

## **SARA wants rule changed**

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GOLIAD - A partner in the Lower Guadalupe Water Supply Project is seeking another chance to convince directors of Goliad's groundwater conservation district to abandon a new rule requiring high-volume water pumpers to set up escrow accounts to pay for damage their pumping might do to existing water wells or property values.

Directors of the Goliad County Groundwater Conservation District will meet at 2 p.m. Wednesday to consider granting the rehearing to the San Antonio River Authority.

District chairman Art Dohmann said the board will likely grant the rehearing - which would be held at a future date - to SARA "out of courtesy."

SARA general manager Greg Rothe said the groundwater district's rule-making process allows for an appeal for a rehearing.

"We are simply availing ourselves of that opportunity to be heard once more on the rule in question," said Rothe.

The district's Rule 12.9, approved May 18, requires the water supply project's partners and others who would seek permits to operate high-volume water wells in Goliad County to first develop a plan to mitigate, or lessen, unreasonable effects on existing groundwater or surface water resources caused by their pumping.

Under the rule, the Goliad County groundwater district could require those well operators to establish an escrow account that would be used to compensate those who suffer financial losses due to over pumping.

The rule is thought to be the first ever instituted by a Texas groundwater district that provides for escrow accounts to be set aside for damages.

The accounts would be deposited with the district, which would administer the disbursement of their funds.

"We don't believe that Chapter 36 of the Texas Water Code allows them to adopt a rule that addresses mitigation," said Rothe. "We just think that they shouldn't adopt the rule - and want to be heard one more time."

The San Antonio River Authority is one of three partners in the LGWSP, along with the Guadalupe-Blanco River Authority and the San Antonio Water System.

The partners' project, now in pre-construction development, would pipe underground water and river water from Goliad, Victoria and Refugio counties to San Antonio beginning in 2012.

Rothe said the mitigation issue is important not just for the Lower Guadalupe Water Supply Project, but for groundwater projects SARA is planning to provide water supplies to rural communities in Goliad County.

In May, Rothe told Goliad district directors that the partners in the Lower Guadalupe Water Supply Project believe mitigation plans should be established voluntarily by project developers and that the LGWSP partners would establish a mitigation plan.

Rothe also told the directors then that their new mitigation rule has yet to be tested in court.

SARA, in requesting the rehearing, mailed to the district a 16-page letter resembling a lawsuit in form, asking that the district rescind its rule and setting out the legal precedents and arguments against Rule 12.9.

SARA's appeal states that the rule is unfair, discriminatory, subject to arbitrary and capricious application and violates the Texas Constitution.

The letter further states that the required escrow fund could have a "chilling effect" and encroaches on a landowner's groundwater rights.

Dohmann said the people of Goliad County should be aware that the district's new rule could result in a court challenge.

When the district's directors approved the rule 7-0 in May, they said that while they may have to go to court to defend it, they felt that Rule 12.9 was necessary to protect Goliad County citizens and local underground water supplies.

"Our purpose is to protect Goliad County's water," Dohmann said.

Dohmann said public comment will be taken on the question of the rehearing during Wednesday's meeting.

The meeting will be at the Water District Office, 142 E. Franklin St. in Goliad.