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B-CS, A&M reach settlement in groundwater lawsuit

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Communities in the Georgetown area will get half of the water they were hoping for out of Brazos and Robertson counties through the settlement of a lawsuit between the Brazos Valley Groundwater Conservation District and Texas A&M University and local governments Tuesday.

According to the settlement — which still needs to be signed by all parties involved — Up Well Brazos Valley Farms LLC (UWBVF) and seven other partners will be able to pump and export up to 50,000 acre-feet per year from the Simsboro Aquifer, which supplies water for Brazos and Robertson counties. They had originally sought 100,000 acre-feet per year, but the Texas A&M University System filed a lawsuit last year to prevent the transfer of that much water. Brazos County, College Station and Bryan joined the lawsuit.

Under the agreement, UWBVF and its partners can ramp up production over a period of time. They can export 23,000 acre-feet per year until 2034. They can increase that to 39,000 acre-feet per year through 2039. After that, they can go to the full 50,000 acre-feet per year.

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“People need to understand there is going to be plenty of water for everyone in Brazos and Robertson counties in the Simsboro Aquifer,” said Alan Day, general manager of the Brazos Valley Groundwater Conservation District (BVGCD).

He said the BVGCD Board of Directors voted 6-1 in favor of the settlement during a special meeting Tuesday morning.

Day said the partners currently have three of 48 permitted wells constructed at sites they own in southern Robertson County.

“This furthers our ability to manage and make sure ... everybody has access to their property rights and access to their water rights,” Day said.

If any of the partners leave the group, their part of the agreement becomes void. The settlement also sets rates for the purchase of the water. For the first four years after the water supply agreement is signed, UWBVF and its partners will pay Tier 1 export fees of \$0.17 per 1,000 gallons with an annual increase of 3% that begins when the agreement is signed. Once exports begin, the Tier 2 export fee of \$0.206 per 1,000 gallons kicks in, along with 3% annual increases. After 10 years, the BCGCD can change its Tier 2 rate to whatever rate the state allows and the board determines.

Day said the partners could pay three times the negotiated rates if they exceed export amounts.

“The Brazos Valley Groundwater Conservation District Board of Directors and staff worked diligently with all parties involved in the settlement to come to an agreement that was workable for all,” Day said in a statement. “Limiting the export of water to 50,000 acre-feet/year with a prescribed ramp-up volume allows the district the ability to properly manage the artesian head reduction in the Simsboro Aquifer ensuring water availability to permit holders and those entities within the district’s boundaries for decades to come.”

College Station Mayor John Nichols said he was satisfied with the settlement.

“I believe the agreement approved by the groundwater district earlier today is the best that could be obtained given the circumstances involved at this point. The parties are guaranteed stability and certainty. The City of College Station Council will consider the agreement, as planned, at our regular meeting on Thursday evening,” he said.

In a letter to the members of the BVGCD board on Monday, Bryan Mayor Bobby Gutierrez asked the board to limit future exports and be mindful of the local needs for water, saying, “We urge the Brazos Valley Groundwater Conservation District to take immediate and proactive steps to:

Strengthen its rules and permitting framework, using every available tool to prevent the depletion of aquifers for export;

Initiate or support legislative efforts to clarify and reinforce the original intent behind Texas groundwater conservation law — surely the Legislature never envisioned nor intended for these locally governed districts to become gateways for large-scale water mining and extraction;

Deny or limit export-focused permits unless and until independent hydrological science conclusively demonstrates that local users and long-term aquifer health will not be harmed; and

Prioritize local and regional needs, ensuring the people of the Brazos Valley — both present and future — have secure access to the water they depend on.

At a special meeting of the Bryan City Council on Tuesday, the council deliberated on the matter in executive session. When the council reconvened in open session, it voted to approve the settlement but not before remarks from Mayor Pro Tem James Edge and Gutierrez.


Edge called for the motion to approve the settlement agreement and provided some background information as well as why it was the city’s best move to adopt the settlement.

“We’ve been dealing with this water issue for going on two years. I’m not sure exactly how long. I know that the options we’ve had as a city have been limited and unfortunately none of those options are optimum,” Edge said. “I feel like the settlement with Texas A&M, College Station and city of Bryan has been the best option, probably that we could negotiate. I feel moving forward in an effort to try and preserve water for our future citizens that it’s necessary that we limit the damage moving forward, and hopefully at some point, the Legislature will come through and deal with the law in order to protect cities like Bryan and College Station in the future.”

Gutierrez remarked on the importance of keeping local water from being taken elsewhere and echoed Edge in calling for legislators to protect the water supply.

“We want to preserve as much [water] as we can for our future, not only for our economic development but the future of our livelihood, our kids, our grandkids and great-grandkids,” Gutierrez said. “I know we are not the only ones dealing with this. There are people up and down the same aquifer dealing with the exact same thing that we are. I think legislators have to step up and try to figure out a plan, not only to curtail the export but figure out different ways that people who do not have the same water that we do have available water as well.”

Attempts to contact the Texas A&M University System and UWBVF for comment were unsuccessful by press time.

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