

Case Summaries: August 2016 Executive Committee Closed Session Agenda

Style of Case in Trial Court:	<i>Guadalupe-Blanco River Auth. v. Royal Crest Homes</i> , No. 89-0381 (22 nd Dist. Ct., Hays Cnty., Tex. dismissed July 13, 2016), removed to federal court as <i>Guadalupe-Blanco River Auth. v. City of Lytle</i> , No. A-89-CA-771 (W.D. Tex. removed Aug. 17, 1989), <i>aff'd in part, rev'd in part</i> by <i>Guadalupe-Blanco River Auth. v. City of Lytle</i> , 937 F.2d 184 (5 th Cir. 1991)
EAA Status in Case:	Intervenor-defendant
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:	July 13, 2016
Summary of Trial Court Disposition:	The case was dismissed for want of prosecution.
Date Removal Filed:	Aug. 17, 1989
Summary of Issues on Removal:	The U.S. claimed that it had not waived its sovereign immunity from suit for this adjudication action. Should the court abstain under the <i>Burford</i> abstention doctrine from involving itself in this state court groundwater adjudication?
Summary of Disposition on Removal at District Court:	The Western District of Texas 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: (1) the U.S., under the McCarren Amendment, waived its defense of sovereign immunity to state court water rights adjudications; (2) abstention under <i>Burford</i> is warranted and the court abstains from exercising its jurisdiction; and (3) whether the case should be dismissed for lack of justiciability is best left to state courts.
Date of Disposition on Removal at District Court:	Nov. 22, 1989
Style of Case on Appeal of Removal:	<i>Guadalupe-Blanco River Auth. v. City of Lytle</i> , No. 90-8064 (5 th 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:	Did the district court err in failing to dismiss the federal government from the suit based on the doctrine of sovereign immunity and 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?

Summary of Final Disposition of Appeal of the Removal:	The Fifth Circuit held that the district court should have remanded the case because it lacked subject matter jurisdiction. It vacated the district court's judgment, including the part regarding waiver of sovereign immunity. The court ordered the case remanded back to state court without deciding the merits of the government's appeal.
Date of Final Disposition of Appeal of the Removal in Appeals Court:	Aug. 2, 1991
Style of Case on Mandamus:	<i>In re City of San Antonio</i> , No. 90-8065 (5 th Cir. 1990)
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	Feb. 14, 1990
Case Status:	Closed

Style of Case in Trial Court:	<i>League of United Latin Am. Citizens v. Edwards Aquifer Auth.</i> , No. 5:12-CV-00620 (W.D. Tex. filed June 21, 2012)
Style of Case on Appeal:	
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:	
Case Status:	Pending

Style of Case on Appeal:	<i>GG Ranch, Ltd. v. Edwards Aquifer Auth.</i> , No. 15-50505 (5 th Cir. May 5, 2016)
Style of Case in Trial Court:	<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 th 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:	Aug. 28, 2014
Date Removed to Federal Court:	Sept. 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 are 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
Summary of Issues on Appeal:	Appellants GG Ranch argued 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. Appellee EAA argues that GG Ranch, et al. 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:	May 5, 2016
Summary of Appellate Court Disposition:	The court issued a per curiam opinion affirming the district court's judgment for the EAA.
Case Status:	Pending

Style of Case in Trial Court:	<i>In re Jaffe</i> , No. 16-50355 (W.D. Tex. filed Feb. 12, 2016)
Style of Case on Appeal:	
EAA Status in Case:	Creditor
Nature of Case:	Chapter 11 bankruptcy action
Date Filed:	Feb. 12, 2016
Summary of Causes of Action:	Jaffe has filed a voluntary petition in bankruptcy seeking protection from creditors.
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:	
Case Status:	Pending

Style of Case in Trial Court:	<i>Edwards Aquifer Auth. v. Barnard</i> , No. 10-1845 (274 th Dist. Ct., Hays Cnty., Tex. filed Oct. 6, 2010)
Style of Case on Appeal:	
EAA Status in Case:	Party
Nature of Case:	Enforcement action
Date Filed:	Jan. 21, 2010 in Bexar County; venue changed to Hays County on Oct. 6, 2010
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:	
Case Status:	Pending

