

NOTICE OF OPEN MEETING

Notice is given that a **Regular Meeting** and a **Work Session** of the Board of Directors of the Barton Springs/Edwards Aquifer Conservation District will be held in **the District office**, 1124 Regal Row, Austin, TX, on **Thursday, December 15, 2011**, commencing at **6:00 p.m.** for the following purposes, which may be taken in any order at the discretion of the Board:

Note: The Board of Directors of the Barton Springs/Edwards Aquifer Conservation District reserves the right to adjourn into Executive Session at any time during the course of this meeting to discuss any of the matters listed on this agenda, as authorized by the Texas Government Code Sections §551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices), 551.087 (Economic Development) 418.183 (Homeland Security). No final action or decision will be made in Executive Session.

1. **Call to Order.**
2. **Citizen Communications (Public Comments of a General Nature).**
3. **Routine Business.**
 - a. **Consent Agenda.** Note: These items may be considered and approved as one motion. Directors or citizens may request any consent item be removed from the consent agenda, for consideration and possible approval as an item of Regular Business.
 1. Approval of Financial Reports under the Public Funds Investment Act, Directors' Compensation Claims, and Specified Expenditures greater than \$5,000. **NBU**
 2. Approval of minutes from the Board's November 17, 2011, Regular Meeting.
Not available for public review at this time
 3. Approval of setting a show-cause hearing in January 2012 for permittee Don Farmer, d/b/a Don's Grass, for failure to respond to the Notice of Alleged Violations. **Pg. 9**
 4. Approval (validation) of extending the deadline of the Agreed Order with Ridgewood Village Water System from January 15, 2012 to March 15, 2012.
Pg. 17
 5. Approval of setting and scheduling a work session of the Board with the Stakeholders Advisory Committee in late January 2012 to discuss alternatives for increasing aquifer levels and spring flows during extreme drought. **NBU**
 - b. **General Manager's Report.** Note: Topics discussed in the General Manager's Report are intended for general administrative and operational information-transfer purposes. The Directors will

not take any action on them in this meeting, unless the topic is specifically listed elsewhere in this as-posted agenda.

1. Standing Topics.

- i. Personnel matters and utilization;
- ii. Upcoming public events of possible interest;
- iii. Aquifer conditions and status of drought indicators.

2. Discussion related to current staff work areas and specific activities of staff teams and directors. Note: Individual topics listed below may be discussed by the Board in this meeting, but no action will be taken unless a topic is specifically posted elsewhere in this agenda as an item for possible action. A Director may request an individual topic that is presented only under this agenda item be placed on the posted agenda of some future meeting for Board discussion and possible action.

- i. Review of Status Report Update – at directors’ discretion. **Pg. 23**
- ii. Update on recent permitting and non-drought regulatory activities.
- iii. Update on the activities of GMA 9 and 10. **Pg. 28**
- iv. Update on status of hearing on the TCEQ recommendations for providing GCD protection to the portion of the Hill Country PGMA in southwestern Travis County. **Pg. 30**

4. Regular Business: Board Discussion and Possible Actions.

- a. Presentation by auditor, discussion and possible action related to approving the 2011 Financial Audit Report. **Not available for public review at this time**
- b. Discussion and possible action related to the compliance by District permittees with their User Drought Contingency Plans and compliance of all groundwater users with District Rules, including the status and initiation of enforcement actions, as warranted. **Pg. 33**
- c. Discussion and possible action related to reviewing the staff’s individual incentive projects and approving the FY 2012 Goals and Objectives for the General Manager. **Pg. 35**
- d. Discussion and possible action related to the settlement agreement concerning the Jeremiah Ventures TLAP contested case. **NBU**
- e. Discussion and possible action related to authorizing the District’s legal counsel to prepare a brief concerning the difference between groundwater management by GCD regulations and water availability determinations by counties under subdivision regulations, in reply to the request for an AG opinion RQ-1003-GA. **Pg. 38**
- f. Discussion and possible action related to approving the FY 2011 Annual Report and authorizing its submittal to Texas Commission on Environmental Quality. **Not available for public review at this time**

5. Work Session.

The Board will hold a work session to assess the status and progress towards the District's goals, objectives and performance standards in the District Management Plan, to be included in the District's Annual Report to TCEQ. **Not available for public review at this time**

Note: This work session of the Board is open to the public, but no opportunity for public comment will be provided, either in association with the discussion of an agenda item or in a separate comment period. At the discretion of the directors, comments from the public may be solicited. Public comment periods are included in the Regular Meetings of the District's Board of Directors, where further discussion and any determinations or decisions regarding this topic would be made.

6. Adjournment.

Came to hand and posted on a Bulletin Board in the Courthouse, Travis County, Texas, on this, the _____ day of December, 2011, at _____ .m.

_____, Deputy Clerk

Travis County, TEXAS

Please note:

This agenda and available related documentation have been posted on our website, www.bseacd.org. If you have a special interest in a particular item on this agenda and would like any additional documentation that may be developed for Board consideration, please let staff know at least 24 hours in advance of the Board Meeting so that we can have those copies made for you.

The Barton Springs/Edwards Aquifer Conservation District is committed to compliance with the Americans with Disabilities Act (ADA). Reasonable accommodations and equal opportunity for effective communications will be provided upon request. Please contact the District office at 512-282-8441 at least 24 hours in advance if accommodation is needed.

Item 1

Call to Order

Item 2

Citizen Communications

Item 3

Routine Business

a. Consent Agenda

Note: These items may be considered and approved as one motion. Directors or citizens may request any consent item be removed from the consent agenda, for consideration and possible approval as an item of Regular Business.

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- 3. Approval of setting a show-cause hearing in January 2012 for permittee Don Farmer, d/b/a Don's Grass, for failure to respond to the Notice of Alleged Violations.**
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**Barton Springs
Edwards Aquifer**
CONSERVATION DISTRICT

NOTICE OF ALLEGED VIOLATION

October 11, 2011

Certified Mail- Return Receipt Requested

Don Farmer
6240 Hwy 290
Austin, TX 78735

RE: Notice of Alleged Violations of District Rules & Bylaws by Don Farmer (dba Don's Grass)

Dear Mr. Farmer:

On September 29, 2011, the Board of Directors of the Barton Springs/Edwards Aquifer Conservation District (District) determined that sufficient information exists to warrant this notice, alleging that *Don Farmer (dba Don's Grass)* has violated the District Rules & Bylaws. District records demonstrably indicate at least sixteen (16) alleged daily violations of **District Rule §3-2.1** for failure to employ a water meter, all of which occurred during Stage III-Critical Drought, and five (5) alleged violations of **District Rule §3-1.11(e)** for failure to report monthly meter readings, all of which occurred during Stage II - Alarm Drought.

The District expects complete compliance with all District Rules, and your permit with the District is predicated on that compliance. Pursuant to §36.102 of the Texas Water Code and the penalty schedule contained in §3-8.9 of the District's Rules, the District is authorized to assess civil penalties of up to \$10,000 for each act of violation and for each day of violation. The indicated penalty is based on several factors including: (1) the seriousness of the violations; (2) the history of past violations; (3) the amount necessary to deter future violations; (4) efforts made to correct the violations; and (5) any other matters that justice may require. Accordingly, the District Staff will be recommending to the Board of Directors at a future hearing on the matter **the assessment of a penalty of \$12,750, unless the matter is resolved by agreement.**

If necessary, the District will file civil suit to enforce and achieve compliance with its rules but prefers to resolve the case without the need for litigation. **As an incentive to achieve immediate compliance and early resolution of the violations, the District will agree to a reduced penalty of not more than \$3,187.50 if you agree to comply with the following requirements:**

- 1) Payment of the reduced penalty of \$3,187.50.
- 2) Provide an accurate, defensible estimate of the total volume of withdrawals since the well became operational.
- 3) Commit to complete cessation of pumping during the current Stage III Critical Drought and during a following Stage IV Exceptional Drought (if declared).
- 4) Install a meter in accordance with District Rules and specifications within 30 days of the effective date of an agreed order and report monthly use of water from the well.
- 5) Update all User Conservation Plan and User Drought Contingency Plan documentation as necessary.


Please note that the offer made here for early resolution of these violations should not be construed as an admission by the District and is inadmissible under Texas Rules of Evidence to prove invalidity of the alleged violations or the amount of the penalty. Moreover, the District has no obligation to reduce penalties associated with these violations after the early resolution period terminates.

IF YOU ACCEPT THE SETTLEMENT OFFER, PLEASE SIGN THE ATTACHED AGREEMENT AND RETURN IT WITH FULL PAYMENT OF THE REDUCED PENALTY SPECIFIED ABOVE TO THIS OFFICE WITHIN THIRTY (30) DAYS. AFTER 30 DAYS, THE OFFER WILL BE WITHDRAWN AND THE DISTRICT WILL PURSUE OTHER ENFORCEMENT MEANS.

If you choose to contest these allegations, notify the District within thirty (30) days of this notice. You will be cited to appear and will be provided a hearing before the Board where you may show cause why an enforcement action should not be initiated against you. Failure to respond to this notice in the specified timeframe will result in the referral of this matter to the District Board of Directors and the scheduling of a formal public hearing at which time the District Staff will provide a recommendation to the Board to file a lawsuit against you and seek civil penalties, court costs and attorney's fees.

If you have any questions regarding this matter, contact John T. Dupnik, P.G., Regulatory Compliance Team Leader, by phone at (512) 282-8441 or by e-mail at john@bseacd.org.

