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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

June 19, 2007

TO: Person on the attached mailing list.

RE: The Golf Club at Circle C, LP
TCEQ Permit No. 5852

Enclosed is a copy of the Executive Director's response to public comments.

Should you have any questions, please contact Cynthia Zapata of the Texas Commission on Environmental Quality's Office of the Chief Clerk (MC 105) at (512) 239-4517.

Sincerely,

A handwritten signature in cursive script that reads "LaDonna Castañuela".

LaDonna Castañuela
Chief Clerk

LDC/cz

Enclosure

MAILING LIST
for
The Golf Club at Circle C, LP
TCEQ Permit No. 5852

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PROPOSED WATER RIGHT PERMIT NO. 5852

JUN 12 PM 4:12

APPLICATION OF THE GOLF § BEFORE THE CHIEF CLERKS OFFICE
CLUB AT CIRCLE C § TEXAS COMMISSION
FOR PERMIT NO. 5852 § ENVIRONMENTAL QUALITY

EXECUTIVE DIRECTOR'S RESPONSE TO COMMENTS

The Executive Director files this Response to Comments for the oral and verbal comments made at the November 29, 2005, public meeting on The Golf Club at Circle C's (GCCC) application for Permit No. 5852 (the application"), and the written comments received before that meeting.

BACKGROUND

GCCC filed this application with the TCEQ on July 12, 2004. The application was declared administratively complete on April 19, 2005 and mailed notice was issued on May 19, 2005. Published notice was provided in the *Austin American Statesman* on June 9, 2005. At the time this Response to Comments was filed, the technical review had been completed on this application.

GCCC's application requests to maintain an existing off-channel reservoir and five existing dams and reservoirs on an unnamed tributary of Danz Creek and Danz Creek, Colorado River Basin for recreational and/or agricultural (irrigation) purposes, convey and store groundwater and stormwater for subsequent diversion, and use the bed and banks of an unnamed tributary of Danz Creek and Danz Creek. They further request to convey and store groundwater, stormwater and state water in the existing off-channel reservoir and subsequently convey stored water back to Reservoir 1 for diversion.

Staff has found that insufficient unappropriated state water is available for this application. Because there is insufficient state water available, applicant must compensate for any loss of state water by an alternate source. Applicant has chosen to use groundwater to keep the reservoirs full to preclude the use of state water.

COMMENTERS

The following persons provided written and/or oral comment at the public meeting:

James and Sony Bollinger
Joe Ely
Sherry Heiden

Robert D. Hejl
Liz Gifford
David B. Kumhyr
Keith and Teri Layton
Jacqueline Magill
Davis and Swan Perkins
Ira Yates
Ellen Zimmermann
Bear Creek Property Owners Association
Village of Bear Creek
Hays-Trinity Groundwater Conservation District
Save Our Springs
David Wensley
Barton Springs/Edwards Aquifer Conservation District
City of Austin
Lower Colorado River Authority
Joseph and Susan Manzello
Brian and Tracy Sharples
Donald and Turkan Hayes
Andrew Backus
Miki Cook
Robin Hudson
Carolyn Rife
Charles O'Dell (Hays Community Action Network)

RESPONSE TO COMMENTS

COMMENT NO. 1: James and Sony Bollinger, Joe Ely, Sherry Heiden, Robert D. Hejl, Liz Gifford, David B. Kumhyr, Keith and Teri Layton, Jacqueline Magill, David and Swan Perkins, Ira Yates, Ellen Zimmermann ask that the permit be denied.

RESPONSE NO. 1: The Executive Director's staff must perform its review of the application under the rules and laws applicable to the application. If the Executive Director's staff finds that the application does not meet the applicable laws and rules of the agency, it will recommend that the application be denied. If it finds that the application does meet the applicable rules and law, it will draft a permit. The Commission will consider the hearing requests on file with the agency, and will decide whether to grant or deny those hearing requests at an open meeting. If it grants one or more hearing requests, the application will be sent to the State Office of Administrative Hearings for a contested case hearing. After the

hearing, the Commission will decide whether to grant or deny the application. If the Commission denies the requests for hearing, it will decide at the open meeting whether to grant or deny the permit.

COMMENT NO. 2: Bear Creek Property Owners Association (BCPOA) and the Village of Bear Creek (VBC) asked why no notice of this application was provided to them. VBC states that they are the nearest community, less than one mile from the proposed site.

RESPONSE NO. 2. Under Tex. Water Code Section 11.132 and Commission rules, notice is given to water right holders in the basin. BCPOA and VBC did not receive mailed notice because they are not water right holders. Notice of this application was also published in the *Austin American Statesman*.

COMMENT NO. 3: VBC comments that the map included in the application showing the area of concern, along Route 45 and FM 1526, is about 15 years out of date and should be updated.

RESPONSE NO. 3: The Executive Director responds that TCEQ rules (295.123-.124) require that an applicant for a water rights permit submit a map showing locations of reservoirs and diversion points requested in the application. The rules require an applicant for a water rights permit to submit a USGS 7.5 Minute Topographic Quadrangle for this purpose. The map included in the application complies with the rules.

COMMENT NO. 4: Hays-Trinity Groundwater Conservation District (HTGCD) questions whether TCEQ should grant a permit that allows unlimited pumping of groundwater to make up for a lack of surface water and comments that the TCEQ should consider groundwater-surface water impacts.

RESPONSE NO. 4: The TCEQ does not regulate groundwater pumping and does not have the authority to limit groundwater pumping by a landowner. Although under Tex. Water Code § 11.151, the TCEQ shall consider the affects of an application for a water right on groundwater, that provision does not apply in this case because the draft permit, if issued for this application, would not allow diversion or impoundment of state water. Also, the TCEQ must ensure that water right holders of state water are not impacted. It is necessary for Circle C to have an alternate source for this project to prevent impairment of water rights downstream.

COMMENT NO. 5: Robert D. Hejl and David Wensley comment that GCCC should use city water rather than groundwater.

RESPONSE NO. 5: The Executive Director responds that because the application submitted by GCCC did not request authorization to use city water, the use of city water was not considered by the Executive Director's staff in the technical review of the application. GCCC is not required by any law to use a specific alternate source of water such as city water for its development.

