



NEIGHBORS FOR NEIGHBORS

Families working together to protect the lands, economy and quality of life of Bastrop and Lee Counties for future generations.

February 19, 2014

Delivered by Hand at the February 19, 2014, Regular Board Meeting

Board of Directors
Lost Pines Groundwater Conservation District
908 Texas 230 Loop
Smithville, TX 78957

Re: Forestar (USA) Real Estate Group, Inc., Motion for Re-Rehearing

Dear Board Members:

This letter is respectfully submitted on behalf of the members of Neighbors for Neighbors, to drill down, informally, on just a couple of issues concerning Forestar's pending motion. We seek to be brief, lest we sound like the Forestar broken record. We believe we can substantiate our statements in a more formal letter if the District were to so request, and we also refer you to our still-responsive letter to the Board dated December 19, 2013.

Forestar filed an unnecessarily lengthy brief to support its claims of wrongdoing by this Board. The brief reiterated, *ad nauseum*, Forestar's first motion for re-hearing, with a few more threats thrown in for good measure. We have said it before and we will say it again, there is nothing new here ---a 28-page desperate attempt, first, to intimidate the Board and then to "shore up" Forestar's record on appeal in case the threats don't work, is just that --- an act of desperation.

Focusing on one single issue that is absolutely a *relevant legal consideration* for any groundwater district in evaluating a permit application, tells the tale that Forestar just can't overcome --- there is no demonstrated "need" for this water for the next five years. The District's most recent Finding of Fact and Conclusion of Law No. 29, was included verbatim in the original Findings and Conclusions adopted by the Board in July, 2013, and are uncontroverted by Forestar. To cut to the chase, the findings of water shortages in No. 29 are based on the regional water plans that are included in the official State Water Plan. Those demand numbers will not change before 2016, if then. None of the counties Forestar seeks to serve have a demonstrated need for this water in the next five years, not even for 12,000 AFY. Hays County does not have a shortage until 2060, and the earliest shortages are in Bastrop County and Travis County in 2020, with a total shortage of a little over 13,000 AFY.

Forestar knew it could neither controvert the State's current official planning document nor pretend the demand for 45,000 AFY exists *in the next five years* when it earlier offered to take 12,000 AFY through the year 2023 and said it could live with a total of 20,000 AFY through 2028. Forestar's pending motion attempts to walk back that offer, but Forestar still cannot avoid the fact this water is

not needed, *now* --- and now is what counts --- not what might change in five years, not Judge Cobb's pipedreams of future demand in Hays County, not what Forestar wishes were true ---it just is not needed for the entire 5-year permit period. And Forestar is certainly not damaged irreparably, or had its municipal water supply project "killed" when it has been given 12,000 AFY --- about 4 billion gallons---- to work with while it gets ready to come back to the District five years from now. (Surely, Forestar's own hydrogeologist can be counted on to confirm the permanently unlimited supply in the Simsboro will still be unlimited in five years!)

As we told you at the December rehearing, the District's duty to balance protection of the aquifer against production is not removed because Forestar cannot negotiate the biggest contract, years in advance of actual need for the water, in order to serve big growth and entice investors. Forestar's job is to convince its investors that the groundwater world, now and in the future, is as Forestar describes the Carrizo-Wilcox aquifer: "unlimited supply, unlimited availability, come on down to Texas." It is not your job to assume risks to satisfy private investors, and it is not your job to make bad decisions to benefit private investment.

We also note with pleasure that, once again, Forestar is terribly offended that the Board had the audacity to listen politely and attentively to all those good folks to whom Forestar professes to be a good neighbor--- otherwise known as "the general public," who are empowered and entitled by the Texas Water Code and by the District's rules to be heard by this Board in permitting decisions.

We find it amusing but also pathetic whining that Forestar actually credits us with making up the Board's mind for it. We are flattered, but nothing could be further from the truth or more insulting to this Board. Unnecessarily insulting, unless Forestar's cupboard is bare of legitimate opposition to this Board's decision.

Yes, we have come to your meetings and hearings in an attempt to persuade you to the need to protect our two counties. As an example, Environmental Stewardship has offered good science and sworn expert testimony to you, just as Forestar has taken the floor to make demands on you. But to suggest that this Board abdicated its responsibility and capitulated to the "NIMBY's" is just plain ridiculous. This Board has been hard at work all these many years to achieve its mandate of balancing groundwater production, and conservation and protection of a precious resource. In the case of Forestar, the Board did not lack substantial evidence to support its decision, plain and simple. You did not, and do not need to hide behind public opinion.

Per usual, the Board has done its work, and has done its work well. Thank you for the opportunity to address you in a public forum.

Sincerely and respectfully,

NEIGHBORS FOR NEIGHBORS

By Michele G. Gangnes, Vice President

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