Sincerely,


W.F. (Kirk) Holland, P.G.
General Manager

cc: Mr. Gary Franklin, Director, Precinct 2
Mr. Bill Dugat, Esq., District Counsel

**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING DON FARMER**

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§
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**BEFORE THE BARTON
SPRINGS/EDWARDS
AQUIFER
CONSERVATION
DISTRICT**

AGREED ORDER

**I.
JURISDICTION AND STIPULATIONS**

The Board of Directors ("Board") of the Barton Springs/Edwards Aquifer Conservation District ("District") has considered this agreement of the parties resolving an enforcement action regarding Don Farmer (dba Don's Grass) under the authority of Texas Water Code Ch. 36. The General Manager of the District and Don Farmer appear before the Board and together stipulate that:

1. Don Farmer owns and operates Don's Grass located at 6240 Highway 290 in Austin, Texas.
2. Don Farmer utilizes water supplied by an irrigation well permitted by the District.
3. Don Farmer's permit issued by the District includes standard Permit Conditions and Requirements in accordance with District Rule 3-1.11.
4. The District and Don Farmer agree that the District has jurisdiction to enter into this Agreed Order and that Don Farmer is subject to the District's jurisdiction.
5. Don Farmer received notice of the violations alleged in Section II on or about October 10, 2011.

6. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Don Farmer of any violation alleged in Section II, nor of any statute or rule.
7. A penalty in the amount of \$12,750 is assessed by the District in settlement of the violations alleged in Section II. \$3,187.50 of the penalty shall be paid within thirty days after the effective date of this Agreed Order. The remaining balance of \$9,562.50 is deferred contingent upon Don Farmer's timely and satisfactory compliance with all of the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Don Farmer fails to timely and satisfactorily comply with all requirements of this Agreed Order, the General Manager may require Don Farmer to pay all or part of the deferred penalty.
8. Any notice and procedure that might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
9. The General Manager of the District and Don Farmer have agreed on a settlement of the matters alleged in this enforcement action, subject to approval of the Board.
10. The General Manager may, without further notice or hearing, seek further enforcement proceedings in a court of competent jurisdiction if the General Manager determines that Don Farmer has not complied with one or more of the terms or conditions of this Agreed Order.

11. This Agreed Order shall terminate five years from its effective date or upon compliance with all of the terms and conditions set forth in this Agreed Order, whichever occurs sooner.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As a permittee of the District, Don Farmer is alleged to have failed to employ a water meter and to report monthly meter readings in violation of its permit and District Rules §3-2.1 and §3-1.11(e).

III. DENIALS

Don Farmer generally denies each allegation in Section II.

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the Board that Don Farmer pay a penalty as set forth in Section I, paragraph 7 above. The payment of the penalty and Don Farmer's compliance with all of the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The District shall not be constrained in any manner from requiring corrective action or penalties for violations that are not raised here. Penalty payments shall be made payable to Barton Springs/Edwards Aquifer Conservation District and shall be sent with notation "Don Farmer's Agreed Enforcement" to:

Barton Springs/Edwards Aquifer Conservation District
ATTN: John T. Dupnik, P.G.
1124 Regal Row
Austin, TX 78748

2. Don Farmer shall undertake the following technical requirements:
 - a. Payment of the reduced penalty of \$3,187.50.
 - b. Provide an accurate, defensible estimate of the total volume of withdrawals since the well became operational.
 - c. Commit to complete cessation of pumping during the current Stage III-Critical Drought and during a subsequent Stage IV Exceptional Drought (if declared).
 - d. Install a meter in accordance with District Rules and specifications within 30 days of the effective date of an agreed order.
 - e. Update all User Conservation Plan and User Drought Contingency Plan documentation as necessary.
3. The provisions of this Agreed Order shall apply to and be binding upon Don Farmer. Don Farmer is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If Don Farmer fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe (not including drought), Don Farmer's failure to comply is not a violation of this Agreed Order. Don Farmer shall have the burden of establishing to the General Manager's satisfaction that such an event has occurred. Don

Farmer shall notify the General Manager within seven days after Don Farmer become aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The General Manager may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Don Farmer shall be made in writing to the General Manager. Extensions are not effective until Don Farmer receives written approval from the General Manager. The determination of what constitutes good cause rests solely with the General Manager.
6. This Agreed Order, issued by the Board, shall not be admissible against Don Farmer in a civil proceeding, unless the proceeding is brought by the District to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the District's jurisdiction, or of a rule adopted or an order or permit issued by the District under such a statute.
7. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. The effective date is the date of hand-delivery of the Order to Don Farmer, or three days after the date on which the District mails notice of the Order to Don Farmer, whichever is earlier.

SIGNATURE PAGE

Barton Springs/Edwards Aquifer Conservation District:

For the Board

Date

For the General Manager

Date

ATTEST:

Don Farmer, dba Don's Grass:

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the District, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by Don Farmer;
- Lawsuit for contempt, injunctive relief, additional penalties, and/or attorney fees, or referral to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to civil trial for any future enforcement actions; and
- District seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Signature

Date

Name (Printed or Typed)
Authorized Representative of Don Farmer

Date



**Barton Springs
Edwards Aquifer**
CONSERVATION DISTRICT

By E-mail and follow-up USPS Mail

November 23, 2011

Mr. Lou McCreary, Esq.
Law Office of Lou McCreary
901 South MoPac Expressway
Barton Oaks Plaza 1, Suite 300
Austin, Texas 78746

Dear Lou:

Pursuant to the request in your letter dated November 23, 2011, to extend the deadline of the Revised Agreed Order between the District and Ridgewood Village Water System, I am hereby authorizing the extension of that deadline as requested, from January 15, 2012, to March 15, 2012.

Please advise me when the physical connection between the RVWS and Water District #10 is made and the CCN transfer agreement is executed.

Our attorney will send you a Revised Agreed Order reflecting this change for your execution.

Sincerely,

W F (Kirk) Holland, P.G.
General Manager

cc: Mr. Bill Dugat (by email only)
Mr. Dave Claunch (by email only)
Mr. Jim Montgomery (by email only)

Bryan W. Shaw, Ph.D., *Chairman*
Buddy Garcia, *Commissioner*
Carlos Rubinstein, *Commissioner*
Mark R. Vickery, P.G., *Executive Director*

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

October 26, 2011

CERTIFIED MAIL

Mr. Lou McCreary
Law Offices of Lou McCreary
901 South MoPac Expressway
Barton Oaks Plaza One, Ste. 300
Austin, Texas 78746

Re: Application from Travis County Water Control and Improvement District (WCID) 10, Certificate of Convenience and Necessity (CCN) No. 10306, to Purchase Facilities, and to Transfer and Cancel CCN No. 10303 from Ridgewood Village Water System, in Travis County; Application No. 37033-S

CN: 600739825; RN: 101412799 (Travis County WCID 10)
CN: 603158478; RN: 101205326 (Ridgewood Village Water System)

Dear Mr. McCreary:

We have reviewed the criteria in Texas Water Code (TWC), Section 13.301(e) and determined that a public hearing will not be requested. You may complete your proposed transaction as scheduled, or any time after you receive this notification. Please note that the transaction must comply with the requirements of TWC Section 13.301(d) and therefore cannot be completed prior to the issuance of this letter.

The second part of the application, which is amending the CCN, will occur following receipt of the following documents:

- a copy of the signed contract or bill of sale, and
- documents supporting the disposition of customer deposits.

The application cannot be approved nor the CCN amended and issued until we receive evidence that the transaction was completed. These items must be received by the Utilities & Districts Section, Water Supply Division, within 30 days after the effective date of the transaction.

After the proper documentation is received, staff will prepare a proposed map, certificate, and recommendation for both applicants to review before submitting them to the Executive Director for approval and the issuance of the CCN. A copy of this information will be sent to both the buyer and seller.

Mr. Lou McCreary
Page 2
October 26, 2011

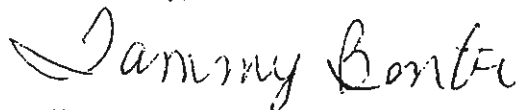
If you concur with the recommendation, the consent forms must be signed and returned by both applicants before the recommendation to amend the CCN can be approved by the Executive Director. If both consents are not received, the seller remains responsible for the system for purposes of TWC Section 13 regulations. (See TWC, Section 5.122 and 30 Texas Administrative Code Section 50.33).

As an alternative to the seller's continued involvement in the process, the closing document(s) and any accompanying correspondence may include a statement that the seller consents with the amendment of the buyer's CCN with specific references to the statute and rule noted above. The statement will serve to authorize the Executive Director to take action upon receipt of the buyer's signed consent form. In this situation, however, the seller is relying on the buyer to provide the final consent on the CCN amendment.

Finally, please note that from the time the application is filed until the CCN is issued, it is the applicants' (buyer and seller) responsibility to notify and update the Utilities & Districts Section, Water Supply Division, of changes in the financial, managerial or technical information provided in the application.

If you have any questions, please contact Ms. Stacy Foster by phone at 512/239-3105, by fax at 512/239-0030, by email at Stacy.Foster@tceq.texas.gov, or if by correspondence, include MC 153 in the letterhead address below.

Sincerely,



Tammy Benter, Manager
Utilities & Districts Section
Water Supply Division
Texas Commission on Environmental Quality

TB/SF/mmg

cc: Mr. Jim Montgomery, Attorney, DLA Piper, LLP

LAW OFFICES OF LOU McCREARY



901 South MoPac Expressway
Barton Oaks Plaza One, Suite 300
Austin, Texas 78746 .

Board Certified
Civil Trial Law
Texas Board of Legal Specialization

Telephone: (512) 329-1946
Telecopier: (866) 638-8239
E-Mail: loumccreary@yahoo.com

November 23, 2011

Mr. W.F.(Kirk) Holland
General Manager, BSEACD
1124 Regal Row
Austin, TX 78748

Re: Ridgewood Village Water System: Revised Agreed Order: Request For Extension.