Style of Case on Appeal:	<i>United States Fish & Wildlife Serv. v. People for the Ethical Treatment of Property Owners</i> , Nos. 14-4151 and 14-4165 (10 th Cir. filed Nov. 26, 2014, and Dec. 31, 2014)
Style of Case in Trial Court:	<i>People for the Ethical Treatment of Property Owners v. United States Fish & Wildlife Serv.</i> , No. 2:13-CV-00278, 2014 WL 5743294 (D. Utah Nov. 5, 2014)
EAA Status in Case:	Monitoring
Nature of Case:	ESA Commerce Clause challenge to federal rule
Date Filed:	Apr. 18, 2013
Summary of Causes of Action:	Property owners' group challenged the authority of the federal government to regulate the take of the Utah prairie dog under the ESA on non-federal lands due to the fact that the take of that species does not have a substantial effect on interstate commerce.
Date of Final Disposition in Trial Court:	Nov. 5, 2014
Summary of Trial Court Disposition:	District court found that the take of the Utah prairie dog does not have a substantial effect on interstate commerce and could not be regulated under the ESA on non-federal lands.
Date Appeal Filed:	Nov. 26 and Dec. 31, 2014
Summary of Issues on Appeal:	Appellants have asked the court of appeals to determine whether plaintiff group meets the redressability requirement for standing to challenge the rule, whether the rule is part of a comprehensive scheme under the Endangered Species Act to regulate endangered and threatened species that has a substantial relation to interstate commerce and whether the listing of the Utah prairie dog as a threatened species under the Endangered Species Act have a substantial relationship to interstate commerce.
Date of Final Disposition in Appeals Court:	
Summary of Appellate Court Disposition:	
Case Status:	Pending

Style of Case on Review:	<i>City of Lubbock v. Coyote Lake Ranch, LLC</i> , No. 14-0572, 2016 WL 3176683 (Tex. 2016, mot. ext. time to file mot. for r'hrg granted)
Style of Case on Appeal:	<i>City of Lubbock v. Coyote Lake Ranch, LLC</i> , 440 S.W.3d 267 (Tex. App.—Amarillo 2014), <i>rev'd by</i> No. 14-0572, 2016 WL 3176683 (Tex. 2016, mot. ext. time to file mot. for r'hrg granted)
Style of Case in Trial Court:	<i>Coyote Lake Ranch, LLC v. City of Lubbock</i> , No. 9245 (287 th Dist. Ct., Bailey Cnty., Tex. Dec. 23, 2013)
EAA Status in Case:	Monitoring
Nature of Case:	Action to invoke oil and gas accommodation doctrine to dispute between owners of surface and groundwater estates; taking, contract and negligence claims
Date Filed:	Nov. 13, 2013
Summary of Causes of Action:	Landowner brought action against city for inverse condemnation, breach of contract, negligence, and declaratory judgment, seeking to invoke the accommodation doctrine under oil and gas law to enjoin it from taking certain actions in furtherance of proposed groundwater development plan.
Date of Final Disposition in Trial Court:	Dec. 23, 2013
Summary of Trial Court Disposition:	Court issued temporary injunction against City development of well plan and entered judgment.
Date Appeal Filed:	Jan. 8, 2014
Summary of Issues on Appeal:	The City of Lubbock appealed the trial court's order granting a temporary injunction in favor of landowner, which prohibited the City from undertaking certain activities relating to further development of its proposed water well plan on land the remaining surface estate of which Coyote Lake Ranch owns and uses. The City maintained that the accommodation doctrine from oil and gas law, which underlying the trial court's temporary injunction is erroneously applied to this groundwater estate context.
Date of Final Disposition in Appeals Court:	June 17, 2014
Summary of Appellate Court Disposition:	Court reversed trial court judgment and dissolved the temporary injunction.
Date Petition for Review Filed:	Sept. 24, 2014
Summary of Issues on Review:	Coyote Ranch appealed the court of appeals' decision seeking the application of the accommodation doctrine to a severed groundwater estate.
Date of Disposition in Tex. Sup. Court:	May 27, 2016
Summary of Tex. Sup. Ct. Disposition:	Supreme court reversed the court of appeals' decision and held that the accommodation doctrine applies to groundwater and remanding to the trial court to determine the accommodation required.
Case Status:	Pending

Style of Case in Trial Court:	<i>Weeks v. Tex. Comm'n on Env'tl. Quality</i> , No. D-1-GN-14-001013 (353 rd Dist. Ct., Travis Cnty., Tex. Apr. 4, 2014)
Style of Case on Appeal:	
EAA Status in Case:	Monitoring
Nature of Case:	Declaratory judgment action
Date Filed:	Apr. 4, 2014
Summary of Causes of Action:	Landowners seek an order declaring that 30 Tex. Admin. Code § 293.19(b), the TCEQ rule providing for a hearing and possible inclusion of an area within a priority groundwater area within a new or existing groundwater conservation district, is an unconstitutional taking without just compensation.
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:	
Case Status:	Pending

