Collective Water Development and Production Unit to include an additional lease and lands to be covered by and included in Said Unit; and

WHEREAS, by Twenty-Fourth Amendment and Ratification of Designation of Collective Water Development and Production Unit dated October 12, 2015, recorded in Volume 1023, Page 794 of the Official Public Records of Burleson County, Texas, **METROPOLITAN WATER COMPANY, L.P.** amended the above described Designation of Collective Water Development and Production Unit to include an additional lease and lands to be covered by and included in Said Unit; and

WHEREAS, by Twenty-Fifth Amendment and Ratification of Designation of Collective Water Development and Production Unit dated November 24, 2015, recorded in Volume 1269, Page 134 of the Official Records of Milam County, Texas, **METROPOLITAN WATER COMPANY, L.P.** amended the above described Designation of Collective Water Development and Production Unit to include an additional lease and lands to be covered by and included in Said Unit; and

WHEREAS, by Twenty-Sixth Amendment and Ratification of Designation of Collective Water Development and Production Unit dated December 18, 2015, recorded in Volume 1270, Page 533 of the Official Records of Milam County, Texas, **METROPOLITAN WATER COMPANY, L.P.** amended the above described Designation of Collective Water Development and Production Unit to include an additional lease and lands to be covered by and included in Said Unit; and

WHEREAS, by Twenty-Seventh Amendment and Ratification of Designation of Collective Water Development and Production Unit dated January 7, 2016, recorded in Volume 1033, Page 89 of the Official Public Records of Burleson County and Volume 1271, Page 674 of the Official Records of Milam County, Texas, **METROPOLITAN WATER COMPANY, L.P.** amended the above described Designation of Collective Water Development and Production Unit to include an additional lease and lands to be covered by and included in Said Unit; and

WHEREAS, by Twenty-Eighth Amendment and Ratification of Designation of Collective Water Development and Production Unit dated February 10, 2016, recorded in Volume 1033, Page 89 of the Official Public Records of Burleson County and Volume 1273, Page 881 of the Official Records of Milam County, Texas, **METROPOLITAN WATER COMPANY, L.P.** amended the above described Designation of Collective Water Development and Production Unit to include an additional lease and lands to be covered by and included in Said Unit; and

WHEREAS, by Twenty-Ninth Amendment and Ratification of Designation of Collective Water Development and Production Unit dated March 3, 2016, recorded in Volume 1040, Page 93 of the Official Public Records of Burleson County and Volume 1275, Page 305 of the Official Records of Milam County, Texas, **METROPOLITAN**

WATER COMPANY, L.P. amended the above described Designation of Collective Water Development and Production Unit to include an additional lease and lands to be covered by and included in Said Unit; and

WHEREAS, by Thirtieth Amendment and Ratification of Designation of Collective Water Development and Production Unit dated March 30, 2016, recorded in Volume 1046, Page 21 of the Official Public Records of Burleson County and Volume 1277, Page 628 of the Official Records of Milam County, Texas, **METROPOLITAN WATER COMPANY, L.P.** amended the above described Designation of Collective Water Development and Production Unit to include an additional lease and lands to be covered by and included in Said Unit; and

WHEREAS, by Thirty-First Amendment and Ratification of Designation of Collective Water Development and Production Unit dated April 29, 2016, recorded in Volume 1049, Page 64 of the Official Public Records of Burleson County and Volume 1279, Page 791 of the Official Records of Milam County, Texas, **METROPOLITAN WATER COMPANY, L.P.** amended the above described Designation of Collective Water Development and Production Unit to include an additional lease and lands to be covered by and included in Said Unit; and

WHEREAS, by Thirty-Second Amendment and Ratification of Designation of Collective Water Development and Production Unit dated June 1, 2016, recorded in Volume 1052, Page 370 of the Official Public Records of Burleson County and Volume 1282, Page 494 of the Official Records of Milam County, Texas, **METROPOLITAN WATER COMPANY, L.P.** amended the above described Designation of Collective Water Development and Production Unit to include an additional lease and lands to be covered by and included in Said Unit; and