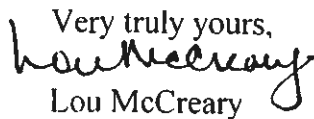
Dear Mr. Holland:

This is a request for extension of time pursuant to your authority to grant such an extension upon a showing of good cause, as stated in Paragraph 5 of the Revised Agreed Order dated August 17, 2010. Specifically, Ridgewood Village Water System, (RVWS), is requesting an extension of the deadline, as stated in Paragraph IV of the Order, from January 15, 2012 to March 15, 2012.

As you know, on March 23, 2011, the Board of Directors of the Travis County Water Control And Improvement District # 10 (WCID # 10), agreed to annex the area served by Ridgewood Village Water System, (RVWS), subject to execution of an agreed Asset Purchase Agreement and the approval of the Texas Commission on Environmental Quality (TCEQ).

By letter/order dated October 26, 2011, the TCEQ approved the application of RVWS to transfer its CCN to WCID # 10. I enclose a copy for your file. Before we can consummate the transfer agreement, a connection must be made between the RVWS lines and the WCID # 10 lines. We have been advised by WCID # 10 that some of the necessary fittings/equipment necessary to make the interconnect may not be delivered until the end of December, 2011. Due to that delay, we are asking for an extension of time to complete the transfer and to comply with the previous Agreed Order.

We are asking that the Revised Agreed Order be revised to state a deadline of March 15, 2012. If you decide to grant our request, I am requesting, by copy of this letter, that your counsel, Bill Dugat, prepare a Revised Order for our signature. This request is supported by WCID # 10. Please let me know if you need any additional information and thanks for your prompt consideration of this request.

Very truly yours,

Lou McCreary

c: Mr. Bill Dugat
Bickerstaff, Heath, Delgado & Acosta, LLP
3711 S. MoPac Expressway
Building One, Suite 300
Austin, TX 78746

Mr. Jim Montgomery
DLA Piper, LLP (US)
401 Congress Avenue
Suite 2500
Austin, TX 78701-3799

Mayor Dave Claunch
City of West Lake Hills
911 Westlake Drive
Austin, TX 78746

Marlene S. Ciccarelli
1807 Treadwell Street
Austin, TX 78704

Item 3 Routine Business

b. General Manager's Report. Note: Topics discussed in the General Manager's Report are intended for administrative and operational information-transfer purposes. The Directors will not deliberate any issues arising from such discussions and no decisions on them will be taken in this meeting, unless the topic is specifically listed elsewhere in this as-posted agenda.

1. Standing Topics.

- i. Personnel matters and utilization;**
- ii. Upcoming public events of possible interest;**
- iii. Aquifer conditions and status of drought indicators.**

2. Special Discussion Topics, related to current staff work areas and specific activities of staff teams and directors. Note: Individual topics listed below may be discussed by the Board in this meeting, but no action will be taken unless a topic is specifically posted elsewhere in this agenda as an item for possible action. A Director may request an individual topic that is presented only under this agenda item be placed on the posted agenda of some future meeting for Board discussion and possible action.

- i. Review of Status Report Update – at directors' discretion.**
- ii. Update on recent permitting and non-drought regulatory activities.**
- iii. Update on the activities of GMA 9 and 10.**
- iv. Update on status of hearing on the TCEQ recommendations for providing GCD protection to the portion of the Hill Country PGMA in southwestern Travis County.**

STATUS REPORT UPDATE FOR DECEMBER 15, 2011, BOARD MEETING

Prepared by District Team Leaders

GENERAL MANAGEMENT TEAM		Leader, Staff	Date	PROJECT / ACTIVITY DESCRIPTION	STATUS/COMMENTS
Summary of Significant Ongoing Activities		WFH	08-Dec-11	General Manager activities and notes	GM activities of note since last report include: Participation and followup contacts with Steering Committee for Kent Butler Memorial Summit in May 2012. Participated and took minutes at TAGD Executive Committee. Quarterly Business Meeting, and Joint Bylaws/Legislative Committee meetings. Prepared and gave presentation to TAGD on new GMA meeting Notice requirements. Edited abstracts for several technical conferences. Attended and presented presentation on DFC/MAG implementation at UT-CLE Water Law conference. Authored and reviewed/edited several articles for the newsletter. Met with Board President and Rep. Paul Workman to respond to letter he sent to District concerning redistricting. Met with Bob Larsen and Rep. Lyle Larson to review status and needs for our desal initiative. Worked on draft of Annual Report and Appendix B. Worked on and finalized draft of MD&A part of the Annual Audit Report. Held discussions with GMA 10 subcommittee concerning petition to GMA 10 and GMA response. Attended GMA-10 meeting. Coordinated follow up of redistricting plan support with District General Counsel. Hired Hydrogeologic Field Technician. Assisted in dealing with a problematic NDU applicant. Met with representative of landowner wanting to put a new water supply well in the Edwards. (Will have) attended Regional Water Quality Protection Plan Work Group meeting. Coordinated with Team Leaders on current work areas. Held one on ones with Team Leaders. Prepared agendas for and attended Board meetings and reviewed and revised Minutes and prepared meeting summaries of same. Provided continued coordination and oversight of various internal and project team activities (below).
Potential Future Board Considerations		WFH	08-Dec-11	Possible future Board agenda items (not necessarily next Board meeting)	Set work session with Stakeholders Advisory Committee. Approve additional changes to rules related to new statute requirements. Drought compliance briefings and initiate enforcement actions. Approval of responses to DFC petitions. Briefings on various ongoing or recently completed staff projects and initiatives. Approve selection of task-order contractor support in various work areas to supplement staff resources. Authorize changes to Management Plan, as required to incorporate DFCs/MAGs. Approve ILA(s) with COA for HCP related activities. Approve ILA with Hays Co. for water monitoring support and Dahlstrom Ranch educational programs. Authorize settlement provisions for Jeremiah Venture TLAP. Approve permit applications. Approve GM goals.
GENERAL SERVICES TEAM					
Dana Christine Wilson					
Accounts Receivable		DCW	06-Dec-11	2nd quarter and December monthly water use fee invoices mailed out on Nov 16-17 (due On Dec 5 and lated on Dec 16th).	Total amount invoiced is \$ 270,056 (less conservation credits).
Accounts Receivable / Conservation Credits		DCW	06-Dec-11	3 permittees donated their conservation credits to the District's camp scholarship program.	Texas Lehigh 78.81; Goforth SUD \$3, ; and St. Andrews \$

	Leader, Staff	Date	PROJECT / ACTIVITY DESCRIPTION	STATUS/COMMENTS
Pension Plan Accounting	DCW	06-Dec-11	Retirement Plan end-of-year compliance testing completed.	To be submitted to the State Pension Review Board as The Standard has approved compliance of employee census data, and retirement plan contributions (Trust Accounting).
Budgeting	DCW/KH	06-Dec-11	2012 Annual Budget Rev 1 approved 8.25.11	In process of entering into financial system but is now posted on the District website.
Audit - Figer and Co.	DCW	06-Dec-11	Up to date with website postings of financial reports. In process. Audit started October 18.	To present at December 15 Board Meeting.
REGULATORY COMPLIANCE TEAM				
John Dupnik				
Enforcement	JD	08-Dec-11	Enforcement and Compliance Evaluations	Stenger Ridgewood - The transfer to District 10 has finally been approved. The physical connection of the systems is expected to occur soon. Don's Grass - The NOAV was sent to Don's grass on 10/11/11 and was received on 10/12/11. The deadline for a response will be 11/14/11. A response was not received. The case will be set on this Board meeting agenda to consider scheduling a show cause hearing.
Drought Management	JD	08-Dec-11	Drought Compliance Monitoring and Enforcement	Staff continues to monitor monthly pumping compliance. Staff conducted the initial pre-enforcement meeting with Aqua Texas based on non-compliance in both their Shady Hollow and Bliss Spillar systems and Ruby Ranch WSC. Staff will monitor pumping to assess implementation and success of the agreed commitments.
Rule Development and Review	JD, KH	08-Dec-11	Identify scope and develop provisions for future possible rule changes.	Staff will begin reviewing the rules for possible revisions needed to incorporate new statutory changes resulting from the last legislative session. In addition, staff will begin identifying rule changes that may be adopted under our current management plan for consideration by the SAC. The SAC will be convened to provide input into strategies for compliance with the drought DFC for the freshwater Edwards.
External Reviews	JD	08-Dec-11		None at this time
Lower Trinity Test Well	JD	08-Dec-11	Joint Project to assess Lower Trinity Aquifer feasibility	Representative from the City of Buda, City of Kyle, Centex, Plum Creek GCD, and the District met on 11/9 to discuss the possibility of a joint test well project. John Mikels, Joe Vickers, and the District will work up some well design options and associated cost for a well that may be drilled on either the Kyle Well No. 4 site or the Centex site.
Hays Trinity GCD Rule Committee	JD	08-Dec-11	JD appointed by HTGCD to committee to advise on rule revisions	JD attended a meeting for the first time on 11/7. Chapters of the rules have been assigned to each member to lead discussion and proposed revisions. The group continues to work through the assigned chapters.
Travis County Stakeholders Group	JD	08-Dec-11	Assist Travis County in developing water availability demonstration regulations for the review of subdivision applications.	The Stakeholder group last met on November 30 to consider the staff's proposal for discussion. The proposal is responsive to unresolved issues. JD is working with a subgroup to find consensus on some of those issues and make recommendations.
Permittee Inspection/Routine Compliance checks	JD	08-Dec-11	Updates on routine permittee inspection program	Routine inspections have been temporarily suspended until the field technician position has been filled.
Current Active Applications	JD	08-Dec-11	Ira Yates NDU, DDC creek side villas - Class C Conditional Production Permit app.	Both applications are not administratively complete. Information from Creekside has been received and is under review.
EDUCATION & OUTREACH				
Robin Gary				

