

November 20, 2013

Board of Directors
Lost Pines Groundwater Conservation District
908 Texas 230 Loop
Smithville, TX 78957

Re: Forestar (USA) Real Estate Group Rehearing – comments on Forestar's May 10 and July 2 letters and November 4 presentation to the Board.

Dear Board,

Environmental Stewardship is providing the following comments to the Board in response to the Forestar letters, referenced above, in order to respond to statements in their letters regarding *"unsupported, but recognizably difficult political position facing the Board because of very real public fears."*

Thank you for providing the referenced documents in response to my PIAR. It is clear that Forestar has been pressuring the District behind the scenes to accept its "phase-in staging" proposal since as early as May 9, 2013, six days prior to the Board's decision to limit the permit to 12,000 acre-feet per year. In its "privileged & confidential" letters to the District on May 10, before the vote to limit the permit to 12,000 acre-feet per year, and again on July 2, Forestar argued privately to the District for the phase-in permit. What Forestar is ignoring is the Board's credible decision, through analysis of science and law, that 12,000 acre-feet per year is the amount of water that is available from the Simsboro aquifer without exceeding the desired future conditions (DFC), which the Board is, by law, required to protect. Forestar simply wants it their way ... or ... litigate, regardless of the impact on the District's regulatory authority or the aquifer.

Nothing has changed to justify a change in the Board's decision at a rehearing. The "phase-in staging" proposal was on the table BEFORE the decision to limit the permit to 12,000 acre-feet per year and was simply revised in the July 2nd letter to reflect the permit quantity authorized by the Board.

Forestar is attempting to dissuade the Board of legitimate public concerns through behind-the-scenes secret shenanigans. "This overture," says attorney Edmond R McCarthy, Jr. in his July 2nd letter, "reflects an effort by Forestar to assist the District Board in addressing the unsupported, but recognizably difficult political position facing the Board because of very real public fears." "By compromising ... Forestar hopes to provide the District and its Board with tools to demonstrate to the public the District's ability to regulate Forestar's permit and Project and to protect both the aquifers within its jurisdiction and the public interest."

To which we respond:

1. The Board, by its decision to limit the Forestar permit, has rightly exercised its regulatory authority. Through its permit decision, the Board has permitted water for beneficial use from the aquifer to the extent that such water is available without harming the aquifer or public interest. Whether the desired future conditions are exceeded now, or through a "phase-in staging", they are, none-the-less, exceeded. The Board has been given, by the Legislature, both the responsibility and authority to manage the groundwater resources of Bastrop and Lee counties in a

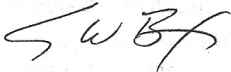
manner that protects the desired future conditions that have been adopted by the District.

2. The "tools" provided by Forestar DO NOT resolve our concerns that the aquifer will be over-pumped if Forestar is granted a 45,000 acre-feet per year "phase-in staging" permit. The permit is the only point in the regulatory process that allows the District to deal with ONLY the Forestar permit when limiting or reducing pumping in the aquifer. Once permitted, as stated in Forestar's May 10, 2013 letter, "when aquifer or climatological conditions dictate that a scientific foundation exists for the District to impose nondiscriminatory curtailment or proration orders on all permit holders, [then] Forestar will cooperate" (emphasis added). Now is the time to set appropriate limits on the Forestar permit that do not tie the hands of the District in the future. Forestar simply wants to take from other permit holders, what is not currently available to them.

3. If Forestar truly recognizes the regulatory authority of the District Board, as they say, and is truly interested in a "sustainable water initiative", as they say, they will accept the studied judgment of the District Board. They will cease and desist in their hostile attempts to take by threat and by force what they have not been able to obtain by due process. Though they have litigation options, as a good corporate citizen, they also have an moral and ethical obligation to listen to the needs and desires of our communities, not just the they have invested in or have contracts with, and accept the decisions of our District Board without seeking judicial remedies that are harmful to our public interest.

We encourage you to continue to stand strong. We have your back.

Respectfully submitted,



Steve Box
Executive Director
Environmental Stewardship

cc: County Judge Paul Pape, Bastrop County
County Judge Paul Fischer, Lee County
Eric Allmon, Lowerre, Fredericks, Perales, Allmon & Rockwell, counsel for ES
David Lein, counsel for LPGCD
Greg Ellis, counsel for LPGCD Board

Environmental Stewardship is a charitable nonprofit organization whose purposes are to meet current and future needs of the environment and its inhabitants by protecting and enhancing the earth's natural resources; to restore and sustain ecological services using scientific information; and to encourage public stewardship through environmental education and outreach. We are a Texas nonprofit 501(c) (3) charitable organization headquartered in Bastrop, Texas. For more information visit our website at <http://www.envirostewardship.org/>.