WHEREAS, by Thirty-Third Amendment and Ratification of Designation of Collective Water Development and Production Unit dated July 1, 2016, recorded in Volume 1056, Page 208 of the Official Public Records of Burleson County, Texas, **METROPOLITAN WATER COMPANY, L.P.** amended the above described Designation of Collective Water Development and Production Unit to include an additional lease and lands to be covered by and included in Said Unit; and

WHEREAS, by Thirty-Fifth Amendment and Ratification of Designation of Collective Water Development and Production Unit dated August 22, 2016, recorded in Volume 1288, Page 268 of the Official Records of Milam County, Texas, **METROPOLITAN WATER COMPANY, L.P.** amended the above described Designation of Collective Water Development and Production Unit to include an additional lease and lands to be covered by and included in Said Unit; and

WHEREAS, by Thirty-Sixth Amendment and Ratification of Designation of Collective Water Development and Production Unit dated September 2, 2016, recorded in Volume 1064, Page 578 of the Official Public Records of Burleson County, Texas, and Volume 1289, Page 453 of the Official Records of Milam County, Texas, **METROPOLITAN WATER COMPANY, L.P.** amended the above described Designation of Collective Water Development and Production Unit to include an additional lease and lands to be covered by and included in Said Unit; and

WHEREAS, by Thirty-Seventh Amendment and Ratification of Designation of Collective Water Development and Production Unit dated October 20, 2016, recorded in Volume 1069, Page 685 of the Official Public Records of Burleson County, Texas, **METROPOLITAN WATER COMPANY, L.P.** amended the above described Designation of Collective Water Development and Production Unit to include an additional lease and lands to be covered by and included in Said Unit; and

WHEREAS, by Thirty-Eighth Amendment and Ratification of Designation of Collective Water Development and Production Unit dated November 1, 2016, recorded in Volume 1071, Page 353 of the Official Public Records of Burleson County, Texas, **METROPOLITAN WATER COMPANY, L.P.** amended the above described Designation of Collective Water Development and Production Unit to include an additional lease and lands to be covered by and included in Said Unit; and

WHEREAS, by Thirty-Ninth Amendment and Ratification of Designation of Collective Water Development and Production Unit dated December 7, 2016, recorded in Volume 1076, Page 361 of the Official Public Records of Burleson County, Texas, and Volume 1297, Page 1 of the Official Records of Milam County, Texas, **METROPOLITAN WATER COMPANY, L.P.** amended the above described Designation of Collective Water

Development and Production Unit to include an additional lease and lands to be covered by and included in Said Unit; and

WHEREAS, by Fortieth Amendment and Ratification of Designation of Collective Water Development and Production Unit dated December 20, 2016, recorded in Volume 1077, Page 787 of the Official Public Records of Burleson County, Texas, **METROPOLITAN WATER COMPANY, L.P.** amended the above described Designation of Collective Water Development and Production Unit; and

WHEREAS, by Forty-First Amendment and Ratification of Designation of Collective Water Development and Production Unit dated February 1, 2017, recorded in Volume 1083, Page 270 of the Official Public Records of Burleson County, Texas and Volume 1301, Page 163 of the Official Records of Milam County, Texas, **METROPOLITAN WATER COMPANY, L.P.** amended the above described Designation of Collective Water Development and Production Unit; and

WHEREAS, by Forty-Second Amendment and Ratification of Designation of Collective Water Development and Production Unit dated March 6, 2017, recorded in Volume 1086, Page 791 of the Official Public Records of Burleson County, Texas and Volume 1303, Page 463 of the Official Records of Milam County, Texas, **METROPOLITAN WATER COMPANY, L.P.** amended the above described Designation of Collective Water Development and Production Unit; and

WHEREAS, by Forty-Third Amendment and Ratification of Designation of Collective Water Development and Production Unit dated April 3, 2017, recorded in Volume 1090, Page 633 of the Official Public Records of Burleson County, Texas, **METROPOLITAN WATER COMPANY, L.P.** amended the above described Designation of Collective Water Development and Production Unit; and