Style of Case on Review:	<i>Guadalupe-Blanco River Auth. v. Tex. Attorney Gen.</i> , No. 15-0255 (Tex. May 27, 2016, pet. denied)
Style of Case on Appeal:	<i>Guadalupe-Blanco River Auth. v. Tex. Attorney Gen.</i> , No. 03-14-00393-CV, 2015 WL 868871 (Tex. App.—Austin 2015, pet. denied) (mem. op.)
Style of Case in Trial Court:	<i>Ex Parte Guadalupe-Blanco River Auth.</i> , No. D-1-GN-14-001198 (261 st Dist. Ct, Travis Cnty., Tex. June 10, 2014)
EAA Status in Case:	Monitoring
Nature of Case:	Bond validation suit
Date Filed:	Apr. 25, 2014
Summary of Causes of Action:	Expedited declaratory judgment action pursuant to Chapter 1205, Government Code seeking validation of bonds for GBRA Lower Basin Storage Project, including declarations that treated wastewater derived from the Edwards Aquifer and discharged under the control of SAWS may not be permitted for reuse pursuant to Tex. Water Code § 11.042(b) and must be used within the boundaries of the EAA under Sections 1.03(19) (defining “reuse”) and 1.34(a) (prohibiting the exportation of Edwards groundwater for use at a place outside of the EAA’s boundaries).
Date of Final Disposition in Trial Court:	June 10, 2014
Summary of Trial Court Disposition:	Pleas to jurisdiction granted
Date Appeal Filed:	June 20, 2014
Summary of Issues on Appeal:	GBRA raises the following issues on appeal: (1) whether the legislature granted TCEQ exclusive jurisdiction to construe the provisions of the EAA Act; (2) whether the trial court erred in its conclusion that TCEQ has primary jurisdiction to construe the EAA Act; (3) whether statutory construction is beyond the court’s power in a bond validation suit; (4) whether the parties’ disputes over the meaning of the EAA Act and its resulting cloud over GBRA’s public securities authorization ripe for judicial determination; (5) whether a governmental entity can prevent the court from hearing a bond validation suit by voluntarily answering the suit and asserting governmental immunity; (6) whether the fact that GBRA’s public securities have not yet been issued defeats subject matter jurisdiction; (7) whether the doctrine of separation of powers prevents the court from performing the core judicial task of statutory construction; and (8) whether GBRA has requested a mere advisory opinion regarding the meaning of the EAA Act.
Date of Final Disposition in Appeals Court:	Feb. 26, 2015

Summary of Appellate Court Disposition:	The court of appeals affirmed the district court's ruling that GBRA's suit exceeded the scope of the Expedited Declaratory Judgment Act (the "Act"). <i>See</i> Tex. Gov't Code §§ 1205.001-.152, and, therefore, that the district court properly granted the pleas to jurisdiction and dismissed the suit on that ground. GBRA improperly used the attack on a "bed and banks" permit application of SAWS pending before the TCEQ, claiming that such a permit, if issued, would cloud GBRA's bonds related to the Lower Guadalupe River Basin Project and interfere with GBRA's ability to obtain the revenue needed for that project. Having determined that the district court properly dismissed the suit on that basis, the court decided it need not address the remaining jurisdictional 15 arguments presented to the district court. Moreover, because GBRA's pleadings affirmatively negated the existence of jurisdiction in this case, GBRA is not entitled to an opportunity to amend its pleadings.
Date Petition for Review Filed:	May 13, 2015
Summary of Issues on Review:	GBRA petitions for review as to whether a declaratory judgment resolving a disputed issue of statutory construction is available under the Expedited Declaratory Judgment Act when the statutory-construction issue affects the legality and validity of a public bond authorization, pledge of security, and/or encumbrance of property.
Date of Disposition in Tex. Sup. Court:	May 27, 2016
Summary of Tex. Sup. Ct. Disposition:	Petition denied
Case Status:	Closed

Style of Case in Trial Court:	<i>Weeks v. Tex. Comm'n on Env'tl. Quality</i> , No. D-1-GN-15-000810 (353 rd Dist. Ct., Travis Cnty., Tex. Feb. 27, 2015)
Style of Case on Appeal:	
EAA Status in Case:	Monitoring
Nature of Case:	Administrative appeal of TCEQ decision to recommend adding land in Briscoe County to High Plains Underground Water Conservation District
Date Filed:	Feb. 27, 2015
Summary of Causes of Action:	Landowners seek to reverse the TCEQ's order recommending that land be added to the High Plains Underground Water Conservation District as TCEQ lacks jurisdiction or authority to force private property owners into a groundwater conservation district without compensation.
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:	
Case Status:	Pending

