

# Hemphill County Water District Manager Defends Pumping Limits

By **David Bowser**

CANADIAN, Texas — "It's sound. It's fair. It represents expansion and development," says Janet Guthrie, general manager of the Hemphill County Underground Water District. "We don't want to shut the door on development in Hemphill County. We're a growing rural community."

Guthrie says the decision by the Hemphill County Underground Water District to set a goal of having 80 percent of their water still in storage in the aquifer beneath the county at the end of 50 years is not going to hold the City of Canadian back. It's not going to hold developers back. It's not going to hold the oil and gas industry back. It's not going to hold agriculture back.

"It is opening the door for development in Hemphill County," Guthrie insists.

She says the single-county groundwater district is providing a sustainable supply of water.

It anybody disagrees, she says, they are welcome to come to the groundwater board's meeting and state their position.

As the 16 Groundwater Management Areas across the state of Texas work to define the desired future conditions of the aquifers beneath their groundwater districts, GMA1, which covers the Texas Panhandle, is split.

Initially, C.E. Williams, the chairman of the Panhandle Regional Water Planning Group and general manager of the Panhandle Groundwater District, which adjoins the single-county Hemphill County Underground Water Conservation District on the south and west, says he assumed the Groundwater Management Area would adopt the goal of maintaining 50 percent of the water in the aquifer in storage at the end of a 50-year period. Known as the 50-50 rule, it's the standard that the Panhandle Regional Water Planning Group developed several years ago. After all, he reasoned, the same groundwater districts were involved.

But while regional water planning groups include individuals representing various interests, ranging from agriculture to industry to municipalities, groundwater management areas were created by the Texas Legislature to coordinate planning among neighboring groundwater districts, and the groundwater districts in Groundwater Management Area 1 appear

unable to agree on a uniform desired future condition for the part of the giant Ogallala Aquifer that lies beneath the Texas Panhandle.

Under the state mandate that each of the 16 GMAs submit their desired future conditions to the Texas Water Development Board by September 1, 2010 for state water planning purposes, a GMA does not have to have a uniform desired future condition across the entire area.

While this has led to some contentious discussions among GMAs with many small groundwater districts, few expected GMA1 to become embroiled in heated debates.

Three of the four groundwater districts — High Plains, North Plains and Panhandle — are the oldest in the state. They have had long experience in this semi-arid region dealing with groundwater issues.

The state Senators, Robert Duncan, R-Lubbock, and Kel Seliger, R-Amarillo, addressed GMA1 members soon after the management area was formed and implored the groundwater districts involved to take a leadership role in the state water planning procedures.

Initially, according to Guthrie, the Hemphill County district took a conciliatory approach and tried to work with the three more senior, multi-county districts in GMA1.

"In November," Guthrie says, "the joint planning group tasked each district to come back with what they were proposing and willing to move forward with."

Hemphill County had proposed 60-50, 60 percent of the water in storage in 50 years.

"That was the same as the subdivision of North Plains," Guthrie says.

She says she thought the other four groundwater districts in GMA1 had pretty well agreed to the 60-50 proposal.

Hemphill County Underground Water Conservation District President Jim Haley was prepared to present that to the Hemphill County district board.

She says the Hemphill County district had wanted the desired future condition to be uniform and was willing to concede as much as possible to the surrounding districts.

"Then we walked into a meeting and everybody had run back to their corners," Guthrie says.

She says her district consulted Daniel B. Stevens, hydrology consultants out of Austin, and had asked them to develop a computer model of the Hemphill County groundwater district.

Their model essentially provides a snapshot of the aquifer under given conditions.

That consulting group told Hemphill County district officials that they had more natural discharge than initially projected. There are places in the county where the water table intersects with the surface of the land.

The Canadian River runs through Hemphill County, as do Red Deer Creek and Gageby Creek. The headwaters of the Washita River are on the Arrington Rocking Chair Ranch. All are spring-fed.

Guthrie says the district decided it needed more data points for the computer modeling and has undertaken a study to develop those.

Using the data set that the Stevens company had on hand, not the data that they've been developing this past winter, they began removing 10 percent of the water at a time to see what would happen, though Guthrie acknowledges that there's not going to be uniform depletion if widespread pumping begins. With 40 percent depletion, the model showed the only surface discharge would be in the Canadian River near the Oklahoma state line in the eastern edge of Hemphill County.

The Canadian River wouldn't be flowing through most of the county. The Washita wouldn't be flowing. Neither Red Deer Creek nor Gageby Creek would be flowing.

"Given that information," Guthrie says, "the board said, 'That's not good.'"

Guthrie says that in conversations with the Texas Water Development Board, the Hemphill County district explained that the district's goals were to ensure that for the next 50 years, the district has enough water to cover its existing use.

The district estimates that existing use to be about 12,000 acre-feet a year.

"We want to make sure it covers that," Guthrie says.

She says they also want to protect stream flows as much as they can, and they want to provide four to five times their existing use for new use over the next 50 years.

