

## Case Summaries: February 2016 Board Closed Session Agenda

<b>Style of Case in Trial Court:</b>	<b><i>Guadalupe-Blanco River Auth. v. Royal Crest Homes</i></b> , No. 89-0381 (22 <sup>nd</sup> Dist. Ct., Hays Cnty., Tex. filed June 15, 1989), removed to federal court as <b><i>Guadalupe-Blanco River Auth. v. City of Lytle</i></b> , No. A-89-CA-771 (W.D. Tex. removed Aug. 17, 1989)
EAA Status in Case:	Intervenor
Nature of Case:	Declaratory judgment that the Edwards Aquifer is an underground river
Date Filed:	June 15, 1989
Summary of Causes of Action:	Claim that the water in the Edwards Aquifer is an underground river and, therefore, "state water" held by the State of Texas in trust for the public benefit and subject to regulation by the TCEQ under the Prior Appropriation doctrine. Plaintiff seeks adjudication of all claims of right to use the Edwards Aquifer.
Date of Final Disposition in Trial Court:	
Summary of Trial Court Disposition:	There has been no trial court disposition. Case remains pending in state district court from remand after federal removal.
Date Removal Filed:	Aug. 17, 1989
Summary of Issues on Removal:	<p><b>Issue No. 1:</b> The U.S. claims that it has not waived its sovereign immunity from suit for this adjudication action.</p> <p><b>Issue No. 2:</b> Should the court abstain under the <i>Burford</i> absention doctrine from involving itself in this state court groundwater adjudication.</p> <p><b>Issue No. 3:</b> Should the removal be dismissed for lack of justiciability because there is no actual case or controversy, or is in the nature of a political question.</p>
Summary of Final Disposition on Removal:	<p>The Western District found that the case should be remanded back to state court, and that the Special Master should be released from further duties and held as follows:</p> <p><b>Issue No. 1.</b> The U.S., under the McCarren Amendment, waived its defense of sovereign immunity to state court water rights adjudications.</p> <p><b>Issue No. 2.</b> Absention under <i>Burford</i> is warranted and the court abstains from exercising its jurisdiction.</p> <p><b>Issue No. 3.</b> Whether the case should be dismissed for lack of justiciability is best left to state courts.</p>
Date of Final Disposition on Removal:	Nov. 22, 1989

Style of Case on Appeal of Removal:	<i>Guadalupe-Blanco River Auth. v. City of Lytle</i> , No. 90-8064 (5 <sup>th</sup> Cir. Aug. 2, 1991)
Date Appeal of Removal Filed:	Jan. 17, 1990 (federal parties) Jan. 22, 1990 (San Antonio Parties)
Summary of Issues on Appeal of Removal:	<p>1. Did the district court err in failing to dismiss the federal government from the suit based on the doctrine of sovereign immunity?</p> <p>2. Should the district court have remanded the case because it lacks subject matter jurisdiction over the case because federal agencies cannot assert federal officer removal?</p>
Summary of Final Disposition of Appeal of the Removal:	<p>1. The Fifth Circuit held that the district court should have remanded the case because it lacked subject matter jurisdiction.</p> <p>2. It vacated the district court's judgment, including the part regarding waiver of sovereign immunity.</p> <p>3. The court ordered the case remanded back to state court without deciding the merits of the government's appeal.</p>
Date of Final Disposition of Appeal of the Removal in Appeals Court:	Aug. 2, 1991. <i>Guadalupe-Blanco River Auth. v. City of Lytle</i> , 937 F.2d 184 (5 <sup>th</sup> Cir. 1991)
Style of Case on Mandamus:	<i>In re City of San Antonio</i> , No. 90-8065 (5 <sup>th</sup> Cir.)
Date Mandamus Filed:	Jan. 23, 1990
Summary of Issues on Mandamus	San Antonio Parties sought mandamus to reverse federal district court's order remanding the case to state court.
Summary of Final Disposition of Mandamus:	Mandamus denied.
Date of Final Disposition of Mandamus	February 14, 1990
<b>Case Status:</b>	Pending on remand in state district court