WHEREAS, by Forty-Fourth Amendment and Ratification of Designation of Collective Water Development and Production Unit dated May 1, 2017, recorded in Volume 1094, Page 51 of the Official Public Records of Burleson County, Texas, and Volume 1307, Page 678 of the Official Records of Milam County, Texas, **METROPOLITAN WATER COMPANY, L.P.** amended the above described Designation of Collective Water Development and Production Unit; and

WHEREAS, by Forty-Fifth Amendment and Ratification of Designation of Collective Water Development and Production Unit dated May 30, 2017, recorded in Volume 1097, Page 603 of the Official Public Records of Burleson County, Texas, and Volume 1310, Page 37 of the Official Records of Milam County, Texas, **METROPOLITAN WATER COMPANY, L.P.** amended the above described Designation of Collective Water Development and Production Unit; and

WHEREAS, by Forty-Sixth Amendment and Ratification of Designation of Collective Water Development and Production Unit dated July 27, 2017, recorded in Volume 1106, Page 682 of the Official Public Records of Burleson County, Texas, **METROPOLITAN WATER COMPANY, L.P.** amended the above described Designation of Collective Water Development and Production Unit; and

WHEREAS, by Forty-Seventh Amendment and Ratification of Designation of Collective Water Development and Production Unit dated September 5, 2017, recorded in Volume 1113, Page 582 of the Official Public Records of Burleson County, Texas, **METROPOLITAN WATER COMPANY, L.P.** amended the above described Designation of Collective Water Development and Production Unit; and

WHEREAS, by Forty-Eighth Amendment and Ratification of Designation of Collective Water Development and Production Unit dated October 2, 2017, recorded in Volume 1116, Page 323 of the Official Public Records of Burleson County, Texas, **METROPOLITAN WATER COMPANY, L.P.** amended the above described Designation of Collective Water Development and Production Unit; and

WHEREAS, by Forty-Ninth Amendment and Ratification of Designation of Collective Water Development and Production Unit dated November 6, 2017, recorded in Volume 1120, Page 403 of the Official Public Records of Burleson County, Texas, **METROPOLITAN WATER COMPANY, L.P.** amended the above described Designation of Collective Water Development and Production Unit; and

WHEREAS, by Fiftieth Amendment and Ratification of Designation of Collective Water Development and Production Unit dated December 4, 2017, recorded in Volume 1126, Page 625 of the Official Public Records of Burleson County, Texas, **METROPOLITAN WATER COMPANY, L.P.** amended the above described Designation of Collective Water Development and Production Unit; and

WHEREAS, by Fifty-First Amendment and Ratification of Designation of Collective Water Development and Production Unit dated December 18, 2017, recorded in Volume 1127, Page 167 of the Official Public Records of Burleson County, Texas, **METROPOLITAN WATER COMPANY, L.P.** amended the above described Designation of Collective Water Development and Production Unit; and

WHEREAS, by Fifty-Second Amendment and Ratification of Designation of Collective Water Development and Production Unit dated January 31, 2017, recorded in Volume ____, Page ____ of the Official Public Records of Burleson County, Texas, **METROPOLITAN WATER COMPANY, L.P.** amended the above described Designation of Collective Water Development and Production Unit; and

WHEREAS, once the Fifty-Second Amendment and Ratification of Designation of Collective Water Development and Production Unit was filed of record, said Unit included 1,210 Groundwater Leases covering 20,031.3893 acres of land, more or less, as therein described and upon the terms and conditions as stated therein, for the production of water; and

WHEREAS, the leases included within Said Unit grant unto **METROPOLITAN WATER COMPANY, L.P.** the power and authority to amend Said Unit; and

WHEREAS, it is now the desire of **METROPOLITAN WATER COMPANY, L.P.** to exercise the power and authority to once again amend Said Unit, as provided for in such leases of Said Unit, to include additional leases and lands to be covered by and included in Said Unit.