	Leader, Staff	Date	PROJECT / ACTIVITY DESCRIPTION	STATUS/COMMENTS
Acquifer Bulletin	RG, KH, BH, BS, JD, DW	08-Dec-11	Winter Edition available online	This 10-page edition addresses aquifer status, redistricting updates, reclassification of conditional permits, rule revisions, stakeholder advisory committee for discussion of options to increase springflows, and scholarship announcements. Many thanks to the contributing authors and editors. This is a information rich newsletter!
Geology presentation	BH	14-Nov-11	Waldorf School, 9th Grade	Brian Hunt discussed the work being done in the Hill Country—geology and groundwater availability. While describing the geologic history and groundwater issues of the Hill Country he emphasized the data, tools, techniques and principles geologists use by pulling from the Hydrologic Atlas we published last year.
Earth Camp	RG	30-Nov-11	Allan Elementary School	Robin served as a cave guide for the caving portion of the Earth Camp field activities. At Wildflower Cave, students learn about recharge, water quality protection, and the role of caves and karst in our area.
Website Tracking Update	RG	8 Nov - 8 Dec 2011	Internet Traffic Report	On the District website over the past month, we've had 3,090 page views from 1,185 unique visits. This is less page views and unique visitors than last month. Top pages viewed (in order of hits) are the home page (891 views), Drought Status (272 views), and the About the Aquifers page (131 views). On the District Facebook page we have 49 people (who have signed up to 'Like' us.
AQUIFER SCIENCE				
Brian Smith				
Dye Tracing	BS, BH	07-Dec-11	Dye tracing	A report is being prepared about the Blanco River dye traces conducted in 2009. We are waiting on review and approval of the report by EAA.
319(h) Grant	BS, BH	07-Dec-11	Union Creek Recharge Enhancement Project	The grant officially ended on August 31. A final report was sent to TCEQ on August 18.
Water-Quality Studies	BS, BH	07-Dec-11	Sampling and analysis of groundwater and surface water	The summer sampling program has been completed and we are evaluating the results of sampling.
Saline Zone Studies	BS, BH	07-Dec-11	Installation of multiport monitor well	Partners have confirmed their financial support for these studies. Bids for drilling and installing a multiport monitor well near TDS have been requested.
Water-Level Monitoring	BH, BS	08-Dec-11	Drought status, monitor wells, and synoptic water level events	Critical Stage Drought was declared by the Board of Directors on September 8. Rainfall in late November and early December totaled about 5 inches. On December 8, Barton Springs was up slightly at about 20 cfs and the depth to water in the Lovelady well was at 194.4 ft. Alarm Stage Drought was declared by the Board of Directors on April 28.
Information Transfer	BS, BH	07-Dec-11	Presentations, conferences, reports, and publications	Staff presented three papers at the World Lake Conference in Austin in November 2011. Kirk Holland attended the Geological Society Meeting in Minneapolis in October and presented a paper.
AD-HOC TEAMS				
Technical Team	BAS	07-Dec-11	Current areas of discussion	Key topics of discussion for December are possible Trinity wells by Centex and Kyle and saline zone studies.

Leader, Staff	Date	PROJECT / ACTIVITY DESCRIPTION	STATUS/COMMENTS
Planning Team	08-Dec-11	Strategic and tactical planning and discussion topics	Preparing Annual Report, including Appendix B activities listing; screened, interviewed, and selected new Hydrogeological Field Tech, considering ad hoc contracting support needs and evaluating candidate contractors. Will be evaluating how policy, procedure, and documentation need to be revised to conform to current SAO audit emphases.
UPCOMING ITEMS OF INTEREST			
Fail-Winter edition of Newsletter available	08-Dec-11		
Regional Water Quality Protection Plan Intergovernmental Work Group meeting	09-Dec-11	11 AM - 1 PM, Cannoli Joe's, Sunset Valley (CS, KH, JD?)	
Freese & Nichols Seminar, Drought and Drought Management	13-Dec-11	9AM - 2 PM, Austin place TBD	
CAPCOG General Assembly and Annual Meeting	14-Dec-11	11 AM - 1 PM, Wyndham Garden Hotel (RSVP by 12/9)	
Single December Regular Board Meeting and Work Session	15-Dec-11	Receive and approve financial audit report; work session on assessment of status and progress on objectives; revise/approve Annual Report	
Christmas Holidays - District Office Closed	23-Dec-11	Through 12/27	
New Year's Day Holiday - District Office Closed	02-Jan-12		
First January Board Meeting	12-Jan-12		
MLK Holiday - District Office Closed	16-Jan-12		
GMA 10 Petition Hearing by TWDB	18-Jan-12	Through 1/19; Sutton County Courthouse, Sonora, TX, 10AM-3PM, both days. (KH)	
Second January Board Meeting	26-Jan-12	Clean Water Fund briefing on house canvass	
TWDB Hearing and Recommendation to GMA 9 on Trinity DFC	02-Feb-12	In response to both petitions to GMA 9	
First February Board Meeting	09-Feb-12		
State Bar of Texas's 13th Annual Course on Changing Face of Water Rights in Texas	23-Feb-12	Through 2/24, at Hyatt Hill Country Resort and Spa, San Antonio	
Second February Board Meeting	23-Feb-12		
NGWA National Conference, Emerging Issues in Groundwater	27-Feb-12	Through 2/28; in San Antonio (abstracts due 10/27/11)	

	Leader, Staff	Date	PROJECT / ACTIVITY DESCRIPTION	STATUS/COMMENTS
First March Meeting		08-Mar-12		
Second March Meeting		22-Mar-12		
Inaugural Kent Butler Memorial Summit on Sustainability of the Barton Springs Zone		03-May-12	8:30-4:30, at LBJwfc	

Texas Water Development Board

P.O. Box 13231, 1700 N. Congress Ave.
Austin, TX 78711-3231, www.twdb.state.tx.us
Phone (512) 463-7847, Fax (512) 475-2053

December 6, 2011

To: Petitioner and Respondent Groundwater Conservation Districts

From: Joe P. Reynolds, Attorney *JR*

Re: Hearings on Appeal of Groundwater Management Areas 7 and 10 Desired Future Conditions by Grass Valley Water, L.P.

The hearings on the petitions submitted by Grass Valley Water, L.P. (Petitioner) under 31 Tex. Admin. Code § 356.44 will be held on Wednesday and Thursday, January 18 and 19, 2012, in the Sutton County Courthouse, 300 E. Oak Street, Suite 3, Sonora, Texas.

The hearing on the petitions relating to the desired future conditions adopted for Kinney County by the groundwater conservation districts (Respondent Districts) in GMA 7 and GMA 10 will begin at 10:00 A.M. and conclude at 3:00 P.M. on Wednesday, January 18. The hearing on the petition relating to the desired future condition adopted by the Respondent Districts for Val Verde County by GMA 7 will begin at 10:00 A.M. and conclude at 3:00 P.M. on Thursday, January 19. Both hearings will follow the schedule below, which may be adjusted as necessary:

10:00 to 12:00	Brief introduction and Petitioners' presentation
12:00 to 1:00	Lunch break
1:00 to 3:00	Respondents' presentation
3:00	Concluding business and adjournment

Petitioner and Respondent Districts should plan how they wish to use their allotted time. Petitioner may reserve a portion of its time for rebuttal testimony, but the rebuttal testimony must be limited to issues raised or addressed by the Respondent Districts. There will be no cross-examination of those making presentations and no objections to the testimony or exhibits. Although preferred, a "question and answer" format will not be required for testimony.

Testimony and evidence presented should address the claims asserted in the petitions. New evidence not addressed in the petitions must be provided to Respondents and to the Texas Water Development Board (TWDB) at least 7 days before the hearing. The TWDB will not accept evidence that does not support one or more of the reasons for challenging the desired future condition previously stated in the petition.

Our Mission : To provide leadership, planning, financial assistance, information, and education for the conservation and responsible development of water for Texas	: : : : : :	Board Members Edward G. Vaughan, Chairman Joe M. Crutcher, Vice Chairman Melanie Callahan, Interim Executive Administrator	: : : :	Thomas Weir Labatt III, Member Lewis H. McMahan, Member	: : :	Billy R. Bradford Jr., Member Monte Cluck, Member
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The TWDB will provide a court reporter to record the proceedings. Copies of PowerPoint presentations and oversized exhibits must be provided to the court reporter and to the TWDB. Please also be prepared to provide the court reporter with a list of those who will be making presentations at the hearing.

Other interested persons will have 10 business days from the close of the hearing in which to submit written evidence. No time will be allotted for public comment during the hearing.