COMMENT NO. 6: Barton Springs/Edwards Aquifer Conservation District (BS/EACD) comments that the surface water requested by GCCC became surface water at the well head and until that time should be regulated by rules appropriate for a Priority Groundwater Management Area (PGMA)

RESPONSE NO. 6: The Executive Director responds that Chapter 35 of the Texas Water Code does not give the TCEQ regulatory authority over groundwater in a PGMA, including rulemaking.

EFFECTS ON RECHARGE

COMMENT NO. 7: Robert D. Hejl comments that this area should be considered as recharge to the Edwards Aquifer.

RESPONSE NO. 7: The Executive Director acknowledges and agrees with this comment. In accordance with TCEQ mapping for 30 TAC Chapter 213, Edwards Aquifer, all or part of the property subject to the application is within the Edwards Aquifer recharge zone.

COMMENT NO. 8: HTGCS comments that storage in lined detention ponds and irrigation use prevent recharge of the aquifer and that this would affect the Edwards Aquifer and the upper and middle levels of the Trinity Aquifer.

RESPONSE NO. 8: The Executive Director responds that the purpose of a liner is to retain water storage in ponds and to prevent leakage or discharge. The amount of recharge should stay the same, however, because GCCC will be required to pass any inflows of state water through the ponds to the creek. Also, although under Tex. Water Code § 11.151, the TCEQ shall consider the affects of an application for a water right on groundwater, that provision does not apply in this case because the draft permit, if issued for this application, would not allow diversion or impoundment of state water.

COMMENT NO. 9: The City of Austin comments that storing water in the reservoirs will reduce potential downstream recharge to the Barton Springs segment of the Edwards Aquifer through the beds of Danz and Slaughter Creeks because the water will be inefficiently lost through evaporation.

RESPONSE NO. 9: See Response No. 8. Also, the Executive Director responds that GCCC will compensate for the effects of the reservoirs, including evaporation, with other sources of water; therefore, the net volume of inflows passed through the reservoirs, and recharge, is not changed.

COMMENT NO. 10: Ira Yates comments that this application is contrary to TCEQ's policy of not allowing diversion of Edwards Aquifer recharge.

RESPONSE NO. 10: See Response No. 8.

ACCOUNTING/ENFORCEMENT ISSUES

COMMENT NO. 11: The City of Austin comments that TCEQ should enforce any agreement between GCCC and citizens to monitor GCCC's wells.

RESPONSE NO. 11: The Executive Director responds that the TCEQ cannot enforce private agreements between an applicant and other parties. We note that the accounting plan submitted by GCCC requires GCCC to report quantity and quality information about their wells.

COMMENT NO. 12: Save Our Springs (SOS) and Ira Yates comment that TCEQ is not able to enforce current regulations properly and have concerns about monitoring this application and SOS further comments that the application and proposed accounting measures are needlessly complicated and overly ripe for abuse.

RESPONSE NO. 12: The Executive Director responds that TCEQ enforces water rights based on the provisions of Chapter 11 of the Water Code, TCEQ rules, and provisions in permits. An accounting plan is necessary to ensure that senior and superior water rights are not affected by this application. Other water right holders have successfully implemented accounting plans.

COMMENT NO. 13: Ira Yates and Robert Hejl have concerns about the accounting because of the commingling of surface and groundwater and would like to know where citizens can obtain information about the accounting to determine whether enough water has been released to compensate for evaporation.

RESPONSE NO. 13: The Executive Director responds that in order to properly account for the multiple sources of water GCCC proposes to use, GCCC will be required to submit an accounting plan. A special condition in the permit requires that the accounting plan be maintained. The accounting plan is part of the file for the application. Citizens can contact the

TCEQ Austin Regional Office at (512) 339-3795 if they have any concerns related to compliance with any of the permit provisions.

COMMENT NO. 14: VBC comments that there should be a modified agreement to use surface water with strict enforcement of replenishing the downstream water during a drought and allow flow when there are heavy rain events and it is inefficient or impractical to capture the runoff.

RESPONSE NO. 14: The Executive Director responds that there is no water available for appropriation at GCCC's location and staff would be unable to recommend granting a permit for use of surface water. Any draft permit will require GCCC to provide compensatory releases of other water, to ensure that any inflows of surface water will be passed downstream.

SURFACE WATER AVAILABILITY AND EFFECTS ON DOWNSTREAM USERS

COMMENT NO. 15: David B. Kumhyr comments that there is insufficient water in Danz Creek to offset evaporation from the GCCC's lake.

RESPONSE NO. 15: The Executive Director responds that the hydrology analysis for this application indicated that there was insufficient surface water available in Danz Creek to meet GCCC's demands for irrigation and maintenance of the reservoirs. Any draft permit will require GCCC to maintain alternate sources of water to compensate for the effects, including evaporation, of their operations on surface water.

COMMENT NO. 16: SOS and Ira Yates believe that TCEQ erred when it determined that the regional irrigation pond is not on a waterway and believe that the pond requires a water rights permit.

RESPONSE NO. 16: The Executive Director responds that, based on topographic maps and photographs, the regional irrigation pond was determined to be off-channel.

COMMENT NO. 17: Lower Colorado River Authority (LCRA) objects to the proposal to use storm water because this is state water and that granting a permit for use of state water will affect their water rights.

RESPONSE NO. 17: The Executive Director agrees that stormwater discharged into a watercourse is state water and diversion of stormwater could affect downstream senior water rights. The Executive Director recommends that GCCC's request to use stormwater discharged into Danz Creek or its tributaries be denied because there is no water available for appropriation.

COMMENT NO. 18: Ira Yates comments that actual streamflow is diverted because of enlargement of existing ponds on GCCC's property and has concerns that approval of this project may set a

dangerous precedent since there will be a significant decrease in recharge if all Hill Country water projects capture and reuse water as this project contemplates.

RESPONSE NO. 18: The Executive Director responds that any draft permit will require GCCC to compensate for any effects on streamflow, either through evaporation or diversion, with an alternate source of water. The Executive Director believes that compliance with the accounting plan will ensure that streamflow below the project will not be affected. Also, the Executive Director recommends that the stormwater which goes into the creek not be appropriated to GCCC.

COMMENT NO. 19: Robert D. Hejl asked whether the proposed dams allow the normal runoff to proceed downstream or will they retain all water that previously flowed downstream. If retained, domestic and livestock users will be deprived of their water rights.

RESPONSE NO. 19: The Executive Director responds that any draft permit will require GCCC to use an alternate source to offset evaporation and operate the reservoirs so that there is no effect on state water. Compliance with the accounting plan should protect streamflow below the project.

