

RE: End Op Permits and Agreement

Dear President Talbot and Board Members,

I had wanted to be here tonight singing your praises, however, Environmental Stewardship (ES) is deeply disappointed that the Board has not stood up for the rights of its landowners and constituents by providing protection of our natural resources and domestic wells.

It is clear to those of us who have stood by you over these many years that you have not heard our pleas to conserve and protect these most precious resources which we hold so dear. We understand the pressure that you have felt from water marketers and developers, those who have the money to drive you to your knees, **but we don't accept that you have abandoned our concerns and requests in the process.**

First, we reiterate that Environmental Stewardship and the other requesters in this case should have been recognized as affected persons with regard to End Op's Application. As such, if you are not going to deny the permit outright, then this matter should be remanded to SOAH after reversal of the ALJ's decision that we were not affected persons.

Over the last several months we have taken the time and put forth the energy to analyze this permit and the well monitoring agreement in order to provide you with our concerns and what we consider appropriate remedies. Our evaluation of the permit has been severely hampered by the denial of our participation as a party in the hearing, but we have offered our input in the recognition that you are the folks that would hopefully have stood by us, and would carry out your duty and responsibility to balance the demands of water marketers and developers against the interests of your constituent and fellow citizens. **However, we have been sorely disappointed in the final result of our efforts.**

We stood by you when you declared a moratorium -- as prescribed by the Texas Water Code. We stood by you during that process and urged you to stand tall ...**and you did.**

And we stood by you as you limited production from other mega permit applications to what you believed -- from the evidence provided to you -- to be sustainable for the Simsboro and related aquifers, and protective of your adopted DFCs -- as required by Texas Law.

We believe that the process went awry with SOAH, the State Office of Administrative Hearings.

After improperly denying our request for party status, a non-contested case was allowed to be heard, and a flawed record made without cross-examination. As a result, the Applicant was able to load the record with flawed information that the judge took as factual at face value. **So you were left to deal with a flawed recommendation by the administrative law judge. Despite misleading information in the record, the undisputed facts still support denial of this permit, or the imposition of substantially more stringent limitations. For example, your own modeling shows that this permit will substantially exceed the desired future conditions you have established. Addressing that problem is an issue of policy and law for you to address, not the ALJ.**

You are the final administrative arbiter and decision-maker on this permit. It is you that the community has appointed to protect our groundwater, not the administrative law judge. Consistent sound policy and the true facts in this matter, we expected that you would stand tall here too, and protect the people and the natural resources of our community and region.

As we have argued before you, and have demonstrated, the permit is *premature*, and the Special Conditions in the Operating Permit are *inadequate* to protect our water resources – both our aquifers and the Colorado River and its tributaries – as well as the shallow domestic wells which your constituents rely on not only for their livelihood, but in many cases for their lives.

Furthermore, we have demonstrated that the amount of pumping requested jeopardizes the desired future conditions (DFCs) of the aquifers under your jurisdiction.

We are gravely disappointed that you have ignored our pleas. However, we continue to plead that you greatly reduce the quantity of water granted in this permit OR deny the permit and unwind the flaws that were introduced as a result of the SOAH process.

Thank you..