

RURAL WATER RELIEF MAY FOLLOW DROUGHT RELIEF

[Submitted by Michele Gangnes, a landowner in Blue. She may be reached at mggangnes@aol.com]

Mother Nature's welcome rains, the 2015 legislative session and other recent events have focused our attention once again on water. While it may be full steam ahead for municipalities, developers and speculators in the gold rush for water, there are indications that rural Texas may be gaining ground in the "water wars" that pit rural Texans against urban interests.

Landowners who face losing their land to reservoirs and having their water piped away teamed up in the Legislature with municipal and suburban ratepayers who worry about escalating utility bills. Heated debates and close votes over water in both the House and Senate were not always based on the typical rural-urban divide. Instead, voters on both ends of the pipelines began to publicly question whether Texas is on the right water track, and their legislators listened. The session ended with a mixed bag of water bills, but with some surprises for the growth lobby that may have expected a cakewalk on water.

The rural-urban coalition also formed alliances with other water advocates, small farmers and ranchers, and environmentalists to reach out, state-wide, to their representatives and senators. Personal visits, telephone calls and email from voters to legislators helped volunteer and paid lobbyists to defeat legislation like House Bill 3298. That bill, dubbed "Gridzilla" by opponents, called for a state-funded study of *how* --- not *whether*--- to set up a water market for Texas and a grid of water pipelines crisscrossing the state to supply growth corridors. Gridzilla was reportedly opposed behind the scenes by groundwater conservation districts and mainstream lobbies for big agriculture and ranching interests as well. Legislators took notice and killed the bill.

The Legislature acted to extend local control over a controversial plan by water marketer Electro-Purification to sell 2,000 acre-feet of water per year, or 1.8 million gallons per day, from unregulated portions of the Trinity Aquifer in Hays County. Although small in scale, the victory was important for opponents of water grabs. As of the end of the current session, three massive water transfers are still in our local water spotlight. If permitted in full, three projects – Vista Ridge, Forestar and End Op --- would result in the export of 141,000 acre-feet per year from the Simsboro aquifer under Lee, Bastrop, Burleson and Milam counties.

San Antonio's \$3.4 billion Vista Ridge project in Burleson County is already permitted to move over 44 million gallons per day to Bexar County by 2020. Forestar Real Estate Group is still suing our Lost Pines Groundwater Conservation District for an additional 29 million gallons per day over and above the 10.7 million gallons already permitted. Forestar's proposed well field in Lee County is just across the county line from Vista Ridge. Meanwhile, End Op LP has received an infusion of venture capital and is threatening to sue Lost Pines if the district's Board does not issue an export permit to move 41 million gallons per day of Lee and Bastrop groundwater. End Op currently has no customer for that much water.

Before construction of the Vista Ridge project begins, San Antonio's for-profit partners from Spain and Austin must purchase easements --- or acquire them by exercising eminent domain --- for a 142-mile pipeline stretching over hundreds of acres of private land in six counties. Most of the needed easements across Lee County may have been acquired by Blue Water System several years ago for another pipeline. However, landmen are busy in Bastrop, Caldwell, Guadalupe, Comal and Bexar counties. Various water advocacy, landowner rights and ratepayer groups continue to oppose the project, which must also obtain favorable enough financing to make the multi-billion dollar price tag feasible for San Antonio.

Another victory was claimed by local water rights advocates last week when Forestar's sale of 45,000 acre-feet per year to Hays County suffered a major setback. Possibly influenced by the Electro-Purification dispute, the Hays County Commissioner's Court voted on June 23 to back out of the county's water supply contract with Forestar. The county had already spent \$1.4 million of taxpayer dollars to reserve the water. Forestar is still suing the Lost Pines district to force a permit, but there is no indication the company has a backup customer, and its parent company is rumored to be weary of the years-long struggle to complete the project.

The proposed End Op LP water project also remained stalled last week. After the Lost Pines Board and a large public audience heard the most recent legal arguments for and against End Op's proposed permit on June 24, the Board voted once again to postpone its decision. The Board will take up the permit at its July 15 regular meeting in Bastrop.

The attorney for the district's general manager seemed to suggest to the Board that there is legal support for granting a permit for a much lesser amount than 41

million gallons per day. That permit amount was recommended by a state administrative judge at the end of a hearing caused by Aqua Water Supply Corporation's objections to the proposed permit. End Op's attorneys vigorously disputed that the Board has any legal authority to award an amount less than the judge recommended.

A pending appeal in another state court by four local landowners may pose a timing dilemma for the Board in taking any final action on End Op's permit. The landowners, who were denied the right to present their own objections to the permit at the hearing, are asking to re-start the hearing. The appeal is expected to continue into the fall in State District Judge Carson Campbell's court in Bastrop.

In the midst of the recent Forestar and End Op developments, the Lower Colorado River Authority made a surprise proposal to Hays County commissioners on the same day that court rejected Forestar. LCRA told commissioners it has lots of spare water, presumably from the Highland Lakes, for Hays County to reserve now and purchase in future, even if the drought returns. LCRA is offering almost 51 million gallons per day or enough water for about 230,000 households.

The LCRA proposal raises more questions than it answers. One of local importance concerns the recent effort by Joe Beal, a former LCRA and End Op employee, and also a former Bastrop City Councilman, to sell End Op's groundwater to regional municipal customers.

Beal's pitch seemed to include using LCRA as the primary customer of the water, in order to re-deliver, or "wheel" the water to additional customers. The question is whether the Hays County proposal includes the use by LCRA of End Op water to offset existing LCRA water obligations and thereby free up excess lake water for sale to Hays County. In addition to the possibility of acquiring End Op water, LCRA has plans to seek additional Bastrop County groundwater permits from Lost Pines.

This is the first in a series of articles that will examine LCRA's groundwater plans in greater depth, as well as 2015 water legislation, how conservation and state water planning fit into the water equation, and other important developments affecting Lee and Bastrop counties' groundwater.