GROUNDWATER PROTECTION AND USE

COMMENT NO. 20: Robert D. Hejl asks whether the groundwater GCCC will use will come from the Edwards, Trinity or Glen Rose aquifers.

RESPONSE NO. 20: The Executive Director responds that information provided by the applicant indicates that the applicant's wells are completed in and produce groundwater from the Trinity Aquifer.

COMMENT NO. 21: BCPOA, BS/EACD and HTGCD question whether GCCC performed feasibility studies using the Texas Water Development Board's approved Groundwater Availability Model (GAM) for the Trinity Aquifer.

RESPONSE NO. 21: The Executive Director responds that he does not know whether GCCC performed these feasibility studies; none were submitted with the application. These types of feasibility studies were not required to show the viability of the proposed alternate source of water to keep the reservoirs full. However, the applicant did provide information in the application showing their present ability to produce groundwater sufficient to keep the reservoirs full.

COMMENT NO. 22: The City of Austin comments that no information related to current and future groundwater depletion resulting from GCCC's pumpage was included in the application.

RESPONSE NO. 22: The Executive Director responds that this type of information is not required by Texas Water Code, Chapter 11. The TCEQ does not regulate groundwater pumpage.

COMMENT NO. 23: SOS, Liz Gifford, Ellen Zimmerman, BS/EACD, BCPOA, Joe Ely, Sherry Heiden, Joseph and Susan Manzello, David B. Kumhyr, David Wensley, Brian and Tracy Sharples and Donald and Turkan Hayes expressed concern about the potential negative impacts of GCCC's groundwater pumping on other wells in the area.

RESPONSE NO. 23: The Executive Director responds that under present state groundwater policies as established by the Texas courts (i.e., the rule of capture), unless groundwater pumping is regulated by a groundwater conservation district, a landowner is not liable for potential negative impacts to other well owners unless the landowner is removing groundwater to maliciously injure the other well owners, groundwater pumpage causes the other well owners' property to subside, or the landowner is not putting the pumped groundwater to a beneficial use. The TCEQ does not regulate groundwater pumpage.

COMMENT NO. 24: Andrew Backus (HTGCD), SOS and VBC comment that TCEQ should require monitoring of pumping and Andrew Backus comments that GCCC should share additional data regarding its wells.

RESPONSE NO. 24: The Executive Director responds that TCEQ is not authorized to regulate groundwater production or use. However, in order to protect surface water, the TCEQ can require an alternate source of water. If the applicant proposes groundwater as the alternate source, the TCEQ requires data regarding groundwater pumpage for accounting purposes. The Executive Director recommends that the accounting plan and special conditions in any draft permit include requirements for the GCCC to provide records of the amount of groundwater being placed in the reservoirs.

COMMENT NO. 25: SOS comments that the permit should include special conditions prohibiting pumping in times of drought and/or aquifer drawdown

RESPONSE NO. 25: The Executive Director responds that TCEQ is not authorized to regulate groundwater production or use.

COMMENT NO. 26: S/EACD and HTGCD request that the Commission require studies and conditions so that the permit will not affect the Trinity and Edwards Aquifers.

RESPONSE NO. 26: he Executive Director responds that TCEQ is not authorized to regulate groundwater production or use, and is not authorized to require such studies.

COMMENT NO. 27: S/EACD, HTGCD and the City of Austin comment that the application could affect the Barton Springs segment of the Edwards Aquifer.

RESPONSE NO. 27: he Executive Director responds that any draft permit will require GCCC to compensate for the effects of the reservoirs with other sources of water; the net volume of inflows passed through the reservoirs should not change, and therefore the recharge should not change.

COMMENT NO. 28: TGCD and the City of Austin comment that the amount of water GCCC wants to produce exceeds the sustainable production for the aquifer.

RESPONSE NO. 28: he Executive Director responds that state groundwater polices as established by the Texas courts authorize the applicant to produce and use the groundwater under the applicant's property. The TCEQ does not regulate how much groundwater a person can pump from his land.

COMMENT NO. 29: BC requests the Commission restrict GCCC's use of groundwater to 36,000 gallons per day.

RESPONSE NO. 29: As stated above, the Executive Director responds that TCEQ is not authorized to limit groundwater production or use.

COMMENT NO. 30: HTGCD requests that GCCC voluntarily comply with the HTGCD's requirements, which includes a reasonable use doctrine for issuance of a water use permit.

RESPONSE NO. 30: The Executive Director is not opposed to GCCC voluntarily complying with these requirements. The TCEQ is not authorized to limit groundwater production or use, and is not authorized to require the applicant to comply with HTGCD's permit requirements.

COMMENT NO. 31: James and Sony Bollinger, Miki Cook, Joe Ely, Sherry Heiden, Robin Hudson, Jacqueline Magill, David and Swan Perkins, Carolyn Rife, Ellen Zimmermann comment that they depend on their wells for their homes and that this application will affect their ability to use their wells.

RESPONSE NO.31: The Executive Director responds that he TCEQ is required to protect surface water but does not regulate groundwater pumping amounts. The use of groundwater, as well as any other alternative source CCGG may have to keep the reservoirs full, will accomplish protection of surface water.

GROUNDWATER MANAGEMENT AREA (PGMA) CONCERNS

COMMENT NO. 32: HTGCD comments that TCEQ has not created a groundwater conservation district in this Priority Groundwater Conservation Area and that TCEQ should act as a groundwater conservation district. Or, in the alternative HTGCD and the VBC request TCEQ allow HTGCD and BS/EACD to act in a decision-making role.

RESPONSE NO. 32: A groundwater conservation district has not been created in this area through either local- or state-initiative and the Water Code does not authorize the TCEQ to act as a groundwater conservation district. The Water Code also does not allow HTGCD or BS/EACD to act in a groundwater management decision-making role as suggested.

COMMENT NO. 33: BS/EACD and HTGCD comment that the permit should not be approved until protections are provided for groundwater and groundwater users in Travis County in the PGMA who are not in a groundwater conservation district.

RESPONSE NO. 33: The Executive Director responds that under Chapters 11 and 36 of the Water Code the Commission is not authorized to deny or delay a water right permit application because the area is not in a groundwater conservation district.

