

**Public Hearing Regarding New Drilling & Operating Permits
for Harlan Farms - 3 Wells - Comments**

March 31, 2019

Request: I respectfully request the BVCGD District to give consideration to the following actions:

1. Ask Director Pete Brien to recuse himself and refrain from all deliberations due to the appearance of conflicts of interest. I believe he has drilled all previous Simsboro wells for Dr. Skiles and Director Brien's business is the likely service provider to drill these proposed wells. The financial gain from this project is significantly higher in comparison to other more modest non-exempt well system applications.
2. Ask Director David Stratta, son-in-law to Director Brien, to recuse himself and refrain from all deliberations due to the same conflicts of interest.

Texas Local Government Code:

Sec. 171.002. SUBSTANTIAL INTEREST IN BUSINESS ENTITY.

(a) For purposes of this chapter, a person has a substantial interest in a business entity if:

(1) the person owns 10 percent or more of the voting stock or shares of the business entity or owns either 10 percent or more or \$15,000 or more of the fair market value of the business entity; or

(c) A local public official is considered to have a substantial interest under this section if a person related to the official in the first degree by consanguinity or affinity, as determined under Chapter 573, Government Code, has a substantial interest under this section.

3. Deny approval of the **C.A Skiles Family Partnership, Ltd. -Well CS1, Well CS2, Well CS3 NEW Drilling/Operating Permits, BVDO-0254, BVDO-0255, & BVDO-0256** as presented and request resubmittal as justified operating permit amendments to the previous historic use permit (BVHO-1058).
4. Require dedicated "beneficial use(s)" be declared with established groundwater withdrawal limits per approved use specified.

Texas Water Code:

36.113. PERMITS FOR WELLS; PERMIT AMENDMENTS.

(c) A district may require that only the following be included in the permit or permit amendment application, as applicable under the rules of the district:

(3) a statement of the nature and purpose of the proposed use and the amount of water to be used for each purpose;

5. Require applicant to provide evidence that the declared “use” is indeed present; that is, an imminent need is in place.

District Rule 8.3 states before approving or denying a permit, the District shall consider

(c) (4) the proposed use of water is dedicated to a beneficial use and whether sufficient evidence of an intended beneficial use is presented;

6. Correct vague and inconsistent District application language with District Rule 8.3(c)(4) above.

District Application 4.b statement: “State the nature and purpose of beneficial use of the groundwater under the requested permit and provide any evidence (if available).”

Applicant’s response: “Any beneficial use including but not limited to agricultural irrigation, livestock watering, farm uses, residential, commercial and industrial uses” without evidence.

7. Considering the juxtaposition of the Skiles’ Family well systems to Hearne’s municipal system, please order an analytical hydrological review that includes all 16 Simsboro wells (13 existing plus 3 new) over the next 10 years to determine the estimated drawdown interference with this public water supply.

District Rule 8.3 states before approving or denying a permit, the District shall consider

(c)(3) the proposed use of water unreasonably affects existing groundwater and surface water resources or existing permit holders;

Comments:

During 2007-2009, the District and C.A. Skiles Family Partnership, Ltd (hereafter known as “Family”) were embroiled in a legal action regarding the final decision to permit 12 of the Family’s Simsboro wells. These wells were claimed to be needed to irrigate their farming operation on what they called the Brazos River Farm which incorporated parts of the locally known “Goodland /Harlan Farms” and “Barton Farm” along FM 1644. This combined farmland acreage, “Goodland/Harlan Farms” (6027 acres) & “Barton Farm’s” (2482 acres), also had access to other irrigation water resources from the Brazos River Alluvium aquifer and some surface water permits.

The District had challenged the Family’s request for historic use permits that claimed to irrigate their combined 8509 acreage during a drought year of record. The Family stated their 8 existing Simsboro wells (20,481 ac-ft.), 55 Brazos River Alluvium wells (27,423 ac-ft.) and water from their surface water permits were required in determining their historic use claims. The District deemed these amounts as excessive. In addition, the Family had also submitted a new request for an additional 8300 ac-ft. annually from 4 new Simsboro wells to be added to their agricultural historic use permit.

