

The New Water Wildcatters
By Patrick Cox, Ph.D.

Of any issue that has captured the attention and concern of Hays County residents in the recent past – the threat to our groundwater and the future of our water resources are two that top the list. The proposed plan by the Houston corporation Electro Purification to pump more than five million gallons of water each day from the Trinity Aquifer and pipe it east to Buda, Goforth Water SUD and the private Anthem development near Mountain City has generated more criticism than a bonehead play that decides a Super Bowl.

These new water developers in Texas in many ways resemble the “Wildcatters” of the past. Texas was once the “wild cutting edge” of the oil industry during the early twentieth century. Before the major oil corporations gained control of the market, the first generation of Texas oilmen used their wits, charm, energy and money to explore and drill for oil and gas – often in an irresponsible, devil may care approach. The Wildcatter term came those early speculators and adventurers who, for a chance at a great fortune, were willing to take advantage of loopholes and the absence of rules to exploit a natural resource – sometimes at the expense of many property owners and businesses who suffered loss and damage as a result of these Wildcat practices.

Ironically, if oil were at play here instead of water, we would have rules firmly in place that would require permitting, some protection for landowners, and sharing the resource through “pooling” agreements. Texas Supreme Court Judge Nathan Hecht opined in the recent Day McDaniel ruling that groundwater is owned in place like oil and gas. But, since it is groundwater in an unregulated part of the aquifer subject only to the “rule of capture,” all rationale and fair approaches are forgotten. It’s almost like showing up for a nice dinner at a neighbor’s home and then forgetting everything your parents taught you about good manners as you trash the place and make off with the family silver.

The public meetings in Wimberley and San Marcos have only raised concerns while confirming our issues. EP and their supporters revealed that they really have no idea how much water is available to meet the contracts. They acknowledged that neighboring wells will suffer a negative impact. As a result, many of these landowners will have to deepen their wells or find other sources to replace their groundwater. They offered a promise of “mitigation” but no details were provided. Nor were they sure about either the short term or long term impacts on area wells. And no one could say what the cost will be – both for the purchasers and those neighboring well owners.

Really - Does this sound like a way that anyone should conduct business and plan for the future?

Thanks to shining the light of truth on this dark tale, everyone is taking notice and speaking up on this proposed atrocity. Hays County Commissioners, numerous city councils, school boards, water supply companies, neighborhood associations, churches, individual property owners and many people who are part time residents in Hays County are openly opposing this attempt to remove this much water from the Trinity Aquifer. This is an almost unprecedented show of collective reaction and consensus that this is not how we should address our water needs or plan for the future.

No one denies that with our population growth, the need for clean water is an important issue to address. One of the few positive achievements from this debacle is that by bringing this situation to the forefront, we can develop a better plan for protecting and conserving our ground and surface water, for now and for the future.

So where do we go from here?

At this point, the legislation proposed by State Representative Jason Isaac to increase the authority of the Barton Springs Edwards Aquifer and the Hays Trinity Groundwater Conservation Districts (the GCDs) over the “white zone,” the unregulated portions of the Trinity Aquifers, is essential. In addition, these districts will need additional funding to provide the necessary research, oversight, conservation and planning for the groundwater.

Objective scientific analysis is expensive yet essential to support beneficial policy decisions. As Hays Trinity GCD President Linda Kaye Rogers and Barton Springs Edwards GCD President Mary Stone are urging – we must provide these districts the necessary funds to do these tasks. Or as President Stone clearly stated, “it’s time we move out of the Culture of Poverty that exists within GCDs today”.

In the short term, everyone should be prepared to urge our elected officials in the legislature to act and approve this legislation. They need to hear from us, as clearly as possible, how important this issue is to everyone. This will be the next struggle in this long battle over our water. We also need to politely, but resolutely, encourage Buda, Goforth and Anthem to gracefully withdraw from their contracts with EP.

In the long term, establishing functional and effective GCDs are a necessary part of the solution. Just as important, we need to change the culture around our water. Improved water conservation, water reuse, rainwater harvesting and applied technology must be part of the solution. We must all recognize that this is a finite resource that should be conserved, protected and treated as a market-valued commodity – just like oil and all resources that we rely on for our livelihood and future.

As one of my favorite authors, Mark Twain, said – “It ain't what you don't know that gets you into trouble. It's what you know for sure that just ain't so.”