

# Lavaca County commissioners OK groundwater plan

Gregory Ellis hired to draft a bill to submit to Legislature

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**BY BARRY HALVORSON - VICTORIA ADVOCATE**

**HALLETTSVILLE** - The Lavaca County commissioners voted Monday to proceed with a plan to submit a bill to the Legislature that would create a county groundwater conservation district.

As part of the special meeting, the commissioners approved hiring Gregory Ellis to serve as a legal consultant to county attorney V'Anne Bostick Huser to create the bill and submit it for approval.

Ellis' first recommendation was for the county to submit any proposed legislation as soon as possible. He said the commissioners needed to publish its intent to do so 30 days prior to actually submitting anything, which would be done through State Sen. Glenn Hegar and State Rep. Geanie Morrison.

## **A BASIC BILL**

"I have all the information to prepare a basic bill and could have a bill drafted for filing right now," he said after the meeting. "There are some special powers and limitations the county might want to include in the bill so I'll probably need to make a few more trips (to Lavaca County) but I will have a bill ready before the end of the 30 days. And once it is turned over to Hegar and Morrison we can still amend it in committee or on the floor. But there is an urgency to get it filed. You want to have it done this session in 2007 and not 2009. By then, you will have someone coming into the county looking to ship water out."

After initially planning to hold off on naming the district, the commissioners approved naming the district the Lavaca County Groundwater Conservation District.

The vote came after a majority of the approximately 50 people at the meeting endorsed it in a straw vote. Initially, the commissioners were going to delay the naming and request county residents submit names because County Judge Ronnie Leck said that resident had told him they did not want Lavaca County identified in the name.

Ellis, an attorney specializing in water issues now living in League City, is the former general manager of the Edward Aquifer Authority.

**Law dates back to 1904**

In his opening presentation, Ellis said that Texas groundwater law dates back to a 1904 court case that set the rule of capture as the state's groundwater policy. Under that arrangement, groundwater was not owned by a property owner until it has actually been pumped from the ground.

"No one in Texas has any protection for groundwater other than it belongs to the person who can drill deeper and pump faster," he said. "The only thing you can do to protect groundwater is to create a groundwater conservation district."

He said that groundwater became more of a concern with the passage of Senate Bill 1 in 1997 that called for the state to come up with a 50-year water plan in anticipation of massive water shortages. He explained regulations placed on inter-basin surface water transfers shifted the attention of those needing water to groundwater.

### **Junior water rights**

"It protects surface water and anyone looking to ship water out of a river basin has the most junior water rights," he said. "That means if there is a shortage of water, they are the first ones cut off. That's brought inter-basin transfers to a dead stop. The legislature didn't do the same for groundwater. So the best option became to drill in rural Texas and pipe it to the cities. It's a matter of groundwater vs. expensive desalinization and cities are going to go for the cheapest option."

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