

Fort Worth Star-Telegram

Hill Country group to PUC: Stop water firm's overpumping in Hays County

May 17, 2024

A Hill Country advocacy group has filed a complaint against utility company Aqua Texas, asking the state's Public Utility Commission to revoke the company's ability to operate in the Wimberley area until it can stop overpumping its permits.

The complaint, filed by the [Trinity Edwards Springs Protection Association](#), or TESP, alleges that Aqua Texas "willfully and flagrantly" violated pumping limits, harming the iconic Jacob's Well spring, and that it has failed to maintain its infrastructure and lacks an adequate water supply for its customers.

It's the latest move in an ongoing battle over groundwater in western Hays County, and came in response to a federal lawsuit filed by Aqua Texas earlier this year.

Aqua Texas, a subsidiary of the Pennsylvania-based Aqua, says it provides water and wastewater services to 285,000 people in the state, including three water systems near Wimberley called Woodcreek Phase I and II and Mountain Crest.

Last April, the Hays Trinity Groundwater Conservation District, which issues permits to well owners in that area, fined Aqua Texas \$448,710 for pumping more than it permitted in 2022. The district said the company pumped twice as much from the Trinity Aquifer as was allowed under drought restrictions that year, and said if a resolution wasn't reached, the district would not be able to renew the company's annual permits in the future.

The [Trinity Aquifer](#) is a water-bearing rock formation that stretches from southwest of San Antonio to northeast of Dallas, through much of the Hill Country.

Aqua Texas responded to the fines by suing the groundwater district in federal court, calling its actions and penalty unlawful.

The company alleges the district's board reached settlements and penalty forgiveness agreements with four other water service providers in exchange for spending the amount of the assessed penalty on conservation efforts, but that Aqua Texas was denied that option. In a news release, the company called it "unfair and unequal treatment."

The district has disputed the company's claims and asked the court to dismiss the case.

That lawsuit prompted TESP, a nonprofit group that advocates for groundwater protection, to get involved, chairman Jim Blackburn said. Previously, the association has worked to stop a controversial groundwater permit in Hays County and filed suit when a Kinder Morgan pipeline spilled drilling fluid underground into the aquifer.

In April, the organization filed a formal complaint with the PUC, asking the state's utility regulators to investigate and to revoke Aqua Texas' certificate of convenience and necessity, which gives it the right and obligation to provide services for those three water systems.

The complaint alleges that Aqua will be fined again this year for overpumping by more than 70 million gallons above permitted limits in 2023, and that it lost 55 million gallons of water to line leaks and breaks, illegally wasting groundwater. The association said the company's actions have left it without a legal water supply because of its violations.

TESPA also alleges that the company "does not have access to adequate water supply" for its service areas, and that its pumping caused Jacob's Well to stop flowing. The company is serving more customers than it represented to the PUC in 2018 when the agency granted its certificate, the complaint said, and is continuing to add more connections.

"In complete disregard for its inadequate access to water supply, Aqua Texas is widening the gap of its water supply shortfall," TESPA said in the filing.

The company said in a statement Wednesday that it was "committed to delivering quality and reliable water to our more than 3,000 valued customers in Hays County."

Aqua Texas said it started a \$4 million capital project last month to mitigate water loss and replace 25,000 feet of main water lines in the Wimberley Valley, "which will further improve Aqua's efforts to conserve water and improve service reliability."

"Additionally, Aqua has purchased new property away from Jacob's Well to further reduce our impact in the future. Activation of those wells has been stymied by the Hays Trinity Groundwater Conservation District," the company said. "We look forward to continuing to work with our customers and other stakeholders on these ongoing improvements."

The groundwater district has a moratorium in place on new "nonexempt" wells, meaning those that aren't solely for domestic or livestock use. The moratorium was needed to protect existing permittees' water supplies, district general manager Charlie Flatten [told the Express-News](#) last summer.

Blackburn, an environmental lawyer, said the proceeding is an unusual one for the PUC, but said the association believes groundwater regulation is essential in the state.

"Aqua made representations that they were able to serve the public with their water supply and with their water rights that they had," he said. "If they can't provide water without violating a permit, they either need to be required find alternative water sources or they need to be potentially replaced."

The association is also weighing whether to get involved in the federal lawsuit, Blackburn said.

"In our opinion, it challenges the Texas law of groundwater," he said. "If we can't protect both the water wells and water users as well as our sources of water for the springs, if we can't do that, we're going to lose a tremendous resource in the Hill Country."