

Ranchers now see need for water rules

Fight is over which regulations should apply.

By [Laylan Copelin](#)

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DELHI — The debate in this ranching community used to be whether any government regulation was necessary for the area's water. Today, it's quickly becoming whose rules should apply.

"I've changed my mind," said rancher Tony Spears, who four years ago opposed any attempts to regulate the underground water in this area.

His embrace of regulation, however limited, is a recognition of economic reality and legal uncertainty.

His lawyer, Ed Small Jr., said he's unsure how much longer water developers can depend on the age-old precedent that a landowner can pump water from his land without regard to its effect on his neighbors.

"I can't guarantee Tony that if he puts in a big well, he could pump the heck out of it," Small said.

Instead, the squabble is whose rules should apply. And those rules vary greatly from county to county over the same aquifer.

Regulators use production caps, export fees, spacing between wells and acreage limits to restrict how much water can be pumped.

Gonzales County uses all of those methods; the Plum Creek Conservation District in Caldwell County only this year enacted well-spacing rules.

Pamela Hohman, Spears' neighbor, said she likes Gonzales County's stringent regulation.

"Gonzales has a vested interest in protecting our water," she said. "It flows into their county. They know how the hydrology works."

Gonzales' regulations also would probably short-circuit any of Spears' attempts to pump 40,000 acre-feet to San Marcos or elsewhere. Just to comply with Gonzales' acre-limits, for example, Spears would have to control the water rights to 40,000 acres.

Small questions whether the rules are arbitrary and too conservative.

"We have rules being put in place without looking at the science," he said. .

Plum Creek doesn't have Gonzales' track record with regulating groundwater because it began as a flood control district.

The district doesn't have that many large water wells to deal with.

For that reason, it may be more open to what the rules should be.

"We didn't know enough about our aquifer to put hard and fast rules in place," said Robert Wilson, Plum Creek's lawyer. "Bring us a hydrological study to show us the effect, and we'll look at it."

Meanwhile, one Bastrop County company has been able to take advantage of drilling three municipal water wells just inside Caldwell County where no rules are in place. Aqua Water Supply Corp. has the advantage that its Delhi-area wells are close to its customers — only four miles away.

Spears' potential customers in San Marcos and Buda are at least a \$60 million to \$80 million pipeline away, depending on the size of the pipe.

The Hays County Public Utility Authority, which includes San Marcos and the Kyle-Buda area, among others, has studied building a pipeline east toward the Carrizo-Wilcox aquifer and drilling its own wells.

The study recommended putting the wells in a regulated area, not in Delhi.

Former Hays County Judge Eddy Etheredge, a consultant on that study, said his group didn't want to recommend putting a \$150 million investment in an area with no rules.

In June, Spears met with the Hays group to discuss a deal.

"We only began to look at Caldwell recently," Etheredge said, "when property owners started looking at becoming regulated."

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