

November 25, 2024

Via E-File

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

Re: Cause No. 24-002626-CV-472; *Texas A&M University System v. Brazos Valley Groundwater Conservation District and Alan Day, General Manager of Brazos Valley Groundwater Conservation District*, In the 472nd District Court of Brazos County, Texas.

Dear Judge Wise,

This is to briefly respond to the letter sent to the Court this afternoon by the Landowner Intervenor. In short, the Landowner Intervenor complains of a problem entirely of their own making. Texas A&M University System brought this mandamus action to compel the Brazos Valley Groundwater Conservation District and its General Manager to refer certain matters to the State Office of Administrative Hearings for contested case proceedings. During an abatement period agreed upon by those parties to facilitate settlement discussions, the Landowner Intervenor chose to insert themselves in this litigation and assert claims for declaratory relief and attorneys' fees that are clearly barred by the sovereign and governmental immunity possessed by Texas A&M System and the other governmental entities that are parties to this action. Doubling down on that error, and rather than confer with the parties over a suitable date for hearing the mandamus relief sought by Texas A&M System, the Landowner Intervenor filed a motion for summary judgment on their claims and requested that the motion be heard on December 6.

After evaluating the Landowner Intervenor's claims and the clear jurisdictional deficiencies associated with them, Texas A&M System, Brazos County, and the cities of Bryan and College Station filed pleas to the jurisdiction directed at the Landowner Intervenor's improper claims. And because the fundamental issue of subject matter jurisdiction must be determined at the outset, Texas A&M System and the Brazos County Entities have requested that their jurisdictional pleas be heard on December 6 in place of the Landowner Intervenor's summary judgment motion.

Now the Landowner Intervenor requests that "the jurisdictional and substantive arguments" be taken up together on December 6. But this ignores the fact that the merits of the Landowner Intervenor's declaratory judgment claims cannot be reached at that time under any circumstance. Texas A&M System believes that the Court should dispose of the Landowner

Intervenors' claims altogether by granting the pending pleas to the jurisdiction, thereby eliminating any need for argument over the Landowner Intervenors' barred claims. And in the event that the Court were to deny either of the pleas to the jurisdiction, Texas A&M System and the Brazos County Entities have a statutory right to pursue an immediate interlocutory appeal that stays further proceedings before the trial court. There is no utility whatsoever in putting the parties and the Court to the additional burden of entertaining argument on the Landowner Intervenors' summary judgment motion on December 6. And to do so runs counter to the fundamental protection afforded to the state and its political subdivisions through immunity: to not subject the state to unnecessary spend for improper claims.

The Landowner Intervenors mischaracterize Texas A&M System's assertion of one of its most basic rights—immunity from suit—as “delay” and “gamesmanship.” But any consequences of delay fall squarely on the Landowner Intervenors for seeking to hijack this mandamus proceeding with claims that are barred by law.

Texas A&M University System respectfully requests that the Court take up the pending pleas to the jurisdiction on December 6, and continue the Landowner Intervenors' hearing on its motion for summary judgment to a date to be determined, if any, following the resolution of any jurisdictional appeals.

Sincerely,



Breck Harrison
Attorney for Texas A&M University System

Via E-File

cc: All Counsel of Record