WATER QUALITY AND OTHER ENVIRONMENTAL CONCERNS

COMMENT NO. 34: BS/EACD and HTGCD are concerned about the water quality discharged from the existing irrigation ponds on Danz Creek, which recharges the Barton Springs Segment of the Edwards Aquifer, and request information about water quality. These commenters are also concerned about GCCC's ability to ensure that potentially contaminated storm water runoff that is captured in the reservoirs does not infiltrate into the Edward's Aquifer.

RESPONSE NO. 34: The Executive Director responds that any draft permit will require GCCC to implement and maintain appropriate best management practices (BMPs) on the golf course to minimize potential pollutant loadings through the control of sediment and nutrients. Required BMPs include: (1) installation and placement of erosion resistant materials in areas subject to high velocity flows; (2) the use of sediment control barriers; (3) temporary and permanent ground cover (both natural and artificial types); (4) aerification of soils to promote infiltration and runoff reduction; and (5) proper management and control of fertilizer, herbicide, and pesticide applications.

COMMENT NO. 35: BCPOA and HTGCD comment that any golf course irrigation and pond construction will allow discharges to creeks and will directly affect the Trinity and Edwards Aquifers.

RESPONSE NO. 35: See Response to Comment No. 34.

COMMENT NO. 36: Robert Hejl comments that the environment, water quality, recharge and wildlife will be affected by use of pesticides, herbicides, and nitrate fertilizers on the golf course and SOS comments that the permit should not be issued without strict limits on the use and reporting of use of landscape chemicals in the areas to be irrigated.

RESPONSE NO. 36: See Response to Comment No. 34. Any draft permit will include a special condition requiring GCCC to implement BMPs to control or minimize such impacts. The TCEQ must assess the affects of the issuance of a permit on water quality under Tex. Water Code Section 11.150. The TCEQ protects water quality by placing special conditions in permits to minimize runoff of these chemicals into the rivers and the aquifer.

COMMENT NO. 37: The City of Austin comments that the impact of releasing Trinity groundwater and private storm water to compensate any state water captured in Reservoirs 2, 3 and 4 may have potential to impact the already impaired macrobenthos community within the watershed, and this should be determined to prevent further stream degradation.

RESPONSE NO. 37: The TCEQ does consider the impact of the quality of the groundwater on the stream in its review of the application. The groundwater should not cause impairment of the water quality of the stream. Any draft permit will require GCCC to monitor records of groundwater quality in its Accounting Plan no less than every 3 months, subject to TCEQ review, and require that the discharge of groundwater and surface water must be of sufficient quality to meet requirement of the water quality standards.

COMMENT NO. 38: HTGCD comments that there is economic value in maintaining flowing streams in the hill country. GCCC should consider lots near open space without the open space including a golf course, since that can have value with less environmental impact.

RESPONSE NO. 38: The Executive Director responds that it understands the economic benefit of maintaining flowing streams in the hill country and recommends special conditions in the draft permit to protect the flow of streams as much as possible under the law.

BENEFICIAL USES

COMMENT NO. 39: Robert D. Hejl asked what kind of agricultural use is intended by this application.

RESPONSE NO. 39.: The definition of "agricultural use" in the Water Code, at Section 11.002(12), includes irrigation. GCCC is asking to irrigate the golf course with this water.

COMMENT NO. 40: BS/EACD comments that much of the groundwater pumped is lost due to evaporative and transpiration losses at the land surface from ponds for golf course irrigation and that

this waste will be the largest when there are competing demands from higher, more beneficial uses will likely also be at their largest.

RESPONSE NO. 40: The Executive Director agrees that this may be true. However, concerning Amore beneficial uses, the Executive Director responds that under the Water Code, all uses listed in Section 11.023 are considered beneficial and the TCEQ cannot consider one use higher than another unless there are competing applications for the same water.

COMMENT NO. 41: Miki Cook, Robin Hudson, Jacqueline Magill, Carolyn Rife, Ellen Zimmermann comment that area residents, farmers and ranchers should be considered priority users of water resources before allowing water rights to be given to a golf course.

RESPONSE NO. 41: The Executive Director responds that under the Water Code, all uses listed in Section 11.023 are considered beneficial and the TCEQ cannot consider one use higher than another unless there are competing applications for the same water.

PUBLIC WELFARE/ETHICS/FAIRNESS ISSUES

COMMENT NO. 42: Charles O'Dell (President of Hays Community Action Network) comments that the GCCC is located in a water quality protection plan area, a plan that was developed by consensus of a number of groups. The commission should use good sense in carefully considering the application, and, after applying the law, come down on the side of the public interest.

RESPONSE NO. 42: The Executive Director responds that the TCEQ must consider whether and application is detrimental to the public welfare when considering whether to issue a water right. The Executive Director's staff cannot say that this application is detrimental to the public welfare because agricultural use is a listed beneficial use in the Water Code. Also, the Executive Director notes that recreation and pleasure are listed beneficial uses in Section 11.023(a)(6) of the Water Code.

COMMENT NO. 43: James and Sony Ballinger comment that nearby residents should not have to invest money in new wells to replace their source of water if GCCC is allowed to pump groundwater. Joe Ely, Sherry Heiden, James and Sony Bollinger and Joseph and Susan Manzell comment that many area residents do not have the resources to connect with LCRA. Donald and Turkan Haynes, David B. Kumhyr, David and Swan Perkins, Brian and Tracey Sharples comment that homeowners should be considered over commercial interests.

RESPONSE NO. 43: The Executive Director responds that under current groundwater law, if not regulated by a groundwater conservation district, a property owner may pump groundwater under his land unless he is causing injury to land or waste. Also, see Response to comment No. 40.

COMMENT NO. 45: VBC comments that groundwater pumping will impact VBC's wells and result in VBC drilling a deeper well, or switching to other sources, resulting in economic impact to VBC.

RESPONSE NO. 45: See response above. Also, to the extent this may bear on public welfare, the Executive Director responds that The Executive Director's staff cannot say that this application is detrimental to the public welfare because agricultural use is a listed beneficial use in the Water Code. Also, the Executive Director notes that recreation and pleasure are listed beneficial uses in Section 11.023(a)(6) of the Water Code.

OTHER

COMMENT NO. 44: BCPOA questioned whether GCCC is complying with the terms of the Bradley Settlement Agreement with the City of Austin that pertains to groundwater use affecting area wells.

