

State Office of Administrative Hearings



Cathleen Parsley
Chief Administrative Law Judge

January 15, 2009

Les Trobman, General Counsel
Texas Commission on Environmental Quality
P.O. Box 13087
Austin Texas 78711-3087

CHIEF CLERKS OFFICE

2010 JAN 15 PM 3: 07

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

Re: SOAH Docket No. 589-09-2350; TCEQ Docket No. 2008-1940-WR;
In Re: Creation of a Groundwater Conservation District for Priority Groundwater
Management Area in Dallam County

Dear Mr. Trobman:

I address the comments and exceptions that were submitted by the Executive Director and Protestants in response to the December 14, 2009, Proposal for Decision (PFD) and Proposed Order.

Executive Director's exceptions

1. The Executive Director (ED) recommends that the date "December 9, 2009" in Finding of Fact No. 2 in the Proposed Order be changed to "December 9, 2008." I agree that this correction should be made.
2. The ED recommends that the word "that" before "\$20,000 a year" in Finding of Fact No. 21 in the Proposed Order be changed to "than." I agree that this correction should be made.
3. The ED recommends that the PFD, pages 3, 6, and 20, and Finding of Fact No. 1 in the Proposed Order be revised to reflect that all of Dallam County, except the area already under groundwater management by the Dallam County Underground Water Conservation District Number 1 (DCUWCD), was designated a Critical Area/PGMA. I agree that these clarifications should be made.
4. The ED recommends that Finding of Fact No. 16 in the Proposed Order be revised to read: "The NPGCD encompasses Sherman, Hansford, Ochiltree, Lipscome, and (north of the Canadian River) Hartley, Moore, Hutchinson, and Dallam (except for the Areas) Counties." I agree with this proposed change.

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- 5. The ED recommends that the sentence on page 14 of the PFD that starts with "According to the ED," be revised to read: "According to the ED, with respect to water districts, feasibility relates to whether the assessed valuation of the land will support a reasonable tax rate to fund the services the district was created to provide." I agree with this proposed change.

Protestants' exceptions

With respect to all of the Protestants' comments, arguments, and exceptions I recommend no changes to the PFD or Proposed Order, except only one: I agree that Ordering Paragraph No. 1 in the Proposed Order should be revised to read: "The Commission recommends that Areas A, B, and C within the Dallam County PGMA be added to the NPGCD, and directs the NPGCD to vote to add the Areas then call and hold an election within each of the Areas in accordance with Texas Water Code § 35.013."

Sincerely,



Richard R. Wilfong
Administrative Law Judge

RRW/sb
cc: Mailing List

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STATE OFFICE OF ADMINISTRATIVE HEARINGS

AUSTIN OFFICE

300 West 15th Street Suite 502

Austin, Texas 78701

Phone: (512) 475-4993

Fax: (512) 475-4994

SERVICE LIST

AGENCY: Environmental Quality, Texas Commission on (TCEQ)
 STYLE/CASE: DALLAM COUNTY PRIORITY GROUNDWATER
 MANAGEMENT AREA
 SOAH DOCKET NUMBER: 582-09-2350
 REFERRING AGENCY CASE: 2008-1940-WR

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STATE OFFICE OF ADMINISTRATIVE HEARINGS

ADMINISTRATIVE LAW JUDGE
ALJ RICHARD WILFONG

REPRESENTATIVE / ADDRESS

PARTIES

DOCKET CLERK
 TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
 OFFICE OF THE CHIEF CLERK
 PO BOX 13087
 AUSTIN, TX 78711
 (512) 239-3300 (PH)
 (512) 239-3311 (FAX)

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

LES TROBMAN
 GENERAL COUNSEL
 TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
 MC-101 P.O. BOX 13087
 AUSTIN, TX 78711-3087

(512) 239-5533 (FAX)

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

DOUG G. CAROOM
 ATTORNEY
 BICKERSTAFF HEATH DELGADO ACOSTA, LLI'
 3711 S. MOPAC EXPRESSWAY, BUILDING ONE. SUITE
 300
 AUSTIN, TX 78746
 (512) 472-8021 (PH)
 (512) 320-5638 (FAX)
 dcaroom@bickerstaff.com

POOLE LEASING CO., INC.

ENTRANIA SPRINGS, L. P.

