

NO. 15-08-08942

SEP 18 2018

CITY OF CONROE, TEXAS; et. al.

Plaintiffs,

v.

RICHARD J. TRAMM, et. al.

Defendants.

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IN THE DISTRICT COURT

BARBARA GLADDEN ADAMICK
District Clerk
MONTGOMERY COUNTY, TEXAS
By *[Signature]* Deputy

MONTGOMERY COUNTY, TEXAS

284th JUDICIAL DISTRICT

ORDER ON CROSS-MOTIONS FOR PARTIAL SUMMARY JUDGMENT

On April 25, 2018, came on for hearing before the Court Plaintiffs' Second Amended Motion for Partial Summary Judgment filed July 31, 2017, and the Lone Star Groundwater Conservation District's "Cross-Motion for Partial Summary Judgment that (Contrary to Plaintiffs' Water Code 36.251 Suit) Its Rules Are Valid," filed August 27, 2017. All parties appeared by and through their respective counsel of record.

The Court having reviewed the Cross-Motions and all Responses thereto, as well as the pleadings in the case and the briefing and arguments of counsel, now rules on these Cross-Motions as follows:

IT IS ORDERED, ADJUDGED, AND DECREED that Plaintiffs' Second Amended Motion for Partial Summary Judgment is hereby Granted.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Lone Star Groundwater Conservation District's "Cross-Motion for Partial Summary Judgment that (Contrary to Plaintiffs' Water Code 36.251 Suit) Its Rules are Valid" is hereby Denied.

This Order decides the legal question whether the following rule of the Lone Star Groundwater Conservation District is valid:

¹ Minute
Date: 9.18.18

1. By [January 1, 2016], each LVGU [large volume groundwater user] in the District must meet its initial conversion obligation, which means each LVGU must reduce its annual groundwater production to the greater of either:

A. No more than 70 percent of its Total Qualifying Demand, which is based upon the LVGU's 2009 permitted authorization, and actually met not less than 30 percent of its Total Qualifying Demand by implementing water conservation measures and/or using an Alternative Water Source; or

B. 10 million gallons.

2. For any growth in water demand experienced by an LVGU after 2009 that cannot be met by implementation of water conservation measures, such increased demand must be met using an Alternative Water Sources beginning in 2016

The Court finds that the question decided by this Order on Cross-Motions for Partial Summary Judgment is a controlling question of law as to which there is a substantial ground for difference of opinion. The Court further finds that immediate appeal of this Order will materially advance the ultimate termination of this litigation.

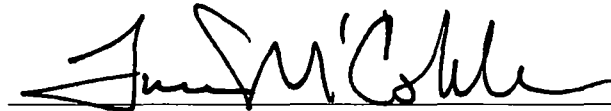
This Order and the underlying controlling question of law involve the parties' competing interpretations of the rule-making powers granted the Lone Star Groundwater Conservation District by Chapter 36 of the Texas Water Code. The Court finds that although it has ruled on the cross-motions for summary judgment as stated above, the parties have made conflicting arguments, and there are substantial grounds for difference of opinion regarding whether Lone Star Groundwater Conservation District has statutory power to adopt and enforce the rule quoted above.

All parties have advised the Court that they request and agree to an interlocutory appeal of this Order. The parties further agree, and the Court rules, that such appeal will be defined by the question addressed in the parties' cross-motions for summary judgment that are identified above.

Consequently, IT IS HEREBY ORDERED that, pursuant to Texas Civil Practices and Remedies Code § 51.014(d), an interlocutory appeal is ALLOWED from this Order.

It is further Ordered that all other issues remaining in ~~the action~~ ^{the Trial Court} are stayed pending the outcome of the interlocutory appeal allowed hereby.

SIGNED this 18 day of September, 2018



LAMAR McCORKLE
SENIOR DISTRICT JUDGE
SITTING BY ASSIGNMENT

APPROVED AS TO FORM:

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