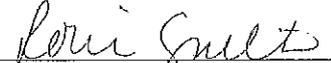
RESPONSE NO. 44: The Executive Director does not know if GCCC is complying with the terms of this agreement with the City of Austin. The TCEQ is not a party to this agreement, and does not have the authority to regulate contracts under any law

Respectfully submitted,

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

Stephanie Bergeron Purdue, Deputy Director
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CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of June, 2007, a true and correct copy of the foregoing document was delivered to the Office of the Chief Clerk of the TCEQ.

Robin Smith

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TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

2007 JUN 12 PM 4:12

CHIEF CLERKS OFFICE

PROPOSED WATER RIGHT PERMIT NO. 5852

2007 JUN 12 PM 4:12

APPLICATION OF THE GOLF § BEFORE THE CHIEF CLERKS OFFICE
CLUB AT CIRCLE C § TEXAS COMMISSION
FOR PERMIT NO. 5852 § ENVIRONMENTAL QUALITY

EXECUTIVE DIRECTOR'S RESPONSE TO COMMENTS

The Executive Director files this Response to Comments for the oral and verbal comments made at the November 29, 2005, public meeting on The Golf Club at Circle C's (GCCC) application for Permit No. 5852 (the application"), and the written comments received before that meeting.

BACKGROUND

GCCC filed this application with the TCEQ on July 12, 2004. The application was declared administratively complete on April 19, 2005 and mailed notice was issued on May 19, 2005. Published notice was provided in the *Austin American Statesman* on June 9, 2005. At the time this Response to Comments was filed, the technical review had been completed on this application.

GCCC's application requests to maintain an existing off-channel reservoir and five existing dams and reservoirs on an unnamed tributary of Danz Creek and Danz Creek, Colorado River Basin for recreational and/or agricultural (irrigation) purposes, convey and store groundwater and stormwater for subsequent diversion, and use the bed and banks of an unnamed tributary of Danz Creek and Danz Creek. They further request to convey and store groundwater, stormwater and state water in the existing off-channel reservoir and subsequently convey stored water back to Reservoir 1 for diversion.

Staff has found that insufficient unappropriated state water is available for this application. Because there is insufficient state water available, applicant must compensate for any loss of state water by an alternate source. Applicant has chosen to use groundwater to keep the reservoirs full to preclude the use of state water.

COMMENTERS

The following persons provided written and/or oral comment at the public meeting:

- James and Sony Bollinger
- Joe Ely
- Sherry Heiden

Robert D. Hejl
Liz Gifford
David B. Kumhyr
Keith and Teri Layton
Jacqueline Magill
Davis and Swan Perkins
Ira Yates
Ellen Zimmermann
Bear Creek Property Owners Association
Village of Bear Creek
Hays-Trinity Groundwater Conservation District
Save Our Springs
David Wensley
Barton Springs/Edwards Aquifer Conservation District
City of Austin
Lower Colorado River Authority
Joseph and Susan Manzello
Brian and Tracy Sharples
Donald and Turkan Hayes
Andrew Backus
Miki Cook
Robin Hudson
Carolyn Rife
Charles O'Dell (Hays Community Action Network)

RESPONSE TO COMMENTS

COMMENT NO. 1: James and Sony Bollinger, Joe Ely, Sherry Heiden, Robert D. Hejl, Liz Gifford, David B. Kumhyr, Keith and Teri Layton, Jacqueline Magill, David and Swan Perkins, Ira Yates, Ellen Zimmermann ask that the permit be denied.

RESPONSE NO. 1: The Executive Director's staff must perform its review of the application under the rules and laws applicable to the application. If the Executive Director's staff finds that the application does not meet the applicable laws and rules of the agency, it will recommend that the application be denied. If it finds that the application does meet the applicable rules and law, it will draft a permit. The Commission will consider the hearing requests on file with the agency, and will decide whether to grant or deny those hearing requests at an open meeting. If it grants one or more hearing requests, the application will be sent to the State Office of Administrative Hearings for a contested case hearing. After the

hearing, the Commission will decide whether to grant or deny the application. If the Commission denies the requests for hearing, it will decide at the open meeting whether to grant or deny the permit.

COMMENT NO. 2: Bear Creek Property Owners Association (BCPOA) and the Village of Bear Creek (VBC) asked why no notice of this application was provided to them. VBC states that they are the nearest community, less than one mile from the proposed site.

RESPONSE NO. 2. Under Tex. Water Code Section 11.132 and Commission rules, notice is given to water right holders in the basin. BCPOA and VBC did not receive mailed notice because they are not water right holders. Notice of this application was also published in the *Austin American Statesman*.

COMMENT NO. 3: VBC comments that the map included in the application showing the area of concern, along Route 45 and FM 1526, is about 15 years out of date and should be updated.

RESPONSE NO. 3: The Executive Director responds that TCEQ rules (295.123-.124) require that an applicant for a water rights permit submit a map showing locations of reservoirs and diversion points requested in the application. The rules require an applicant for a water rights permit to submit a USGS 7.5 Minute Topographic Quadrangle for this purpose. The map included in the application complies with the rules.

COMMENT NO. 4: Hays-Trinity Groundwater Conservation District (HTGCD) questions whether TCEQ should grant a permit that allows unlimited pumping of groundwater to make up for a lack of surface water and comments that the TCEQ should consider groundwater-surface water impacts.

RESPONSE NO. 4: The TCEQ does not regulate groundwater pumping and does not have the authority to limit groundwater pumping by a landowner. Although under Tex. Water Code § 11.151, the TCEQ shall consider the affects of an application for a water right on groundwater, that provision does not apply in this case because the draft permit, if issued for this application, would not allow diversion or impoundment of state water. Also, the TCEQ must ensure that water right holders of state water are not impacted. It is necessary for Circle C to have an alternate source for this project to prevent impairment of water rights downstream.

COMMENT NO. 5: Robert D. Hejl and David Wensley comment that GCCC should use city water rather than groundwater.

RESPONSE NO. 5: The Executive Director responds that because the application submitted by GCCC did not request authorization to use city water, the use of city water was not considered by the Executive Director's staff in the technical review of the application. GCCC is not required by any law to use a specific alternate source of water such as city water for its development.

COMMENT NO. 6: Barton Springs/Edwards Aquifer Conservation District (BS/EACD) comments that the surface water requested by GCCC became surface water at the well head and until that time should be regulated by rules appropriate for a Priority Groundwater Management Area (PGMA)

RESPONSE NO. 6: The Executive Director responds that Chapter 35 of the Texas Water Code does not give the TCEQ regulatory authority over groundwater in a PGMA, including rulemaking.

