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Group Formed to Protect Trinity, Edwards Aquifers and Springs

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The Trinity Edwards Springs Protection Association (TESPA) today announced its formation as a Texas non-profit corporation created to protect these aquifers and their associated springs. In the process, TESPAs seeks to bring clarity to the groundwater property rights associated with owning land over the Trinity and Edwards Aquifers and associated springs.

TESPA was formed as a response to the attempt by a private company – Electro Purification - to develop and sell 5.1 million gallons per day of groundwater from the Trinity Aquifer. The Electro Purification project will harm adjacent neighbors who are totally dependent upon private wells in the Trinity for their water supply. However, the issues to be addressed by TESPAs go beyond the dispute with Electro Purification to include more general protection for springs throughout central Texas – springs which are the key to the survival of Texas’ beautiful flowing streams and to property values and the use and enjoyment of private property.

According to Vicki Hujsak, President of TESPAs and a resident of the Lone Man Creek watershed, “The Electro Purification proposal has made us all aware of how vulnerable our groundwater resources are. We all depend upon this water and we never imagined it could be taken away from us but it apparently can. We have made up our minds to fight back through the legal system.”

“TESPA plans to focus its legal efforts under two key approaches initially” said Jim Blackburn, a TESPAs board member and property owner in the Lone Man Creek watershed. “First, the Edwards Aquifer Authority has failed to take regulatory authority over the Electro Purification proposal and we dispute that

determination based on the many interconnections between the Edwards and Trinity Aquifers through this fractured limestone geology. And second, we believe that there is a fundamental conflict between the Texas Supreme Court's ruling in the Day case and the way that the Rule of Capture works with regard to groundwater. These are controversial issues and we intend to pursue them in the court system."

Malcolm Harris, a Wimberley resident and Austin attorney working with TESPAs, adds "The court system is an appropriate place for this dispute over the extent and nature of property rights in water. Courts have been adjudicating property rights since they began, and we will seek a court ruling better defining and protecting the property right in groundwater that the Texas Supreme Court undertook to affirm in the *Day vs. EAA* case."

In the Day case, the Texas Supreme Court determined that groundwater was the property of the surface owner even if they had not drilled into the aquifer and captured the water. They also stated that they were applying the rule of capture, even though that concept, as interpreted in the 1999 Sipriano Case, allows the draining of a neighbors' groundwater.

According to Jeff Mundy of Austin, lead counsel for TESPAs, "The neighbors of this proposed well are in danger of their own water wells going dry. If this corporation can drain 5 million gallons a day for profit, and leave the adjacent homes with dry water wells and people with not even enough to drink, cook, and bathe, who is next? When will elected officials protect citizens?"

"The Texas Constitution is clear that the Legislature must pass all laws appropriate to preserve and conserve the natural resources of the state," says Vanessa Puig-Williams, an attorney and member of the Wimberley Valley Watershed Association, "but the Legislature has not adequately done so with respect to ground water in Texas, and now people's private property rights are in jeopardy."

More generally, TESPAs hopes to set in motion a protective umbrella that covers much of the Texas Hill Country. According to TESPAs director Peter Way of the Cypress Creek and Blanco River watersheds, “These springs are the lifeblood of this country. Without water, this land loses the wonderful character that all of us love. Our long term goal is to develop and implement strategies to protect our groundwater and springs.”

“Many springs in the Texas Hill Country, such as Jacob’s Well, are related to water movements through the Trinity and Edwards Aquifers” said David Baker Executive Director of the Wimberley Valley Watershed Association, an organizational member of TESPAs. “This complex geology defies the current regulatory system. We seek a more comprehensive view of this groundwater system and its relationship to springs and surface water. Sustainable management of all water is what we have come together to advocate for.”

According to President Hujsak, “TESPAs is currently planning to file suit to protect the Rolling Oaks area immediately adjacent to the Electro Purification proposed project. We are building an organization that we hope will lead the fight for years to come. The one thing we have learned so far is that we will lose this groundwater if we do nothing. We must fight for it.”