Style of Case in Trial Court:	<i>City of Conroe v. Tramm</i> , No. 15-08-08942 (284 th Dist. Ct., Montgomery Cnty., Tex. Aug. 31, 2015)
Style of Case on Appeal:	
EAA Status in Case:	Monitoring
Nature of Case:	City of Conroe and water utilities filed a declaratory suit against a groundwater conservation district and its individual directors challenging the district's regulatory plan, DFCs and rules as ultra vires and a taking
Date Filed:	Aug. 31, 2015
Summary of Causes of Action:	Plaintiffs seek a declaration that the district's regulatory plan and rules are ultra vires because they regulate withdrawals per user and were not adopted in accordance with Ch. 36 of the Water Code and they challenge the validity of the district's plan and rules as constituting a taking and they seek their invalidation.
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:	
Case Status:	Pending

Style of Case on Appeal:	<i>Fort Stockton Holdings, L.P. v. Middle Pecos Groundwater Conservation Dist.</i> , No. 08-15-382-CV (Tex. App.—El Paso notice of appeal Dec. 29, 2015) (first appeal styled <i>Middle Pecos Groundwater Conservation Dist. v. Fort Stockton Holdings, L.P.</i> , 457 S.W.3d 451 (Tex. App.—El Paso 2014, no pet.))
Style of Case in Trial Court:	<i>Fort Stockton Holdings, L.P. v. Middle Pecos Groundwater Conservation Dist.</i> , No. 7047 (83 rd Dist. Ct., Pecos Cnty., Tex. Nov. 12, 2015)
EAA Status in Case:	Monitoring
Nature of Case:	Administrative appeal of denial of production permit application for transport from district and statutory and constitutional claims
Date Filed:	Dec. 27, 2011
Summary of Causes of Action:	Landowners seek to reverse district's denial of permit application on the grounds that the district incorrectly relied on the <i>Guitar</i> opinion, the decision is not supported by substantial evidence, the district improperly granted party status to the Brewster County Groundwater Conservation District and to Pecos County, the district relied on amended rules in violation of Chapter 245, Local Government Code, the district violated constitutional and statutory provisions and the denial constitutes a taking.
Date of Final Disposition in Trial Court:	Nov. 12, 2015
Summary of Trial Court Disposition:	The trial court signed a final judgment that: (1) affirms the district's decision to deny the permit application; (2) grants permit applicant's motion to strike the intervenors from the case; and grants the district costs and attorney's fees. The court severed permit applicant's remaining claim that the district's denial constitutes a taking and the district's request for attorney's fees associated with that claim from this case.
Date Appeal Filed:	Nov. 9, 2012 (first appeal); Dec. 29, 2015 (current appeal)
Summary of Issues on Appeal:	In first appeal, the defendants appealed the trial court's denial of their pleas to the jurisdiction. In current appeal, plaintiffs and intervenor-defendants and plaintiffs have appealed. Plaintiffs appeal the trial court's judgment on the merits. Intervenor-defendants appeal the trial court's ruling on their pleas in intervention.
Date of Final Disposition in Appeals Court:	N/A
Summary of Appellate Court Disposition:	In first appeal, the court of appeals affirmed the judgment of the trial court denying the pleas to the jurisdiction.
Case Status:	Pending

Style of Case in Trial Court:	<i>WildEarth Guardians v. Jewell</i> , No. 1:15-CV-02173 (D.D.C. Dec. 14, 2015)
Style of Case on Appeal:	
EAA Status in Case:	Monitoring
Nature of Case:	Suit seeking to have 69 species listed as threatened or endangered under the Endangered Species Act
Date Filed:	Dec. 14, 2015
Summary of Causes of Action:	Plaintiffs bring suit under the Endangered Species Act and the Administrative Procedure Act to make findings related to petitions to list species
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:	
Case Status:	Pending

Style of Case in Trial Court:	<i>Republic Water Co. of Tex., LLC v. Blackwelder</i> , No. P-11956-112-CV (83 rd Dist. Ct., Pecos Cnty., Tex. May 10, 2016)
Style of Case on Appeal:	
EAA Status in Case:	Monitoring
Nature of Case:	Mandamus action
Date Filed:	May 10, 2016
Summary of Causes of Action:	Plaintiff seeks the issuance of a writ of mandamus pursuant to Section 36.114(e) of the Water Code to compel the board of directors of the Middle Pecos Groundwater Conservation District to process Plaintiff's abated application for a production permit and transport permit.
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:	
Case Status:	Pending

Style of Case in Trial Court:	<i>Republic Water Co. of Tex., LLC v. Weatherby</i> , No. 4:16-CV-33-RAJ (W.D. Tex. May 20, 2016)
Style of Case on Appeal:	
EAA Status in Case:	Monitoring
Nature of Case:	Section 1983 civil rights claim for damages based on violation of equal protection, freedom of speech, substantive due process
Date Filed:	May 20, 2016
Summary of Causes of Action:	Plaintiff seeks damages for constitutional violations and interference with contract as a result of the District's failure to act on Plaintiff's application for a production and transport permit, in part, in retaliation for positions Plaintiff took at the legislature.
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:	
Case Status:	Pending