EFFECTS ON RECHARGE

COMMENT NO. 7: Robert D. Hejl comments that this area should be considered as recharge to the Edwards Aquifer.

RESPONSE NO. 7: The Executive Director acknowledges and agrees with this comment. In accordance with TCEQ mapping for 30 TAC Chapter 213, Edwards Aquifer, all or part of the property subject to the application is within the Edwards Aquifer recharge zone.

COMMENT NO. 8: HTGCS comments that storage in lined detention ponds and irrigation use prevent recharge of the aquifer and that this would affect the Edwards Aquifer and the upper and middle levels of the Trinity Aquifer.

RESPONSE NO. 8: The Executive Director responds that the purpose of a liner is to retain water storage in ponds and to prevent leakage or discharge. The amount of recharge should stay the same, however, because GCCC will be required to pass any inflows of state water through the ponds to the creek. Also, although under Tex. Water Code § 11.151, the TCEQ shall consider the affects of an application for a water right on groundwater, that provision does not apply in this case because the draft permit, if issued for this application, would not allow diversion or impoundment of state water.

COMMENT NO. 9: The City of Austin comments that storing water in the reservoirs will reduce potential downstream recharge to the Barton Springs segment of the Edwards Aquifer through the beds of Danz and Slaughter Creeks because the water will be inefficiently lost through evaporation.

RESPONSE NO. 9: See Response No. 8. Also, the Executive Director responds that GCCC will compensate for the effects of the reservoirs, including evaporation, with other sources of water; therefore, the net volume of inflows passed through the reservoirs, and recharge, is not changed.

COMMENT NO. 10: Ira Yates comments that this application is contrary to TCEQ's policy of not allowing diversion of Edwards Aquifer recharge.

RESPONSE NO. 10: See Response No. 8.

ACCOUNTING/ENFORCEMENT ISSUES

COMMENT NO. 11: The City of Austin comments that TCEQ should enforce any agreement between GCCC and citizens to monitor GCCC's wells.

RESPONSE NO. 11: The Executive Director responds that the TCEQ cannot enforce private agreements between an applicant and other parties. We note that the accounting plan submitted by GCCC requires GCCC to report quantity and quality information about their wells.

COMMENT NO. 12: Save Our Springs (SOS) and Ira Yates comment that TCEQ is not able to enforce current regulations properly and have concerns about monitoring this application and SOS further comments that the application and proposed accounting measures are needlessly complicated and overly ripe for abuse.

RESPONSE NO. 12: The Executive Director responds that TCEQ enforces water rights based on the provisions of Chapter 11 of the Water Code, TCEQ rules, and provisions in permits. An accounting plan is necessary to ensure that senior and superior water rights are not affected by this application. Other water right holders have successfully implemented accounting plans.

COMMENT NO. 13: Ira Yates and Robert Hejl have concerns about the accounting because of the commingling of surface and groundwater and would like to know where citizens can obtain information about the accounting to determine whether enough water has been released to compensate for evaporation.

RESPONSE NO. 13: The Executive Director responds that in order to properly account for the multiple sources of water GCCC proposes to use, GCCC will be required to submit an accounting plan. A special condition in the permit requires that the accounting plan be maintained. The accounting plan is part of the file for the application. Citizens can contact the

TCEQ Austin Regional Office at (512) 339-3795 if they have any concerns related to compliance with any of the permit provisions.

COMMENT NO. 14: VBC comments that there should be a modified agreement to use surface water with strict enforcement of replenishing the downstream water during a drought and allow flow when there are heavy rain events and it is inefficient or impractical to capture the runoff.

RESPONSE NO. 14: The Executive Director responds that there is no water available for appropriation at GCCC's location and staff would be unable to recommend granting a permit for use of surface water. Any draft permit will require GCCC to provide compensatory releases of other water, to ensure that any inflows of surface water will be passed downstream.

SURFACE WATER AVAILABILITY AND EFFECTS ON DOWNSTREAM USERS

COMMENT NO. 15: David B. Kumhyr comments that there is insufficient water in Danz Creek to offset evaporation from the GCCC's lake.

RESPONSE NO. 15: The Executive Director responds that the hydrology analysis for this application indicated that there was insufficient surface water available in Danz Creek to meet GCCC's demands for irrigation and maintenance of the reservoirs. Any draft permit will require GCCC to maintain alternate sources of water to compensate for the effects, including evaporation, of their operations on surface water.

COMMENT NO. 16: SOS and Ira Yates believe that TCEQ erred when it determined that the regional irrigation pond is not on a waterway and believe that the pond requires a water rights permit.

RESPONSE NO. 16: The Executive Director responds that, based on topographic maps and photographs, the regional irrigation pond was determined to be off-channel.

COMMENT NO. 17: Lower Colorado River Authority (LCRA) objects to the proposal to use storm water because this is state water and that granting a permit for use of state water will affect their water rights.

RESPONSE NO. 17: The Executive Director agrees that stormwater discharged into a watercourse is state water and diversion of stormwater could affect downstream senior water rights. The Executive Director recommends that GCCC's request to use stormwater discharged into Danz Creek or its tributaries be denied because there is no water available for appropriation.

COMMENT NO. 18: Ira Yates comments that actual streamflow is diverted because of enlargement of existing ponds on GCCC's property and has concerns that approval of this project may set a

dangerous precedent since there will be a significant decrease in recharge if all Hill Country water projects capture and reuse water as this project contemplates.

RESPONSE NO. 18: The Executive Director responds that any draft permit will require GCCC to compensate for any effects on streamflow, either through evaporation or diversion, with an alternate source of water. The Executive Director believes that compliance with the accounting plan will ensure that streamflow below the project will not be affected. Also, the Executive Director recommends that the stormwater which goes into the creek not be appropriated to GCCC.

COMMENT NO. 19: Robert D. Hejl asked whether the proposed dams allow the normal runoff to proceed downstream or will they retain all water that previously flowed downstream. If retained, domestic and livestock users will be deprived of their water rights.

RESPONSE NO. 19: The Executive Director responds that any draft permit will require GCCC to use an alternate source to offset evaporation and operate the reservoirs so that there is no effect on state water. Compliance with the accounting plan should protect streamflow below the project.

GROUNDWATER PROTECTION AND USE

COMMENT NO. 20: Robert D. Hejl asks whether the groundwater GCCC will use will come from the Edwards, Trinity or Glen Rose aquifers.

