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Questions and Answers: Aqua-End Op Agreement

What has happened?

End Op LP and Aqua Water Supply Corporation have agreed to create a fund to mitigate damage that Aqua believes would occur if End Op were allowed to pump water from the Carrizo-Wilcox Aquifer in Bastrop and Lee counties for export to the Interstate 35 growth corridor.

Does that mean Aqua is no longer protesting End Op's requested permit from Lost Pines Groundwater Conservation District?

No. We will continue representing our members in a hearing by state officials and will press our case in the contested hearing on the applications of End Op for 56,000 acre-feet per year of groundwater.

How much money will End Op pay?

End Op will pay Aqua as much as \$15 million over 20 years of pumping. It will be paid at a rate of \$15 an acre-foot, which is 325,851 gallons, and subject to an inflation adjustment using the Consumer Price Index. In addition, End Op will create a fund of up to \$3.75 million for third-party landowners. Any water pumped by End Op under a permit issued by Lost Pines Groundwater Conservation District triggers the fund, even if it is a fraction of what End Op wanted.

Who benefits from the money?

The benefits go to members and future members of Aqua Water Supply Corp., who will pay less for water than they would if we did not get the money from End Op. Third-party landowners would benefit from the \$3.75 million.

What does End Op get out of the agreement?

Aqua agrees to limit our testimony to the harm that would occur to Aqua and its members. This limits Aqua from cross-examining witnesses and putting on a case that includes the harm that will be done to other parties. Aqua feels its science and facts are persuasive evidence.

Do lawyers get a big chunk of the settlement?

No, Aqua's attorneys are compensated in the normal fashion and did not get a percentage of the settlement. However, End Op will reimburse Aqua's costs of its attorneys, engineers and hydrogeologists.

What good is money if the water is gone?

Aqua believes that the Lost Pines Groundwater Conservation District has the statutory power and regulatory tools it needs to protect the entire aquifer from disappearing into a pipe bound for a metropolitan area. But there will be negative changes as more people use the Simsboro and Carrizo-Wilcox Aquifers. Water levels may drop, meaning deeper wells must be drilled. Pressures may change. The quality could suffer. The growing population of Texas and the laws of Texas do not allow things to remain unchanged in Bastrop and Lee counties. The next best thing is to remain vigilant against unsustainable exploitation of the resources we depend on while creating a fund to financially protect our members. It's fair and it's good long-range thinking.

Isn't it Aqua's job to make sure its water supply is not threatened?

Yes, but we have limited powers under state law to do so. Aqua, like Bastrop, Elgin and Smithville, all have a great interest in protecting our water supply, but the job of protecting the groundwater was given by the Texas Legislature in 1999 to the Lost Pines Groundwater Conservation District. The District has the power to regulate the spacing of new wells to ensure fairness and sufficient water. By state law, the District cannot prevent outside interests from exporting water from our area. However, the District has certain powers under the Texas Water Code to help prevent large-volume users from over pumping and causing damage to our water supply and unreasonably interfering with existing groundwater users. Aqua does not have those powers.

Will Aqua make similar agreements with other groups that want to pump from the aquifer?

Yes, we will consider agreements that protect the long-range water of our members.

Did Aqua fight as hard as it could in the legal arena before reaching this agreement?

When you enter the legal system, you give the final decision in the matter to a judge. At this time, we still are in the hearing, but have agreed to a hearings process through which Aqua will focus its arguments only on Aqua-specific impacts and not other legal arguments that will be addressed by the Lost Pines GCD Board. We have determined that even if End Op gets water, our members will have some protection against the impact. There's no way to guarantee that in a contested case, in which there is a winner and a loser.

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