
HOUSE NATURAL RESOURCES COMMITTEE TESTIMONY

TO: TEXAS HOUSE OF REPRESENTATIVES NATURAL RESOURCES COMMITTEE
FROM: JAMES LEE MURPHY, ESQ.
SUBJECT: HB 1066 (ASHBY) RELATING TO EXTENSIONS OF AN EXPIRED PERMIT FOR THE
TRANSFER OF GROUNDWATER FROM A GROUNDWATER CONSERVATION DISTRICT
DATE: TUESDAY, MARCH 5, 2019
POSITION: IN OPPOSITION TO GRANTING LCRA EIGHT OPERATING & PERMIT APPLICATIONS

BACKGROUND

James Lee Murphy is recognized globally as an expert in water law and policy. Before entering private practice, he spent 9 years at the Guadalupe-Blanco River Authority, where he served as Executive Manager for Water Resources and Utility Operations. While overseeing 80% of GBR's projects and employees, he also directed GBR's legislative and policy efforts with staff and members of the Texas Legislature, including drafting legislation important to South Central Texas. His legislative achievements are as diverse as authoring Chapter 18 of the Texas Water Code, creating rules and a path forward for seawater desalination in Texas, and providing immunity from personal liability for those serving as Groundwater Conservation District board members.

Mr. Murphy has prepared and delivered testimony before the Texas Legislature, state agencies, and elected officials; and is a frequent public speaker, recognized as a Global Water Leader by Global Water International at their annual conference in Abu Dhabi. He has presented at numerous legal and professional associations, including policymaking roles at the Texas Water Conservation Association, the National Water Supply Alliance, and the National Water Resources Association. Prior to GBR, James served for 16 years as General Counsel at the Trinity River Authority. James was retained by the America First Committee to remove roadblocks hindering development of sustainable, long-term regional, multi-sourced, water supply projects. His focus is on law and policy necessary to restore rational, balanced water supply planning to the State of Texas, and its industries, utilizing private capital to meet the growing demand for long-term water supply.

TESTIMONY OF JAMES LEE MURPHY

Chairman Larson and Members of the Committee, I am James Lee Murphy and I am here on behalf of myself and the League of Independent Voters. For the past thirty years I've served the public in one State Agency (*Texas Water Commission, predecessor to the Texas Commission on Environmental Quality*) and two River Authorities. As Executive Manager (*Water Resources and Utility Operations*) at the Guadalupe-Blanco River Authority I was responsible for (*South Central Texas regional*) water planning and I developed the initial Simsboro (*Aquifer*) project, that later became the SAWS Vista Ridge Project.

House Bill 1066 is intended to remedy a perceived problem regarding extensions of an expired permit for the transfer of groundwater from a groundwater conservation district. I say perceived because the problem with Water Code Section 36.122 has little to do with discrepancies between transport and operating permits, and the remedy proposed by Representative Ashby fails to address the real problem.

In all relevant cases, export, or transport permits as we prefer to call them these days to protect certain delicate consciences, have been driven by private speculators, supported by an army of lawyers, lobbyists, general contractors, engineers and financial consultants all united in a single-minded quest to profit by saddling local governments with long term bonded indebtedness, preferably backed by the State of Texas through the Texas Water Development Board.

The harsh reality is that planning for environmentally sustainable sources of regional water supply has taken a back seat to the need of private investors for a source of long-term tax and ratepayer backed revenue to add to their portfolios. The Conservation Amendment (to the Texas Constitution) is ignored and buried while Austin based consultants, many of whom I've known personally for decades, have hijacked the State Water Plan and replaced with a plan predicated on diverting fresh groundwater from rural and agricultural uses employing as many separate well fields and pipelines as local municipalities can be persuaded to pay for.

These consultants that stalk the halls of the Capitol and have done an admirable job of persuading legislators that somehow Groundwater Conservation Districts have been an impediment to their clients, when in reality, there is no market waiting for these hotly contested permits, only local governments that are convenient “targets of opportunity” for these would be water barons.

The Water Code was intended to prevent speculative permit applications, yet a few local lawyers have effectively replaced the requirement to show need, by demonstrating actual projects for which public funds have been committed, with their clients need to speculate in the municipal groundwater supply. We need HB 1066 to be amended to include modest protections for the rate and taxpaying public. The following addition would require political subdivisions to consider regional projects closer to home before entering into long-term take-or-pay contracts for groundwater:

(r) Notwithstanding any other provision of this chapter or any other law, a district may not grant, amend, or extend a permit for transport of groundwater outside the district's boundaries for the direct or indirect benefit, in whole or in part, of a political subdivision of the state if the state water plan identifies equivalent water supplies from other sources in their planning region capable of meeting.

Lest any of the aforementioned Austin lobby label this amendment as revolutionary, I would ask the Committee to take a look at Water Code Chapter 30, the crown jewel of our state's compliance with the Clean Water Act. The Texas Legislature overcame fierce resistance from local governments and their respective consultants, to mandate regionalization and consolidation of wastewater treatment facilities as state policy. As a result, Texans enjoy environmental quality and river flow that exceed the expectations, and indeed the imagination of the authors of Chapter 30. We need the same approach to Texas Groundwater, which is every bit as precious and vulnerable as our streams and rivers.

Thank you for your patience and I look forward to your questions.

James Lee Murphy is the Executive Director and General Counsel of the America First PAC. He has a 30-year career in executive management of water and is a recognized Global Water Leader in the area of water supply planning. For more information on the America First Groundwater reform project, send an email to James Lee Murphy at jamesleemurphyesq@att.net.