DATE	TIME	EVENT
Wednesday, January 18, 2012	10:00 A.M.- 3:00 P.M.	Hearing on the Petitions Regarding DFCs in Kinney County
Thursday, January 19, 2012	10:00 A.M.- 3:00 P.M.	Hearing on the Petition Regarding DFCs in Val Verde County
Thursday, February 2, 2012	5:00 P.M.	Record Closes
Thursday, April 12, 2012	5:00 P.M.	Summary, Analysis, and Recommendations provided to Parties
Thursday, April 19, 2012	TWDB Board Meeting	Petitions Presented to the Board

If you have any questions about the procedures or schedule, you may contact me at 512.936.2414 or joe.reynolds@twdb.state.tx.us.

cc: GMA 7 Service List
GMA 10 Service List
Melanie Callahan
Robert Mace
Kenneth L. Petersen
Cindy Ridgeway
Rima Petrossian
Connie Sanders

SOAH DOCKET NO. 582-10-5643
TCEQ DOCKET NO. 2010-1040-MIS


GROUNDWATER CONSERVATION § BEFORE THE STATE OFFICE
DISTRICT CREATION §
RECOMMENDATION FOR THE HILL §
COUNTRY PRIORITY § OF
GROUNDWATER MANAGEMENT §
AREA: TRAVIS AND COMAL § ADMINISTRATIVE HEARINGS
COUNTIES §

SOAH ORDER NO. 9
GRANTING EXECUTIVE DIRECTOR'S MOTION TO EXTEND PERIOD OF
ABATEMENT

On November 29, 2011, the Executive Director filed a motion to extend the period of abatement in this matter to August 1, 2012, by which date the Executive Director would file another status report and a motion to: (1) extend the period of abatement, (2) withdraw the petition, or (3) set a hearing on the merits. No other party filed a response to the motion. The administrative law judges GRANT the motion.

The period of abatement is extended to August 1, 2012, by which date the Executive Director will file a motion conforming to the terms of this order.

SIGNED December 6, 2011.



PAUL D. KEEPER
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS



HUNTER BURKHALTER
ADMINISTRATIVE LAW JUDGE/MEDIATOR
STATE OFFICE OF ADMINISTRATIVE HEARINGS

Item 4

Board discussions and possible actions

- a. Presentation by auditor, discussion and possible action related to approving the 2011 Financial Audit Report.**

Item 4

Board discussions and possible actions

- b. Discussion and possible action related to the compliance by District permittees with their User Drought Contingency Plans and compliance of all groundwater users with District Rules, including the status and initiation of enforcement actions, as warranted.**

Drought Analysis Report

Owner - System	Permitted Pumpage	Jun 2011 Pumpage	Jun 2011 Target	Jun 2011 %	Jul 2011 Pumpage	Jul 2011 Target	Jul 2011 %	Aug 2011 Pumpage	Aug 2011 Target	Aug 2011 %	Sep 2011 Pumpage	Sep 2011 Target	Sep 2011 %	Oct 2011 Pumpage	Oct 2011 Target	Oct 2011 %	Nov 2011 Pumpage	Nov 2011 Target	Nov 2011 %
Thur 1 (<12M gallons/year)	200,118	6,610	13,608	-51%	6,530	16,010	-59%	9,870	17,770	-44%	5,380	15,049	-64%	45,950	12,047	281%	170,880	11,347	1406%
Church Of Christ At Buda/Hyde	1,000,000	68,310	68,000	0%	69,849	80,000	-28%	60,000	88,800	-32%	83,490	75,200	11%	177,110	60,200	194%	138,060	56,700	143%
Whiting Properties, LP	100,000	15,940	8,800	134%	14,660	9,000	43%	10,590	8,800	19%	7,550	7,520	0%	8,860	6,020	47%	6,400	4,970	43%
Michael Thomas Custom Homes	100,000	12,060	7,600	59%	2,590	9,980	-73%	2,180	9,600	-77%	760	8,000	-91%	900	5,810	-85%	7,020	4,900	43%
St John's Presbyterian Church	2,000,000	7,000	192,000	-95%	13,000	193,600	-93%	3,400	192,000	-98%	4,300	160,000	-97%	75,000	116,200	-35%	124,000	98,000	27%
Associated Dilling	1,849,250	125,343	125,343	0%	148,100	159,647	-7%	105,100	158,328	-34%	130,300	131,940	-1%	79,200	95,822	-17%	101,800	80,814	26%
Teannas Properties, Inc.	150,000	7,540	10,200	-26%	6,560	12,000	-45%	7,430	13,320	-44%	9,020	11,280	-20%	10,190	9,030	13%	10,070	8,515	18%
Sacobe Company	1,300,000	100,950	98,800	2%	111,970	125,840	-11%	114,080	124,800	-9%	98,130	104,000	-8%	77,420	75,500	3%	69,900	63,700	10%
The Inn Above Onion Creek	100,000	7,910	6,800	16%	6,420	8,000	-20%	6,370	8,880	-28%	5,930	7,520	-21%	5,590	6,020	-7%	6,130	5,670	8%
Lodyssey Storage	6,000,000	365,000	456,000	-20%	327,000	580,800	-44%	333,000	576,000	-42%	275,000	480,000	-43%	229,000	348,600	-34%	308,000	284,000	5%
Aqua Texas, Inc. - Moundland	2,000,000	289,400	192,000	97%	293,800	193,600	51%	332,400	192,000	73%	221,400	160,000	30%	143,400	116,200	23%	99,600	98,000	2%
J. D. Malone	600,000	31,900	40,800	-22%	32,600	46,464	-32%	37,500	45,120	-30%	34,700	45,120	-23%	43,200	36,120	20%	34,500	34,020	1%
Manchaca Baptist Church	480,000	37,410	36,480	3%	48,630	46,464	5%	48,160	46,080	5%	39,590	38,400	3%	33,040	27,888	18%	23,740	23,520	0%
Umi Schneidmeh	847,750	70,630	70,875	0%	71,250	71,550	0%	67,100	67,900	-1%	51,980	52,850	-1%	41,260	43,116	-4%	41,260	41,344	0%
Conal Tackle Company	1,000,000	68,000	76,000	-11%	64,700	96,800	-33%	58,400	96,000	-39%	52,200	80,000	-35%	48,700	58,100	-16%	44,600	49,000	-9%
Park Hills Baptist Church	420,000	14,600	28,560	-49%	16,800	33,600	-51%	18,100	37,296	-51%	18,500	31,584	-41%	26,000	25,284	3%	21,300	23,814	-11%
Loughhead Scott - Crestview Fl.v.	2,000,000	154,800	152,000	2%	142,932	193,600	-26%	141,768	192,000	-26%	107,000	160,000	-33%	108,400	116,200	-7%	84,300	98,000	-14%
Pennington Assain Company	585,000	32,300	39,780	-18%	43,500	46,800	-6%	42,200	43,982	-4%	42,200	43,982	-4%	28,800	35,217	-18%	25,600	33,170	-23%
Claret C Johnson	9,500,000	642,240	836,000	-23%	763,940	912,000	-16%	740,210	821,500	-20%	482,340	760,000	-37%	553,220	618,450	-11%	355,080	465,500	-24%
Hays County Youth Athletic Association	4,820,550	413,700	416,495	-1%	412,200	462,773	-11%	621,300	509,050	22%	489,100	424,208	15%	269,500	354,311	-24%	225,200	330,660	-32%
V.I.R. Post No. 3377	300,000	10,430	35,440	-71%	12,820	43,024	-71%	12,330	45,696	-73%	22,720	38,464	-41%	15,242	29,722	-49%	17,928	26,964	-34%
Railroad Bar-b-q	500,000	26,360	22,440	26%	147,560	26,400	489%	13,580	28,304	-54%	17,320	24,816	-30%	13,650	19,866	-30%	12,140	18,711	-35%
Southern Hills Church Of Christ	400,000	70	30,400	-100%	10	36,720	-100%	0	38,400	-100%	48,760	32,000	56%	14,800	23,240	-36%	12,500	19,600	-36%
Faye Hills Baptist Church	600,000	26,370	40,800	-35%	21,260	48,000	-56%	40,980	53,280	-23%	55,640	45,120	23%	70,370	36,120	95%	21,440	34,020	-37%
Mystic Oak Water Co-op	7,700,000	481,300	595,200	-18%	492,200	745,360	-42%	569,300	739,200	-23%	377,500	616,000	-39%	285,700	447,370	-34%	231,000	377,300	-39%
St. Albans Episcopal Church	585,500	26,740	38,250	-30%	39,420	44,140	-12%	44,140	49,350	-12%	32,510	42,300	-23%	22,000	33,862	-35%	18,860	31,894	-41%
Onion Creek Kennels	850,000	67,610	57,800	17%	45,520	68,000	-33%	64,780	75,480	-14%	52,040	63,920	-19%	30,980	51,170	-39%	28,090	48,195	-42%
Texas-Whig Cement Company - Spectrum	825,000	27,800	54,780	-48%	29,100	56,100	-48%	55,275	58,100	-1%	45,965	54,780	-16%	30,985	47,932	-35%	25,333	47,932	-47%
Twin Oaks Ranch Church Camp	1,000,000	195,270	68,000	193%	101,350	80,000	27%	53,200	88,800	-40%	49,260	75,200	-34%	28,650	60,200	-52%	22,940	56,700	-60%
Seabee E.Y.	517,500	17,080	39,330	-57%	25,600	50,084	-49%	26,098	49,680	-47%	20,750	41,400	-50%	18,320	30,066	-39%	9,650	25,358	-62%
Hunt Enterprises	600,000	20,690	51,840	-60%	19,340	57,600	-66%	22,600	63,360	-64%	15,280	52,800	-71%	12,010	44,100	-73%	15,350	41,160	-63%
The Porter Co. Mechanical Contractors	500,000	9,880	34,000	-71%	10,980	40,000	-73%	9,960	44,400	-78%	10,210	37,600	-73%	10,050	30,100	-67%	9,920	28,350	-65%
Paul - Post Water System	1,331,000	129,600	101,156	28%	98,200	128,841	-24%	115,800	127,776	-9%	82,100	106,480	-29%	65,100	77,331	-16%	20,200	65,219	-69%
Trevis County - Travis County Pct #3	1,500,000	85,570	102,000	-16%	27,210	120,000	-77%	7,030	133,200	-95%	430	112,800	-100%	430	90,300	-32%	25,680	85,050	-70%
Manchaca Optimist Youth Sports Complex	4,232,000	289,911	365,645	-21%	535,641	406,272	32%	455,010	448,899	2%	554,707	372,416	49%	210,234	311,052	-32%	85,695	290,315	-70%
Texas-Whig Cement Company - Howe	1,500,000	37,900	132,000	-71%	42,300	156,000	-73%	34,636	168,000	-79%	39,480	144,000	-73%	32,152	94,500	-66%	17,921	63,000	-72%
Mcco Corporation	120,000	238	8,160	-97%	19,747	9,600	106%	1,622	10,656	-85%	2,820	9,024	-69%	1,880	7,224	-74%	1,600	6,804	-76%
Manchaca Bible Fellowship Baptist Church	100,000	460	6,800	-93%	310	8,000	-96%	600	8,880	-93%	510	7,520	-93%	1,030	6,020	-83%	870	5,670	-85%
Whittington, Keith And Kelly	500,000	10,280	34,000	-70%	19,510	40,000	-51%	17,240	44,400	-61%	14,150	37,600	-62%	13,340	30,100	-56%	3,570	28,350	-87%
Lowland Bob - Painted Horse Penzion	1,000,000	2,450	68,000	-96%	2,900	80,000	-97%	410	88,800	-100%	2,570	75,200	-97%	4,540	60,200	-92%	3,480	56,700	-94%
Neuro Institute Of Austin, L.P.	5,625,000	59,800	486,000	-88%	202,500	540,000	-63%	710,200	594,000	20%	270,100	495,000	-45%	46,900	413,438	-89%	19,800	385,875	-95%
Baron Properties	900,000	3,760	57,600	-93%	9,880	70,720	-86%	3,280	73,920	-96%	3,940	62,080	-94%	2,590	47,320	-95%	1,370	42,280	-97%
Cook-wildern/forest Oaks	5,000,000	554,300	432,000	29%	618,000	480,000	29%	432,800	528,000	-18%	188,500	440,000	-62%	22,000	387,500	-94%	10,200	343,000	-97%
Rudy's Country Store	1,875,000	66,100	127,500	-48%	93,000	150,000	-38%	144,200	166,500	-13%	52,300	141,000	-63%	2,500	112,875	-98%	400	106,312	-100%
Hays Consolidated L.d. - Beacon Hill	421,875	0	28,637	-100%	0	33,750	-100%	0	37,462	-100%	0	31,725	-100%	0	25,397	-100%	0	23,920	-100%
Independence Park Condominium Community, Inc. - Inde	3,700,000	0	198,800	-100%	63,300	222,000	-71%	62,500	244,200	-74%	52,500	203,500	-74%	69,700	388,500	-100%	0	362,600	-100%
Jackie's Dance & Gymnastics - Olanmosscape	100,000	20	8,800	-100%	10	8,800	-100%	0	8,880	-100%	0	7,520	-100%	0	6,020	-100%	0	5,670	-100%
Gschiner Alta Mae	100,000	0	8,640	-100%	0	9,600	-100%	0	10,560	-100%	0	8,800	-100%	0	7,350	-100%	0	6,860	-100%
John Creek Memorial Park, Inc.	590,025	0	51,030	-100%	0	56,700	-100%	0	62,370	-100%	3,700	51,975	-90%	500	43,411	-99%	0	40,517	-100%