Guthrie says they asked Stevens to run their computer models and see how much water use Hemphill County could sustain to meet those goals.

Stevens estimated that Hemphill County could pump 50,000 to 60,000 acre-feet every year for 50 years and still meet those goals.

"We wanted one number," Guthrie says.

She says the district didn't want a high number so they would have cut producers back.

"Let's give them a sustainable supply of water that they can count on for 50 years."

They came up with 55,000 acre-feet.

Given the recharge rates in the county, Guthrie says, the district decided that based on the 55,000 annual production figure, they would have 90 percent of their water left in 50 years.

She says that when they presented that to at the Groundwater Management Area meeting, they were met with disbelief.

Most of the objections that others had to the Hemphill County district's desired future condition appeared to come from water marketers who have water rights in the county and the landowners who sold or partnered on those water rights, she notes. Major among these is Mesa Water, the giant water project proposed by T. Boone Pickens, Dallas businessman and Roberts County rancher, to sell Panhandle water to the Dallas-Fort Worth Metroplex, San Antonio or any other city downstate that might want to buy it.

Those wanting to sell their water say that the 90-50 goal, 90 percent in storage at the end of 50 years, would restrict water to be sold to area municipalities or urban areas downstate and essentially make their water rights worthless.

But Guthrie contends that the Groundwater Management Area board, of which Hemphill County is one-fourth, was to come back with their preference for a desired future condition.

"They said to come back with something," Guthrie says. "We can't help it if we increase current use four and five-fold, and we do it every year for 50 years; that's how much we think there's going to be left."

Guthrie says the Hemphill County district board thinks their desired future condition is reasonable.

As it stands now, GMA1 has three desired future conditions, which appear to be based on water usage in different parts of the Panhandle.

The North Plains district has two different desired future conditions. They want a 40-50 condition in the western four counties of their district and 50-50 in the eastern counties.

The western counties are heavily irrigated and North Plains officials have cited concerns that a 50-50 desired future condition could be economically devastating to farmers in those counties.

At least one lawsuit has been filed over that difference with a landowner in conjunction with a water marketer in an eastern county of the North Plains district claiming that the western counties would be able to produce more water.

Hemphill County, because of a computer model developed by the Texas Water Development Board, has backed off its 90-50 goal and have settled on an 80-50 goal.

Hemphill County is mostly rolling rangeland, unsuitable for irrigated cropland.

The remaining districts, Panhandle and High Plains, have agreed on a 50-50 desired future condition. The Panhandle district has a mixture of irrigated and dryland cropland and rangeland.

High Plains, which mostly lies in Groundwater Management Area Two to the south, has little farmland in GMA1. They have indicated, however, that the 50-50 goal would be unachievable in the heavily irrigated portions of their district to the south in GMA2.

Guthrie says Mesa Water only wants to pump 9000 acre-feet a year from Hemphill County and the county is now using only 12,000 acre-feet.

"There's 21,000 acre-feet," Guthrie says. "The maximum number is going to be somewhere between 50,000 and 60,000 acre-feet. There's still room for growth."

She says the district checked with the local economic development corporation and looked at the regional and state water plans to make sure they hadn't overlooked anything.

Guthrie says the Hemphill County district, unlike the surrounding groundwater districts, does not allocate water on a per surface area basis. The

Panhandle Groundwater Conservation District next door, for instance, allows pumpage of one acre-foot per acre of surface owned.

"In our rules," she explains, "we limit production through spacing, through a maximum of 2000 gallons a minute production limit and a one percent decline rate."

Essentially, that comes to about a half acre-foot per acre to meet the one percent decline rate, and pumping has to be for a non-wasteful, beneficial use.

She says Mesa's acreage, according to the records the district has, is less than 9000 acres.

Even if the district gave Mesa one acre-foot per acre, she says, that would be less than 9000 acre-feet of water per year.

Guthrie adds, however, that they might be cut back in five years if they broke the decline limit.

"We would bust them back to half and get them in line."

That's based on various assumptions, she continued. The actual numbers have never been figured, but based on groundwater availability models, the half acre-foot per year could be estimated for the deepest part of the aquifer in Hemphill County.

Guthrie says the district asked the Texas Water Development Board to look at their proposed 90-50 goal to see if it was attainable under their established criteria. If not, they wanted to know what would be.

She says the district wanted enough water to cover existing use, making four to five times current water usage available for future use, having a managed available groundwater of somewhere between 50,000 and 60,000 acre-feet, and protecting stream flow.

Guthrie says the Texas Water Development Board responded that if the district didn't pump anything and the surrounding counties pumped down to the 50 percent water storage level, the surrounding districts would remove 10 percent of the water in Hemphill County in 50 years.

But the Texas Water Board says the Hemphill County district could keep 80 percent of their water in storage at the end of 50 years and still pump 55,000 acre-feet of water every year.

The Hemphill County district board decided they could live with 80 percent.

Guthrie says, however, that her board wants to know why they have to absorb the other districts' production. The Hemphill County district board now wants the other districts to conserve more water.

