

JUDICIAL NOTICE BY AFFIDAVIT

2010 JAN 13 PM 2: 56
CHIEF CLERK'S OFFICE

Comes now Merle Weiskell, the Affiant and Protestant, by special appearance, as being of lawful age, sound mind, and able to make this Affidavit of Judicial Notice by his own knowledge of the facts and evidence, and herein after will be known as the Affiant, and with the relevant facts and evidence at hand makes the Affidavit to the best of his knowledge and belief to be true and correct.

The Affiant makes the Judicial Notice by Affidavit to: Bryan W. Shaw, Ph.D, Chairman; Buddy Garcia, Commissioner; Carlos Rubinstein, Commissioner; Mark R. Vickery, P.C., Executive Director; and the Texas Commission on Environmental Quality.

The Texas Commission of Environmental Quality sent the following notice on December 22, 2009.

“To: Persons on the attached mailing list (by mail and facsimile as indicated).

“ Re: Creation of a Groundwater Conservation District for Priority Groundwater Management Area in Dallam County: SOAH Docket No. 582-09-2350; TCEQ Docket No. 2008-1940-WR.

“This letter is in response to the request filed on December 21, 2009 by Douglas Caroom and Susan Maxwell on behalf of Clifford A. Skiles, Jr, DVM, Poole Leasing Co, Inc, and Entrania Springs LP (Protestants) in the above-referenced matter. That motion requests an extension of time to file exceptions to the Administrative Law Judge’s Proposal for Decision until January 11, 2010 and of the time to file replies to exceptions until January 21, 2010. The motion represents that counsel for the Protestants has contracted the other parties to that proceeding and that they are in agreement with the request.

“Pursuant to 30 Texas Administrative Code [Sec.] 80.257 (b), this letter hereby extends the time for filing exceptions to the Administrative Law Judge’s Proposal for Decision until 5:00 p.m. on Monday, January 11, 2010. Any replies to those exceptions may be filed no later than 5:00 p.m. on Thursday, January 21, 2010. Any exceptions or replies must be filed with the Chief Clerk of the TCEQ electronically at <http://www.10.tceq.state.tx.us/epic/efilings/> or by filing an original and seven copies at: Office of the Chief Clerk , ATTN: Agenda Docket Clerk, Mail Code 105, P.O. Box 13087, Austin, Texas 78711 [Fax(512) 239-3311]. Exceptions and replies should be served on those persons contained on the attached mailing list on the same day the document is filed with the Chief Clerk.”

The affiant by and through his Judicial Notice by Affidavit is adamantly objecting to the Administrative Laws Judge’s proposal to make a decision concerning the creation of a Groundwater Conservation District for Priority Groundwater Management area in Dallam county. It is apparent to the affiant that the administrative law judge is attempting to control and unlawfully take the affiant’s irrigation water, which is the life blood of his

farming operations as well as all of his friends and neighbors'.

The Affiant believes that the Administrative Law Judge lacks subject matter jurisdiction to make the decision for the creation of a Groundwater Conservation District for Priority Groundwater Management area in Dallam county Texas. This violation of the Affiant's and his friend's and neighbor's constitutional rights, under the United States Constitution at Article VII Amendment IV and V, is unlawful taking without just compensation.

The Affiant believes that the creation of a Groundwater Conservation District for Priority Groundwater Management area in Dallam County Texas could result in a petition filed with the United States Court of Federal Claims for redress. See Hage v. U.S on Wayne Hage's website, in the United States Court of Federal Claims, case no 91-1470 (filed June 6, 2008, 43 USC section 1752 (G) taking, Fifth Amendment, just compensation, cattle vested water rights.)

The Affiant retains his rights to amend this Judicial Notice by Affidavit should any unforeseen clerical errors become known.

The Affiant gives his permission to anyone to duplicate this document if they so desire.

The Affiant further sayeth naught.

Signature

Merkle Heiskell

Merkle Heiskell
4000 Hwy 64
Dallhart Tx 79022

Sworn to and subscribed before me on the 11th day of January, 2010 by

Billie Harruff



CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the affiant ^{Merle Heiskell} Judicial Notice by affidavit, along with the attachment was sent by first class mail to the persons on the attached mailing list (by) mail and facsimile as indicated.


Merle Heiskell, affiant

Mailing List
Groundwater Conservation District for
Priority Groundwater Management Area in Dallam County
TCEQ Docket No. 2008-1940-WR
SOAH Docket No. 582-09-2350

Susan M. Maxwell
Douglas G. Caroom
Bickerstaff Heath Delagado Acosta LLP
Building One, Suite 300
3711 S. MoPac Expressway
Austin, Texas 78746
512/472-8021 FAX 512/320-5638

Mitch D. Carthel
Kevin T. Wakley
Irwin Merrit Hogue Price & Carthel, PC
P.O. Box 15090
Amarillo, Texas 79105-0998
806/322-1440 FAX 806/322-1441

The Honorable Richard R. Wilfong
Administrative Law Judge
State Office of Administrative Hearings
P.O. Box 13025
Austin, Texas 78711-3025
512/475-4993 FAX 512/475-4994

F. Keith Good
Lemon, Shearer, Phillips, Good
P.O. Box 1066
Perryton, Texas 79070
806/435-6544 FAX 806/435-4377

Edward R. Moore
12857 US 385
Dalhart, Texas 79022
806/384-2190 FAX 806/384-2283

Daisy Moore Gabler
12864 US Hwy 385
Dalhart, Texas 79022
806/384-2321

Glen Heiskell
Box 45
Dalhart, Texas 79022
806/333-4128 FAX 806/384-2367

Merle Heiskell
4001 Hwy 54
Dalhart, Texas 79022
806/333-2313

Mark Tharp
Mark Tharp (Tharp Family Trust)
3030 Canyon Trial Rd.
Dalhart, Texas 79022
806/244-5608 FAX 806/244-5753

Gerald Wilhelm
1919 Cherokee
Dalhart, Texas 79022
806/249-2369 FAX 806/249-2773

Gary Heiskell
222 Yucca Pl.
Dalhart, Texas 79022
806/244-6060

Will Allen
1909 Denver Ave.
Dalhart, Texas 79022
806/333-3335 FAX 806/727-4643

Eliot Crabtree
13311 FM 806
Dalhart, Texas 79022
806/268-0909

Christiaan Siano
TCEQ Environmental Law Division MC 173
P.O. Box 13087
Austin, Texas 78711-3087
512/239-0600 FAX 512/239-0606

Eli Martinez
TCEQ Office of Public Interest Counsel MC 103
P.O. Box 13087
Austin, Texas 78711-3087
512/239-6363 FAX 512/239-6377

Docket Clerk
TCEQ Office of Chief Clerk MC 105
P.O. Box 13087
Austin, Texas 78711-3087
512/239-3300 FAX 512/239-3311

Bridget Bohac
TCEQ Office of Public Assistance MC 108
P.O. Box 13087
Austin, Texas 78711-3087
512/239-4000 FAX 512/239-4007