Drought Analysis Report

Owner - System	Permitted Pumpage	Jun 2011 Pumpage	Jun 2011 Target	Jun 2011 %	Jul 2011 Pumpage	Jul 2011 Target	Jul 2011 %	Aug 2011 Pumpage	Aug 2011 Target	Aug 2011 %	Sep 2011 Pumpage	Sep 2011 Target	Sep 2011 %	Oct 2011 Pumpage	Oct 2011 Target	Oct 2011 %	Nov 2011 Pumpage	Nov 2011 Target	Nov 2011 %
Small Creek Properties	500,000	0	34,000	-100%	0	40,000	-100%	0	44,400	-100%	0	37,600	-100%	0	30,100	-100%	0	28,350	-100%
Thomas Weatherford	5,000,000	0	420,000	-100%	0	424,000	-100%	0	400,000	-100%	0	312,000	-100%	0	255,500	-100%	0	245,000	-100%
Valle West Condo Assoc. - Well #1	1,000,000	0	66,000	-100%	0	80,000	-100%	0	86,800	-100%	0	75,200	-100%	0	60,200	-100%	0	56,700	-100%
Valle West Condo Assoc. - Well #2	1,000,000	0	66,000	-100%	0	80,000	-100%	0	86,800	-100%	0	75,200	-100%	0	60,200	-100%	0	56,700	-100%
Alan Blucher	209,000	0	16,720	-100%	4,810	12,143	-60%	3,250	10,241	-68%	17,160	56,400	-70%	17,060	45,150	-62%		42,525	
Star Creek Office Park	750,000	19,030	51,000	-64%	21,860	60,000	-64%	23,610	66,600	-65%	13,000	40,000	-68%	17,940	29,050	-38%		24,500	
Joe Sandoval	224,000	0	17,820	-100%	2,604	13,014	-80%	10,976	48,000	-37%	13,000	40,000	-68%	17,940	29,050	-38%		24,500	
Monter Christiana Maranatha	500,000	14,070	38,000	-63%	27,340	48,400	-44%	30,020	48,000	-37%	13,000	40,000	-68%	17,940	29,050	-38%		24,500	
Tier 2 (>12M and <120M gallons/year)																			
Aqua Texas, Inc. - Biko Spillar (downside)	12,875,000	4,922,000	978,500	40%	1,660,000	1,246,300	33%	1,875,000	1,296,000	52%	1,460,000	1,030,000	44%	1,091,000	748,038	46%	1,324,000	830,875	110%
Aqua Texas, Inc. - Biko Spillar (bimby)	38,625,000	0	2,935,500	-100%	4,241,000	3,736,900	13%	4,696,000	3,708,000	27%	3,544,000	3,090,000	15%	2,556,000	2,244,112	14%	2,144,000	1,892,625	13%
St. Andrews School	16,000,000	1,443,700	1,392,400	4%	1,749,400	1,536,000	14%	1,138,200	1,693,600	-33%	1,754,100	1,408,000	25%	1,051,800	1,176,000	-11%	1,202,400	1,097,600	10%
Conman Park Water Company, Inc.	118,000,000	8,960,500	11,894,400	-24%	9,191,100	11,516,800	-20%	9,447,300	11,996,800	-21%	7,437,000	10,006,400	-26%	5,328,100	7,186,200	-26%	4,893,000	4,708,200	4%
Stevenger Redwood Village Water System	16,500,000	1,748,500	0	0%	1,791,600	0	0%	1,871,900	0	0%	1,533,700	0	0%	995,400	0	0%	793,900	0	0%
Ruby Ranch Water Supply Corporation	52,300,000	2,431,400	3,974,800	-39%	3,669,700	5,062,640	-24%	4,940,400	5,020,800	-4%	4,226,400	4,184,000	1%	2,055,300	3,038,630	-32%	2,430,000	2,662,700	-5%
Aqua Texas, Inc. - Shady Hollow Estates Water Company	80,000,000	8,499,000	6,080,000	40%	10,039,000	7,744,000	30%	11,825,000	7,860,000	48%	7,789,000	6,400,000	22%	3,900,000	4,648,000	-16%	3,674,000	3,920,000	-12%
Twin Creek Park Water Supply Co.	12,000,000	725,700	912,000	-20%	691,000	1,161,600	-41%	1,119,800	1,152,000	-29%	728,000	960,000	-24%	548,500	697,200	-21%	518,900	588,000	-12%
Texas-lehigh Cement Company - Plant	54,750,000	3,934,000	3,635,400	8%	3,653,000	3,723,000	-2%	4,354,500	3,723,000	17%	3,436,410	3,635,400	-5%	2,747,550	3,180,975	-14%	2,799,600	3,180,975	-12%
Slaughter Creek Ares Water Supply	14,000,000	800,100	1,064,000	-25%	915,000	1,355,200	-32%	1,018,400	1,344,000	-24%	772,400	1,120,000	-31%	585,010	813,400	-28%	521,390	666,000	-24%
Muniz Foundation	26,730,000	1,113,010	2,031,480	-45%	1,358,800	2,587,464	-47%	1,874,860	2,566,080	-27%	1,523,700	2,138,400	-28%	1,021,300	1,553,013	-34%	968,480	1,303,770	-26%
Hays Consolidated I.s.d. - Hays High School	30,000,000	7,732,000	2,280,000	-24%	2,276,800	2,904,000	-22%	2,597,500	2,860,000	-10%	2,610,000	2,400,000	9%	1,243,000	1,743,000	-29%	1,078,000	1,470,000	-27%
Aqua Texas, Inc. - Leisurewood Water Company	88,764,000	5,037,000	6,746,064	15%	8,900,000	8,592,355	4%	10,530,000	8,521,344	24%	7,885,000	7,101,120	11%	3,922,000	5,157,188	-24%	3,079,000	4,349,436	-29%
Aqua Texas, Inc. - Bear Creek Park	12,068,000	1,016,000	919,448	11%	1,213,000	1,171,086	4%	1,226,000	1,161,408	6%	1,044,000	967,840	8%	550,000	702,894	-22%	408,000	592,802	-31%
Mountain City Oaks Water System	43,164,000	3,372,700	3,280,464	3%	3,013,700	4,176,275	-28%	3,411,400	4,143,744	-18%	3,255,500	3,453,120	-6%	1,662,300	2,507,828	-34%	1,425,500	2,115,036	-33%
Acroyo Double Water System	52,800,000	3,206,600	4,012,800	-20%	3,942,900	4,686,640	-16%	3,972,600	4,646,400	-15%	2,872,200	3,801,600	-24%	1,887,800	3,067,660	-36%	1,664,200	2,587,200	-36%
City Of Hays Water Department	15,400,000	868,000	1,170,400	-24%	1,027,000	1,490,720	-31%	1,107,000	1,478,400	-25%	777,000	1,282,000	-37%	594,000	894,740	-41%	447,000	754,600	-41%
Oak Forest Water Supply Corporation	54,450,000	4,823,300	4,138,200	17%	4,785,900	5,270,760	-9%	4,230,000	5,227,200	-19%	3,655,200	4,356,000	-16%	2,088,600	3,163,545	-34%	1,484,300	2,668,050	-45%
Village Of San Leanna	25,500,000	3,374,000	1,938,000	74%	3,163,200	2,468,400	28%	1,719,100	2,448,000	-30%	2,298,800	2,040,000	13%	919,840	1,481,550	-38%	670,360	1,249,600	-46%
Chen Creek Country Club	31,651,200	1,952,100	2,405,491	-19%	2,011,700	3,063,836	-34%	1,980,700	3,036,515	-35%	1,661,100	2,532,096	-34%	975,300	1,838,935	-47%	776,200	1,550,909	-50%
Chen Creek Meadows	36,300,000	2,831,000	2,758,800	3%	3,131,000	3,513,840	-11%	3,657,800	3,484,800	5%	1,909,000	2,904,000	-34%	1,626,000	2,109,030	-23%	776,000	1,778,700	-56%
Chen Creek Valley	95,166,500	8,903,000	8,222,366	8%	8,589,000	9,135,984	-6%	8,707,000	10,049,582	-13%	6,568,000	8,374,652	-26%	6,655,000	6,994,737	-5%	1,920,000	6,528,422	-71%
City Of Austin - Nature Center	16,000,000	395,890	1,382,400	-71%	421,290	1,536,000	-73%	585,080	1,689,600	-67%	264,930	1,408,000	-81%	264,520	1,176,000	-78%	274,970	1,097,600	-75%
City Of Sunset Valley	18,590,000	0	1,412,840	-100%	0	1,784,640	-100%	0	1,784,640	-100%	0	1,487,200	-100%	0	1,080,079	-100%	0	910,910	-100%
Austin United Capital Soccer Club	12,000,000	0	1,036,800	-100%	0	1,152,000	-100%	0	1,267,200	-100%	0	1,056,000	-100%	0	882,000	-100%	0	823,200	-100%
Huntington Utility Company, L.L.C.	16,000,000	1,372,000	1,598,400	-14%	1,496,000	1,843,200	-19%	1,612,000	1,814,400	-11%	1,178,000	1,353,600	-13%	800,000	567,000	41%		882,000	
Tier 3 (>120M gallons/year)																			
Credentia-maha Water Supply Corporation	255,000,000	20,509,100	17,864,986	15%	21,409,000	22,754,351	-6%	23,051,200	22,566,297	2%	20,464,800	18,805,248	9%	15,338,750	13,657,311	12%	14,919,489	11,518,214	30%
City Of Kyle	350,000,000	11,425,364	21,327,500	-46%	11,709,743	27,164,500	-57%	15,494,221	26,940,000	-42%	13,799,009	22,450,000	-39%	13,167,406	13,425,249	-2%	13,318,016	11,322,500	16%
Georgetown Special Utility District	360,000,000	32,290,000	26,668,400	21%	32,149,000	33,967,120	-5%	29,377,000	33,686,989	-13%	25,586,000	28,072,001	-9%	18,128,000	20,387,289	-11%	15,344,000	17,194,100	-11%
Center Materials, Lp.	214,281,000	18,246,600	16,000,443	1%	17,902,800	18,171,877	-1%	16,759,500	17,143,280	-2%	12,750,900	13,371,758	-5%	10,392,700	10,950,270	-5%	9,803,900	10,500,259	-16%
City Of Buda	275,000,000	20,295,700	20,900,000	-9%	25,180,900	26,820,000	-5%	26,399,700	26,399,999	0%	18,238,800	22,000,000	-17%	12,201,600	15,977,493	-24%	11,088,900	13,475,000	-18%
Marathon Utilities, Inc.	324,400,000	8,915,000	25,854,400	-66%	9,363,000	32,201,920	-71%	15,063,000	31,942,999	-59%	9,361,000	20,352,000	-54%	4,984,000	14,227,639	-65%		16,595,600	
		192,363,364	215,588,581	-11%	206,029,746	261,234,382	-21%	218,543,722	260,632,989	-16%	174,569,821	210,314,338	-17%	122,390,059	152,865,662	-20%	101,244,002	135,495,248	-25%

