TCEQ DOCKET NO. 2024-0967-MIS

PETITION FOR INQUIRY FILED BY BILL BERAN REGARDING THE LONE STAR GROUNDWATER CONSERVATION DISTRICT	§ § § § § §	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

LONE STAR GROUNDWATER CONSERVATION DISTRICT'S RESPONSE TO THE PETITION FOR INQUIRY FILED BY BILL BERAN

Pursuant to Tex. Water Code §36.3011 and 30 Tex. Admin. Code §293.23, the Lone Star Groundwater Conservation District ("LSGCD") files this Response to the Petition for Inquiry filed by Bill Beran ("Petitioner") in this matter and respectfully shows the following:

I. SUMMARY OF RESPONSE AND REQUESTED RELIEF

1. Petitioner filed a Petition for Inquiry alleging the groundwater in Groundwater Management Area 14 ("GMA 14") is not adequately protected by LSGCD rules ("Petition"). Petitioner does not cite a particular LSGCD Rule he contends is insufficient nor does Petitioner suggest a particular rule he contends should be adopted. Petitioner also does not provide any evidence supporting his allegation that groundwater is not adequately protected by LSGCD rules nor has he availed himself of the opportunity to petition LSGCD to adopt or change a rule.[1] Instead, Petitioner offers opinions, speculation and conclusions unsupported by evidence and takes issue with policy decisions and the law, none of which make out a valid petition for review under Chapter 36 of the Texas Water Code or Texas Commission on Environmental Quality ("TCEQ") rule.

[1] Tex. Water Code §36.1025; LSGCD Rule 1.19 (authorizing a person with a real property interest in groundwater in LSGCD to file a petition to request the adoption or modification of a rule), which is publicly available at https://www.lonestargcd.org/district-rules-1.

2. First, Petitioner fails to certify his Petition and fails to include the referenced article and underlying data/calculations in the graph rendering the Petition defective for failing to follow legal requirements.

3. Second, in addition to the defect issues, the Petition should be dismissed because it is fraught with opinions, speculation, and unsupported conclusions, all of which are not evidence. Further, Petitioner's apparent issues with policy decisions made by the groundwater conservation districts ("GCDs") in GMA 14, rulings from judges, and law enacted by the Texas Legislature are outside the scope of TCEQ's review. Specifically, Petitioner takes issue with the following, none of which is evidence of how the groundwater is not protected, and all of which are outside TCEQ's jurisdiction.

a. Petitioner takes issue with the policy decision made by the GCDs in GMA 14 by disagreeing with the Desired Future Conditions (DFCs) unanimously adopted by the GCDs in GMA 14 on the basis that the "groundwater production rates in the LSGCD's DFC greatly exceed aquifer recharge rates";

b. Petitioner's complaint recites his version of historical events, many of which are not factually correct, and all of which are opinions/speculations (i.e., not evidence of how the groundwater is allegedly not protected);

c. Petitioner requests reinstatement of an illegal 64,000 acre-feet per year pumping cap that was invalidated by a court of law by final judgment and cannot be adopted, implemented or enforced by LSGCD as a matter of law;

d. Petitioner requests reinstatement of a DFC that was successfully petitioned and found to be no longer reasonable by an administrative law judge and cannot be adopted, implemented or enforced by LSGCD as a matter of law;

e. Petitioner questions the Texas Legislature's amendment to LSGCD's enabling legislation converting the board from an appointed to an elected board (which was done to address conflicts of interest) and appears to take issue with the voters who subsequently elected LSGCD's boards; and

f. Petitioner endorses the San Jacinto River Authority's ("SJRA") Groundwater Reduction Plan ("GRP") when LSGCD has no authority to force users to join SJRA's GRP and the reasonableness, validity, and enforceability of SJRA's GRP contracts and rates are being litigated in state and federal court.

4. TCEQ does not have jurisdiction to address Petitioner's above complaints. LSGCD has no authority to unilaterally determine DFCs, revoke existing law, refuse to comply with court rulings, or require permit holders to join SJRA's GRP particularly when the validity of SJRA's plan is currently being litigated in state and federal court.

5. Petitioner makes clear he disagrees with various policy decisions he characterizes as "excessive" "liberal policies"[2] and the law developed by judges and the Legislature; however, a disagreement without any evidence supporting the alleged violation does not meet the legal standard necessary to warrant any further involvement or review by TCEQ. Accordingly, TCEQ should dismiss the Petition without any further inquiry.

II. BACKGROUND

6. On June 11, 2024, Petitioner filed the Petition with TCEQ requesting TCEQ to inquire into the activities of LSGCD.[3] LSGCD is a single county conservation and reclamation district created by House Bill 1784, Acts of the 77th Legislature, Regular Session, 2001 (pursuant to the provisions of Article XVI, Section 59 of the Texas Constitution and Chapter 36 of the Texas Water Code).[4] Located in Montgomery County, LSGCD is a member of GMA 14.[5]

[2] Petition, p.1 ("excessive use of groundwater"), p. 3 ("liberal groundwater policies").
[3] *See* Letter filed in this matter from TCEQ's General Counsel, Mary Smith dated July 9, 2024.
[4] LSGCD's enabling legislation, 77th Leg., R.S., ch. 1321, 2001 Tex. Gen. Laws (H.B. 2362), available at https://capitol.texas.gov/tlodocs/77R/billtext/html/HB02362F.htm
[5] Montgomery County is centrally located within the GMA and is bordered entirely by counties within GMA 14. A map of GMA14 can be found at https://www.twdb.texas.gov/groundwater/management_areas/gma14.asp

7. Petitioner urges TCEQ to force LSGCD to revert back to an illegal, 64,000 acre-feet-year pumping cap and the DFC designed to achieve that illegal pumping cap. A brief background on the history of LSGCD's illegal rule, invalidated DFCs, and the Legislature's removal of the appointed board is necessary to fully understand why Petitioner's request is not within TCEQ's jurisdiction or LSGCD's authority and how LSGCD's new DFCs and rules are protecting the aquifers.

A. LSGCD's 2016 DFCs, derived to achieve the 64,000 AFY pumping cap, were successfully petitioned, and found no longer reasonable by an Administrative Law Judge.

8. Shortly after LSGCD was formed in 2001, LSGCD adopted an initial management plan to manage groundwater in a "sustainable" manner designating the groundwater availability as the amount of effective annual recharge in LSGCD. LSGCD then determined that recharge to the entire Gulf Coast Aquifer system (Chicot, Evangeline and Jasper aquifers) in LSGCD was estimated by multiplying 1.1 inches per year times the area of the county without regard to actual hydrologic function of the aquifers involved.[6] After determining the total amount of groundwater available for use in Montgomery County was 64,000 acre-feet per year ("AFY") based solely on recharge within the county boundary, LSGCD then developed a regulatory plan based exclusively on that conclusion.[7] LSGCD pursued 64,000 AFY as its available groundwater in the first round of joint planning and obtained a DFC applicable to LSGCD that would yield no more than 64,000 AFY of available groundwater.[8] LSGCD's 2010 DFCs were

[6] *See* LSGCD's original management plan approved on 12/17/2003, pp. 3,7-8, publicly available on TWDB's website, https://www.twdb.texas.gov/groundwater/conservation_districts/gcdinfo2.asp.
[7] *See* LSGCD's management plan approved on 03/25/2009, pp. 17-20, (wherein stating LSGCD adopted its regulatory plan based on the 64,000 AFY in December 2006), publicly available on TWDB's website, https://www.twdb.texas.gov/groundwater/conservation_districts/gcdinfo2.asp.
[8] *See* LSGCD's management plan approved on 12/17/2013, pp. 5-12, publicly available on TWDB's website, https://www.twdb.texas.gov/groundwater/conservation_districts/gcdinfo2.asp.

not challenged.[9]

9. In the second round of 2016 joint planning, LSGCD pursued the same 64,000 AFY pumping cap and corresponding applicable DFC, which were ultimately approved and adopted by the GCDs in GMA 14.[10] The Cities of Conroe and Magnolia and Quadvest, L.P. timely filed petitions challenging the reasonableness of LSGCD's 2016 DFCs.[11] LSGCD's 2016 DFCs were ultimately declared no longer reasonable by Administrative Law Judge Casey A. Bell in a Proposal For Decision that was adopted by LSGCD.[12]

B. LSGCD's reduction rule, utilized to achieve the 64,000 AFY pumping cap, was invalidated by a court of law by final judgment.

10. In 2015, LSGCD, the General Manager and then directors were sued by the Cities of Conroe and Magnolia, and Quadvest, LP, and other investor-owned utilities over the validity of 64,000 AFY pumping cap known as the Reduction Rule. In August 2018, Senior District Judge McCorkle, of the 284th District Court in Montgomery County, Texas, granted a partial summary judgment holding LSGCD's Reduction Rule invalid and outside LSGCD's authority granted by the Legislature.[13] In November 2018, a new board of directors was elected for LSGCD in response to the Legislature converting LSGCD from an appointed to an elected board[14] to

[9] *See* TWDB website noting that no petition of DFCs in GMA 14 was filed for 2010 planning, publicly available at https://www.twdb.texas.gov/groundwater/petitions/index.asp

[10] Ex. A-1, GMA 14 Resolution dated April 29, 2016; Ex. A-2, LSGCD Resolution dated August 9, 2016.

[11] *See* TWDB's website page on DFC petitions noting that LSGCD's DFC was the only DFC petitioned in 2016 and providing a hyperlink to the petition documents, publicly available at https://www.twdb.texas.gov/groundwater/petitions/index.asp

[12] Ex. A-3, Final Order dated Nov. 6, 2017.

[13] Ex. A-4, Order on Motion for Partial Summary Judgment.

[14] *See* H.B. 1982, 2017, 86th Leg., R.S. Before H.B. 1982 was enacted, SJRA and the Woodlands Joint Powers Agency now known as The Woodlands Water Agency ("WWA") had seats on LSGCD's appointed board. SJRA is the sole provider of water to the MUDs in the WWA. In response to LSGCD's Reduction Rule, SJRA formed a GRP that approximately 85 users joined. SJRA charges groundwater users a GRP pumping fee (when no groundwater was being provided). SJRA and WWA benefited financially and/or otherwise from LSGCD's illegal Reduction Rule (e.g., SJRA wanted to sell surface water but there was no market to do so; the Reduction Rule imposed by LSGCD Board, on which SJRA and WWA had appointed seats, created a forced market for surface water; all GRP Participants subsidized the cost of the transmission line and water treatment plant, which primarily serves the MUDs in WWA, irrespective of whether the participants receive surface water and notwithstanding that

address conflicts of interest.[15]

11. In January 2019, the newly elected board voted to end the protracted, expensive litigation over the Reduction Rule and accept Judge McCorkle's order declaring the regulations void and unenforceable in a final judgment. On May 17, 2019, the Honorable Judge McCorkle signed the Final Judgment declaring that the Reduction Rule in LSGCD's regulatory plan was adopted "without legal authority and consequently are, and have been, unlawful, void and unenforceable."[16] Effective from the date of the Final Judgment, the Reduction Rule has been struck from LSGCD's rules, regulatory plan, large volume permits, and LSGCD no longer manages the resource in accordance with those regulations. The elected board's decision to accept the court ruling and end the protracted, expensive litigation was based at least in part on evidence that there was no legal or scientific basis for the 64,000 AFY pumping cap (and resulting Reduction Rule)[17] and the aquifers in Montgomery County were not drying up as claimed when the pumping cap and Reduction Rule were adopted and implemented.[18]

SJRA charges groundwater pumping fees when it provides no groundwater). The legality of SJRA's GRP program was first challenged in 2016 and is still being litigated in state and federal court. *See infra* n.56.