RESPONSE NO. 20: The Executive Director responds that information provided by the applicant indicates that the applicant's wells are completed in and produce groundwater from the Trinity Aquifer.

COMMENT NO. 21: BCPOA, BS/EACD and HTGCD question whether GCCC performed feasibility studies using the Texas Water Development Board's approved Groundwater Availability Model (GAM) for the Trinity Aquifer.

RESPONSE NO. 21: The Executive Director responds that he does not know whether GCCC performed these feasibility studies; none were submitted with the application. These types of feasibility studies were not required to show the viability of the proposed alternate source of water to keep the reservoirs full. However, the applicant did provide information in the application showing their present ability to produce groundwater sufficient to keep the reservoirs full.

COMMENT NO. 22: The City of Austin comments that no information related to current and future groundwater depletion resulting from GCCC's pumpage was included in the application.

RESPONSE NO. 22: The Executive Director responds that this type of information is not required by Texas Water Code, Chapter 11. The TCEQ does not regulate groundwater pumpage.

COMMENT NO. 23: SOS, Liz Gifford, Ellen Zimmerman, BS/EACD, BCPOA, Joe Ely, Sherry Heiden, Joseph and Susan Manzello, David B. Kumhyr, David Wensley, Brian and Tracy Sharples and Donald and Turkan Hayes expressed concern about the potential negative impacts of GCCC's groundwater pumping on other wells in the area.

RESPONSE NO. 23: The Executive Director responds that under present state groundwater policies as established by the Texas courts (i.e., the rule of capture), unless groundwater pumping is regulated by a groundwater conservation district, a landowner is not liable for potential negative impacts to other well owners unless the landowner is removing groundwater to maliciously injure the other well owners, groundwater pumpage causes the other well owners' property to subside, or the landowner is not putting the pumped groundwater to a beneficial use. The TCEQ does not regulate groundwater pumpage.

COMMENT NO. 24: Andrew Backus (HTGCD), SOS and VBC comment that TCEQ should require monitoring of pumping and Andrew Backus comments that GCCC should share additional data regarding its wells.

RESPONSE NO. 24: The Executive Director responds that TCEQ is not authorized to regulate groundwater production or use. However, in order to protect surface water, the TCEQ can require an alternate source of water. If the applicant proposes groundwater as the alternate source, the TCEQ requires data regarding groundwater pumpage for accounting purposes. The Executive Director recommends that the accounting plan and special conditions in any draft permit include requirements for the GCCC to provide records of the amount of groundwater being placed in the reservoirs.

COMMENT NO. 25: SOS comments that the permit should include special conditions prohibiting pumping in times of drought and/or aquifer drawdown

RESPONSE NO. 25: The Executive Director responds that TCEQ is not authorized to regulate groundwater production or use.

COMMENT NO. 26: S/EACD and HTGCD request that the Commission require studies and conditions so that the permit will not affect the Trinity and Edwards Aquifers.

RESPONSE NO. 26: he Executive Director responds that TCEQ is not authorized to regulate groundwater production or use, and is not authorized to require such studies.

COMMENT NO. 27: S/EACD, HTGCD and the City of Austin comment that the application could affect the Barton Springs segment of the Edwards Aquifer.

RESPONSE NO. 27: The Executive Director responds that any draft permit will require GCCC to compensate for the effects of the reservoirs with other sources of water; the net volume of inflows passed through the reservoirs should not change, and therefore the recharge should not change.

COMMENT NO. 28: TGCD and the City of Austin comment that the amount of water GCCC wants to produce exceeds the sustainable production for the aquifer.

RESPONSE NO. 28: The Executive Director responds that state groundwater polices as established by the Texas courts authorize the applicant to produce and use the groundwater under the applicant's property. The TCEQ does not regulate how much groundwater a person can pump from his land.

COMMENT NO. 29: BC requests the Commission restrict GCCC's use of groundwater to 36,000 gallons per day.

RESPONSE NO. 29: As stated above, the Executive Director responds that TCEQ is not authorized to limit groundwater production or use.

COMMENT NO. 30: HTGCD requests that GCCC voluntarily comply with the HTGCD's requirements, which includes a reasonable use doctrine for issuance of a water use permit.

RESPONSE NO. 30: The Executive Director is not opposed to GCCC voluntarily complying with these requirements. The TCEQ is not authorized to limit groundwater production or use, and is not authorized to require the applicant to comply with HTGCD's permit requirements.

COMMENT NO. 31: James and Sony Bollinger, Miki Cook, Joe Ely, Sherry Heiden, Robin Hudson, Jacqueline Magill, David and Swan Perkins, Carolyn Rife, Ellen Zimmermann comment that they depend on their wells for their homes and that this application will affect their ability to use their wells.

RESPONSE NO.31: The Executive Director responds that he TCEQ is required to protect surface water but does not regulate groundwater pumping amounts. The use of groundwater, as well as any other alternative source CCGG may have to keep the reservoirs full, will accomplish protection of surface water.

GROUNDWATER MANAGEMENT AREA (PGMA) CONCERNS

COMMENT NO. 32: HTGCD comments that TCEQ has not created a groundwater conservation district in this Priority Groundwater Conservation Area and that TCEQ should act as a groundwater conservation district. Or, in the alternative HTGCD and the VBC request TCEQ allow HTGCD and BS/EACD to act in a decision-making role.

RESPONSE NO. 32: A groundwater conservation district has not been created in this area through either local- or state-initiative and the Water Code does not authorize the TCEQ to act as a groundwater conservation district. The Water Code also does not allow HTGCD or BS/EACD to act in a groundwater management decision-making role as suggested.

COMMENT NO. 33: BS/EACD and HTGCD comment that the permit should not be approved until protections are provided for groundwater and groundwater users in Travis County in the PGMA who are not in a groundwater conservation district.

RESPONSE NO. 33: The Executive Director responds that under Chapters 11 and 36 of the Water Code the Commission is not authorized to deny or delay a water right permit application because the area is not in a groundwater conservation district.

WATER QUALITY AND OTHER ENVIRONMENTAL CONCERNS

COMMENT NO. 34: BS/EACD and HTGCD are concerned about the water quality discharged from the existing irrigation ponds on Danz Creek, which recharges the Barton Springs Segment of the Edwards Aquifer, and request information about water quality. These commenters are also concerned about GCCC's ability to ensure that potentially contaminated storm water runoff that is captured in the reservoirs does not infiltrate into the Edward's Aquifer.

