

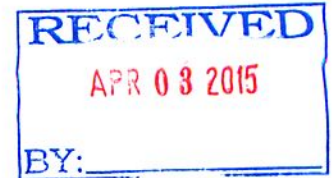


Hays Trinity Groundwater Conservation District

"promoting conservation, preservation, recharge & prevention of groundwater waste within western Hays County"

Mail to: PO Box 1648, Dripping Springs, Texas 78620 Physical: 14101 Hwy 290 West, Bldg 100, Ste 212, Austin, Texas 78737
Tel: 512-858-9253 Fax: 512-858-2384
www.haysgroundwater.com

April 1, 2015



Electro Purification LLC
Bridges Brothers Family LP No. 1
Bridges Brothers, L.L.C.
Roy Gene Odell
Eddie Ray Odell
Juanita Marie Leinneweber

RE: Notice of Alleged Violation (N.O.A.V):

To Whom it May Concern:

On March 18, 2015 the Hays Trinity Groundwater Conservation District (HTGCD) office received a notice from The Mundy Firm PLLC on behalf of their client Trinity Edwards Springs Protection Association (TESPA) alleging violations of HTGCD rules by your client Electro Purification. A copy of the letter is attached for your records. The notice was provided in compliance with the requirements of Sec. 36.119, Water Code, as a prelude to TESPAs filing suit to enjoin or cure those violations.

The notice alleges that your client has drilled water wells and produced groundwater from wells located within the jurisdictional boundaries of HTGCD. A portion of the notice states "the legislature provided that if no other groundwater conservation district in Hays County has jurisdiction, then the jurisdiction over groundwater goes to the HTGCD by default." In essence the notice alleges, because the Edwards Aquifer Authority does not have jurisdiction over the Trinity Aquifer, that portion of the Trinity Aquifer in Hays County covered by the Authority is within the jurisdictional boundaries of HTGCD.

Section 8843.004, Special District Local Laws Code provides for the District Territory: "The district's boundaries are coextensive with the boundaries of Hays County, excluding any area that on September 1, 2001, was within another groundwater conservation district with authority to require a permit to drill or alter a well for the withdrawal of groundwater, unless the district's territory has been modified under: 1) Subchapter J, Chapter 36, Water Code; or other law."

The notice further states "Electro Purification LLC has drilled seven wells between December 10, 2013, and today on lands belonging to Bridges Brothers Family LP No.1, Bridges Brothers, L.L.C., Roy Gene Odell, Eddie Ray Odell, and Juanita Marie Leinneweber." And "Electro Purification LLC and/or the several landowners intend to convert all or some of these wells into production wells ultimately to produce over 5 million gallons a day for off-premise commercial use." The notice continues: "In the opinion of TESPAs, the activities described in this notice appear to constitute illegal drilling and illegal operation of wells, in violation of the Texas Water Code, Chapter 36, and the rules of the Hays Trinity Groundwater Conservation District."

Sec. 36.119, Water Code, requires the District to investigate and rule on whether a violation of District Rules has occurred within 90 days of receiving a notice. This matter, concerning the jurisdiction and authority of HTGCD over the Trinity Aquifer within the boundary of the Edwards Aquifer Authority and whether the seven wells drilled by Electro Purification LLC are in violation of HTGCD Rules, will be heard by the HTGCD Board of Directors on April 15, 2015 at the Dripping Springs City Hall starting at 6:00 p.m. The meeting shall be posted as a Contested Case Hearing to include an Evidentiary Hearing for parties to present evidence and legal argument to the HTGCD Board of Directors. The HTGCD Board shall conduct a Final Hearing once the Board concludes the Evidentiary Hearing or receives the report from the Hearings examiner.

You may contest the N.O.A.V. notice by mailing a "formal contested case letter" to HTGCD, PO Box 1648, Dripping Springs Texas 78620. The deadline date to submit your contested case letter is April 10, 2015. You or a representative shall present your contested case letter, legal argument and evidence to the Board of Directors during the scheduled hearing.

Please contact our office with any questions concerning this matter.