[15] Ex. A-5, excerpts from the deposition of James Beach at 62:20-64:22, Ex. A-6, Conflict of Interest Questionnaire (describing the Conflict of Interest that Turner, Collie & Braden (who was hired to write a report supporting the need for LSGCD and SJRA to convert users to surface water) had insofar as TCB's senior officer was the son of SJRA's General Manager and SJRA's General Manager had a seat on LSGCD's appointed board). One of TCB's conclusions was that a surface water treatment plan needed to be built because Montgomery County had a "water supply shortage." Presumably, this is an example of one of the conflicts of interest the Legislature intended to end when it converted LSGCD to an elected board.

[16] Ex. A-7, Final Judgment.

[17] Ex. A-6 at 47:9-49:3, excerpts from the deposition of LSGCD's hydrogeologist (testifying there's not really a tremendous basis for the 64,000 AFY number that was originally adopted by LSGCD); Ex. A-8, 2014 memo from LSGCD's former technical consultant John Seifert dated August 11, 2014 (stating that LSGCD's former legal counsel, Brian Sledge, said there is not a tremendous basis for the 64,000 AFY estimate of availability in the county and that it could be subject to review and noting that Sledge had defended the number for the last 7 or 8 years).

[18] Ex. A-9, SJRA Article "Solving Montgomery County's Water Shortage" by Jace Houston wherein Mr. Houston claims "we are literally draining the Montgomery County well dry." A statement that LSGCD's hydrogeologist testified is not a truthful statement at Ex. A-5 at 58:14-59:11. *See* also TERS report for GMA 14 issued by TWDB stating there is 180,000,000 acre-feet of groundwater in storage beneath Montgomery County, GMA 14 report dated 6/9/2014 is publicly available at https://www.twdb.texas.gov/groundwater/management_areas/TERS.asp

C. The GCDs in GMA 14 unanimously adopted the current DFCs, TWDB approved LSGCD's management plan incorporating the current DFCs, and LSGCD is on track to achieve its current DFCs.

12. On January 5, 2022, LSGCD representatives in GMA 14 unanimously adopted the following DFCs ("2022 DFC"):

> In each county in Groundwater Management Area 14, no less than 70 percent median available drawdown remaining in 2080 or no more than an average of 1.0 additional foot of subsidence between 2009 and 2080.[19]

13. LSGCD adopted the applicable 2022 DFCs on September 13, 2022.[20] The modeled available groundwater associated with the applicable 2022 DFCs for Montgomery County is approximately 97,000 AFY.[21] LSGCD's 2022 DFCs were not petitioned by Petitioner or anyone else.[22]

14. LSGCD promptly submitted an amended management plan to The Texas Water Development Board ("TWDB") incorporating the 2022 DFCs and corresponding MAG.[23] TWDB approved the amended plan on July 6, 2023.[24]

15. The GCDs in GMA 14 evaluated the DFCs and concluded all GCDs were on track to achieve the newly adopted DFCs. Specifically, after reviewing pumping, the professional geoscientists for the various GCDs concluded LSGCD was on track to achieve its 2022 DFCs.[25]

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[19] Ex. A-10, GMA 14 Resolution adopting 2022 DFCs dated January 5, 2022.
[20] Ex. A-11, LSGCD Resolution adopting applicable 2022 DFCs dated September 13, 2022.
[21] The MAG report issued by TWDB for GMA 14 is publicly available at https://www.twdb.texas.gov/groundwater/management_areas/gma14.asp
[22] DFC petitions are publicly available on TWDB's website at https://www.twdb.texas.gov/groundwater/petitions/index.asp (no petition was filed appealing any DFCs adopted during 2021/2022 cycle).
[23] *See* LSGCD's Resolution adopting the 2020 amended management plan on May 9, 2023, at Appendix E, approved by TWDB on 7/6/2023, which is publicly available on TWDB's website, https://www.twdb.texas.gov/groundwater/conservation_districts/gcdinfo2.asp.
[24] *Id.* noting TWDB's approval on 7/6/2023.
[25] *See* "Comparison of Measured Drawdown with Simulated Drawdowns from the Desired Future Conditions" by William R. Hutchison who represents Bluebonnet, Brazoria County and Lower Trinity GCDs, publicly available at https://static1.squarespace.com/static/58347802cd0f6854e2f90e45/t/66956c1c3a1bee37b26ddde7/1721068572890/GMA14+Compare+DFC+Report+2023+Draft+2023.10.06.pdf and "2023 Artesian Head Change Update" dated

D. LSGCD has rules to protect the groundwater in GMA 14.

16. After the Reduction Rule was invalidated by a court of law, LSGCD adopted new rules in 2020, which it has subsequently amended in 2022 and 2023.[26]

17. LSGCD's rules require operating permits for all non-exempt use.[27] Each permit contains an annual production limit that is enforced by penalty.[28] LSGCD also has spacing rules based on property lines and a well's pumping capacity to limit drawdown, minimize interference between wells, and control subsidence.[29] LSGCD has proportional adjustment rules in place to curtail production as needed if the DFCs are not being achieved.[30] The most recent assessments conclude LSGCD is on track to achieve its DFCs.[31]

E. LSGCD is conducting a first-of-its-kind subsidence study and updating the model of record for GMA 14 as approved by the other GCDs.

18. LSGCD is conducting a first-of-its-kind, multi-phased subsidence study that began in 2019. LSGCD is currently undertaking Phase III, which involves drilling into the Chicot, Evangeline, and Jasper aquifers and Burkeville confining unit to obtain core samples. By analyzing the composition and structure of these samples, LSGCD can discern information affecting compaction and subsidence due to groundwater pumping within and near Montgomery County. This coring study is the first of its kind in Montgomery County or by any GCD in the state. The last comparable study, conducted over 50 years ago, was closer to sea level and didn't

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February 13, 2024 by LSGCD's consultant, AGS, publicly available at https://static1.squarespace.com/static/58347802cd0f6854e2f90e45/t/66919aa65e82945bd6ff584f/1720818343497/2+-+AGS_LSGCD_WL_Presentation_02282024.pdf.

[26] LSGCD's rules are publicly available at https://static1.squarespace.com/static/58347802cd0f6854e2f90e45/t/62a73d1c50a9e06c26917b54/1655127325442/LSGCD+Rules+final+Adopted+Sept.+8+2020+as+amended+on+June+8+2022.pdf.

[27] *Id.* at Rules 2.2, 2.5.

[28] *Id.* at Rules 4.1, 12.3.

[29] *Id.* at Rules 3.1-3.3.

[30] *Id.* at Rules 6.1-6.3.

[31] *See supra* n.25.

include any data from Montgomery County. The last comparable study also did not include data from the Burkeville confining unit or the Jasper aquifer.[32]

19. One of the primary objectives of this study is to collect aquifer data from Montgomery County to update the GMA 14 groundwater availability model ("GAM'), a sophisticated tool used for groundwater management in the region. By integrating the data gathered from the core samples, the model will be enhanced with more accurate and comprehensive information of the Gulf Coast Aquifer for many other counties.[33]

20. The GCDs in GMA 14 approved LSGCD taking the lead on updating the GAM.[34] The GAM of record for GMA 14 is known as the GULF 2023, which was developed by the Harris Galveston Subsidence District in cooperation with Intera and U.S. Geological Survey. The GCDs in GMA 14 provided comments to TWDB on the model upon public release.[35] TWDB responded to the GCDs' comments but ultimately approved the model without making the changes recommended by the GCDs.[36] The GCDs authorized LSGCD to complete the model update based on the collective comments.[37] LSGCD's work to date has revealed fatal errors in the compaction/c-sub package in the GULF 2023 that will be addressed in the model update.[38]

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[32] *See* information on the Subsidence Study, Phase 3, which is publicly available on LSGCD's website at https://www.lonestargcd.org/subsidence. A one page document describing Phase 3 is publicly available at https://static1.squarespace.com/static/58347802cd0f6854e2f90e45/t/6483459e45a8bb77eb1b4763/1686324638734/Subsidence+Study+Phase+3+One-Pager.pdf

[33] *See* GMA 14 Resolution 2024-01 adopted May 14, 2024, attached chart referring to LSGCD compaction data being integrated into the model, which is publicly available on LSGCD's website at https://static1.squarespace.com/static/58347802cd0f6854e2f90e45/t/669199af30f90e7113669ca4/1720818095976/5+-+Resolution+2024-01+Regardind+Development+of+Updated+GAM+%28signed%29.pdf.

[34] *See id generally*.

[35] The comments by LSGCD and those submitted jointly by the GCDs are publicly available on TWDB's website at https://www.twdb.texas.gov/groundwater/models/gam/glfc_n/Appendix%20A%20Stakeholder%20Comments.pdf?d=8012.699999988079

[36] *Id. See also* TWDB's announcement of approval of GULF 2023 for northern portion of Gulf Coast Aquifer System in February 2024 at https://www.twdb.texas.gov/groundwater/models/gam/glfc_n/glfc_n.asp.

[37] *See supra* n.33.

[38] *See* "Gulf 2023 Model CSUB Package Update for the GMA 14 Model dated May 14, 2024, publicly available on LSGCD's website at https://static1.squarespace.com/static/58347802cd0f6854e2f90e45/t/669198921143d87e13eb7d67/1720817811029/

Further, the coring data from the first site of Phase III of the Subsidence Study will also be incorporated into the model update.[39]

III. RESPONSE TO PETITION

21. The Petition alleges that TCEQ should act because the groundwater in the management area is not adequately protected by the rules adopted by LSGCD. TCEQ may dismiss the Petition if it finds the evidence is not adequate to show that the complaints alleged in the Petition exist, otherwise it may select a review panel to conduct an inquiry and prepare a report. As discussed herein, TCEQ should dismiss the Petition because there is no evidence supporting Petitioner's allegation that groundwater is not adequately protected by LSGCD rules and all of Petitioner's complaints are outside of TCEQ's jurisdiction.

A. The Petition lacks supporting documentation and is defective on its face.

22. Petitioner fails to certify his Petition and fails to include the referenced article and underlying data and calculations referenced in the graph.

