

The State of Texas,

To the Sheriff or Any Constable of Grayson County, Greeting;

You are Hereby Commanded, by delivering to W. A. East

_____ if found in your County, or to Mosely & Epstein

attorney of record, the accompanying certified copy of this writ, to summons said W. A. East

to be and appear before the Supreme Court of the State of Texas, now in session at Austin, Texas, on Thursday, the 26th day of May 1904, provided this writ shall have been served ten days prior to that time; but if this writ shall not have been so served, then on the first Thursday next ensuing, ten days after such service, pursuant to a writ of error filed in the Clerk's Office of the Court of Civil Appeals for the Fifth Supreme Judicial District, and issued on the 3rd day of May 1904, wherein

Houston & Texas Central Railroad Company is plaintiff in error, and you are defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error should not be corrected, and why speedy justice should not be done to the parties in that behalf. And of this writ, with your action endorsed thereon, make due return within ten days from the date hereof.

Witness, the Hon. REUBEN R. GAINES, Chief Justice of the Supreme Court of Texas, the 3rd day of May in the year of our Lord one thousand nine hundred and Four.

F. J. Connerly
Clerk.

By Jellynick
Deputy.

I Hereby Certify, that the above is a true and correct copy of the original.

F. J. Connerly
Clerk of the Supreme Court of Texas.

By Jellynick
Deputy.

The cover is a color digital image of the Appeal to the Court of Civil Appeals, 5th Supreme Judicial District filed April 2, 1903. This document can be viewed at the Texas State Archives in Austin, Texas.

The preceding page is a scanned image of the summons to Mr. East issued May 3, 1904 to appear before the Texas Supreme Court.



Texas Water Development Board

Report 361

100 Years of Rule of Capture: From East to Groundwater Management

edited by
William F. Mullican, III and
Suzanne Schwartz

June 2004

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100 Years of Rule of Capture: From East to Groundwater Management

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Jace Houston, General Counsel	Harris-Galveston Coastal Subsidence District
Suzanne Schwartz, General Counsel	Texas Water Development Board
William F. Mullican, III, Deputy Executive Administrator	Office of Planning, Texas Water Development Board

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*100 Years of Rule of Capture:
From East to Groundwater Management*

Symposium Sponsored by the Texas Water Development Board
June 15, 2004, Austin, Texas

Speakers

Welcome and Introduction

Mr. E. G. Rod Pittman, Chairman, TWDB
Mr. Kevin Ward, Executive Administrator, TWDB

Morning moderator: Mr. Bill Mullican, TWDB

History and Evolution of the Rule of Capture

Mr. Harry Grant Potter, III, private law practice

What Should Texas Do About the Rule of Capture?

Prof. Corwin Johnson, The University of Texas at Austin

The Regulatory Dance: Rule of Capture and Chapter 36

Mr. Michael Booth, Booth, Ahrens & Werkenthin, P.C.
Mr. Doug Caroom, Bickerstaff, Heath, Smiley, Pollen, Kever, &
McDaniel

Afternoon moderator: Ms. Suzanne Schwartz, TWDB

Groundwater is no Longer Secret and Occult

Dr. Robert Mace, TWDB

Water Follies: Groundwater Pumping and the Fate of America's Fresh Waters

Dr. Robert Glennon, University of Arizona

The Next 100 Years (panel discussion)

The Honorable Ken Armbrister, Chairman, Senate Committee on
Natural Resources (invited)
Mr. Greg Ellis, Edwards Aquifer Authority
Mr. Ken Kramer, Sierra Club
Mr. C. E. Williams, Panhandle Groundwater Conservation District

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Note from the Editors:

June 15, 2004

To Texans Interested in Groundwater,

On behalf of the Texas Water Development Board, we want to welcome you to the *100 Years of Rule of Capture: From East to Groundwater Management* symposium. Whether your interests are in groundwater policy, groundwater management, groundwater science, or just a general fascination with this most precious natural resource, it is our goal that your interests in groundwater benefit from the presentations and discussions (and probable debates) planned for this symposium. While public debate in Texas on the Rule of Capture has been going on throughout the last 100 years, the intensity and passion of the debate seems to have greatly increased over the last decade. This was especially evident with passage of Senate Bill 1 in 1997, Senate Bill 1911 in 1999, Senate Bill 2 in 2001, and the most recent deliberations by the Senate Select Committee on Water Policy in 2003-2004. As we pause to reflect on the 100 years (and two days) that have passed since the landmark *Houston & Texas Central Railway Co. vs East* Supreme Court decision handed down on June 13, 1904, one can only wonder what the future holds. We have invited a diverse group of groundwater experts to present their own ideas, both verbally and in writing, on the past, present, and future of groundwater law in Texas. Perhaps ideas brought forward as part of this symposium will have a significant effect on what the future will hold.

This symposium volume has been prepared and made available to the public for two reasons. First, we want to offer those not able to attend the symposium an opportunity to benefit from the materials, discussions and issues that are to be presented. Second, we believe this symposium volume will make a powerful reference document for students of groundwater for many years to come.

In order to ensure a broad, balanced, and relevant list of both topics and speakers for this symposium, we sought out prominent members of the groundwater community to serve on the *100 Years of Rule of Capture: From East to Groundwater Management* Advisory Board. What an honor it was for us to be able to work with the likes of Corwin Johnson, Professor Emeritus, The University of Texas Law School; Andrew Sansom, Executive Director, Institute for Sustainable Water Resources, Texas State University; John M. Sharp, Professor, Department of Geological Sciences, The University of Texas at Austin; and Jace Houston, General Counsel, Harris-Galveston Coastal Subsidence District, during the development of this symposium. We also want to offer our sincere appreciation to all of the speakers who took the time that was required out of their busy schedules to prepare the high-quality papers included herein. Finally, we want to recognize and extend our special thanks to Robert Mace, Edward Angle, and Cynthia Ridgeway. We would also like to thank Ruben Ochoa, Carla Daws, Sissie Stacy, Ann Omoegbele, Angela Freytag, Deborah Reyes, Ryan Long, Kelly Burton, Ruben Hernandez, Mike Parcher, and Tina Newstrom for their remarkable dedication to this special effort. Without their persistence and professionalism, neither the symposium nor Report 361 could have been possible.

William F. Mullican III
Deputy Executive Administrator
Texas Water Development Board

Suzanne Schwartz
General Counsel
Texas Water Development Board

In memory of Corwin W. Johnson, 1917-2004, whose insight and knowledge of water law in the State of Texas was greatly appreciated and recognized by TWDB staff. The TWDB is honored that Corwin Johnson participated in the Advisory Board panel for the symposium, contributed a paper for this volume, and spoke at the symposium, his last public speaking engagement. He shall be missed.

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