Best regards,

Rick Braun

HTGCD District General Manager
Manager2@haysgroundwater.com
512-858-9253

The Mundy Firm PLLC

4131 Spicewood Springs Rd, Suite O3
Austin, Texas 78759
512-334-4300
E-Mail: jett@jmundy.com

March 17, 2015

Via CMRRR and email

Mr. Rick Broun, General Manager, and the Board
Hays Trinity Groundwater Conservation District
P.O. Box 1648
Dripping Springs, Texas 78620
manager2@haysgroundwater.com

Mr. Gregory Ellis
2104 Midway Court
League City, Texas 77573
greg.ellis@gmservices.info

Re: Notice Pursuant to Texas Water Code § 36.119

Dear Mr. Broun, Mr. Ellis, and members of the HTGCD Board,

Notice is given pursuant to the notice requirement of the Texas Water Code's citizen suit provision, TEXAS WATER CODE § 36.119(g) & (h), that the Trinity Edwards Springs Protection Association ("TESPA"), a Texas non-profit, intends to file suit on behalf of its affected members, against the landowners, owners, and operators of what in the opinion of TESPAs appear to be apparently illegal wells bottomed within your jurisdiction. See TEX. WATER CODE § 36.119.

Information Known at this Time

Upon information and belief, Electro Purification LLC has drilled seven wells between December 10, 2013, and today on lands belonging to Bridges Brothers Family LP No. 1, Bridges Brothers, L.L.C., Roy Gene Odell, Eddie Ray Odell, and Juanita Marie Lienneweber (also known as Nita Lienneweber). The wells are in the vicinity of FM 3237 and shown in yellow on the attached map. Public comments indicate that Electro Purification LLC and/or the several landowners intend to convert all or some of these wells into production wells ultimately to produce over 5 million gallons a day for off-premise commercial use.

TESPA has not made a final decision, but you are advised that if necessary, TESPAs may also join the Hays Trinity Groundwater Conservation District as a party to the citizen suit, but

sincerely hopes that the HTGCD will take a leadership role to enforce its jurisdiction and compliance with its permitting and planning process designed to protect these waters that appear to be within the jurisdiction of the HTGCD. TEX. WATER CODE § 36.119(b).

In the opinion of TESPAs, the activities described in this notice appear to constitute "illegal drilling" and "illegal operation" of wells, in violation of the Texas Water Code, Chapter 36, and the rules of the Hays Trinity Groundwater Conservation District ("HTGCD" or the "District").

Due to the imminent and irreparable harm to some of its members, TESPAs intends to commence an action in the very near future against the landowners, owners, and operators of the wells. Given in imminent danger of these wells proceeding, TESPAs need not await the expiration of the full 90-day period before filing suit and seeking an injunction. Proceeding without waiting the usual 91 days is permitted by TEXAS WATER CODE § 36.119(h), which provides: "An aggrieved party may sue a well owner or well driller to restrain or enjoin the drilling or completion of an illegal well after filing the written complaint with the district and without the need to wait for a hearing." TESPAs is entitled to seek an injunction against the completion and/or operation of these apparently illegal wells. TEX. WATER CODE § 36.119(b).

Noticing Party

The Trinity Edwards Springs Protection Association is a membership organization whose members include landowners who have the right to produce groundwater from land that lies within one-half mile of the apparently illegal wells. See TEX. WATER CODE § 36.119(b). TESPAs sends this notice letter on behalf of the following members who live within a half mile and/or withdraw from the Trinity Aquifer:

- Jacquelin Hyman, 301 Limestone Lane, Driftwood, Texas 78619;
- Lamont & Deborah Lewis, 262 Wolf Creek Pass, Wimberley, Texas 78676;
- Walter Ian Green, 8601 Ranch Road 3237, Driftwood, Texas 78619;
- Dan & Cynthia Pickens, 851 Jennifer Lane, Driftwood, Texas, 78619;
- Terry W. Raines, 471 Limestone Lane, Driftwood, Texas 78619; and
- Nancy Weaver, 515 Limestone Lane, Driftwood, Texas 78619.

Other affected landowners may later join TESPAs, and this letter is sent on behalf of current members, as well as those landowners who may later join TESPAs before filing suit who meet the distance requirements of TEXAS WATER CODE § 36.119(b).