23. The Petition is not certified because Petitioner merely signed the Petition without any "certification" or attestation. Petitioner provides a reference to an article but does not provide the article itself or a website link to the article nor does Petitioner provide a page number in the article to which he refers. The Petition is likewise defective because the graph was not included in the copy of the petition Mr. Beran served on LSGCD.[40] Only after looking at the filings on TCEQ's online filing system did LSGCD learn Petitioner filed a graph with the Petition. This renders the Petition defective on its face. The Petition is also defective because the underlying data referenced in the graph or the calculations assumed in the graph have not been provided.

1-20240514_GMA_14_Presentation_CSUB_Update.pdf.

[39] *See supra* n.33.

[40] Ex. A-12.

Without this information, the data in the graph is unvalidated and constitutes nothing more than Petitioner's opinions. For these reasons, the Petition is defective on its face and should be dismissed.

B. Petitioner's opinions, speculation and unsupported conclusory statements are not evidence of anything let alone that the groundwater is not adequately protected.

24. Petitioner offers opinions, speculation, and unsupported conclusory statements[41] to support his position that the groundwater in GMA 14 is not adequately protected. The Petition is supported with mere conjecture[42] and lacks any evidence demonstrating the groundwater is not adequately protected. Arguably the only information offered other than conjecture is an article and a graph, but neither are adequate evidence to demonstrate the groundwater is not protected by LSGCD's rules.

25. With respect to the cited article by Wang and others (2021),[43] the reduction in rate of subsidence discussed by Wang et al. is specifically for Montgomery County GPS site P013. The discussion is problematic for a couple of reasons. First, Wang and others extrapolate data to arrive at conclusions for GPS site P013 that contradict their own observations and have been critiqued by other scientists. For example in the study, Wang and others evaluate GPS, extensometer, and water level data near Lake Houston observing that even though there is over 160 feet of measured water-level decline in the Jasper Aquifer since 1980, the decline has not

[41] By way of example, *see* Petition, p. 1 ("LSGCD's liberal policy regarding groundwater use is only going to accelerate depletion of our aquifer's artesian pressure…."), p. 2 ("The only cure for the problem was to permanently reduce county-wide groundwater usage.").

[42] The Petition also make several inaccurate statements (e.g., on p. 2, Petitioner claims only 2 users take surface water under SJRA's GRP when there are 7 surface water users). Regardless, the statements (albeit inaccurate) are not evidence of how the groundwater is not protected. Because the inaccurate statements are not evidence of how the groundwater is allegedly not protected, LSGCD has not taken the time to correct every factual inaccuracy in the Petition.

[43] Wang, K., Wang, G., Cornelison, B., Liu, H., and Bao, Y., 2021, Land subsidence and aquifer compaction in Montgomery County, Texas, U.S.: 2000–2020: Geoenvironmental Disasters, v. 8, no. 28, p. 1-24, publicly avaialble at https://doi.org/10.1186/s40677-021-00199-7.

resulted in any compaction of the Jasper Aquifer (i.e., all subsidence attributable to groundwater production near Lake Houston is due to water level declines in shallower aquifers such as the Chicot and Evangeline Aquifers). Despite concluding that water level declines in the Jasper did not cause compaction, Wang et al. then calculate the ratio of water-level decline in shallower formations to compaction and assume the ratio is applicable to the Jasper Aquifer near GPS site P013, which contradicts their own observations.

26. Second, other professional geoscientists have critiqued Wang et al. for not considering evidence toward the end of their study period that suggests their assumption is incorrect (Keester and others, 2021). [44]

27. Third, although LSGCD does not dispute the general principle that as groundwater levels stabilize, the rate of subsidence will decrease in areas where aquifer compaction is occurring due to groundwater level decline, the article is less instructive for groundwater management. For example, LSGCD believes that managing groundwater resources in Montgomery County in 2024 and beyond requires a much more detailed understanding of aquifer-by-aquifer compaction. The belief is based on regular comments received at LSGCD by many stakeholders regarding the impacts of pumping, private property rights, and the cost of water in the growing county. LSGCD believes that understanding the cause-and-effect relationship of pumping and compaction per formation is critical for groundwater management. As with other complex natural resource management issues, simple management approaches using extrapolated, generalized assessments may be reasonable in the beginning, but as resources become more

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[44] Keester, M., Thornhill, M., Beach, J., and Drabek, C., 2021, Evaluation of the Correlation between Land-Surface Movement, Water-Level Change, and Groundwater Production in Montgomery County: Report prepared for the Lone Star Groundwater Conservation District, p. 42, which is available at https://www.lonestargcd.org/subsidence.

utilized, it become more important to further develop data and science to better manage limited resources. Knowing how much compaction is occurring in each aquifer layer due to pumping allows for more refined management approaches and potential development of management zones in most impacted areas as opposed to an arbitraty across-the-board limitation on the owners' constituionally protected groundwater rights.[45]

28. Fourth, the data used by Wang et al. involved one GPS site (PO13) and Wang et al. did not acocunt for several other GPS locations in Montgomery County.

29. Lastly, regardless of the differing viewpoints and even if the information in Wang et al. were taken at face value, the data does not establish or prove that LSGCD does not have rules in place to protect the aquifers. The level of acceptable subsidence is a policy decision vested with the GCDs in GMA 14 and the data associated with P013 was considered by the GCDs when developing the DFCs.[46] After considering this information, the GCDs in GMA 14 unanimously approved the 2022 DFCs that are the subject of Petitioner's complaint. The 2022 DFCs were not challenged by Petitioner or anyone else, and LSGCD is on track to achieve the most recently adopted DFCs.[47]

30. With respect to the graph, Petitioner states the graph is based on a presentation by Intera on Total Estimated Recoverable Storage but fails to provide the Intera presentation or any of the supporting data for the calculations or conclusions in the graph. After reviewing what is

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[45] *Id.* Keester, M.R., Drabek, C., Thornhill, M.R., and Beach, J., 2022, Phase 2 Subsidence Investigations: Prepared for Lone Star Groundwater Conservation District, p. 66, which is publicly available at https://www.lonestargcd.org/subsidence.

[46] *See* LSGCD's "Summary Report for Public Comments Received and Position Paper on Proposed Statements of Desired Future Conditions," dated September 21, 2021, available for download at https://drive.google.com/uc?export=download&id=1gO2yXUADC6sQc_7HsUNpN-RQAvRTHuHD. *See, e.g.,* p. 80 of 928 in the pdf file where data from P013 data is presented, Petitioner's comments at p. 86 of 928 wherein he advocates for LSGCD to return to "sustainable recharge", SJRA's comments at p. 129-147 of 928. Per Chapter 36, LSGCD provided the Summary Report to the GCDs in the GMA 14 for consideration in adoption of the DFCs.

[47] *See supra* n.9, 25.

believed to be the referenced Intera presentation,[48] Petitioner draws several unfounded comparisons between the graph on p. 25 in the Intera presentation, which was a model example, and the graph attached to the Petition.

31. First, the reference to "well yield" in both charts is misleading. The Intera chart refers to "initial well yield" and Petitioner's chart refers to "well yield" when both appear to assume the pump is at the bottom of the well and the entire available drawdown is translated to well yield.

32. Second, Intera's presentation is focused on reduction in storage (Total Estimated Recoverable Storage), which is 180,000,000 acre-feet for the Gulf Coast Aquifer System in Montgomery County per the TWDB.[49] Petitioner's chart suggests the previous Board's Plan A is 1,800,000 acre-feet (1%) while the current Board's Plan B is 54,000,000 acre-feet (30%). The 97,000 ac-ft/yr for 60 years would be 5,820,000 acre-feet or 3.2% of TERS (not up to 30% as Petitioner's chart indicates) while the 64,000 ac-ft/yr for 60 years would be 3,840,000 acre-feet or 2.1% of TERS (not less than 1% as Petitioner's chart indicates). Petitioner does not provide his calculations, but they appear to be wrong. Petitioner claims his chart is based on Intera's analysis of storage reduction, but Petitioner's chart is an inaccurate comparison. Petitioner's 30% value appears to come from the illegal Reduction Rule, and application of the 30% reduction amount to the TERS presentation by Intera is an inaccurate comparison because Intera's presentation was about reduction of TERS and had nothing to do with reductions in existing levels of pumping.

33. Regardless, the chart does not show any underlying data or calculations supporting the purported conclusions rendering it unusable as evidence. Further, even if the chart is taken at

[48] "Estimated Recoverable Storage, What it does, doesn't and might mean for planning" is publicly available at https://www.slideshare.net/slideshow/tagd-ters-presentationfeb2014/31775240.
[49] *See supra* n.17.

face value, the GCDs in GMA 14 (not TCEQ) set the policy standard for the desired future conditions of the aquifer, which has not been challenged and LSGCD is on track to achieve.[50]

C. Petitioner's issues with policy and the law are not evidence that the groundwater is not adequately protected nor are they issues within TCEQ's jurisdiction or LSGCD's authority.

34. Petitioner takes issue with the 2022 DFCs unanimously approved by the GCDS in GMA 14, which have not been petitioned, and to which LSGCD is on track to achieve.[51] TCEQ has no authority to determine DFCs as only GCDs within a GMA can determine DFCs.[52] TCEQ has no review authority over DFCs and the period in which to challenge the DFCs has passed.[53] The proper remedy to address this concern would have been to file a timely petition of the 2022 DFCs, which Petitioner has not done.

35. As discussed extensively in the background section, it is illegal for LSGCD to enforce the Reduction Rule or the DFC designed to achieve the 64,000 AFY pumping cap. Further, TCEQ has no authority to force LSGCD to revert back to an invalidated DFC or rule.[54]

36. Petitioner questions the Texas Legislature's amendment to LSGCD's enabling legislation converting the board from an appointed to an elected board (which was done to address conflicts of interest) and appears to take issue with the voters who subsequently elected LSGCD's board in 2018, 2020, and 2022. TCEQ has no authority to change LSGCD's enabling legislation or authority over elections.[55]

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[50] *See supra* n.9, 25.
[51] *Id.*, Ex. A-10.
[52] Tex. Water Code. §36.108.
[53] Tex. Water Code §§ 36.108, 36.3011, 36.1083.
[54] In connection with approval of its management plan in 2019, TWDB tried to force LSGCD to revert back to an old DFC that had been superseded, which resulted in a lawsuit filed by LSGCD. A copy of the appeal is available at https://static1.squarespace.com/static/58347802cd0f6854e2f90e45/t/5d54422fc3de050001ac89cd/1565803059294/2019_08-09_Brief+in+Appeal+%28filestamped%29.pdf. The lawsuit is styled *LSGCD v. Tex. Water Dev. Bd.,* No. D-1-GN-19-007442, in the 353rd Judicial District Court of Travis County, Texas.
Several key stakeholders in Montgomery County were opposed to reversion back to an old DFC. *See* Ex. A-13.
[55] Tex. Water Code §36.3011.