Guthrie says it's become a political football to be kicked back and forth.

"We're not talking logic," she says. "We not actually talking a production scenario that can be achieved within the next 50 years because nobody is pumping at those levels except the four western counties (that have a goal of 40 percent of their water in storage at the end of 50 years)."

Guthrie says the regional plan projects current use, what's in storage and what's going to be left.

"Lipscomb County has 97 or 98 percent left," Guthrie says. "Roberts County had 90 some-odd percent left even with the Amarillo well field coming on board."

She says there's no way the other districts are going to increase their pumping by that amount over the next 50 years.

"What our stakeholders can't understand is why as a policy would you make that much water available in that short period of time?"

She admits that certain parts of the Ogallala Aquifer have been pumped for 50 or 60 years.

"When you look at where they were and where they are now," she says, "it is possible to pump that much water out of one county and remove 60 percent of the storage out of it."

Guthrie says that when State Sens. Duncan and Seliger addressed the first meeting of GMA1, they wanted GMA1 to conserve water and get ahold of any problem where it was out of control.

"We thought 'This isn't going to be a problem,'" Guthrie says, "but it's a political process."

She advised her board to be as agreeable as possible, but she says that didn't work.

"We have rights and interests, too," Guthrie says. "So do our stakeholders. They have interests and concerns, and they want them addressed."

She says her board is taking into consideration the water rights they are aware of that have been sold for production in Hemphill County's 80-50 goal.

"It's in the math," Guthrie says. "There's room for it."

She insists the concern she's heard that landowners can't sell their water rights because the district is being too restrictive is a false claim.

"North Plains Groundwater District isn't making four and five times their current use available in four counties," Guthrie says. "They're cutting them back 50 percent."

She says it depends upon how one looks at the situation as to who is being restrictive.

"Here are four counties that are looking at cutbacks over the next 50 years," Guthrie says. "That's pretty restrictive."

But the Hemphill County district is going to increase its production four to five-fold, she says.

Guthrie says she's only aware of about 9000 acres of water rights that have been sold in Hemphill County, but Marvin "Marty" Jones, an Amarillo lawyer who represents several landowners as well as Mesa Water, is talking about 12,000 to 15,000 acres of water rights.

Guthrie says she does not know about the additional acreage to which Jones is referring.

"That's a Mesa question," she says.

She notes that no one attended their most recent meeting except for Laurie Ezzell Brown, the editor of *The Canadian Record*, the local newspaper. There was no one there from Mesa.

Guthrie says that if there are stakeholders in Hemphill County who oppose the district's 80-50 goal, she would have thought they would have been at the meeting.

"Certainly," she says, "if they are unhappy, we want to hear about it."

She says the board wants to hear about it from the stakeholders so she or the board can explain their position.

"Or if there is some other factor we have not considered, be able to take that under consideration before it is scheduled for adoption," Guthrie says. "That did not happen."



Guthrie says Canadian, the county seat of Hemphill County, is a small town.

"We've gotten a lot of encouragement."

When she goes to the post office or picks up kids at school, Guthrie says, she's been told to keep up the good work.

She says she's visited with large landowners in the county and has been told the board is on the right track.

"It's been 100 percent with their support," she contends.

Guthrie says the board and past boards have spent hours discussing and debating the situation.

"I think every apple in the basket has been turned over and looked at," Guthrie says, "and it's a fair, balanced proposal."

She insists it's irresponsible to put that much water, 50 percent, on the table in Hemphill County, but she also says that the Hemphill County district board has been careful not to become involved in the decisions of the other groundwater district boards.

Other districts have boards elected to do that, she says. Her board has always respected that.

"We feel the appropriate thing to do is for them to respect our locally elected board."

She says her board feels they have a good, solid scientific base to defend their decision to reserve 80 percent of their water, and they have the law on their side.

Guthrie points out that multiple desired future conditions are allowed by the Texas Water Code.

"Actually," she says, "if you follow the instructions that are given to a joint planning group when setting their desired future conditions, then you would not be following the directions of the statute if you do not consider the diversity of the user groups and the conditions of the aquifer."

Guthrie feels Hemphill County Underground Water Conservation District is following the spirit and the letter of the law.

"If there was going to be a uniform number, that number would have been 60-50," she says, "and everyone passed on it."

Guthrie says the Hemphill County district came back on the advice of their science team and moved to an 80-50 goal.

"We feel that if applications come in that are administratively complete, they shall be issued," Guthrie says. "You are entitled to a fair share of production. Everyone has the right to ask to produce. We have many of our stakeholders who have come to us and said, 'My water rights will not be sold.'"

She believes the message is pretty clear.

Even so, Guthrie admits that in the future the stakeholders may change their minds and may want to pump more water.

In that case, she says, there is a process that allows the Hemphill County district to change its desired future condition as that need arises.

"We have listened," Guthrie says. "We have participated, and we are still willing to listen and participate in a joint planning process and arrive at an agreeable and reasonable decision. We are not proposing anything that is detrimental to any of our neighboring districts."