<b>Style of Case in Trial Court:</b>	<i>Bragg v. Edwards Aquifer Auth.</i> , No. 06-11-18170-CV (38 <sup>th</sup> Jud. Dist., Medina Cnty., Tex. Mar. 25, 2011)
<b>Style of Case on Appeal:</b>	<i>Edwards Aquifer Auth. v. Bragg</i> , No. 04-11-00018-CV, 421 S.W.3d 118 (Tex. App.—San Antonio 2013, pet. denied)
<b>Style of Case on Review:</b>	<i>Edwards Aquifer Auth. v. Bragg</i> , No. 13-1023 (Tex. pet. denied, May 1, 2015)
EAA Status in Case:	Party
Nature of Case:	Takings suit
Date Filed:	Nov. 21, 2006
Summary of Causes of Action:	The EAA denied one IRP application for no historical use and granted another for less than requested amount due to application seeking permit for post-historical period withdrawals. The Braggs sued the EAA for the taking, damaging or destroying of their water rights in violation of the Texas Constitution. The Braggs demand compensation for their property. This case was removed to federal court due to federal causes of action and following the dismissal of all federal claims against the EAA, was remanded to state court.
Date of Final Disposition in Trial Court:	
Summary of Trial Court Disposition:	Judge ruled that, among other things: the EAA Act's enactment and implementation did not deprive Plaintiffs of all economically viable use of their property and they "substantially advance the government's legitimate interest"; the statute of limitations does not bar the Braggs' actions; and the EAA's denial of the D'Hanis IRP application and granting of the Home Place IRP for less than requested "constituted a regulatory taking of the Plaintiff's property" under the <i>Penn Central</i> and <i>Sheffield</i> cases for which the compensation owed the Braggs is \$134,918.40 for the D'Hanis property (the difference between dry land and Edwards irrigated farm per acre); and \$597,575 for the Home Place property (current market value of \$5,500 for 108.65 a-f requested but not granted), for a total compensation of \$732,493.40. This judgment was vacated by the court of appeals.
Date Appeal Filed:	Jan. 10, 2011 (notice of appeal by EAA); Mar. 9, 2011 (notice of appeal by Braggs)
Summary of Issues on Appeal:	The EAA appealed the trial court's ruling that the Braggs suffered a regulatory taking of their Home Place and D'Hanis Orchards under the <i>Penn Central</i> analysis and the court's denial of the EAA's affirmative defenses that the Braggs' claims are barred by the statute of limitations and only the State of Texas is potentially liable for any taking. The Braggs appealed the trial court's findings on the amount of damages they are entitled to for the regulatory taking of their orchards and the trial court's dismissal of their physical and <i>Lucas</i> takings claims.
Date of Final Disposition in Appeals Court:	Aug. 28, 2013 (opinion), June 15, 2015 (mandate issued)

Summary of Appellate Court Disposition:	The court rejected the EAA's arguments that: the 10-year statute of limitations barred the Braggs' takings claims, that the State of Texas is the proper party liable for any takings caused by the EAA's nondiscretionary implementation of the Act; and that no taking had occurred as a result of the Act's limitations on the Braggs' unlimited right to use Edwards water beneath their orchards. However, the court agreed with the EAA that the trial court improperly calculated damages and remanded the case for a new trial to determine the difference between the value of the Braggs' orchards with unlimited access to Edwards water before and after the limitations imposed by the Act at the time that the Braggs' permit decisions were made in 2004 and 2005. Following Supreme Court denial of review, mandate issued.
Date Petitions for Review Filed:	Mar. 3, 2014 (EAA) and May 2, 2014 (Braggs)
Summary of Issues on Review:	<p>The EAA petitioned for review on the following issues: (1) when the Braggs' regulatory takings claims accrued; (2) whether the court of appeals erred in suggesting that any takings claim would accrue only after the EAA took action to deny a permit application, even if a plaintiff did not submit an application until years after the Act's filing deadline; (3) whether the court was required to determine the extent of the regulation's economic impact on the Braggs; (4) whether the court of appeals used the wrong date of taking and an incorrect valuation method; and (5) whether if the Act results in a taking, the State, rather than the EAA, is the liable party.</p> <p>The Braggs petitioned for review on the following issues: (1) should groundwater taken be valued at the time of trial; and (2) whether the court should have valued the Braggs' groundwater taken according to their proposed methodology of valuing an EAA permit.</p>
Date of Final Disposition in Tex. Sup. Court:	May 1, 2015
Summary of Tex. Sup. Ct. Disposition:	Petitions for review denied
<b>Case Status:</b>	Pending