37. Petitioner endorses the San Jacinto River Authority's Groundwater Reduction Plan ("GRP") when the LSGCD has no authority to force users to join SJRA's GRP and the reasonableness, validity and enforceability of the GRP contracts and rates are being litigated in state and federal court.[56] TCEQ has no authority to force permit holders to join SJRA's GRP and neither does LSGCD.[57] Petitioner also refers to Montgomery County's use of groundwater under the newly elected board as "excessive." Total reported groundwater pumping values in Montgomery County, which is one of the fastest growing counties in the nation, for 2019 and 2020 were about 66,837 acre-feet and 67,579 acre-feet, respectively.[58] Groundwater pumping in Montgomery County is still considerably less than Harris County, who shares the same aquifers and has no GCD. Reported groundwater pumping values for Harris County in 2019 and 2020 were about 255,841 acre-feet and 232,990 acre-feet, respectively.[59] Reported groundwater pumping values in HGSD Regulatory Area 3 (northern Harris County) in 2019 and 2020 were about 206,443 acre-feet and 198,938 acre-feet, respectively.

38. Further, the validity of SJRA's GRP is such a political pressure point in Montgomery County that Representative Will Metcalf filed legislation in 2023 which, if enacted, would have effectively fired SJRA's long-time General Manager.[60] SJRA's General Manager ended up

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[56] *See, e.g., Quadvest, L.P. et al. v. San Jacinto River Auth.,* No. 19-CV-4508, pending in the United States District Court for the Southern District of Texas, Houston Division; *Quadvest, L.P. et al. v. San Jacinto River Auth.,* Cause No. 19-09-12611 pending before the 284th Judicial District Court in Montgomery County, Texas; *Ex Parte San Jacinto River Auth.*, Cause No. D-1-GN-16-004151, 98th Judicial District Court in Travis County, Texas.

[57] Tex. Water Code §36.3011.

[58] *See supra* n. 25, AGS "Artesian Head Change," slide 3.

[59] Greuter, A. and Petersen, C. 2021, Determination of Groundwater Withdrawal and Subsidence in Harris and Galveston Counties - 2020, p. 357, which is publicly available at https://hgsubsidence.org/science-research/district-research/annual-groundwater-reports/.

[60] *See* C.S.H.B. 1540, 2023, 88th Leg., R.S., § 6 ("The board of directors may not appoint or reappoint an individual as general manager if the individual was appointed or employed by the authority as general manager during the six months preceding the effective date of this act."). *See also* "State Rep. Will Metcalf: An update from the 88th Legislative Session regarding the San Jacinto River Authority" dated May 4, 2023, available at https://www.yourconroenews.com/neighborhood/moco/opinion/article/state-rep-will-metcalf-an-update-from-the-88th-18078701.php.

resigning voluntarily.[61] The Texas Water Development Board (TWDB), who holds the majority of the bonds issued to finance SJRA's controversial surface water treatment plant and transmission line, was also the focus of the Texas Legislature in 2023. In connection with TWDB's Sunset Review process, several legislators cautioned TWDB from stepping out of its lane after learning TWDB had refused to process two cities' applications for infrastructure financing on the basis that those cities were challenging SJRA's GRP in court.[62] TWDB ultimately rescinded the letters and allowed the cities' applications for financing from TWDB to be processed.[63]

D. The evidence establishes LSGCD is operating under a TWDB approved management plan, is enforcing rules that are achieving the DFC, and is utilizing and developing the best available data and science.

39. As discussed in sections II.C-E, the evidence establishes the exact opposite of Petitioner's complaints—rather**,** the overwhelming evidence establishes LSGCD ***does*** have rules in place to protect the groundwater in GMA 14. The GCDs in GMA 14 unanimously adopted the 2022 DFCs, and LSGCD incorporated the applicable DFCs into its management plan, which was approved by TWDB.[64] All reports indicate LSGCD is on track to achieve the 2022 DFCs.[65] LSGCD has a monitoring network it uses to assess achievement of the DFC and its first of its kind Subsidence Study will also provide valuable insight that will guide future management. The LSGCD board is committed to good management decisions that are based on science and not political conjecture. There is no evidence LSGCD does not enforce it rules; and in fact, all

[61] *See* "San Jacinto River Authority general manager Jace Houston resigns before the Texas bill to remove him passes" available at https://www.yourconroenews.com/neighborhood/moco/news/article/san-jacinto-river-authority-general-manager-18128102.php# (last visited July 15, 2024).
[62] A-14 (Based on information and belief, the City of Conroe also received a similar letter.); *See generally* the video from the hearings on TWDB's sunset legislation, 88th Leg. R.S. (H.B. 1565), publicly available at https://capitol.texas.gov/BillLookup/Actions.aspx?LegSess=88R&Bill=HB1565.
[63] *Id*. Based on information and belief, TWDB rescinded the letters and allowed the applications to be processed.
[64] Ex. A-13; *see also supra* n. 23.

evidence demonstrates LSGCD enforces its production limits and requires compliance with rules including spacing rules before issuance of a permit.[66]

IV. Evidence Supporting Dismissal of Petition

40. The following evidence is provided in support of dismissal of the Petition, which is incorporated by reference as if set forth in full herein. Additionally. all information referenced by a publicly available website link is incorporated by reference into this response as if set forth in full herein. LSGCD reserves the right to present additional evidence in response to the Office of Public Interest Counsel's response and/or assertions or issues raised during a meeting and/or hearing by any party.

Exhibit A Affidavit of Sarah Kouba

Exhibit A-1	GMA 14 Resolution for Adoption of DFCs dated April 29, 2016
Exhibit A-2	LSGCD Resolution for Adoption of DFCs dated August 9, 2016
Exhibit A-3	Final Order dated Nov. 6, 2017
Exhibit A-4	Order on Motion for Partial Summary Judgment dated Sept. 18, 2018
Exhibit A-5	Excerpts from Deposition of James Beach
Exhibit A-6	Conflict of Interest Questionnaire
Exhibit A-7	Final Judgment dated May 17, 2019
Exhibit A-8	Memo from John Seifert dated August 11, 2014
Exhibit A-9	SJRA Article "Solving Montgomery County's Water Shortage" by Jace Houston
Exhibit A-10	GMA 14 Resolution Adopting 2022 DFCs dated January 5, 2022
Exhibit A-11	LSGCD Resolution Adopting 2022 DFCs dated September 13, 2022

[65] *See supra* n. 25.
[66] LSGCD held enforcement hearings for overpumpages, as well as other rules violations, on August 9, 2023, which is publicly available at https://lonestargcd.new.swagit.com/videos/268803.

Exhibit A-12 Copy of Petition served on LSGCD

Exhibit A-13 Resolutions from Cities

Exhibit A-14 TWDB Letter to City of Magnolia

V. Conclusion

For the reasons stated herein, TCEQ should dismiss the Petition without any further inquiry.

Respectfully Submitted,

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ATTORNEY FOR LONE STAR GROUNDWATER CONSERVATION DISTRICT

CERTIFICATE OF SERVICE

I hereby certify that on July 16, 2024, the foregoing document was filed with the TCEQ Chief Clerk, and copies were served to all parties on the attached mailing list via e-mail and/or by deposit in the U.S. mail.

/s/ Stacey V. Reese
STACEY V. REESE

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TCEQ Docket No. 2024-0967-MIS

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EXHIBIT A

TCEQ DOCKET NO. 2024-0967-MIS

PETITION FOR INQUIRY FILED BY BILL BERAN REGARDING THE LONE STAR GROUNDWATER CONSERVATION DISTRICT	§ § § § § §	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

AFFIDAVIT OF SARAH KOUBA

STATE OF TEXAS §
§
COUNTY OF MONTGOMERY §

BEFORE ME, the undersigned authority, did personally appear, Sarah Kouba, who, being duly sworn testified as follows:

1. My name is Sarah Kouba, and I am over the age of 18, of sound mind, and am capable of making this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct.

2. I am the General Manager for the Lone Star Groundwater Conservation District ("LSGCD"). My job responsibilities include managing the operations of LSGCD and serving as LSGCD's public information officer. As such, I am familiar with the manner in which LSGCD's records are created and maintained by virtue of my duties and responsibilities.

3. Attached to this Affidavit are Exhibits A1-A14, which includes 102 pages of records from LSGCD's books and records. These are the original records or exact duplicates of the original records.

4. These records were made at or near the time of each act, event, condition, opinion, report, record or statement set forth or it is the regular practice of LSGCD to make this type of record at or near the time of act, event, condition, opinion, report, record or statement set forth in the record. The records were made by, or from information transmitted by, persons with knowledge of the matters set forth or it is the regular practice of LSGCD for this type of record to be made by, or from information transmitted by, persons with knowledge of the matters set forth in them. The records were kept in the course of regularly conducted business activity or it is the regular practice of LSGCD to keep this type of record in the course of regularly conducted business activity.

5. Exhibit A-1 is a GMA 14 Resolution for Adoption of DFCs adopted on April 29, 2016.

6. Exhibit A-2 is a LSGCD Resolution for Adoption of DFCs adopted on August 9,

2016.

7. Exhibit A-3 consists of a Final Order dated Nov. 6, 2017.

8. Exhibit A-4 is an Order on Motion for Partial Summary Judgment dated Sept. 18, 2018.

9. Exhibit A-5 consists of Excerpts from Deposition of James Beach taken on June 14, 2023.

10. Exhibit A-6 is a Conflict of Interest Questionnaire.

11. Exhibit A-7 is a Final Judgment dated May 17, 2019.

12. Exhibit A-8 is a Memo from John Seifert dated August 11, 2014.

13. Exhibit A-9 is a SJRA Article titled "Solving Montgomery County's Water Shortage" by Jace Houston.

14. Exhibit A-10 is a GMA 14 Resolution Adopting 2022 DFCs adopted on January 5, 2022.

15. Exhibit A-11 is a LSGCD Resolution Adopting 2022 DFCs adopted on September 13, 2022.

16. Exhibit A-12 is a Copy of the Petition served on LSGCD.

17. Exhibit A-13 are Resolutions from various Cities.

18. Exhibit A-14 is TWDB's Letter to City of Magnolia dated May 25, 2023.

19. These business records are being provided in support of LSGCD's response to the Petition in the above referenced matter.

FURTHER affiant sayeth not.

Sarah Kouba

SUBSCRIBED TO AND SWORN before me on this 16th day of July 2024.