Hays Trinity Groundwater Conservation District Has Jurisdiction, Permitting Authority, & Regulatory Duties

The Legislature provided that if no other groundwater conservation district in Hays County has jurisdiction, then the jurisdiction over groundwater goes to the HTGCD by default.

TEXAS SPECIAL DISTRICTS CODE § 8843.004, the law creating the HTGDC states:

The district's boundaries are coextensive with the boundaries of Hays County, excluding any area that on September 1, 2001, was within another groundwater conservation district with authority to require a permit to drill or alter a well for the withdrawal of groundwater, unless the district's territory has been modified under: Subchapter J, Chapter 36, Water Code; or other law.

The apparently illegal wells penetrate through the Edwards Aquifer, but are not bottomed in the Edwards Aquifer. The Edwards Aquifer Authority has stated that it has neither regulatory jurisdiction over these wells nor the waters of the Trinity Aquifer. Similarly, the Barton Springs/Edwards Aquifer Conservation District, which is just to the north of the apparently illegal wells, does not assert regulatory jurisdiction over the Trinity Aquifer in this location from which the apparently illegal wells will be bottomed and withdraw groundwater.

The Trinity Aquifer in which the wells are bottomed and from which water is proposed to be withdrawn lies within Hays County. Because the Trinity Aquifer at the location of the apparently illegal wells is not within the jurisdiction of another groundwater conservation district and lies within Hays County, the Trinity Aquifer at this location by statutory definition falls by default within the jurisdiction of the Hays Trinity Groundwater Control District.

The rights and duties of the district are extensive:

The district has the rights, powers, privileges, functions, and duties provided by the general law of this state, including Chapter 36, Water Code, applicable to groundwater conservation districts created under Section 59, Article XVI, Texas Constitution. (Acts 77th Leg., R.S., Ch. 966, Sec. 3.0304(a) (part).).

TEXAS SPECIAL DISTRICTS CODE § 8843.101.

All of these new wells within the district are subject to regulation:

Notwithstanding Section 8843.104, a landowner must notify the district before the construction of a new well that is to be completed after September 1, 2013.

TEXAS SPECIAL DISTRICTS CODE § 8843.103. Thus, these proposed wells are subject to the jurisdiction of the Hays Trinity Groundwater Conservation District.

Furthermore, TEXAS SPECIAL DISTRICTS CODE § 8843.104 requires:

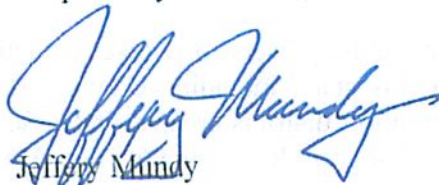
- (a) Groundwater withdrawals from the following wells may not be regulated, permitted, or metered by the district:
 - (1) a well used for domestic use by a single private residential household and incapable of producing more than 25,000 gallons per day; and
 - (2) a well used for conventional farming and ranching activities, including such intensive operations as aquaculture, livestock feedlots, or poultry operations.

....
(b-1) A well owner must obtain a permit and pay any required fees, including a well construction fee, before using any groundwater withdrawn from a well for purposes other than those exempted by this section.

The District has adopted Rules to regulate new wells, requiring new well construction notification, and requiring operating permits for certain non-exempt new wells. HTGCD Rules 3.1 (landowner notification, permitting and violations), 3.3 (new wells), 3.4 (well construction notification), 3.5 (new operating permit). The "[d]rilling or operating a well or wells without a required permit or producing groundwater in violation of a district rule adopted under Section 36.116(a)(2) is declared to be illegal, wasteful per se, and a nuisance." TEX. WATER CODE § 36.119(a). In a suit for damages against the owner of the well or wells, the existence of a well or wells drilled without a required permit or the operation of a well or wells in violation of a district rule adopted under Section 36.116(a)(2) is prima facie evidence of illegal drainage. TEX. WATER CODE § 36.119(c).

If you have any questions regarding any aspect of this letter, please call me, and we hope to work with you.

Respectfully submitted,



Jeffery Mundy