



THE ATTORNEY GENERAL
OF TEXAS

AUSTIN 11, TEXAS

PRICE DANIEL
ATTORNEY GENERAL

May 21, 1951

Hon. J. Taylor Brite
County Attorney
Atascosa County
Jourdanton, Texas

Opinion No. V-1176

Re: Authority of the commissioners' court to initiate litigation to enjoin the City of Corpus Christi from excessive extraction of underground water from lands the city has purchased in Atascosa County.

Dear Mr. Brite:

Your request for an opinion states that the City of Corpus Christi has recently purchased some land near Campbellton in Atascosa County and is now in the process of drilling a substantial number of water wells on this land in order to supplement the city's water supply. There is a tremendous amount of water now being extracted from the water producing sands in Atascosa County by its citizens, and a Citizens' Committee of property owners fear that the anticipated increase in the extraction of water through the wells now being drilled by the City of Corpus Christi will cause great damage in the future. The Citizens' Committee expects to bring a suit for injunction against the City of Corpus Christi, but due to the contemplated expense of such litigation, has asked the Commissioners' Court to bring the suit in the name of the county.

Based upon the above facts, you have asked our opinion as to the authority of the Commissioners' Court of Atascosa County to initiate litigation to enjoin the City of Corpus Christi from excessive extraction of underground water from land belonging to the city in Atascosa County.

This office, following the decisions of the Texas courts, has repeatedly held that the commissioners' court is a court of limited jurisdiction and has only such powers as are conferred upon it, either by express terms or by necessary implication, by the statutes and Constitution of this State. Childress County v. State, 127 Tex. 343, 92 S.W.2d 1011 (1936); Von Rosenberg v.

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Lovett, 173 S.W. 508 (Tex.Civ.App. 1915, error ref.); Roper v. Hall, 280 S.W. 289 (Tex.Civ.App. 1926); Canales v. Laughlin, 147 Tex. 169, 214 S.W.2d 451 (1948); Edwards County v. Jennings, 33 S.W. 585 (Tex.Civ.App. 1895), affirmed 89 Tex. 618, 35 S.W. 1053 (1896).

We find no constitutional or statutory provision authorizing the commissioners' court to institute litigation to prevent the excessive extraction of underground water from land situated within the county by a city or municipality owning such land. Therefore, we agree with you that the Commissioners' Court of Atascosa County does not have authority to initiate litigation to enjoin the City of Corpus Christi from excessive extraction of underground water from lands the city has purchased in Atascosa County.

SUMMARY

The Commissioners' Court of Atascosa County has no authority to initiate litigation to prevent the extraction of underground water by the City of Corpus Christi from land owned by that city in Atascosa County, there being no constitutional or statutory provision granting such power. Canales v. Laughlin, 147 Tex. 169, 214 S.W. 2d 451 (1948); Edwards County v. Jennings, 33 S.W. 585 (Tex.Civ.App. 1895), affirmed 89 Tex. 618, 35 S.W. 1053 (1896).

APPROVED:

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WHH:mv

Yours very truly,

PRICE DANIEL
Attorney General

By *William H. Holloway*
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