CLIFF SKILES, JR., DVH

CHRISTIAAN SIANO
STAFF ATTORNEY
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
MC-173 P.O. BOX 13087
AUSTIN, TX 78711-3087
(512) 239-6743 (PH)
(512) 239-0606 (FAX)
csiano@tceq.state.tx.us

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2010 JAN 15 PM 3:07
CHIEF CLERKS OFFICE

ELI MARTINEZ
PUBLIC INTEREST COUNSEL
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
12100 PARK 35 CIRCLE, MC-103, BUILDING F
AUSTIN, TX 78753
(512) 239-3974 (PH)
(512) 239-6377 (FAX)
elmartin@tceq.state.tx.us

OFFICE OF PUBLIC INTEREST COUNSEL

KEVIN WAKLEY
ATTORNEY
320 SOUTH POLK, STE. 500
AMARILLO, TX 79101
(806) 322-1440 (PH)
(806) 322-1441 (FAX)
kwakley@amalaw.org

POOLE LEASING CO., INC.

ENTRANIA SPRINGS, L. P.

F. KEITH GOOD
ATTORNEY
LEMON, SHEARER, PHILLIPS, GOOD
P. O. BOX 1066
PERRYTON, TX 79070
(806) 435-6544 (PH)
(806) 435-4377 (FAX)
fkgood@ptsi.net

NORTH PLAINS GROUNDWATER CONSERVATION
DISTRICT

EDWARD R. MOORE
12857 US 385
DALHART, TX 79022
(806) 384-2190 (PH)
(806) 384-2283 (FAX)
er.moore@hotmail.com

EDWARD R. MOORE

DAISY MOORE GABLER
12864 US HWY 385
DALHART, TX 79022
(806) 384-2321 (PH)

DAISY MOORE GABLER

GLEN HEISKEL
BOX 45
DALHART, TX 79022
(806) 333-4128 (PH)
(806) 384-2367 (FAX)

GLEN HEISKEL

MERLE HEISKELL
4001 HWY 54
DALHART, TX 79022
(806) 333-2313 (PH)

MERLE HEISKELL

MARK THARP
MARK THARP (THARP FAMILY TRUST)
3030 CANYON TRAIL RD.
DALHART, TX 79022
(806) 244-5608 (PH)
(806) 244-5743 (FAX)
MRT@xit.net

MARK THARP (THARP FAMILY TRUST)

GERALD WILHELM
1919 CHEROKEE
DALHART, TX 79022
(806) 249-2369 (PH)
(806) 249-2773 (FAX)
gwillhelm07@windstream.net

GERALD WILHELM

GARY HEISKEL
222 YUCCA PL.
DALHART, TX 79022
(806) 244-6060 (PH)

GARY HEISKEL

WILL ALLEN
1909 DENVER AVE.
DALHART, TX 79022
(806) 333-3335 (PH)
(806) 727-4643 (FAX)
wralen@xit.net

WILL ALLEN

ELIOT CRABTREE
13311 FM 807
DALHART, TX 79022
(806) 268-0909 (PH)
ecrabtree@xit.net

ELIOT CRABTREE

xc: Docket Clerk, State Office of Administrative Hearings

STATE OFFICE OF ADMINISTRATIVE HEARINGS

AUSTIN OFFICE

300 West 15th Street Suite 502

Austin, Texas 78701

Phone: (512) 475-4993

Fax: (512) 475-4994

DATE:

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REGARDING:

EXCEPTIONS LETTER (BY ALJ)

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582-09-2350

JUDGE RICHARD WILFONG

FAX TO:

FAX TO:

KEVIN WAKLEY	(806) 322-1441
DOUG G. CAROOM	(512) 320-5638
F. KEITH GOOD (LEMON, SHEARER, PHILLIPS, GOOD)	(806) 435-4377
ELI MARTINEZ (TEXAS COMMISSION ON ENVIRONMENTAL QUALITY)	(512) 239-6377
CHRISTIAAN SIANO (TEXAS COMMISSION ON ENVIRONMENTAL QUALITY)	(512) 239-0606
LES TROBMAN (TEXAS COMMISSION ON ENVIRONMENTAL QUALITY)	(512) 239-5533
DOCKET CLERK (TEXAS COMMISSION ON ENVIRONMENTAL QUALITY)	(512) 239-3311
WILL ALLEN	(806) 727-4643
ELIOT CRABTREE	VIA REGULAR MAIL
DAISY MOORE GABLER	VIA REGULAR MAIL
GARY HEISKEL	VIA REGULAR MAIL
GLEN HEISKEL	(806) 384-2367
MERLE HEISKELL	VIA REGULAR MAIL
EDWARD R. MOORE	(806) 384-2283
GERALD WILHELM	(806) 249-2773
MARK THARP (MARK THARP (THARP FAMILY TRUST))	(806) 244-5743

TCEQ Docket Clerk, Fax Number 512/239-3311

NOTE: IF ALL PAGES ARE NOT RECEIVED, PLEASE CONTACT SUSAN BRYSON(sbr) (512) 475-4994

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