NOW, THEREFORE, in consideration of the premises, **METROPOLITAN WATER COMPANY, L.P.** hereby amends Said Unit by including the Groundwater Leases listed on Exhibit "A", attached hereto and made a part hereof, in addition to the Groundwater Leases listed on the Exhibits "A" attached to and made a part of the Ninth, Tenth, Eleventh, Twelfth, Thirteenth, Fourteenth, Fifteen, Sixteenth, Seventeenth, Eighteenth, Nineteenth, Twentieth, Twenty-First, Twenty-Second, Twenty-Third, Twenty-Fourth, Twenty-Fifth, Twenty-Sixth, Twenty-Seventh, Twenty-Eighth, Twenty-Ninth, Thirtieth, Thirty-First, Thirty-Second, Thirty-Third, Thirty-Fourth, Thirty-Fifth, Thirty-Sixth, Thirty-Seventh, Thirty-Eighth, Thirty-Ninth, Fortieth, Forty-First, Forty-Second, Forty-Third, Forty-Fourth, Forty-Fifth,

Forty-Sixth, Forty-Seventh, Forty-Eighth, Forty-Ninth, Fiftieth, Fifty-First and Fifty-Second Amendments and Ratifications of Designation of Collective Water Development and Production Unit referenced hereinabove. Such additional Groundwater Leases described on Exhibit "A" and as depicted on Exhibits "B1" and "B2", each of which are attached hereto and made a part hereof, and shall now be considered a part of Said Unit.

Except as set out above, the **METROPOLITAN WATER COMPANY, L.P. PORTERS BRANCH COLLECTIVE WATER DEVELOPMENT AND PRODUCTION UNIT** is in no way changed or altered and Said Unit is hereby **RATIFIED, CONFIRMED** and **ADOPTED** upon the identical terms and conditions contained therein and as amended hereby, **METROPOLITAN WATER COMPANY, L.P.** does declare that Said Unit, as so amended herein, to be in full force and effect.

DATED this 1st day of March, 2018.

METROPOLITAN WATER COMPANY, L.P.
BY: METROPOLITAN WATER COMPANY OF TEXAS, L.L.C., its General Partner

BY: 

PRINTED NAME: W. SCOTT CARLSON

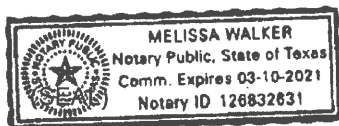
TITLE: PRESIDENT

THE STATE OF TEXAS

COUNTY OF WASHINGTON

§
§
§

This instrument was acknowledged before me this the 1st day of March, 2018, by W. Scott Carlson, President of Metropolitan Water Company of Texas, L.L.C., a Texas Limited Liability Company, on behalf of said limited liability company.




Notary Public in and for the State of Texas.

My Comm. Expires: 3/10/21

Melissa Walker
Printed Name of Notary Public

mw-amend-unit.053

EXHIBIT "A"

Attached to and made a part of that certain Fifty-Third Amendment and Ratification of Designation of Collective Water Development and Production Unit dated March 1, 2018 by Metropolitan Water Company, L.P.

