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Contacts: Steve Box 512-300-6609 Steve.Box@att.net

Environmental Stewardship Scores a Partial Victory in Court Fight with LCRA

State Office of Administrative Hearings (SOAH) judges have ruled that LCRA's recent groundwater pumping application should require the state agency to monitor surface water when they begin potentially massive pumping (25,000 acre feet per year) from the Simsboro Aquifer in Bastrop County. Environmental Stewardship, the City of Elgin, a group of Bastrop and Lee county landowners and others legally objected to such high volume pumping after the Lost Pines Groundwater Conservation District announced a public hearing on LCRA's permit application. Surface water monitoring was not a part of the original permit application.

Heavy withdrawal of groundwater could potentially lower the water levels of hundreds of existing wells or make them go dry. The judges agreed with Environmental Stewardship's scientific evidence that surface waterways including the Colorado River could also be significantly lowered, especially during drought conditions. Flow of the river could drop below levels necessary to maintain minimal ecological functions (subsistence flows) and its tributaries could actually go dry sooner during drought conditions.

"Currently there are no monitoring wells to quantify existing surface and groundwater interaction. We need an effective monitoring system before heavy pumping begins," said George Rice, a hydrologist who studied the Simsboro Aquifer extensively.

In agreement with Environmental Stewardship's arguments, the judges recommended that the Lost Pines District should rule that the LCRA must monitor surface water impacts. They found that the District's test-and-see approach is not adequate to prevent unreasonable impacts on surface water resources. To manage that impact in the future, judges recommended the District include a surface water monitoring requirement in their management plan, so that the District has the discretionary power to curtail all users, if necessary. The groundwater that LCRA wants to withdraw is from the Simsboro Aquifer beneath Bastrop and Lee counties, but such pumping can also impact other aquifers.

On the downside, the judges recommended issuing the permit for the full 25,000 acre feet pumping volume as LCRA requested. But, Environmental Stewardship can reasonably call the judges' decision a "win" because the judges have recommended that monitoring of surface water impacts be required by the final permit. Environmental Stewardship forced the surface water monitoring issue to be considered by the judges. Its participation led to changes by SOAH that recommend addressing surface water impacts to a degree not included in other groundwater legal proceedings, thus setting a precedent for other groundwater districts.

Historically, groundwater districts tend to defer towards SOAH recommendations. So, while the various parties are expected to file vigorous exceptions, the final decision is not likely to seriously diverge from this recommendation.

Issuance of the SOAH ruling, known as Proposal for Decision, triggers certain deadlines for exceptions and replies to exceptions. Exceptions (arguments explaining why parties agree or disagree with the decision) are due April 30th, and replies to exceptions will be due June 1st.

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Environmental Stewardship is a 14 year old non-profit organization based in Bastrop, Texas. Contact: info@envstewardship.org, website: Environmental-Stewardship.org, FB Page: [@EnvironmentalStewardshipTX](https://www.facebook.com/EnvironmentalStewardshipTX) .