Notary Public in and for
The State of Texas

TIFFANY WHITE
NOTARY PUBLIC, STATE OF TEXAS
Notary ID #130475029
Expires December 22, 2027

RESOLUTION FOR THE APPROVAL OF DESIRED FUTURE CONDITIONS FOR ALL AQUIFERS IN GROUNDWATER MANAGEMENT AREA 14

Whereas, pursuant to Section 35.004 of the Texas Water Code, the Texas Water Development Board ("TWDB") has designated groundwater management areas that, together, cover all major and minor aquifers in the state; and

Whereas, each groundwater management area was designated with the objective of providing the most suitable area for the management of groundwater resources; and

Whereas, through Title 31, Section 356.21 of the Texas Administrative Code, the TWDB has designated the area encompassing all of Austin, Brazoria, Chambers, Fort Bend, Galveston, Grimes, Hardin, Harris, Jasper, Jefferson, Liberty, Montgomery, Newton, Orange, Polk, San Jacinto, Tyler, Walker, Waller, and Washington counties as Groundwater Management Area No. 14 ("GMA 14"); and

Whereas, GMA 14 includes all or portions of areas subject to groundwater regulation by Bluebonnet Groundwater Conservation District (Austin, Grimes, Walker, and Waller counties), Brazoria County Groundwater Conservation District (Brazoria County), Lone Star Groundwater Conservation District (Montgomery County), Lower Trinity Groundwater Conservation District (Polk and San Jacinto counties), and Southeast Texas Groundwater Conservation District (Hardin, Jasper, Newton, and Tyler counties) (the "Member Districts"); and

Whereas, the Member Districts are authorized by Chapter 36, Texas Water Code, to engage in joint planning activities for the coordinated management of the aquifers located in GMA 14, and in that regard, shall establish desired future conditions ("DFCs") for the relevant aquifers within GMA 14; and

Whereas Fort Bend Subsidence District (Fort Bend County), Harris-Galveston Subsidence District (Galveston and Harris counties), and other stakeholders within GMA 14 from Chambers County, and Washington County also contributed to the development of DFCs for GMA 14; and

Whereas, Section 36.108 of the Texas Water Code requires the Member Districts in GMA 14 to consider groundwater availability models and other data or information for the management area and vote on a proposal for the adoption of DFCs for each relevant aquifer within GMA 14 by May 1, 2016; and

Whereas, the Member Districts within GMA 14 secured hydrogeologic and engineering consulting services to provide technical support in their efforts to establish requisite DFCs; and

Whereas, in developing the proposed DFCs for the relevant aquifers within GMA 14, the Member Districts in GMA 14 considered the nine statutory factors set forth in Section 36.108(d) of the Texas Water Code:

- aquifer uses or conditions within the management area, including conditions that differ substantially from one geographic area to another,
- the water supply needs and water management strategies included in the state water plan,
- hydrological conditions, including for each aquifer in the management area the total estimated recoverable storage as provided by the executive administrator, and the average annual recharge, inflows, and discharge,
- other environmental impacts, including impacts on spring flow and other interactions between groundwater and surface water,
- the impact on subsidence,
- socioeconomic impacts reasonably expected to occur,
- the impact on the interests and rights in private property, including ownership and the rights of management area landowners and their lessees and assigns in groundwater as recognized under Section 36.002,
- the feasibility of achieving the desired future condition, and
- any other information relevant to the specific desired future conditions; and

Whereas, pursuant to Section 36.108(d-2), the Member Districts also considered in their development of proposed DFCs the balance between the highest practicable level of groundwater production and the conservation, preservation, protection, recharging, and prevention of waste of groundwater and control of subsidence in the management area; and

Whereas, the Member Districts used this information to developed proposed DFCs for the portions of the northern segment of the Gulf Coast Aquifer that occurs within the bounds of GMA 14; and

Whereas, TWDB conducted an evaluation of the Houston Area Groundwater Model ("HAGM") and adopted it as the updated Northern Gulf Coast Groundwater Availability Model ("GAM"); and

Whereas, the Members Districts conducted a model run of the updated Northern Gulf Coast GAM specifically identified as GAM Run 2 for the purpose of evaluating drawdown in the Northern Gulf Coast Aquifer; and

Whereas, the TWDB has prepared a report for GAM Task 10-052 MAG for the Carrizo-Wilcox Aquifer; and

Whereas, the TWDB has prepared a report for GAM Task 10-053 MAG for the Queen City Aquifer; and

Whereas, the TWDB has prepared a report for GAM Task 10-054 MAG for the Sparta Aquifer; and

Whereas, the TWDB has prepared a report for GAM Task 10-055 MAG for the Yegua-Jackson Aquifer; and

Whereas, the TWDB has prepared a report for Aquifer Assessment Task 10-30 MAG for the Brazos River Alluvium Aquifer; and

Whereas, the TWDB has prepared a report for Aquifer Assessment Task 10-31 MAG for the Navasota River Alluvium Aquifer; and

Whereas, the TWDB has prepared a report for Aquifer Assessment Task 10-32 MAG for the San Bernard River Alluvium Aquifer; and

Whereas, the TWDB has prepared a report for Aquifer Assessment Task 10-33 MAG for the San Jacinto River Alluvium Aquifer; and

Whereas, the TWDB has prepared a report for Aquifer Assessment Task 10-34 MAG for the Trinity River Alluvium Aquifer; and

Whereas, during joint meetings noticed and conducted pursuant to Section 36.108(e) of the Texas Water Code, the Member Districts considered GAMs and other data and information relevant to the development of DFCs for GMA 14, including input and comments from stakeholders within GMA 14; and

Whereas, the Member Districts find that all notice requirements for a meeting, held this day, to take up and consider the approval of the proposed DFCs as described herein for GMA 14 have been, and are, satisfied; and

Whereas, Texas Water Code Section 36.0015(b), as amended by House Bill 200 during the 84th Texas Legislature states that "(b) In order to provide for the conservation, preservation, protection, recharging, and prevention of waste of groundwater, and of groundwater reservoirs or their subdivisions, and to control subsidence caused by withdrawal of water from those groundwater reservoirs or their subdivisions, consistent with the objectives of Section 59, Article XVI, Texas Constitution, groundwater conservation districts may be created as provided by this chapter. Groundwater conservation districts created as provided by this chapter are the state's preferred method of groundwater management in order to protect property rights, balance the conservation and development of groundwater to meet the needs of this state, and use the best available science in the conservation and development of groundwater through rules developed, adopted, and promulgated by a district in accordance with the provisions of this chapter"; and

Whereas, the Member Districts find that the proposed DFCs provided herein for establishment are each merited and necessary for the effective and prudent management of groundwater resources within GMA 14, and have otherwise been developed in accordance with, and do satisfy the obligations imposed by, Chapter 36 of the Texas Water Code and all other applicable laws of the State of Texas.

Now, therefore, be it resolved by the Member Districts of GMA 14 that the following DFCs are each hereby established:

Formations of the Gulf Coast Aquifer

DFCs for the Gulf Coast Aquifer are hereby adopted, as documented by and incorporating herein GAM Run 2, at two scales, which do not differ substantively in their application; the first being for GMA 14 in its entirety, and also, to better facilitate the management and conservation of groundwater resources at the individual groundwater conservation district level after considering the statutory criteria set forth under Section 36.108(d), Water Code, on a county-by-county basis. DFCs for GMA 14 for the Gulf Coast Aquifer are as follows:

- From estimated year 2009 conditions, the average draw down of the Chicot Aquifer should not exceed approximately 28.3 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Evangeline Aquifer should not exceed approximately 23.6 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Burkeville confining unit should not exceed approximately 18.5 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Jasper Aquifer should not exceed approximately 66.2 feet after 61 years.

Austin County (BGCD)

- From estimated year 2009 conditions, the average draw down of the Chicot Aquifer should not exceed approximately 39 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Evangeline Aquifer should not exceed approximately 23 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Burkeville confining unit should not exceed approximately 23 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Jasper Aquifer should not exceed approximately 76 feet after 61 years.
- From estimated year 1890 conditions, the maximum subsidence in Austin County should not exceed approximately 2.83 feet by the year 2070.

Brazoria County (BCGCD)

- From estimated year 2009 conditions, the average draw down of the Chicot Aquifer should not exceed approximately 23 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Evangeline Aquifer should not exceed approximately 27 feet after 61 years.

Chambers County

- From estimated year 2009 conditions, the average draw down of the Chicot Aquifer should not exceed approximately 32 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Evangeline Aquifer should not exceed approximately 30 feet after 61 years.

Grimes County (BGCD)

- From estimated year 2009 conditions, the average draw down of the Chicot Aquifer should not exceed approximately 5 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Evangeline Aquifer should not exceed approximately 5 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Burkeville confining unit should not exceed approximately 6 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Jasper Aquifer should not exceed approximately 52 feet after 61 years.
- From estimated year 1890 conditions, the maximum subsidence in Grimes County should not exceed approximately 0.12 feet by the year 2070.

Hardin County (STGCD)

- From estimated year 2009 conditions, the average draw down of the Chicot Aquifer should not exceed approximately 21 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Evangeline Aquifer should not exceed approximately 27 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Burkeville confining unit should not exceed approximately 29 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Jasper Aquifer should not exceed approximately 89 feet after 61 years.

Jasper County (STGCD)

- From estimated year 2009 conditions, the average draw down of the Chicot Aquifer should not exceed approximately 23 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Evangeline Aquifer should not exceed approximately 41 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Burkeville confining unit should not exceed approximately 46 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Jasper Aquifer should not exceed approximately 40 feet after 61 years.

Jefferson County

- From estimated year 2009 conditions, the average draw down of the Chicot Aquifer should not exceed approximately 15 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Evangeline Aquifer should not exceed approximately 17 feet after 61 years.

Liberty County

- From estimated year 2009 conditions, the average draw down of the Chicot Aquifer should not exceed approximately 27 feet after 61 years.

- From estimated year 2009 conditions, the average draw down of the Evangeline Aquifer should not exceed approximately 29 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Burkeville confining unit should not exceed approximately 25 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Jasper Aquifer should not exceed approximately 120 feet after 61 years.

Montgomery County (LSGCD)

- From estimated year 2009 conditions, the average draw down of the Chicot Aquifer should not exceed approximately 26 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Evangeline Aquifer should not exceed approximately -4 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Burkeville confining unit should not exceed approximately -4 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Jasper Aquifer should not exceed approximately 34 feet after 61 years.

Newton County (STGCD)

- From estimated year 2009 conditions, the average draw down of the Chicot Aquifer should not exceed approximately 35 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Evangeline Aquifer should not exceed approximately 45 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Burkeville confining unit should not exceed approximately 44 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Jasper Aquifer should not exceed approximately 37 feet after 61 years.

Orange County

- From estimated year 2009 conditions, the average draw down of the Chicot Aquifer should not exceed approximately 14 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Evangeline Aquifer should not exceed approximately 16 feet after 61 years.

Polk County (LTGCD)

- From estimated year 2009 conditions, the average draw down of the Chicot Aquifer should not exceed approximately 26 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Evangeline Aquifer should not exceed approximately 10 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Burkeville confining unit should not exceed approximately 15 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Jasper Aquifer should not exceed approximately 73 feet after 61 years.