RESPONSE NO. 34: The Executive Director responds that any draft permit will require GCCC to implement and maintain appropriate best management practices (BMPs) on the golf course to minimize potential pollutant loadings through the control of sediment and nutrients. Required BMPs include: (1) installation and placement of erosion resistant materials in areas subject to high velocity flows; (2) the use of sediment control barriers; (3) temporary and permanent ground cover (both natural and artificial types); (4) aerification of soils to promote infiltration and runoff reduction; and (5) proper management and control of fertilizer, herbicide, and pesticide applications.

COMMENT NO. 35: BCPOA and HTGCD comment that any golf course irrigation and pond construction will allow discharges to creeks and will directly affect the Trinity and Edwards Aquifers.

RESPONSE NO. 35: See Response to Comment No. 34.

COMMENT NO. 36: Robert Hejl comments that the environment, water quality, recharge and wildlife will be affected by use of pesticides, herbicides, and nitrate fertilizers on the golf course and SOS comments that the permit should not be issued without strict limits on the use and reporting of use of landscape chemicals in the areas to be irrigated.

RESPONSE NO. 36: See Response to Comment No. 34. Any draft permit will include a special condition requiring GCCC to implement BMPs to control or minimize such impacts. The TCEQ must assess the affects of the issuance of a permit on water quality under Tex. Water Code Section 11.150. The TCEQ protects water quality by placing special conditions in permits to minimize runoff of these chemicals into the rivers and the aquifer.

COMMENT NO. 37: The City of Austin comments that the impact of releasing Trinity groundwater and private storm water to compensate any state water captured in Reservoirs 2, 3 and 4 may have potential to impact the already impaired macrobenthos community within the watershed, and this should be determined to prevent further stream degradation.

RESPONSE NO. 37: The TCEQ does consider the impact of the quality of the groundwater on the stream in its review of the application. The groundwater should not cause impairment of the water quality of the stream. Any draft permit will require GCCC to monitor records of groundwater quality in its Accounting Plan no less than every 3 months, subject to TCEQ review, and require that the discharge of groundwater and surface water must be of sufficient quality to meet requirement of the water quality standards.

COMMENT NO. 38: HTGCD comments that there is economic value in maintaining flowing streams in the hill country. GCCC should consider lots near open space without the open space including a golf course, since that can have value with less environmental impact.

RESPONSE NO. 38: The Executive Director responds that it understands the economic benefit of maintaining flowing streams in the hill country and recommends special conditions in the draft permit to protect the flow of streams as much as possible under the law.

BENEFICIAL USES

COMMENT NO. 39: Robert D. Hejl asked what kind of agricultural use is intended by this application.

RESPONSE NO. 39.: The definition of “agricultural use” in the Water Code, at Section 11.002(12), includes irrigation. GCCC is asking to irrigate the golf course with this water.

COMMENT NO. 40: BS/EACD comments that much of the groundwater pumped is lost due to evaporative and transpiration losses at the land surface from ponds for golf course irrigation and that

this waste will be the largest when there are competing demands from higher, more beneficial uses will likely also be at their largest.

RESPONSE NO. 40: The Executive Director agrees that this may be true. However, concerning Amore beneficial uses, the Executive Director responds that under the Water Code, all uses listed in Section 11.023 are considered beneficial and the TCEQ cannot consider one use higher than another unless there are competing applications for the same water.

COMMENT NO. 41: Miki Cook, Robin Hudson, Jacqueline Magill, Carolyn Rife, Ellen Zimmermann comment that area residents, farmers and ranchers should be considered priority users of water resources before allowing water rights to be given to a golf course.

RESPONSE NO. 41: The Executive Director responds that under the Water Code, all uses listed in Section 11.023 are considered beneficial and the TCEQ cannot consider one use higher than another unless there are competing applications for the same water.

PUBLIC WELFARE/ETHICS/FAIRNESS ISSUES

COMMENT NO. 42: Charles O'Dell (President of Hays Community Action Network) comments that the GCCC is located in a water quality protection plan area, a plan that was developed by consensus of a number of groups. The commission should use good sense in carefully considering the application, and, after applying the law, come down on the side of the public interest.

RESPONSE NO. 42: The Executive Director responds that the TCEQ must consider whether and application is detrimental to the public welfare when considering whether to issue a water right. The Executive Director's staff cannot say that this application is detrimental to the public welfare because agricultural use is a listed beneficial use in the Water Code. Also, the Executive Director notes that recreation and pleasure are listed beneficial uses in Section 11.023(a)(6) of the Water Code.

COMMENT NO. 43: James and Sony Ballinger comment that nearby residents should not have to invest money in new wells to replace their source of water if GCCC is allowed to pump groundwater. Joe Ely, Sherry Heiden, James and Sony Bollinger and Joseph and Susan Manzell comment that many area residents do not have the resources to connect with LCRA. Donald and Turkan Haynes, David B. Kumhyr, David and Swan Perkins, Brian and Tracey Sharples comment that homeowners should be considered over commercial interests.

RESPONSE NO. 43: The Executive Director responds that under current groundwater law, if not regulated by a groundwater conservation district, a property owner may pump groundwater under his land unless he is causing injury to land or waste. Also, see Response to comment No. 40.

COMMENT NO. 45: VBC comments that groundwater pumping will impact VBC's wells and result in VBC drilling a deeper well, or switching to other sources, resulting in economic impact to VBC.

RESPONSE NO. 45: See response above. Also, to the extent this may bear on public welfare, the Executive Director responds that The Executive Director's staff cannot say that this application is detrimental to the public welfare because agricultural use is a listed beneficial use in the Water Code. Also, the Executive Director notes that recreation and pleasure are listed beneficial uses in Section 11.023(a)(6) of the Water Code.

OTHER

COMMENT NO. 44: BCPOA questioned whether GCCC is complying with the terms of the Bradley Settlement Agreement with the City of Austin that pertains to groundwater use affecting area wells.

RESPONSE NO. 44: The Executive Director does not know if GCCC is complying with the terms of this agreement with the City of Austin. The TCEQ is not a party to this agreement, and does not have the authority to regulate contracts under any law

Respectfully submitted,

TEXAS COMMISSION ON
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CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of June, 2007, a true and correct copy of the foregoing document was delivered to the Office of the Chief Clerk of the TCEQ.



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Environmental Law Division
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CHIEF CLERKS OFFICE

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