

Motion could end Post Oak legal wrangle

Posted: Tuesday, May 23, 2017 12:00 am Lauren Dodd lauren.dodd@seguingazette.com

More than a 1,000 acres of Central Texas land on the outskirts of Seguin is currently tied up in a controversial legal dispute five years in the making.

A motion filed this past week seeks an end to the issue.

Twelve miles east of Seguin, on Farm-to-Market 1150, sits the site of the proposed Post Oak Clean Green, Inc. (POCG) landfill.

The project has garnered opposition from nearby residents and multiple area agencies due to concerns of water contamination and the risk it may pose to the lives of Randolph Air Force pilots training at the Seguin Auxiliary Airfield.

Final approval of the project rests with the Texas Commission on Environmental Quality (TCEQ), the state agency tasked with protecting Texas air, water and lands from pollution.

In April, citing POCG's failure to plug unplugged oil wells located on site, the TCEQ voted to send the proposed municipal waste permit back to the State Office of Administrative Hearings (SOAH) for further deliberations. For more visit bit.ly/2rDRdpy.

This week, on behalf of the cities of Seguin and Schertz, Stop Post Oak Dump, the Guadalupe County Groundwater Conservation District, Kathryn Brady, Guadalupe County and the Schertz-Seguin Local Government Corporation, legal counsel filed a motion with the TCEQ to possibly bring an end to the landfill dispute.

The May 17 motion requests that the TCEQ "reverse its decision to remand this matter to the State Office of Administrative Hearings."

"We filed a motion to make it clear to the (TCEQ) commissioners that the equities actually don't favor another hearing and spending more resources, not only those of the Groundwater District and the residents in the area, but also the TCEQ too is spending resources," said Marisa Perales, of Frederick, Perales, Allmon & Rockwell, P.C., counsel for the Guadalupe County Groundwater Conservation District.

During the April public hearing, TCEQ commissioner Bryan Shaw spoke of the possibility that POCG staff may have been misinformed of the oil well plugging regulatory requirement during the application process.

But according to Perales, POCG consultant emails prove there was knowledge of the requirement prior to submittal of the final permit application.

"Our purpose in filing that motion is to let the (TCEQ) commissioners know that in fact Post Oak Clean Green did know they had to plug those wells," she said. "We are asking the commissioners, in light of this information, to reconsider their decision to remand this to SOAH and to instead just deny the permit."

This is a technicality that could bring an end to the POCG legal battle, but the decision remains in the hands of the TCEQ commissioners.

The TCEQ commissioners could approve the motion, deny POCG's permit, or possibly overrule the motion.

If the motion is overruled, all parties will return to Austin for a hearing before SOAH Administrative Law Judges, tentatively scheduled for the beginning of 2018 according to Morgan Ash, City of Seguin spokeswoman.

Post Oak Clean Green representatives did not return requests for comment for this article.