San Jacinto County (LTGCD)

- From estimated year 2009 conditions, the average draw down of the Chicot Aquifer should not exceed approximately 22 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Evangeline Aquifer should not exceed approximately 19 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Burkeville confining unit should not exceed approximately 19 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Jasper Aquifer should not exceed approximately 108 feet after 61 years.

Tyler County (STGCD)

- From estimated year 2009 conditions, the average draw down of the Chicot Aquifer should not exceed approximately 42 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Evangeline Aquifer should not exceed approximately 35 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Burkeville confining unit should not exceed approximately 30 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Jasper Aquifer should not exceed approximately 62 feet after 61 years.

Walker County (BGCD)

- From estimated year 2009 conditions, the average draw down of the Evangeline Aquifer should not exceed approximately 9 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Burkeville confining unit should not exceed approximately 4 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Jasper Aquifer should not exceed approximately 42 feet after 61 years.
- From estimated year 1890 conditions, the maximum subsidence in Walker County should not exceed approximately 0.04 feet by the year 2070.

Waller County (BGCD)

- From estimated year 2009 conditions, the average draw down of the Chicot Aquifer should not exceed approximately 39 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Evangeline Aquifer should not exceed approximately 39 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Burkeville confining unit should not exceed approximately 40 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Jasper Aquifer should not exceed approximately 101 feet after 61 years.
- From estimated year 1890 conditions, the maximum subsidence in Waller County should not exceed approximately 4.73 feet by the year 2070.

Washington County

- From estimated year 2009 conditions, the average draw down of the Evangeline Aquifer should not exceed approximately 1 foot after 61 years.
- From estimated year 2009 conditions, the average draw down of the Burkeville confining unit should not exceed approximately 16 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Jasper Aquifer should not exceed approximately 48 feet after 61 years.

Formations in Fort Bend, Galveston, and Harris counties

Groundwater Management Area 14 (GMA 14) efforts to determine DFCs is primarily an aquifer water-level based approach to describe the regional and local desires for the aquifer beneath them. The GMA process requires Groundwater Conservation Districts (GCDs) to determine the DFCs for the entire GMA, regardless of whether each county is included within a GCD. The Fort Bend Subsidence District (FBSD) and the Harris-Galveston Subsidence District (HGSD), operating in Fort Bend County and Harris and Galveston counties, respectively, regulate groundwater for the purpose of ending land surface subsidence within their jurisdiction. They are not GCDs and operate considerably different from the typical GCD. Therefore, in an official context these three counties are "unrepresented" but the GCDs within GMA-14 must still determine the DFC for these counties.

Both FBSD and HGSD have participated in an unofficial role to aid the GCDs within GMA-14 with their evaluation of Fort Bend, Galveston and Harris County information. The groundwater pumpage within these three counties even though regulated is still greater than the sum of all other counties within GMA-14. FBSD and HGSD recognize that the projected groundwater pumpage from these three counties will impact the decisions of GMA-14 throughout a large portion of the area. FBSD and HGSD have provided considerable historical and projected groundwater pumpage data and details of regulations to assist GMA-14 in incorporating these counties in the overall GMA-14 DFCs. FBSD and HGSD cannot however, present DFCs for these three counties in terms of aquifer water-level changes over time. The FBSD and HGSD regulations do not specifically address water-levels nor do they designate a specific pumping limit, rather the regulations are based on limitations of groundwater as a percentage of total water demand. The percentage of groundwater to total water demand is decreased over time, as total water demand increases.

The goal of both FBSD and HGSD is to end land surface subsidence that is caused by man's pumpage of groundwater. There is a clearly established link between the over-pumpage of groundwater and land surface subsidence. The DFCs within the aquifer beneath Fort Bend, Galveston, and Harris counties has no easily defined relationship to water-levels. The DFC for FBSD and HGSD is the reduction and halting of the compaction of clay layers within the aquifer caused by the over-pumpage of groundwater. Stated more simply, the DFC for these three counties is that future land surface subsidence be avoided. That stated, HGSD and FBSD have adopted regulations, most recently in 2013, that require the reduction of

groundwater pumpage and the conversion to alternate water sources, while balancing with the realistic ability of the permittees to achieve compliance with these regulations. This effort was accomplished with the aid of computer models and information specific to the missions of FBSD and HGSD and outside of the revised Northern Gulf Coast GAM (NGCGAM) adopted by the TWDB.

Within HGSD, from central to southeastern Harris County and all of Galveston County (Regulatory Areas 1 and 2), virtually all permittees have achieved compliance with previous and current HGSD regulations. Subsidence has been halted and water-levels within the aquifer have risen dramatically in these areas. However, in northern and western areas of Harris County (Regulatory Area 3), the HGSD regulations have allowed groundwater pumpage to continue until the required reductions in 2010, 2025, and 2035. With these scheduled reductions in groundwater pumpage, subsidence will slow dramatically and even be halted with water-levels stabilizing and in later years rising.

Within FBSD, from central to northern and eastern Fort Bend County (Regulatory Area A), the regulations call for reductions of groundwater pumpage in 2014/2016, and 2025. Similar to HGSD's Regulatory Area 3, subsidence within FBSD Regulatory Area A will slow dramatically and even be halted with water-levels stabilizing and in later years rising.

In both HGSD and FBSD, because of the percentage based approach to regulations, groundwater pumpage will increase until scheduled reductions in milestone years (ex: 2010, 2014/2016, 2025, and 2035). In between milestone years, groundwater pumpage will increase with the assumed increase in total water demand from an assumed increase in population. In order to demonstrate the DFC of these three counties using water-level changes, the area of previous groundwater-to-alternative water conversions must be separated from future conversions AND each annual time step must be depicted.

The HGSD and FBSD have submitted to GMA-14 their current regulations and projected groundwater pumpage projections through the year 2070. This data has been divided into the grid cells/layers relative to the NGCGAM and utilized by the GCDs in development of their DFCs.

Groundwater pumpage within GMA-14 from Fort Bend, Galveston, and Harris counties is regulated by FBSD and HGSD, non GCD governmental agencies (the only GMA in Texas with this occurrence) and the missions of HGSD and FBSD are vastly different from GCDs and do not fit well with a water-level designed DFC process). The groundwater pumpage projections developed in recognition of the HGSD and FBSD regulatory plans have been utilized without adjustment by GMA14 in the DFC process. Therefore, the DFCs adopted by GMA-14 are consistent with the HGSD and FBSD regulatory plans.

Carrizo Sand Aquifer

Grimes County (BGCD)

- The portion of the Carrizo Sand Aquifer occurring in Grimes County is declared non-relevant.

Walker County (BGCD)

- The portion of the Carrizo Sand Aquifer occurring in Walker County is declared non-relevant.

Queen City Aquifer

Grimes County (BGCD)

- The portion of the Queen City Aquifer occurring in Grimes County is declared non-relevant..

Walker County (BGCD)

- The portion of the Queen City Aquifer occurring in Walker County is declared non-relevant..

Sparta Aquifer

Grimes County (BGCD)

- The portion of the Sparta Aquifer occurring in Grimes County is declared non-relevant..

Walker County (BGCD)

- The portion of the Sparta Aquifer occurring in Walker County is declared non-relevant.

Yegua-Jackson Aquifer

Grimes County (BGCD)

- The portion of the Yegua Jackson Aquifer occurring in Grimes County is declared non-relevant..
-

Jasper County (STGCD)

- The portion of the Yegua-Jackson occurring in Jasper County is declared non-relevant.

-

Newton County (STGCD)

- The portion of the Yegua-Jackson occurring in Newton County is declared non-relevant.

Polk County (LTGCD)

- The portion of the Yegua-Jackson occurring in Polk County is declared non-relevant.

Tyler County (STGCD)

- The portion of the Yegua-Jackson occurring in Tyler County is declared non-relevant.

Walker County (BGCD)

- The portion of the Yegua Jackson Aquifer occurring in Walker County is declared non-relevant..

Washington County

- The portion of the Yegua Jackson Aquifer occurring in Washington County is declared non-relevant..

River Alluvium Aquifers

Austin County (BGCD)

- The portion of the Brazos River Alluvium occurring in Austin County is declared non-relevant.
- The portion of the San Bernard River Alluvium occurring in Austin County is declared non-relevant.

Grimes County (BGCD)

- The portion of the Brazos River Alluvium occurring in Grimes County is declared non-relevant.
- The portion of the Navasota River Alluvium occurring in Grimes County is declared non-relevant.

Walker County (BGCD)

- The portion of the San Jacinto River Alluvium occurring in Walker County is declared non-relevant.
- The portion of the Trinity River Alluvium occurring in Walker County is declared non-relevant.

Waller County (BGCD)

- The portion of the Brazos River Alluvium occurring in Walker County is declared non-relevant.

Washington County

- The portion of the Brazos River Alluvium occurring in Washington County is declared non-relevant.

And it is so ordered and passed this 29th day of April, 2016.

Signed _____

Mr. Zach Holland — Bluebonnet Groundwater Conservation District

Signed _____

Mr. Kent Burkett — Brazoria County Groundwater Conservation District

Signed _____

Ms. Kathy Turner Jones — Lone Star Groundwater Conservation District

Signed _____

Mr. Gary Ashmore — Lower Trinity Groundwater Conservation District

Signed _____

Mr. John Martin — Southeast Texas Groundwater Conservation District

Exhibit A-2

RESOLUTION #16-006

RESOLUTION FOR THE ADOPTION OF THE DESIRED FUTURE CONDITIONS FOR THE GULF COAST AQUIFER THAT APPLY TO THE LONE STAR GROUDNWATER CONSERVATION DISTRICT

LONE STAR GROUNDWATER CONSERVATION DISTRICT

THE STATE OF TEXAS §

COUNTY OF MONTGOMERY §

WHEREAS, the Lone Star Groundwater Conservation District ("Lone Star") was created by the Legislature of the State of Texas by the Act of May 17, 2001, 77th Leg., R.S., ch. 1321, 2001 Tex. Gen. Laws 3246, as amended (the "Enabling Act"), as a groundwater conservation district operating under Chapter 36, Texas Water Code, and the Enabling Act; and

WHEREAS, pursuant to § 35.151 of the Texas Water Code, the Texas Water Development Board ("TWDB") has designated groundwater management areas that, together, cover all major and minor aquifers in the state, and, through Title 31 Texas Administrative Code §356.21, the TWDB has designated the area encompassing all of Austin, Brazoria, Chambers, Fort Bend, Galveston, Grimes, Hardin, Harris, Jasper, Jefferson, Liberty, Montgomery, Newton, Orange, Polk, San Jacinto, Tyler, Walker, Waller, and Washington counties as Groundwater Management Area No. 14 ("GMA 14"); and

WHEREAS, Lone Star and four other groundwater conservation districts, Bluebonnet Groundwater Conservation District, Brazoria Groundwater Conservation District, Lower Trinity Groundwater Conservation District, and Southeast Texas Groundwater Conservation District, (collectively referred to herein as the "Districts") are located wholly or partially within GMA 14; and

