

LOST PINES GROUNDWATER CONSERVATION DISTRICT

AN ORDER DENYING PARTY STATUS TO ENVIRONMENTAL STEWARDSHIP, DARWYN HANNA, BETTE BROWN, ANDREW MEYER, AND F.D. BROWN IN CONSIDERING APPLICATIONS OF END OP, L.P. FOR OPERATING PERMITS AND TRANSPORT PERMITS

WHEREAS, End Op, L.P. (“Applicant”) submitted applications for Operating Permits and Transport Permits for 14 wells in Bastrop and Lee Counties seeking authorization to withdraw an aggregate of 56,000 acre-feet per year from the Simsboro aquifer to be used for municipal purposes in Travis and Williamson Counties (the “Applications”); and

WHEREAS, after proper notice under District Rule 14.3.C, the Board of Directors of the District (the “Board”) held a public hearing on the Applications at 5:00 p.m. on April 18, 2013, at the American Legion Hall in Giddings, Texas; and

WHEREAS, on April 10, 2013, Aqua Water Supply Corporation (“Aqua”) submitted to the District a request for a contested case hearing on the Applications; and

WHEREAS, on May 8, 2013, Environmental Stewardship, Darwyn Hanna, Bette Brown, Andrew Meyer, and F.D. Brown (collectively, the “Landowners”), filed requests to be designated as parties in any contested case hearing held on the Applications.

WHEREAS, on May 9, 2013, Applicant requested that the District contract with the State Office of Administrative Hearings (“SOAH”) to conduct a hearing on Aqua’s request for a contested case hearing; and

WHEREAS, on June 19, 2013, the District issued an order that: (1) granted Aqua's request for a contested case hearing on the Applications; (2) denied all other requests for a contested case hearing on the Applications, if any, as untimely under the District rules; (3) authorized the General Manager to enter into a contract with SOAH to conduct a contested case hearing on the Applications; (4) found that the requests for party status filed by the Landowners were timely under the District rules; and (5) referred the issue of whether the Landowners have standing to participate in the contested case hearing as parties at SOAH; and

WHEREAS, after a preliminary hearing on August 12, 2013, the Administrative Law Judge (“ALJ”) determined that Aqua had standing as a party under the provisions of Chapter 36, Water Code, to participate in this contested case hearing and that the Landowners had not demonstrated the required interest to participate as parties in the contested case hearing; and

WHEREAS, On October 7, 2013, the Landowners filed a Request for Certified Question or, Alternatively, Request for Permission to Seek Interlocutory Appeal of Order No. 3, and Motion to Abate, or, Alternatively, Request for Provisional Party Status; and

An Order Denying Party Status to Environmental Stewardship, Darwyn Hanna, Bette Brown, Andrew Meyer, and F.D. Brown in Considering the Applications of End Op, LP

Page 2

WHEREAS, on October 10, 2013, End Op, L.P., the General Manager of the District, and Aqua Water Supply Corporation responded to the Landowner's motions, and on October 14, 2013, the Landowners filed a reply to those responses; and

WHEREAS, on October 15, 2013, the Administrative Law Judge issued Order No. 5 denying the Landowners Request for Certified Question or, Alternatively, Request for Permission to Seek Interlocutory Appeal of Order No. 3, and Motion to Abate, or, Alternatively, Request for Provisional Party Status because neither the District Rules or SOAH Rules to certify an issue to the District, nor is there authority to convert an interim order to a Proposal for Decision; and

WHEREAS, on September 10, 2014 the Board held the Final Hearing on the End Op, L.P. Applications and voted to deny Party Status to the Landowners as set forth in this Order.

NOW THEREFORE, the Board ORDERS that:

1. Environmental Stewardship, Darwyn Hanna, Bette Brown, Andrew Meyer, and F.D. Brown are hereby denied party status.
2. The Board hereby adopts the evidence presented, the Findings of Fact and the Conclusions of Law in the Administrative Law Judge's Order No. 3.

ISSUED:



President, Lost Pines Groundwater
Conservation District Board of Directors

Date: 1-19-15