Item 4

Board discussions and possible actions

- c. Discussion and possible action related to reviewing the staff's individual incentive projects and approving the FY 2012 Goals and Objectives for the General Manager.**

DRAFT

Goals and Objectives for General Manager in FY 2012

GOALS

1. Successfully executing the normal and routine requirements associated with GCD operations, including maintaining an effective, motivated staff.
2. Providing responsible and efficient stewardship of the District's fiscal resources, including financial operations that conform to all relevant audit standards.
3. Assuring that the District aquifers are managed in a responsive and responsible fashion, including prosecution of a drought management regulatory program that conforms to prevailing Rules.
4. Providing a leadership role in GMA 9 and 10, assuring statutory requirements of the District and the GMA Committees are addressed.
5. Accomplishing all activities required of the District in assuring the HCP process is pursued in a timely and cost-effective fashion, including appropriate interfacing with FWS and contractors on their NEPA process.
6. Interacting with the Board effectively by using the Board President as the principal interface between the GM and the Directors and to assure the *Board's* needs are being met.

OBJECTIVES

1. Establish an Interlocal Agreement/Memorandum of Understanding with City of Austin concerning HCP direct and indirect mitigation and adaptive measures by mid-2012.
2. Coordinate the establishment of and participate in the inaugural Kent S Butler Memorial Barton Springs/Edwards Aquifer Symposium in Spring 2012.
3. Serve as the District Representative to GMA 10 and effectively assist the GMA 10 Committee Coordinator in prosecuting GMA responsibilities in a timely, statutorily appropriate fashion.
4. Establish and coordinate effective communications with all nine legislators/legislative offices to introduce and support our primary legislative priorities for next session, including setting up at least two meetings between each legislator and at least one geographically appropriate Director during FY 2012.
5. Provide oversight and ensure appropriate communications with various stakeholders in ensuring that the initial hydrogeologic investigations of the Saline Edwards in and near the District are undertaken by mid-2012.
6. Promulgate additional rulemaking that is required to conform to all statutory changes from last session and to address the gap between the current EDWL and the DFC/MAG.
7. Arrange and participate with the Board in a facilitated examination of what policy and/or procedural changes might benefit the communications among the various directors and between the Board and the staff as well as overall District operations before June 1, 2012.

Item 4

Board discussions and possible actions

d. Discussion and possible action related to the settlement agreement concerning the Jeremiah Ventures TLAP contested case.

Item 4

Board discussions and possible actions

e. Discussion and possible action related to authorizing the District's legal counsel to prepare a brief concerning the difference between groundwater management by GCD regulations and water availability determinations by counties under subdivision regulations, in reply to the request for an AG opinion RQ-1003-GA.



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 17, 2011

The Honorable Allan Ritter
Chair, Committee on Natural Resources
Texas House of Representatives
Post Office Box 2910
Austin, Texas 78768-2910

Via E-Mail

Re: Authority of a county, under section 35.019 Water Code, to enact a groundwater management ordinance that is applicable to that part of the county outside of a priority groundwater management area (RQ-1003-GA)

Dear Representative Ritter:

We have received your letter dated October 11, 2011 and have designated it as Request No.1003-GA. Section 402.042 of the Government Code provides that the Attorney General shall issue an opinion not later than the 180th day after the date that an opinion request is received unless we notify the requestor in writing before that day that the opinion will be delayed or not rendered. We received your request on October 12, 2011, setting a due date for your opinion of April 9, 2012. We will respond by that date.

By copy of this letter we are notifying those listed below of your request and asking them to submit written briefs if they care to do so. If you are aware of other interested parties, please let us know as soon as possible. We ask that the briefs be submitted by November 16, 2011. Please note that briefs and other correspondence are subject to the Public Information Act.

Very truly yours,

Jason Boatright
Chairman, Opinion Committee

JEB/VKH/rem

Attachment: Request No. 1003-GA

cc: The Honorable Troy Fraser, Chair, Committee on Natural Resources, Texas State Senate
The Honorable Doug Miller, Texas House of Representatives
The Honorable Paul Workman, Texas House of Representatives
The Honorable David Escamila, Travis County Attorney
Mr. Les Trobman, General Counsel, Texas Commission on Environmental Quality
Mr. Ken Petersen, General Counsel, Texas Water Development Board
Mr. J. Kevin Ward, Executive Administrator, Texas Water Development Board
Mr. Gregory M. Ellis, Executive Director, Texas Alliance of Groundwater Districts
Mr. Robert Lemens, General Counsel, Texas Association of Counties
Mr. Donald Lee, Executive Director, Texas Conference of Urban Counties
Mr. Jeff Boyd, Chief of Staff, Governor's Office
Ms. Teresa Spears, Governor's Appointment Director, Office of the Governor

State of Texas
House of Representatives

CHAIRMAN
ALLAN RITTER
VICE CHAIRMAN
TRACY O. KING

Committee on Natural Resources

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OCT 12 2011

OPINION COMMITTEE



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October 11, 2011

The Honorable Greg Abbott
Attorney General of Texas
Attn: Opinion Committee
P.O. Box 12458
Austin, Texas 78711-2548

FILE # ML-46838-11

I.D. # 46838

RQ-1003-GA

Re: Request for an Attorney General's Opinion Regarding the Legal Authority of a County Commissioners Court to Enact a Groundwater Management Ordinance Pursuant to Texas Water Code, Section 35.019 or Texas Local Government Code, Section 232.0032; and the Validity of the Same in Certain Circumstances.