WHEREAS, the Districts are authorized by Chapter 36, Texas Water Code, to engage in joint planning activities for the coordinated management of the aquifers located in GMA 14, and in that regard, the Districts are required to establish desired future conditions ("DFCs") for the relevant aquifers within GMA 14; and

WHEREAS, Section 36.108 of the Texas Water Code requires representatives from the Districts to hold joint planning meetings for the consideration of DFC options, the proposal of DFCs for adoption, and after the contemplation of comments and suggested revisions provided by the public and Districts, the adoption of DFCs for each relevant aquifer in GMA 14 and the submission of an explanatory report to the TWDB for approval of the DFCs adopted; and

WHEREAS, as set forth in the attached Resolution for the Approval of Desired Future Conditions for All Aquifers in Groundwater Management Area 14 (the "Resolution"), attached hereto as Attachment A and incorporated by reference for all intents and purposes, the District representatives for GMA 14 have complied with the requirements provided by statute in Section 36.108, Texas Water Code, and on April 29, 2016, the District representatives for GMA 14 took final action to adopt the DFCs for the relevant aquifers in GMA 14 by approving the attached Resolution and the submission of the Desired Future Conditions Explanatory Report to the TWDB and the Districts as required by Section 36.108(d-3) of the Texas Water Code; and

WHEREAS, the DFCs adopted by the District representatives of GMA 14 are described in terms of acceptable drawdown levels for each subdivision of the Gulf Coast Aquifer, including the Chicot, Evangeline, Burkeville, and Jasper, for each county located within GMA 14, or in land surface subsidence, as applicable, and the DFCs were also adopted on aquifer-wide scales within GMA 14 for each of those aquifer subdivisions, which do not differ substantively in their application from the county-scale numbers; and

WHEREAS, the acceptable levels of drawdown for each subdivision of the aquifer underlying Montgomery County are measured in terms of water level drawdowns over the proposed current planning cycle measured in feet from 2009 estimated water levels; and

WHEREAS, Section 36.108(d-4) of the Texas Water Code provides that as soon as possible after a district receives the DFCs resolution and explanatory report under Subsection (d-3), the district shall adopt the DFCs in the resolution and report that apply to the district; and

WHEREAS, TWDB rules at Title 31, Texas Administrative Code §356.34 provide that as soon as possible after a district receives notice from the Executive Administrator of the TWDB that the DFC Submission Package submitted to the TWDB has been determined to be administratively complete, the district shall adopt the DFCs that apply to the district; and

WHEREAS, at this time, Lone Star has received a copy of the Resolution, as provided herein as Attachment A, and the Desired Future Conditions Explanatory Report prepared by GMA 14, and the Lone Star Board seeks to adopt the DFCs in the Resolution and the Explanatory Report that apply to Lone Star; and

WHEREAS, Lone Star received a letter from the TWDB, dated July 12, 2016, notifying Lone Star that the DFC Submission Package provided to the TWDB by the GMA 14 Districts has been determined to be administratively complete by the Executive Administrator of the TWDB, and therefore it is now appropriate for Lone Star to proceed with the adoption of the DFCs that apply to Lone Star in compliance with TWDB rules as set forth in Title 31, Texas Administrative Code §356.34; and

WHEREAS, the Board finds that the DFCs provided herein for adoption are reasonable and necessary for the effective and prudent management of groundwater resources within Montgomery County, and have otherwise been developed in accordance with, and do satisfy the obligations imposed by Chapter 36 of the Texas Water Code and all other applicable laws of the State of Texas; and

WHEREAS, the Board also finds that all notice requirements for a meeting, held this day, to take up and consider the adoption of the DFCs described herein that apply to Lone Star have been, and are, satisfied;

NOW, THEREFORE, be it resolved by the Board of Directors of the Lone Star Groundwater Conservation District that the following DFCs are hereby established for the Gulf Coast Aquifer as the DFCs that apply to Lone Star:

- From estimated year 2009 conditions, the average draw down of the Chicot Aquifer in Montgomery County should not exceed approximately 26 feet after 61 years;
- From estimated year 2009 conditions, the average draw down of the Evangeline Aquifer in Montgomery County should not exceed approximately -4 feet after 61 years;
- From estimated year 2009 conditions, the average draw down of the Burkeville confining unit in Montgomery County should not exceed approximately -4 feet after 61 years;
- From estimated year 2009 conditions, the average draw down of the Jasper Aquifer in Montgomery County should not exceed approximately 34 feet after 61 years; and
- The Board also adopts as applicable to Lone Star the aquifer-wide scale average draw down numbers within GMA 14 for the Chicot Aquifer, Evangeline Aquifer, Burkeville confining unit, and the Jasper Aquifer as specifically set forth in the attached Resolution for the Approval of Desired Future Conditions for All Aquifers in Groundwater Management Area 14 (Attachment A).

AND IT IS SO ORDERED.

PASSED AND ADOPTED on this 9th day of August, 2016.

LONE STAR GROUNDWATER CONSERVATION DISTRICT

By: _____
Richard J. Tramm, Board President

ATTEST:

_____
Rick Moffatt, Secretary

ATTACHMENT A

RESOLUTION FOR THE APPROVAL OF DESIRED FUTURE CONDITIONS FOR ALL AQUIFERS IN GROUNDWATER MANAGEMENT AREA 14

Whereas, pursuant to Section 35.004 of the Texas Water Code, the Texas Water Development Board ("TWDB") has designated groundwater management areas that, together, cover all major and minor aquifers in the state; and

Whereas, each groundwater management area was designated with the objective of providing the most suitable area for the management of groundwater resources; and

Whereas, through Title 31, Section 356.21 of the Texas Administrative Code, the TWDB has designated the area encompassing all of Austin, Brazoria, Chambers, Fort Bend, Galveston, Grimes, Hardin, Harris, Jasper, Jefferson, Liberty, Montgomery, Newton, Orange, Polk, San Jacinto, Tyler, Walker, Waller, and Washington counties as Groundwater Management Area No. 14 ("GMA 14"); and

Whereas, GMA 14 includes all or portions of areas subject to groundwater regulation by Bluebonnet Groundwater Conservation District (Austin, Grimes, Walker, and Waller counties), Brazoria County Groundwater Conservation District (Brazoria County), Lone Star Groundwater Conservation District (Montgomery County), Lower Trinity Groundwater Conservation District (Polk and San Jacinto counties), and Southeast Texas Groundwater Conservation District (Hardin, Jasper, Newton, and Tyler counties) (the "Member Districts"); and

Whereas, the Member Districts are authorized by Chapter 36, Texas Water Code, to engage in joint planning activities for the coordinated management of the aquifers located in GMA 14, and in that regard, shall establish desired future conditions ("DFCs") for the relevant aquifers within GMA 14; and

Whereas Fort Bend Subsidence District (Fort Bend County), Harris-Galveston Subsidence District (Galveston and Harris counties), and other stakeholders within GMA 14 from Chambers County, and Washington County also contributed to the development of DFCs for GMA 14; and

Whereas, Section 36.108 of the Texas Water Code requires the Member Districts in GMA 14 to consider groundwater availability models and other data or information for the management area and vote on a proposal for the adoption of DFCs for each relevant aquifer within GMA 14 by May 1, 2016; and

Whereas, the Member Districts within GMA 14 secured hydrogeologic and engineering consulting services to provide technical support in their efforts to establish requisite DFCs; and

Whereas, in developing the proposed DFCs for the relevant aquifers within GMA 14, the Member Districts in GMA 14 considered the nine statutory factors set forth in Section 36.108(d) of the Texas Water Code:

- aquifer uses or conditions within the management area, including conditions that differ substantially from one geographic area to another,
- the water supply needs and water management strategies included in the state water plan,
- hydrological conditions, including for each aquifer in the management area the total estimated recoverable storage as provided by the executive administrator, and the average annual recharge, inflows, and discharge,
- other environmental impacts, including impacts on spring flow and other interactions between groundwater and surface water,
- the impact on subsidence,
- socioeconomic impacts reasonably expected to occur,
- the impact on the interests and rights in private property, including ownership and the rights of management area landowners and their lessees and assigns in groundwater as recognized under Section 36.002,
- the feasibility of achieving the desired future condition, and
- any other information relevant to the specific desired future conditions; and

Whereas, pursuant to Section 36.108(d-2), the Member Districts also considered in their development of proposed DFCs the balance between the highest practicable level of groundwater production and the conservation, preservation, protection, recharging, and prevention of waste of groundwater and control of subsidence in the management area; and

Whereas, the Member Districts used this information to developed proposed DFCs for the portions of the northern segment of the Gulf Coast Aquifer that occurs within the bounds of GMA 14; and

Whereas, TWDB conducted an evaluation of the Houston Area Groundwater Model ("HAGM") and adopted it as the updated Northern Gulf Coast Groundwater Availability Model ("GAM"); and

Whereas, the Members Districts conducted a model run of the updated Northern Gulf Coast GAM specifically identified as GAM Run 2 for the purpose of evaluating drawdown in the Northern Gulf Coast Aquifer; and

Whereas, the TWDB has prepared a report for GAM Task 10-052 MAG for the Carrizo-Wilcox Aquifer; and

Whereas, the TWDB has prepared a report for GAM Task 10-053 MAG for the Queen City Aquifer; and

Whereas, the TWDB has prepared a report for GAM Task 10-054 MAG for the Sparta Aquifer; and

Whereas, the TWDB has prepared a report for GAM Task 10-055 MAG for the Yegua-Jackson Aquifer; and

Whereas, the TWDB has prepared a report for Aquifer Assessment Task 10-30 MAG for the Brazos River Alluvium Aquifer; and

Whereas, the TWDB has prepared a report for Aquifer Assessment Task 10-31 MAG for the Navasota River Alluvium Aquifer; and

Whereas, the TWDB has prepared a report for Aquifer Assessment Task 10-32 MAG for the San Bernard River Alluvium Aquifer; and

Whereas, the TWDB has prepared a report for Aquifer Assessment Task 10-33 MAG for the San Jacinto River Alluvium Aquifer; and

Whereas, the TWDB has prepared a report for Aquifer Assessment Task 10-34 MAG for the Trinity River Alluvium Aquifer; and

Whereas, during joint meetings noticed and conducted pursuant to Section 36.108(e) of the Texas Water Code, the Member Districts considered GAMs and other data and information relevant to the development of DFCs for GMA 14, including input and comments from stakeholders within GMA 14; and

Whereas, the Member Districts find that all notice requirements for a meeting, held this day, to take up and consider the approval of the proposed DFCs as described herein for GMA 14 have been, and are, satisfied; and

Whereas, Texas Water Code Section 36.0015(b), as amended by House Bill 200 during the 84th Texas Legislature states that "(b) In order to provide for the conservation, preservation, protection, recharging, and prevention of waste of groundwater, and of groundwater reservoirs or their subdivisions, and to control subsidence caused by withdrawal of water from those groundwater reservoirs or their subdivisions, consistent with the objectives of Section 59, Article XVI, Texas Constitution, groundwater conservation districts may be created as provided by this chapter. Groundwater conservation districts created as provided by this chapter are the state's preferred method of groundwater management in order to protect property rights, balance the conservation and development of groundwater to meet the needs of this state, and use the best available science in the conservation and development of groundwater through rules developed, adopted, and promulgated by a district in accordance with the provisions of this chapter"; and

Whereas, the Member Districts find that the proposed DFCs provided herein for establishment are each merited and necessary for the effective and prudent management of groundwater resources within GMA 14, and have otherwise been developed in accordance with, and do satisfy the obligations imposed by, Chapter 36 of the Texas Water Code and all other applicable laws of the State of Texas.