Simsboro Aquifer: $20,481 + 8,300 \text{ ac-ft./yr over } 8509 \text{ ac} = 3.4 \text{ ac-ft./ac/yr}$

Plus

Brazos River Alluvium: $27,423 \text{ ac-ft./yr over } 8509 \text{ ac} = 3.2 \text{ ac-ft./ac/yr}$

Total irrigation use of groundwater = 6.6 ac-ft/yr (roughly = 79 inches of rain/year)

This legal action was a lengthy process with many experts and evidence on both sides of the issue. Finally, both sides agreed to Mediation to resolve their differences. I have never been privy to the details of the agreement, but I know the District must have established their position regarding the amount to be permitted. Essentially, the mediated settlement allowed an historic use permit (BVHU-1058) for only 20,481 ac-ft./year to be aggregated between all 12 Simsboro wells located on the “Goodland/Harlan Farms” and “Barton Farm” operations to service their irrigation needs. The 55 BR Alluvium wells were also permitted under BVHU-1057, but I am not sure at what amount. Please note this same acreage is being used again to claim an additional 15,483 ac-ft. in this “Harlan Farm” request.

With this information available, it is not in the Public's interest for the District to authorize three new wells now with withdrawal capacities (15,483 ac-ft.) equaling three-fourths of the supply allowed by their existing 12 wells (20,481 ac-ft.). If more groundwater is needed for irrigation on these farms, the 12 wells are capable of producing more than their current permit allows so the need to drill more wells seems economically unnecessary. Operating Permit amendments should be submitted with proper justification to increase the production amount needed. If the intended use is for something other than agricultural, then as stated above, evidence of need for these purposes should be provided.

Please also consider that in 2010, a well permit (BVDO-0080) was given to the Family to drill & operate a large capacity well (3186gpm) on the "Cobb Farm"¹ but limited to only 289 ac-ft. /year. The well was never drilled. In 2012, shortly before the 3 year automatic annulment of the permit for non-compliance, a new operating permit (BVDO-0111) was issued and the 289 ac-ft. was aggregated into the Family's 12 historic well system and assigned to Well #G11S. In December 2018, the "Cobb Farm" permit was amended to agricultural/ industrial/ commercial uses. I have not looked for the details of these decisions. There may be good reasons for the District's actions. In my opinion, the potential for this scenario to happen again with this new "Harlan Farm" request is rather high. Whether it is to avoid obstacles originating from new legislation or District rules (e.g. Rule 8.3(d)), I just do not see these wells being drilled at significant cost when "Harlan Farm" has access to more than enough water for irrigation and any other uses from two aquifers.

The multi-purpose permitting is something I questioned when the "Cobb Farm" permit was amended in December. I am baffled as to why the District would allow such lenient permitting that relies on "self-reporting" of each use when it has been reported that the Family has refused any physical access to periodically verify the well meters as required by District Rules. Regardless, how can you not be more specific when allocating groundwater based on its known final use? In my opinion, District Rule 8.3 intended purpose is to ensure bona fide

¹ It is not confirmed that the "Cobb Farm" acreage was part of the original 8509 acres described as Brazos River Farm in 2007-2009. However, I was told that its operating permit production was assigned to the closest well, G11S, in the 12 well aggregate systems.

beneficial use to avoid “water banking” which may deny other users their fair share.

