

# New Braunfels Herald-Zeitung

## Rule of capture' hurts Trinity Aquifer

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After suffering through a near-record drought, Comal County Commissioners described a dire need Thursday to manage and protect the limited amount of groundwater flowing underneath the majority of the county.

Comal County sits atop water welled up in the Trinity or Edwards aquifers, massive shelves of permeable rock that yield water to users from Dallas to south of San Antonio.

To manage overuse and conserve the finite amount of water stored under the surface, the Texas legislature allows local governments to create groundwater conservation districts. But the almost two-thirds of Comal County that relies on the Trinity — unlike almost all of its neighbors — is without any such protection.

"Everyone around us has a way to manage their groundwater except us," Precinct 2 Commissioner Jay Millikin said during Thursday's Commissioners Court meeting.

The dangers, according to State Representative Doug Miller, are both potential overuse, and the reality that future residents in a fast-growing county could end up living above dry wells.

"The resource is finite, and as the Western portion of Comal County becomes more populated, that means more withdrawals from the aquifer," said Miller, a former chairman of the Edwards Aquifer Authority. "If we don't have some system in place to manage the resource, you could have a number of people in this county without water."

The Edwards Aquifer Authority is a groundwater conservation district created in 1996, and it regulates and protects the water resources underneath much of central Texas, including a little over a third of Comal County.

But such a conservation system isn't in place in the large swath of Comal County above the Trinity, meaning all water rights are under the "rule of capture." Under state law, anyone can dig a well on their land and pump as much water as they want, regardless of if it sucks their neighbor's well dry. Comal County Judge Danny Scheel fears that without a district in place to prevent abuse of rule of capture, a land owner could potentially pump out large chunks of the county's most precious resource and sell it to the highest bidder outside the county line.

"It's like we have a huge target on our back," he said Thursday.

Comal voters have twice turned down the opportunity to create a groundwater conservation district, once in 1995 and again in 2001. Now the Texas Commission on

Environmental Quality is trying to work with the county to make sure the third try to protect Comal's water is successful.

The TCEQ issued a draft statement seeking to have the county join either the Trinity Glen Rose Groundwater Conservation District in northern Bexar County, or form a new district with Hays and Travis counties. And county commissioners are now deciding which idea to support.

"The time has come for us to face the drastic need for a groundwater conservation district," said Precinct 4 Commissioner Jan Kennady. "We absolutely have to do this, but we need to focus on which option would be best for us and make the most economic sense."

To survive and ward off potential litigation from developers, conservation districts need funding, either through taxation or user fees charged to only large-scale water users, Millikin said Wednesday.

Joining the Hays conservation district would require taxing residents. The Trinity Glen Rose district in Bexar County is funded through user fees to utility companies like San Antonio Water Service, although commissioners wonder how large of a voice Comal would have on a San Antonio board.

County staff is working with water users like Canyon Lake Water Service to make an official recommendation on how it would like to proceed.

Since the creation of a district must be done through a state administrative process, Miller said any decision wouldn't be final for a year or perhaps longer.

"It will take a significant amount of time," he said. "But at some point, it has to be done. This is a necessity."

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