

# In Central Texas, a rush to secure water rights

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By Ciara O'Rourke and Asher Price

American-Statesman Staff

**SAN MARCOS** — Amid a persistent drought that has rattled Texans about water supplies, cities and investors are jockeying to purchase millions of gallons of underground water and pipe it to rapidly growing communities.

The Hays Caldwell Public Utility Agency is among the latest to enter the fray, paying to secure water it isn't expected to use for a decade or more. The agency isn't alone. The rush to secure water rights across Central Texas means millions are being paid each year for unpumped water.

"If you're a city, you still have to make sure industry will keep coming to town. It's a matter of economic life or death to you. You have to make decisions, and the easy answers are gone," said Robert Cullick, a consultant on water and public infrastructure projects.

James Earp, assistant city manager for the city of Kyle, said that if the city's population grows as expected, Kyle's current water portfolio couldn't support any new residents by about 2026. That was a driving force in its support for securing groundwater rights.

"We wouldn't be out of water," Earp said. "But the next person wanting to come in and connect to the system would have to be told no."

With nearly all the water in lakes and rivers now assigned to power some factory, slake the thirst of some city, or keep up the health of some aquatic plant, water providers are turning to underground water to meet their future needs.

Several plans to move groundwater across county lines have fallen apart, but others are coming together to replace them, though most are years down the road. Still other projects are already online but, while waiting for development to take place along new highways, are pumping only a fraction of what their permits allow.

Groundwater is a top choice to meet future water plans in Central Texas because it is "not fully utilized and in many circumstances it's the cleanest, closest water resource available," Cullick said.

But groundwater also has its challenges: Transporting it can cost millions of dollars in pipes and permitting. And it can require its own water treatment facilities, since its mineral composition can differ from river water. Its pumping is regulated by a patchwork of political fiefdoms known as groundwater districts that occasionally operate in conflict with property-owners who claim wide rights to pump and sell water beneath their land.

“The legal and legislative foundation for using groundwater, and buying and selling it, are not at all certain,” Cullick said.

That uncertainty isn’t dissuading water providers.

The Hays Caldwell Public Utility Agency voted unanimously late last month to secure the necessary permits to produce and transport up to 10,300 acre-feet of water per year from eastern Caldwell County. The water comes from the Carrizo-Wilcox Aquifer, a major aquifer stretching from the Louisiana border to the border of Mexico.

Though the agency doesn’t anticipate needing to tap the new supply for 10 to 15 years, it has already sunk \$7 million into the project, including paying more than \$2.5 million to more than 60 landowners in Caldwell County to lease their water rights.

The Hays Caldwell agency was formed in 2007 by San Marcos, Kyle, Buda and the Canyon Regional Water Authority, which represents area water supply corporations, to seek a regional solution to the area’s growing water needs.

The agency is generally paying landowners royalty rates of \$100 per acre-foot per year for water they aren’t currently pumping, said Graham Moore, who is acting as the utility agency’s general manager. An acre-foot of water is roughly equal to the amount three average Austin households use a year.

“In Central Texas, cities have made a concerted effort to get their long-term water supply lined up so they can say to developers and different groups coming to them, ‘Yes, we have water for you,’” Moore said.

The agency still needs to secure rights-of-way before starting construction on the planned pipeline, which is estimated to cost more than \$100 million.

It’s a project Moore said the agency has been developing since before the Guadalupe-Blanco River Authority sought in 2010 to engineer a deal that would supply Hays County providers while also sending more than 71 million gallons of water a day to San Antonio. A spokeswoman for the authority, which serves Buda, Kyle, San Marcos, Lockhart and Luling, said that deal fell through but that new efforts are under way to pipe groundwater from the Carrizo-Wilcox Aquifer for future growth along the Texas 130 and Interstate 35 corridors.

Greg Sengelmann, general manager for the Gonzales County Underground Water Conservation District, which is the authority permitting the Hays Caldwell project, said there was “a lot of opposition” to approving the agency’s permits, as well as to landowners who wanted to lease their water to the agency. Others worried that there wouldn’t be enough water left for local landowners.

Sengelmann said the district’s board unanimously voted to approve the agency’s permits, but only with some concessions, such as requiring the agency to pay \$309,000 to a fund meant to mitigate the effects of dropping water levels in district wells, and monitoring water levels in four of the 15 wells the agency expects to drill.

Austin, for its part, isn’t in the groundwater game, thanks to a massive water contract signed in 1999 with the Lower Colorado River Authority that virtually assured the city water through 2050.

San Antonio is not as well placed. Between the 1960s and 2005, because of political forces, money pressures and environmental concerns, the board of the city’s water system or city voters rejected several reservoir projects or groundwater deals.

If faced with a drought on par with the one that devastated Texas in the 1950s, the San Antonio Water System wouldn’t have enough water by 2017 if it didn’t secure any new water sources, said Greg Flores, a spokesman for that water system.

For about five years, the water system has pumped up to 6,400 acre feet of water annually from the Carrizo-Wilcox Aquifer, Flores said. A second project expected to go online next year will ultimately funnel up to 17,200 acre-feet of water annually from the Carrizo-Wilcox Aquifer to San Antonio, enough for 60,000 homes, Flores said. The water system has spent 10 years and \$100 million on the plan, among eight recommended projects in the state’s water plan to transport at least 10,000 acre-feet of groundwater each year at least 25 miles.

Over the past couple of decades, efforts to get permission to pump and ship groundwater, by private investors in Austin or by city-owned utilities, have failed more often than not, usually because water-rich areas guard the resource jealously.

In the late 1990s, San Antonio Water System aimed to pipe water from the Rockdale area, about 60 miles northeast of Austin, from a tract belonging to aluminum smelting company Alcoa. A community group from Milam County and surrounding counties rallied to

oppose the project, which they feared would rob them of their own well water. The project eventually fell apart as pipeline costs spiraled into the tens of millions of dollars.

But as the resource becomes more valuable, water suppliers appear undaunted.

The Lower Colorado River Authority board in August announced that it is in negotiations to buy the 34,000-acre Alcoa tract. The tract's chief prize: groundwater potential.

In 2011, water supply company BlueWater Systems completed construction of a 53-mile pipeline from Burleson County, clearing the way for deliveries to the city of Manor and a handful of utility districts and water supply corporations in eastern Travis County. BlueWater pays roughly \$1 million a year for the right to export 70,993 acre-feet; last year the company exported 580 acre-feet.

The water game is about to flow a little faster. The Lost Pines groundwater district, which regulates water in Bastrop and Lee counties, ended a moratorium in November on new groundwater permits. Beginning in January, it will take up permit requests for more than 100,000 acre-feet, much of it for export to the Texas 130 and I-35 corridors, according to Lost Pines general manager Joe Cooper.

He said the district will likely approve 25 to 50 percent of the requests, which come from public utilities such as the LCRA to private water marketers like End-Op and Austin-based Forestar Group Inc.

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### **What is the Hays Caldwell Public Utility Agency?**

The Hays Caldwell Public Utility Agency was formed in 2007 to seek a regional solution to the area's growing water needs. Members include the cities of San Marcos, Kyle and Buda, and the Canyon Regional Water Authority. The authority is a water cooperative that represents the County Line Special Utility District, Maxwell Water Supply Corp., Martindale Water Supply Corp. and Crystal Clear Water Supply Corp.