

March 7, 2017

Mr. Alan Day
General Manager
Brazos Valley Groundwater Conservation District
112 W. 3rd Street
Hearne, TX 77859

Re: Complaint against Bryan Well No. 18

Dear Mr. Day:

Please accept this response on behalf of the Brazos Valley Groundwater Rights Association (BVGRA) and Tony Fazzino to the City of Bryan's March 1, 2017 objections to consideration of the Complaint against Bryan Well No. 18.

Mr. Mathews' letter, as BVGRA understands it, presents multiple inconsistent objections to the District's consideration of BVGRA's Complaint. First, Mr. Mathews argues that the hearing of the Complaint should not be considered a "permit hearing" under Rule 14.1(a). While BVGRA agrees that this is not a hearing on Bryan's application to renew or amend BVDO-0003, this does not preclude application of Rule 14.1(a). BVGRA's Complaint alternatively requests (a) revocation of BVDO-0003 based upon false representation in Bryan's application, or (b) reduction of the amount of authorized production to an amount justified by Bryan's acreage at the site of BVDO-0003.

Both the possible revocation and amendment to reduce authorized production are squarely and expressly within the scope of Rule 14.1(a)(1), which addresses "[h]earings involving permit matters." The District's rules contain no limitation that permit hearings be initiated by the applicant or the District. Instead, the rules describe permit hearings as "hearings involving permit matters, in which the rights, duties, or privileges of a party are determined after notice and an opportunity for an adjudicative hearing." Rule 14.1. This is precisely what is requested by the BVGRA/Fazzino Complaint.

Bryan's renewal of prior objections to the Complaint stated in its February 3, 2017 letter is equally ill-founded. The issue is not whether Bryan Well No. 18 might be considered an "existing well" at the time that it was permitted by the District. The record will show that the District intentionally noticed the application as a "new well," regardless of Bryan's arguments. Moreover, the Complaint focuses on the material, knowing and intentional, misrepresentation in Bryan's application that Well No. 18 was complete before the District's acreage requirement went into effect. This representation is 100% false and provides a more than adequate basis for revocation of the permit under the District's rules and the terms of the permit itself.

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Finally, even if Well No. 18 were considered an "existing well" at the time of the application, it is still draining water from beneath the property of neighboring property owners. This is another, independent basis for the Complaint. The District can, and should, consider this grounds for amendment of BVDO-0003, regardless of whether or not the well was considered an "existing well" at the time of application.

Thank you for your attention to this matter.

Sincerely



Douglas G. Caroom
Attorney for BVGRA/Fazzino

DGC/dfb

cc: Jim Mathews
Monique Norman