

**TCEQ DOCKET NO. 2008-1940-WR
SOAH DOCKET NO. 582-09-2350**

CREATION OF A GROUNDWATER CONSERVATION DISTRICT FOR PRIORITY GROUNDWATER MANAGEMENT AREA IN DALLAM COUNTY	§ § § §	BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
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**WILL ALLEN’S EXCEPTIONS TO THE ADMINISTRATIVE LAW
JUDGE’S PROPOSAL FOR DECISION**

TO THE HONORABLE COMMISSIONERS:

Will Allen respectfully files these Exceptions to the Administrative Law Judge’s Proposal for Decision (“PFD”), issued December 14, 2009 in the proceedings referenced above of the Texas Commission on Environmental Quality (“TCEQ” or “Commission”).

I am a protestant in the matter of the Texas Commission on Environmental Quality’s (TCEQ) recommendation that certain areas of Dallam County be added to the North Plains Groundwater Conservation District. I am a landowner and an operator of a farm in Dallam County, which is within the disputed area of Dallam County known as area “C”.

I respectfully object to the recommendation by the TCEQ and the Administrative Law Judge that the areas within Dallam County that are currently not a part of the North Plains Groundwater Conservation District be added to the district. My objection is based upon the following arguments:

We, within area “C” of Dallam County, have shown before the Administrative Law Judge that we have managed our groundwater resources and complied with the laws of Texas regarding groundwater pumping very effectively as an unregulated area. Through information compiled regarding the status of the underground water in this area from such resources as the Texas Tech Center for Geospatial Technology, we were able to show that the static groundwater level in our area has declined very little and in some cases has actually risen. In fact, we were

able to show that the groundwater levels in our area were actually healthier than the groundwater levels in many of the areas contained within the North Plains Groundwater Conservation District, especially those areas in Dallam County. Furthermore, we were able to compile records from the heaviest groundwater users within area “C” and were able to show that operators within area “C” used less water on a per acre basis than the amount permitted by the North Plains Groundwater Conservation District. Therefore, the addition of our area to the North Plains Groundwater Conservation District would not improve groundwater conservation since we are already using less water than the district currently permits and will permit for several years to come. The addition of our area to the district would only be imposing regulation for regulation’s sake and for no other reason. It would also impose additional taxes on landowners with no benefit in return and would force great expense and time on farm operators.

I assert that addition of our area to the North Plains Groundwater Conservation District would actually be detrimental to the conservation effort in our unregulated area. Currently, the general attitude in our area is that, “groundwater is our future, we had better conserve it;” however, if area “C” is added to the NPGCD, I believe the attitude of landowners will change to something like “we had better get it while we can before it is taken away from us.” I know from talking to farmers who operate within the district but outside of area “C” that this attitude does, in fact, exist now, and did not exist before the creation of the water district. Again, we were able to show before the Administrative Law Judge through unbiased resources that the well density within area “C” was much less than in surrounding areas. I believe this is true, in part, because of the different attitudes between those who are regulated by the district and those who are not. After all, the groundwater pumping activities that lead to the great decline of water levels in the parts of Dallam County that are within the water district, which eventually lead to Dallam County being designated a Priority Groundwater Management Area, happened under the watchful eye of the North Plains Groundwater Conservation District.

I assert that if the recommendation of the TCEQ is accepted and the North Plains Groundwater Conservation District takes the matter to the voters within the unregulated areas, the initiative will undoubtedly fail. I participated in an effort to poll the voters within area “C” regarding how they would vote in an election on whether or not to join the North Plains Groundwater Conservation District. Those of us who participated in the poll were able to

contact approximately 75% of registered voters within the area. Of those contacted 100% were opposed to joining the district and indicated on a petition that they would vote against the initiative. The most important question that I personally have to ask and that I hope the Commissioners ask after seeing the results of the petition is this: If the recommendation by the TCEQ is a good thing then why are the persons who will be most affected by TCEQ's initiative virtually unanimously opposed to it?

In conclusion, common sense tells us that those who are good stewards of their resources apart from regulation do not need to be regulated. Additional regulation is expensive to those who are regulated and also to the regulator. It should be avoided when it is unnecessary. Addition of our area to the North Plains Groundwater Conservation District would only help the North Plains Groundwater Conservation District since the District would collect extra tax revenue. That is not a good enough reason to impose this burden on those who have proven their ability to conserve without the District's help.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of January, 2010, a true and correct copy of Will Allen's Exceptions to the Administrative Law Judge's Proposal for Decision was e-filed with the TCEQ Chief Clerk, and sent by first class mail and/or facsimile to the following persons:

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