TRACT NO	LESSOR	LEASE DATE	GROSS ACRES	RECORDING DATA
186-022m	Keen, Lee C.	03/28/2003	23.9900	902/428 ***
286-009m	Keen, Lee C.	03/29/2003	9.6000	902/424 ***
286-010m	Keen, Lee C.	03/26/2003	2.6000	902/380 ***
286-011m	Keen, Lee C.	03/30/2003	43.0000	902/396 ***
380-003m	Keen, Lee C.	03/31/2003	6.0000	902/388 ***
380-004m	Keen, Lee C.	03/31/2003	62.5000	902/392 ***
380-005m	Keen, Lee C.	03/31/2003	95.0000	902/384 ***
139-003m	Keen, Pete A.	03/28/2003	70.0000	902/364 ***
139-004m	Keen, Pete A.	03/27/2003	56.2000	902/376 ***
139-005m	Keen, Pete A.	03/27/2003	56.2000	902/372 ***
139-006m	Keen, Pete A.	03/28/2003	20.0000	902/360 ***
139-007m	Keen, Pete A.	03/29/2003	61.2200	902/352 ***
139-008m	Keen, Pete A.	03/28/2003	134.7500	902/356 ***
318-009m	Keen, Pete A.	03/29/2003	10.1100	902/336 ***
318-010m	Keen, Pete A.	03/30/2003	10.1100	902/340 ***
318-011m	Keen, Pete A.	03/30/2003	8.4100	902/344 ***
318-012m	Keen, Pete A.	03/30/2003	10.1100	902/348 ***
328-006m	Lagrone, Ben Earl and wife, Mary Evelyn Lagrone	03/29/2003	19.3990	902/436 ***
328-009m	Lagrone, Ben Earl and wife, Mary Evelyn Lagrone	03/28/2003	27.2500	902/440 ***
008-003	Lewis, Norma Fay	03/26/2003	48.0000	597/363 *
008-004	Lewis, Norma Fay	03/26/2003	100.0000	597/367 *
274-014	Lewis, Norma Fay	03/25/2003	3.2700	597/347 *
274-018	Lewis, Norma Fay	03/24/2003	10.5590	597/355 *
274-020	Lewis, Norma Fay	03/26/2003	9.0000	597/351 *
274-021	Lewis, Norma Fay	03/24/2003	255.0000	597/371 *
274-021.1	Lewis, Norma Fay	03/25/2003	1.0000	597/343 *
274-023	Lewis, Norma Fay	03/25/2003	11.3500	597/359 *
008-003	Rasmus, Mildred T.	03/22/2003	48.0000	596/781 *
008-004	Rasmus, Mildred T.	03/22/2003	100.0000	596/785 *
274-014	Rasmus, Mildred T.	03/21/2003	3.2700	596/765 *
274-018	Rasmus, Mildred T.	03/20/2003	10.5590	596/773 *
274-020	Rasmus, Mildred T.	03/21/2003	9.0000	596/769 *

TRACT NO.	LESSOR	LEASE DATE	GROSS ACRES	RECORDING DATA
274-021	Rasmus, Mildred T.	03/20/2003	255.0000	596/789 *
274-021.1	Rasmus, Mildred T.	03/20/2003	1.0000	596/761 *
274-023	Rasmus, Mildred T.	03/21/2003	11.3500	596/777 *
007-001m	S & V Partnership	03/06/2003	202.3600	899/643 ***
037-001m	S & V Partnership	03/06/2003	437.7500	596/458 * 899/648 ***
140-014m	S & V Partnership	03/06/2003	166.3690	899/638 ***
380-002m	S & V Partnership	03/06/2003	166.2500	899/643 ***
254-4-188B 254-4-189B	Smelley, Zelma	03/05/2003	0.5222	598/188 *
008-003	Thomas, Lloyd and wife, L. Mildred Thomas	03/13/2003	48.0000	596/490 *
008-004	Thomas, Lloyd and wife, L. Mildred Thomas	03/13/2003	100.0000	596/494 *
034-006	Thomas, Lloyd and wife, L. Mildred Thomas	03/14/2003	24.8900	596/486 *
274-014	Thomas, Lloyd and wife, L. Mildred Thomas	03/11/2003	3.2700	596/470 *
274-018	Thomas, Lloyd and wife, L. Mildred Thomas	03/10/2003	10.5590	596/478 *
274-020	Thomas, Lloyd and wife, L. Mildred Thomas	03/12/2003	9.0000	596/474 *
274-021	Thomas, Lloyd and wife, L. Mildred Thomas	03/10/2003	255.0000	596/462 *
274-021.1	Thomas, Lloyd and wife, L. Mildred Thomas	03/11/2003	1.0000	596/466 *
274-023	Thomas, Lloyd and wife, L. Mildred Thomas	03/12/2003	11.3500	596/482 *

