



910 LOUISIANA STREET
HOUSTON, TEXAS
77002-4995

TEL +1 713.229.1234
FAX +1 713.229.1522
BakerBotts.com

Received & Filed 11/25/2024 1:51 PM
Gabriel Garcia, District Clerk
Brazos County, Texas
Diana Moehlman
Envelope# - 94879152
AUSTIN NEW YORK
BRIDGEVILLE
DALLAS RICHMOND
DUBAI RIYADH
HOUSTON SAN FRANCISCO
LONDON SINGAPORE
WASHINGTON

November 25, 2024

Kevin T. Jacobs
TEL: 7132291947
FAX: 7132297847
kevin.jacobs@bakerbotts.com

VIA E-FILE AND EMAIL

Judge George Jerrell Wise
472nd District Court
300 East 26th Street, Suite 2600
Bryan, Texas 77803

Re: Cause No. 24-002626-CV-472; *Texas A&M University System vs. Brazos Valley Groundwater Conservation District et al.*

Dear Judge Wise:

For the above-referenced cause, a hearing on Landowner Intervenor's Motion for Summary Judgment is set for 9:00 a.m. on December 6, 2024. The Court issued a notice of hearing on November 14th that accommodated the actual conflicts identified by counsel for Plaintiff (who stated he was unavailable on December 13th) and the District (who stated he was unavailable on December 5th). No one objected to the December 6th date.

Then, on November 21, 2024, Plaintiff submitted a letter purporting to object to the December 6, 2024 setting in this case. Plaintiff, however, does not raise an actual scheduling conflict as Local Rule 3.13(b)(4) requires, but instead asks the Court to remove Landowner Intervenor's Motion for Summary Judgment from the setting and instead hear only Plaintiff's jurisdictional arguments. Plaintiff also filed a Motion for Continuance asking for the same "relief"—all designed to prevent or delay hearing this case on the merits and instead open the door to time-consuming jurisdictional appeals. On behalf of Intervenor UW Brazos Valley Farm LLC, Cula d' Brazos LLC, RH2O LLC, L. Wiese Moore LLC, Clifford A. Skiles III, and James C. Brien (the "Landowner Intervenor")—the parties' whose property rights are actually affected by this lawsuit—we urge the Court to reject Plaintiff's procedural games, keep the Motion for Summary Judgment on the December 6, 2024 setting, and resolve the jurisdictional and substantive arguments in one ruling.

Plaintiff's filings show a pattern of bad-faith delay and abuse of the judicial process. Plaintiff initiated this lawsuit and asked for mandamus and injunctive relief to address an "immediate threat." Now, Plaintiff seeks to avoid litigating the merits of the lawsuit, *including its own claim for mandamus relief*, by manufacturing a jurisdictional issue that could then be the subject of an interlocutory appeal, creating years of further delay.

As the Landowner Intervenor explains in their intervention and pending motion, this legal limbo benefits Plaintiff and damages the Landowner Intervenor and their third-party

customers, causing millions of dollars of real-world consequences. Plaintiff's lawsuit creates an illegitimate cloud on the Landowner Intervenors' property rights and stalls development of a critically-needed water project—all after millions of dollars have already been invested in that project by the Landowner Intervenors and third parties. Plaintiff's actions *have already caused substantial damage to the Landowner Intervenors*, threatened contracts, and undermined reliance on longstanding property rights. Every additional day of delay further damages substantial investments in the Landowner Intervenors' water supply project.

Plaintiff cannot have its cake and eat it too. Raising jurisdictional arguments on the Landowner Intervenors' declaratory judgment claim does not relieve Plaintiff of its duty to diligently prosecute its case, respond to the Motion for Summary Judgment, and resolve the case on the merits—particularly when it was Plaintiff that brought this action, invoked the Court's jurisdiction, and referenced the Landowner Intervenors' water permits 22 times in Plaintiff's petition. Plaintiff of course did so without naming the Landowner Intervenors as parties to this lawsuit even though it is their permits being challenged, forcing them to intervene to protect their legal and economic rights. Plaintiff seeks to be excused from arguing for *its own claim for relief* directed at the Landowner Intervenors' water rights at the December 6, 2024 setting, even after having four full weeks to evaluate and respond to the Motion for Summary Judgment.