Dear General Abbott:

I respectfully request an Attorney General Opinion concerning the authority of a county commissioners court to enact a groundwater management ordinance pursuant to Texas Water Code, Section 35.019, specifically its ability to enact such an ordinance outside of a priority groundwater management area ("PGMA") as well as its ability to enact such an ordinance where the process of forming a groundwater district has been initiated and/ or further created.

Texas Water Code, Section 36.0015 provides that groundwater conservation districts are the preferred method of groundwater management, and the Texas Legislature has provided two very limited exceptions when a county rather than a groundwater district has authority regarding groundwater management. First, Texas Water Code, Section 35.019(a) provides that:

The commissioners court of a county in a priority groundwater management area¹ may adopt water availability requirements in an area where platting is required if the court determines that the requirements are necessary to prevent current or projected water use in the county from exceeding the safe sustainable yield of the county's water supply.

¹ Texas Water Code, Chapter 35, creates a process by which the Texas Commission on Environmental Quality may designate an area that is experiencing or is expected to experience critical groundwater problems as a "priority groundwater management area" and prompt the creation of a water conservation and reclamation district under Section 59, Article XVI, Texas Constitution.

Second, Texas Local Government Code, Section 232.0032 allows counties to require a water availability certification for plat applications for new subdivisions that rely on groundwater. No other statutes appear to allow a county commissioners court to exercise authority to adopt water availability requirements via development ordinance or otherwise.

Given the very limited authority of a county to impose groundwater availability requirements on developments, the question presented in this opinion request is whether a county which is only *partially* designated as a PGMA may adopt a groundwater availability ordinance in the *entire* county, or if such a groundwater availability ordinance may only apply in the *portion of the county* designated as a PGMA. Although Texas Water Code, Section 35.019(a) provides that "the commissioners court of a county in a priority groundwater management area may adopt water availability requirements in an area where platting is required," (emphasis added) the statute is not crystal clear regarding the scope of authority if only a partial county is included in a PGMA.

An example of the context in which the question arises is in Travis County. Although only the southwestern portion of Travis County is included in the Hill Country PGMA,² a groundwater availability ordinance proposed by Travis County ("Travis County's Proposed Groundwater Ordinance")³ appears to apply county-wide. For instance, the proposed definition of "Local Groundwater" to be added to Section 82.002, Travis County Code "means groundwater from an aquifer underlying Travis County." Additionally, the remainder of Travis County's Proposed Groundwater Ordinance imposes various new requirements on "Local Groundwater," which is not clearly limited to the area in southwestern Travis County that is subject to the Hill Country PGMA.

Further, although Section 82.212 of Travis County's Proposed Groundwater Ordinance appears to be authorized by Texas Local Government Code, Section 232.0032 regarding water availability certification, the proposal appears to go beyond the grant of authority in statute, or the TCEQ rules that implement the statute in 30 Texas Administrative Code, Chapter 230. In fact, newly proposed Section 82.212(a) expressly states that Travis County's Proposed Groundwater Ordinance includes requirements in *addition to* TCEQ rules. Unless Travis County is relying on authority conferred under Texas Water Code, Section 35.019 relating to groundwater availability ordinances in PGMA areas, it does not appear that Travis County has a clear legal basis to adopt an ordinance that goes beyond Texas Local Government Code, Section 232.0032.

² See attached Exhibit 1; also found at http://www.tceq.texas.gov/assets/public/permitting/watersupply/groundwater/maps/pgma_areas.pdf

³ See attached Exhibit 2.

Thus, unless Texas Water Code, Section 35.019 allows a county which is only partially covered by a PGMA to enact a groundwater availability ordinance in areas of the county outside of the PGMA, it appears that Travis County would be exceeding its statutory authority if Travis County's Proposed Groundwater Ordinance is enacted. Likewise, according to Travis County, several other counties appear to have undergone or appear to be considering some enactment of groundwater ordinances although the legal authority to do is questionable.⁴

Furthermore, where TCEQ has already begun the process by which a groundwater district would be created in the portion of Travis County that is covered by the Hill Country PGMA, it is not clear whether Travis County is precluded from proceeding with Travis County's Proposed Groundwater Ordinance, either based on law or based on equitable grounds. If Travis County adopts a groundwater management ordinance that is later usurped by groundwater district rules and regulations, landowners could be disadvantaged during the period of time when Travis County's ordinance is in effect.

Assuming that a groundwater management ordinance is properly and legally adopted under Texas Water Code, Section 35.019 in an area covered by a PGMA, but the PGMA process is successful and a groundwater district is created, it seems logical that rules and regulations of the groundwater district would trump the ordinance. Otherwise, territory that was previously subject to a PGMA over which a county enacted a groundwater management ordinance would be subject to double-regulation by both the county and the groundwater district. Issues may also arise if the county ordinance and groundwater district rules are inconsistent. Finally, as previously mentioned, Texas Water Code, Section 36.0015 provides that groundwater conservation districts are the preferred method of groundwater management rather than county regulation of the same. In the context of Travis County's Proposed Groundwater Ordinance, TCEQ has already begun the hearing process regarding establishment of a groundwater district in southwestern Travis County.⁵ If Travis County's Proposed Groundwater Ordinance is enacted, and in the very near future the PGMA process is successful and a groundwater district covers southwestern Travis County, a conflict of laws issue could arise and place the landowners in southwestern Travis County in an untenable position with regard to double groundwater regulation.

Lastly, Senate Bill 332 which was passed by the 82nd Texas Legislature and is effective on September 1, 2011 codifies and clarifies in newly enacted Texas Water Code, Section 36.002 a landowner's ownership of and right to produce groundwater, qualified only by groundwater

⁴ See also, http://www.co.travis.tx.us/tnr/groundwater_availability/committee_meetings.asp#110411. Specifically, meeting materials for the April 11, 2011 meeting include PDFs of different ordinances for Bandera, Comal, Gillespie, Hays, Kerr, and Kendall counties.

⁵ See *Groundwater Conservation District Creation Recommendation for the Hill Country Priority Groundwater Management Area: Travis and Comal Counties*, State Office of Administrative Hearings Docket No. 582-10-5643.

district regulations. Although Senate Bill 332 expressly states the types of regulatory measures that a groundwater district, the Edwards Aquifer Authority, the Harris-Galveston Subsidence District, and the Fort Bend Subsidence District may exercise in relation to a landowner's vested groundwater rights, no exception is made that would allow a county commissioners court to enact a groundwater management ordinance. Thus, in light of the new law that has become effective less than six short weeks ago, it is important to determine whether the new statute relating to groundwater rights that is codified in Texas Water Code, Section 36.002 precludes or limits the authority of a county commissioners court. Finally, as previously mentioned, Texas Water Code, Section 36.0015 provides that groundwater conservation districts are the preferred method of groundwater management rather than county regulation of the same, which is consistent with the provisions of Senate Bill 332.

Questions presented:

Accordingly, I request your interpretation and guidance concerning the meaning and applicability of Texas Water Code, Section 35.019; Texas Local Government Code, Section 232.0032;

Specifically, I seek guidance on the following questions:

- 1) Whether a county commissioners court may enact a groundwater management ordinance under Texas Water Code, Section 35.019 or Texas Local Government Code, Section 232.0032 applicable to the whole county? Particularly,
 - a. Whether a county-wide groundwater management ordinance would also apply to areas within the county that have not been designated as a PGMA created under Texas Water Code, Chapter 35?
 - b. Whether a county commissioners court may also enact water availability requirements with respect to surface water, in addition to groundwater?
- 2) Whether a county commissioners court may enact a groundwater management ordinance pursuant to Texas Water Code, Section 35.019 after TCEQ has initiated a process to create a groundwater district pursuant to Texas Water Code, Sections 35.008-35.009?
- 3) Whether a groundwater management ordinance adopted by a county commissioners court pursuant to Texas Water Code, Section 35.019 continues to be a valid ordinance if a groundwater district is created to cover the same territory to which the ordinance applies, assuming that the ordinance was valid when it was created?

Honorable Greg Abbott
October 10, 2011
Page 5

- 4) Whether a county commissioners court may enact a groundwater management ordinance that unduly restricts the sale and/or use of a landowners vested property rights in groundwater, as recognized in Texas Water Code, Section 36.002?

Thank you for your time and attention to this matter. Please let me know if I can provide any additional information or further assistance.

Very truly yours,



Allan B. Ritter, Chair
House Committee on Natural Resources

cc: The Honorable Troy Fraser, Texas Senate
The Honorable Kirk Watson, Texas Senate
The Honorable Paul Workman, Texas House of Representatives
The Honorable Doug Miller, Texas House of Representatives
The Honorable Sam Biscoe, Travis County Judge

Item 4

Board discussions and possible actions

f. Discussion and possible action related to approving the FY 2011 Annual Report and authorizing its submittal to Texas Commission on Environmental Quality.

Item 5

Work Session

The Board will hold a work session to assess the status and progress towards the District's goals, objectives and performance standards in the District Management Plan, to be included in the District's Annual Report to TCEQ.

Note: This work session of the Board is open to the public, but no opportunity for public comment will be provided, either in association with the discussion of an agenda item or in a separate comment period. At the discretion of the directors, comments from the public may be solicited. Public comment periods are included in the Regular Meetings of the District's Board of Directors, where further discussion and any determinations or decisions regarding this topic would be made.

Item 6

Adjournment