<b>Style of Case in Trial Court:</b>	<i>League of United Latin Am. Citizens v. Edwards Aquifer Auth.</i> , No. 5:12-CV-00620 (W.D. Tex. filed June 21, 2012)
<b>Style of Case on Appeal:</b>	
EAA Status in Case:	Party
Nature of Case:	Equal Protection (one-person, one-vote) and Voting Rights Act suit
Date Filed:	June 21, 2012
Summary of Causes of Action:	LULAC and three individuals sued the EAA and the Texas Secretary of State asserting claims for declaratory and injunctive relief to enforce the Equal Protection Clause of the U.S. Constitution and the Voting Rights Act due to the unequal populations comprising the EAA's single-member districts and the underrepresentation of minority-majority EAA districts. Another claim challenged the EAA's alleged failure to seek preclearance approval of its 2012 Redistricting Plan prior to its Nov. 2012 election. After the EAA received preclearance on Nov. 27, 2012, LULAC dropped this claim. SAWS intervened as a plaintiff on the one-person, one-vote Equal Protection claim. The City of San Marcos, the County of Uvalde, the City of Uvalde, New Braunfels Utilities and the Guadalupe-Blanco River Authority intervened as defendant-intervenors. The City of Victoria and current and former EAA directors filed an amicus brief supporting the EAA.
Date of Final Disposition in Trial Court:	
Summary of Trial Court Disposition:	
Date Appeal Filed:	
Summary of Issues on Appeal:	
Date of Final Disposition in Appeals Court:	
Summary of Appellate Court Disposition:	
<b>Case Status:</b>	Pending

<b>Style of Case on Appeal:</b>	<i>GG Ranch, Ltd. v. Edwards Aquifer Auth.</i> , No. 15-50505 (5 <sup>th</sup> Cir. June 4, 2015)
<b>Style of Case in Trial Court:</b>	<i>GG Ranch, Ltd. v. Edwards Aquifer Auth.</i> , No. SA-14-CV-00848-FB (W.D. Tex. June 2, 2015) (originated in state court as No. 14-08-22602-CV (38 <sup>th</sup> Dist. Ct., Medina Cnty., Tex. removed Sept. 26, 2014))
EAA Status in Case:	Party
Nature of Case:	Takings suit and civil rights claims
Date Filed in State Court:	August 28, 2014
Date Removed to Federal Court:	September 26, 2014
Summary of Causes of Action:	Plaintiff landowners sue the EAA for a taking and seek compensation based on the EAA's denial of their five initial regular permit applications filed in 2012, because they were filed after the filing deadline of Dec. 30, 1996, and also for violating their rights to due process and equal protection under the U.S. Constitution for which damages and attorney's fees are sought under 42 U.S.C. § 1983.
Date of Final Disposition in Federal Trial Court:	June 2, 2015
Summary of Trial Court Disposition:	The court granted the EAA's motion to dismiss all claims. The court held that Plaintiffs failed to state a claim for an equal protection or due process violation as no disparate treatment of similarly-situated persons was alleged, the EAA had performed no actions that shocked the conscience and the EAA Act's permitting scheme and the EAA's implementation of the scheme is rational. The court also held that Plaintiffs' takings claim was barred by the statute of limitations, which began to run on December 30, 1996, when the EAA Act's restrictions impacted the Aquifer use of persons who had not timely filed permit applications.
Date Appeal Filed:	June 4, 2015 (5 <sup>th</sup> Cir.)
Summary of Issues on Appeal:	Plaintiffs argue that the trial court decision was in error as they have provided sufficient facts regarding the violation of their rights to equal protection and due process under 42 USC § 1983 and that they did suffer a taking, which was not barred by the statute of limitations. The EAA argues that they have failed to state claims for a violation of equal protection or due process and that their takings claims are barred by the statute of limitations.
Date of Final Disposition in Appeals Court:	
Summary of Appellate Court Disposition:	
<b>Case Status:</b>	Pending

<b>Style of Case in Trial Court:</b>	<i>Edwards Aquifer Auth. v. Barnard</i> , No. 10-1845 (274 <sup>th</sup> Dist. Ct., Hays Cnty., Tex. filed Oct. 6, 2010)
<b>Style of Case on Appeal:</b>	
EAA Status in Case:	Party
Nature of Case:	Enforcement action
Date Filed:	Jan. 21, 2010 in Bexar County; Oct. 6, 2010 in Hays County
Summary of Causes of Action:	The EAA seeks civil penalties and permanent injunctive relief for unauthorized withdrawals, failure to install a meter and failure to pay aquifer management fees.
Date of Final Disposition in Trial Court:	
Summary of Trial Court Disposition:	
Date Appeal Filed:	
Summary of Issues on Appeal:	
Date of Final Disposition in Appeals Court:	
Summary of Appellate Court Disposition:	
<b>Case Status:</b>	Pending