In coordination with Plaintiff, the City of Bryan, the City of College Station, and Brazos County (the "Brazos County Intervenors") intervened in this lawsuit with no legal or factual basis and—defying all logic and common sense—then filed a plea to the jurisdiction asserting that the matter is not ripe for judicial consideration. The Landowner Intervenors will respond to this jurisdictional argument, as well as Plaintiff's, in writing and at the December 6, 2024 hearing. The jurisdictional arguments are straightforward—Plaintiff argues it is immune from any declaratory judgment (despite bringing the case against Landowner Intervenors' water rights in the first instance), and the Brazos County Intervenors argue the case is not ripe. These jurisdictional arguments can be easily addressed at the December 6th setting in tandem with arguments on the merits of the two interrelated claims in this case: Plaintiff's mandamus claim and the Landowner Intervenors' declaratory judgment claim.

The existence of jurisdictional disputes does not negate Plaintiff's duty to respond to the Motion for Summary Judgment and defend its own claim for mandamus relief. Plaintiff and the Brazos County Intervenors' coordinated strategy is clear—delay, delay, and more delay to continue to cloud the Landowners Intervenors' rights and damage their business and existing contracts. We request that the Court hear both the jurisdictional and substantive arguments on December 6, 2024, and resolve all disputes in one ruling at the close of that hearing.

Respectfully,



Kevin T. Jacobs



Jon Miller

Attorneys for Intervenors UW Brazos Valley Farm
LLC, Cula d'Brazos LLC, RH2O LLC, L. Wiese
Moore LLC, Clifford A. Skiles III, and James C.
Brien

cc: All Counsel of Record
Kresta McCall, Court Coordinator

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Janet Guillory on behalf of Kevin Jacobs
Bar No. 24012893
janet.guillory@bakerbotts.com
Envelope ID: 94679152
Filing Code Description: LETTER TO THE JUDGE
Filing Description:
Status as of 11/25/2024 2:51 PM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Breck Harrison		bharrison@jw.com	11/25/2024 1:51:31 PM	SENT
Raylynn Howell		raylynn.howell@bakerbotts.com	11/25/2024 1:51:31 PM	SENT
Travis Gray		travis.gray@bakerbotts.com	11/25/2024 1:51:31 PM	SENT
Kevin Jacobs		kevin.jacobs@bakerbotts.com	11/25/2024 1:51:31 PM	SENT
Lex Campanile		acampanile@jw.com	11/25/2024 1:51:31 PM	SENT
Katherine Jeffress		katie.jeffress@bakerbotts.com	11/25/2024 1:51:31 PM	SENT
Lynn Sherman		lsherman@jw.com	11/25/2024 1:51:31 PM	SENT
Paulina Williams		paulina.williams@bakerbotts.com	11/25/2024 1:51:31 PM	SENT

Associated Case Party: City of Bryan

Name	BarNumber	Email	TimestampSubmitted	Status
Clarence Freeland	7417500	jfreeland@mandf.com	11/25/2024 1:51:31 PM	SENT

Associated Case Party: UW Brazos Valley Farm LLC

Name	BarNumber	Email	TimestampSubmitted	Status
Gaines West	21197500	gaines.west@westwebb.law	11/25/2024 1:51:31 PM	SENT
Lexie Ammons		lexie.ammons@bakerbotts.com	11/25/2024 1:51:31 PM	SENT

Associated Case Party: Brazos Valley Groundwater Conservation District

Name	BarNumber	Email	TimestampSubmitted	Status
Jacobs Steen	24137211	jsteen@lglawfirm.com	11/25/2024 1:51:31 PM	SENT

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Janet Guillory on behalf of Kevin Jacobs
Bar No. 24012893
janet.guillory@bakerbotts.com
Envelope ID: 94679152
Filing Code Description: LETTER TO THE JUDGE
Filing Description:
Status as of 11/25/2024 2:51 PM CST

Associated Case Party: Brazos Valley Groundwater Conservation District

Jacobs Steen	24137211	jsteen@lglawfirm.com	11/25/2024 1:51:31 PM	SENT
Michael Gershon		mgershon@lglawfirm.com	11/25/2024 1:51:31 PM	SENT
Taylor Niblett		tniblett@lglawfirm.com	11/25/2024 1:51:31 PM	SENT