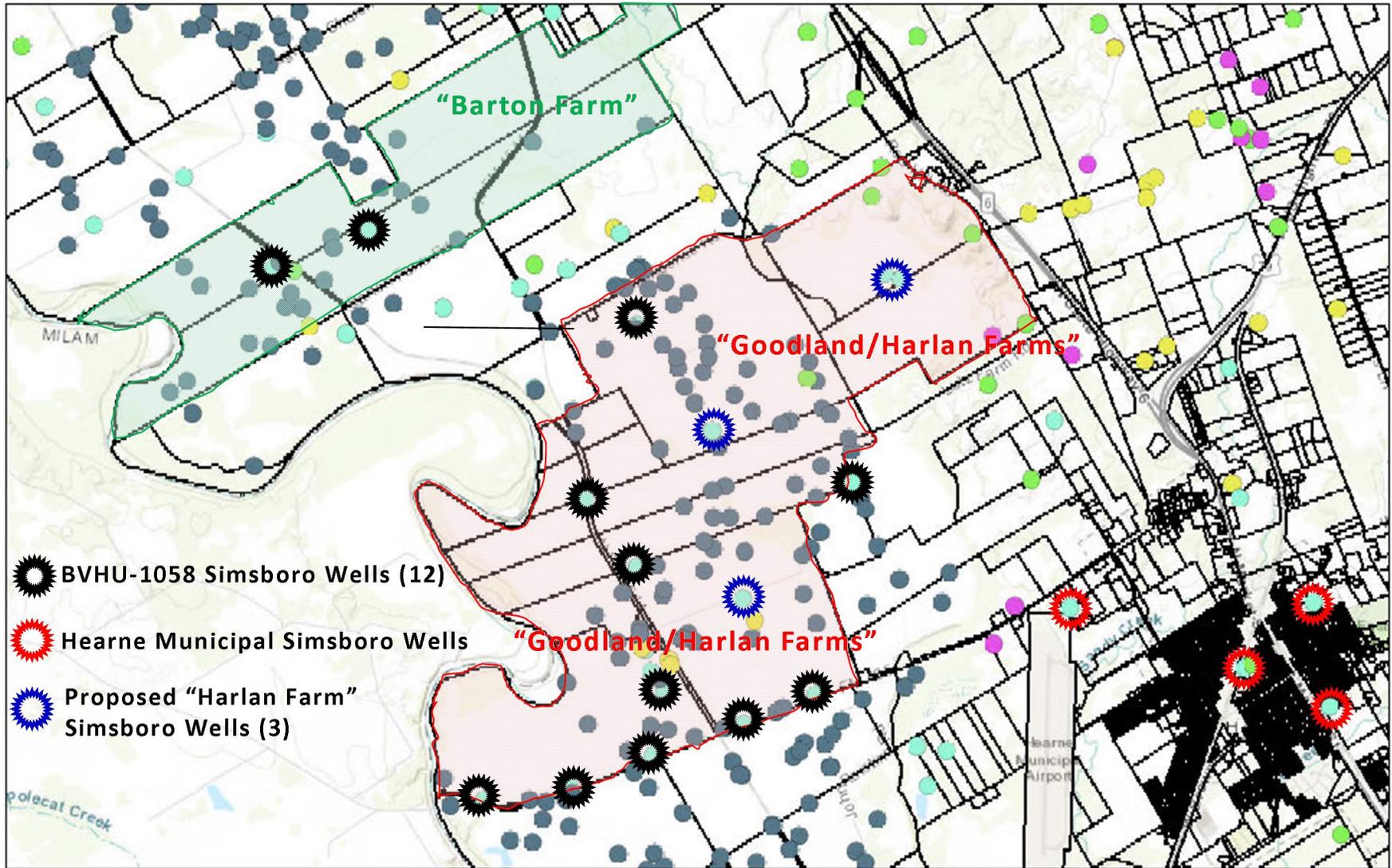
Finally, my primary concern has always been to protect our county and city residents from the unintended consequences of incremental drawdown of our Simsboro aquifer as more and more non-exempt wells are permitted. Obviously, these new wells are in very close proximity to the City of Hearne’s municipal wells and may potentially result in a drawdown of 75ft over 10 years (at extreme pumping). I think this is significant enough to warrant alarm. Obviously, if a total 36,613 ac-ft. /year are allowed to be pumped within 2-4 miles of Hearne’s municipal well system, the City needs to plan for whatever contingency is necessary to insure they meet their water needs.

Thank you for your consideration.



Cathy Lazarus
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Hearne Wells

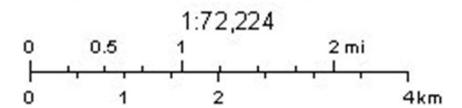


-  BVHU-1058 Simsboro Wells (12)
-  Hearne Municipal Simsboro Wells
-  Proposed "Harlan Farm" Simsboro Wells (3)

April 5, 2019

Wells by Aquifer

- | | |
|---|---|
|  Carrizo |  Brazos CAD Parcels |
|  Brazos River Alluvium |  Robertson CAD Parcels |
|  Calvert Bluff |  Unknown |
|  Simsboro | |



Half Associates Inc.
Sources: Esri, HERE, Garmin, Intermap, Inetmap Corp., GEBCO, USGS,