* Official Public Records of Burleson County, Texas

*** Official Records of Milam County, Texas

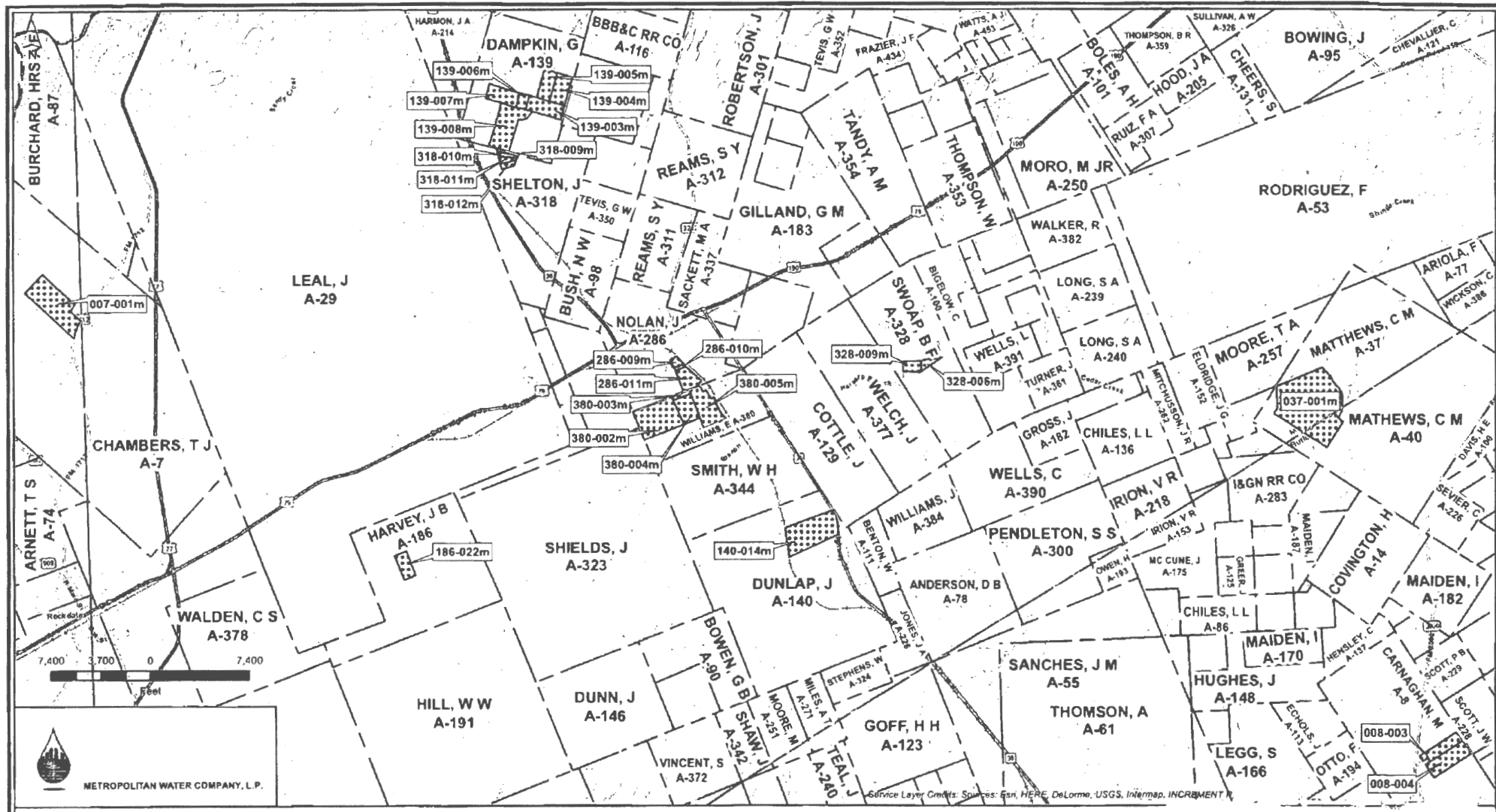


Exhibit "B1"

Attached to and made a part of that certain Fifty-Third Amendment and Ratification of Designation of Collective Water Development and Production Unit dated March 1, 2018 from Metropolitan Water Company, L.P. to the Public

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