Now, therefore, be it resolved by the Member Districts of GMA 14 that the following DFCs are each hereby established:

Formations of the Gulf Coast Aquifer

DFCs for the Gulf Coast Aquifer are hereby adopted, as documented by and incorporating herein GAM Run 2, at two scales, which do not differ substantively in their application; the first being for GMA 14 in its entirety, and also, to better facilitate the management and conservation of groundwater resources at the individual groundwater conservation district level after considering the statutory criteria set forth under Section 36.108(d), Water Code, on a county-by-county basis. DFCs for GMA 14 for the Gulf Coast Aquifer are as follows:

- From estimated year 2009 conditions, the average draw down of the Chicot Aquifer should not exceed approximately 28.3 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Evangeline Aquifer should not exceed approximately 23.6 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Burkeville confining unit should not exceed approximately 18.5 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Jasper Aquifer should not exceed approximately 66.2 feet after 61 years.

Austin County (BGCD)

- From estimated year 2009 conditions, the average draw down of the Chicot Aquifer should not exceed approximately 39 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Evangeline Aquifer should not exceed approximately 23 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Burkeville confining unit should not exceed approximately 23 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Jasper Aquifer should not exceed approximately 76 feet after 61 years.
- From estimated year 1890 conditions, the maximum subsidence in Austin County should not exceed approximately 2.83 feet by the year 2070.

Brazoria County (BCGCD)

- From estimated year 2009 conditions, the average draw down of the Chicot Aquifer should not exceed approximately 23 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Evangeline Aquifer should not exceed approximately 27 feet after 61 years.

Chambers County

- From estimated year 2009 conditions, the average draw down of the Chicot Aquifer should not exceed approximately 32 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Evangeline Aquifer should not exceed approximately 30 feet after 61 years.

Grimes County (BGCD)

- From estimated year 2009 conditions, the average draw down of the Chicot Aquifer should not exceed approximately 5 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Evangeline Aquifer should not exceed approximately 5 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Burkeville confining unit should not exceed approximately 6 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Jasper Aquifer should not exceed approximately 52 feet after 61 years.
- From estimated year 1890 conditions, the maximum subsidence in Grimes County should not exceed approximately 0.12 feet by the year 2070.

Hardin County (STGCD)

- From estimated year 2009 conditions, the average draw down of the Chicot Aquifer should not exceed approximately 21 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Evangeline Aquifer should not exceed approximately 27 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Burkeville confining unit should not exceed approximately 29 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Jasper Aquifer should not exceed approximately 89 feet after 61 years.

Jasper County (STGCD)

- From estimated year 2009 conditions, the average draw down of the Chicot Aquifer should not exceed approximately 23 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Evangeline Aquifer should not exceed approximately 41 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Burkeville confining unit should not exceed approximately 46 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Jasper Aquifer should not exceed approximately 40 feet after 61 years.

Jefferson County

- From estimated year 2009 conditions, the average draw down of the Chicot Aquifer should not exceed approximately 15 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Evangeline Aquifer should not exceed approximately 17 feet after 61 years.

Liberty County

- From estimated year 2009 conditions, the average draw down of the Chicot Aquifer should not exceed approximately 27 feet after 61 years.

- From estimated year 2009 conditions, the average draw down of the Evangeline Aquifer should not exceed approximately 29 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Burkeville confining unit should not exceed approximately 25 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Jasper Aquifer should not exceed approximately 120 feet after 61 years.

Montgomery County (LSGCD)

- From estimated year 2009 conditions, the average draw down of the Chicot Aquifer should not exceed approximately 26 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Evangeline Aquifer should not exceed approximately -4 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Burkeville confining unit should not exceed approximately -4 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Jasper Aquifer should not exceed approximately 34 feet after 61 years.

Newton County (STGCD)

- From estimated year 2009 conditions, the average draw down of the Chicot Aquifer should not exceed approximately 35 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Evangeline Aquifer should not exceed approximately 45 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Burkeville confining unit should not exceed approximately 44 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Jasper Aquifer should not exceed approximately 37 feet after 61 years.

Orange County

- From estimated year 2009 conditions, the average draw down of the Chicot Aquifer should not exceed approximately 14 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Evangeline Aquifer should not exceed approximately 16 feet after 61 years.

Polk County (LTGCD)

- From estimated year 2009 conditions, the average draw down of the Chicot Aquifer should not exceed approximately 26 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Evangeline Aquifer should not exceed approximately 10 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Burkeville confining unit should not exceed approximately 15 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Jasper Aquifer should not exceed approximately 73 feet after 61 years.

San Jacinto County (LTGCD)

- From estimated year 2009 conditions, the average draw down of the Chicot Aquifer should not exceed approximately 22 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Evangeline Aquifer should not exceed approximately 19 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Burkeville confining unit should not exceed approximately 19 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Jasper Aquifer should not exceed approximately 108 feet after 61 years.

Tyler County (STGCD)

- From estimated year 2009 conditions, the average draw down of the Chicot Aquifer should not exceed approximately 42 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Evangeline Aquifer should not exceed approximately 35 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Burkeville confining unit should not exceed approximately 30 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Jasper Aquifer should not exceed approximately 62 feet after 61 years.

Walker County (BGCD)

- From estimated year 2009 conditions, the average draw down of the Evangeline Aquifer should not exceed approximately 9 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Burkeville confining unit should not exceed approximately 4 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Jasper Aquifer should not exceed approximately 42 feet after 61 years.
- From estimated year 1890 conditions, the maximum subsidence in Walker County should not exceed approximately 0.04 feet by the year 2070.

Waller County (BGCD)

- From estimated year 2009 conditions, the average draw down of the Chicot Aquifer should not exceed approximately 39 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Evangeline Aquifer should not exceed approximately 39 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Burkeville confining unit should not exceed approximately 40 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Jasper Aquifer should not exceed approximately 101 feet after 61 years.
- From estimated year 1890 conditions, the maximum subsidence in Waller County should not exceed approximately 4.73 feet by the year 2070.

Washington County

- From estimated year 2009 conditions, the average draw down of the Evangeline Aquifer should not exceed approximately 1 foot after 61 years.
- From estimated year 2009 conditions, the average draw down of the Burkeville confining unit should not exceed approximately 16 feet after 61 years.
- From estimated year 2009 conditions, the average draw down of the Jasper Aquifer should not exceed approximately 48 feet after 61 years.

Formations in Fort Bend, Galveston, and Harris counties

Groundwater Management Area 14 (GMA 14) efforts to determine DFCs is primarily an aquifer water-level based approach to describe the regional and local desires for the aquifer beneath them. The GMA process requires Groundwater Conservation Districts (GCDs) to determine the DFCs for the entire GMA, regardless of whether each county is included within a GCD. The Fort Bend Subsidence District (FBSD) and the Harris-Galveston Subsidence District (HGSD), operating in Fort Bend County and Harris and Galveston counties, respectively, regulate groundwater for the purpose of ending land surface subsidence within their jurisdiction. They are not GCDs and operate considerably different from the typical GCD. Therefore, in an official context these three counties are "unrepresented" but the GCDs within GMA-14 must still determine the DFC for these counties.

Both FBSD and HGSD have participated in an unofficial role to aid the GCDs within GMA-14 with their evaluation of Fort Bend, Galveston and Harris County information. The groundwater pumpage within these three counties even though regulated is still greater than the sum of all other counties within GMA-14. FBSD and HGSD recognize that the projected groundwater pumpage from these three counties will impact the decisions of GMA-14 throughout a large portion of the area. FBSD and HGSD have provided considerable historical and projected groundwater pumpage data and details of regulations to assist GMA-14 in incorporating these counties in the overall GMA-14 DFCs. FBSD and HGSD cannot however, present DFCs for these three counties in terms of aquifer water-level changes over time. The FBSD and HGSD regulations do not specifically address water-levels nor do they designate a specific pumping limit, rather the regulations are based on limitations of groundwater as a percentage of total water demand. The percentage of groundwater to total water demand is decreased over time, as total water demand increases.

The goal of both FBSD and HGSD is to end land surface subsidence that is caused by man's pumpage of groundwater. There is a clearly established link between the over-pumpage of groundwater and land surface subsidence. The DFCs within the aquifer beneath Fort Bend, Galveston, and Harris counties has no easily defined relationship to water-levels. The DFC for FBSD and HGSD is the reduction and halting of the compaction of clay layers within the aquifer caused by the over-pumpage of groundwater. Stated more simply, the DFC for these three counties is that future land surface subsidence be avoided. That stated, HGSD and FBSD have adopted regulations, most recently in 2013, that require the reduction of

groundwater pumpage and the conversion to alternate water sources, while balancing with the realistic ability of the permittees to achieve compliance with these regulations. This effort was accomplished with the aid of computer models and information specific to the missions of FBSD and HGSD and outside of the revised Northern Gulf Coast GAM (NGCGAM) adopted by the TWDB.

Within HGSD, from central to southeastern Harris County and all of Galveston County (Regulatory Areas 1 and 2), virtually all permittees have achieved compliance with previous and current HGSD regulations. Subsidence has been halted and water-levels within the aquifer have risen dramatically in these areas. However, in northern and western areas of Harris County (Regulatory Area 3), the HGSD regulations have allowed groundwater pumpage to continue until the required reductions in 2010, 2025, and 2035. With these scheduled reductions in groundwater pumpage, subsidence will slow dramatically and even be halted with water-levels stabilizing and in later years rising.

Within FBSD, from central to northern and eastern Fort Bend County (Regulatory Area A), the regulations call for reductions of groundwater pumpage in 2014/2016, and 2025. Similar to HGSD's Regulatory Area 3, subsidence within FBSD Regulatory Area A will slow dramatically and even be halted with water-levels stabilizing and in later years rising.

In both HGSD and FBSD, because of the percentage based approach to regulations, groundwater pumpage will increase until scheduled reductions in milestone years (ex: 2010, 2014/2016, 2025, and 2035). In between milestone years, groundwater pumpage will increase with the assumed increase in total water demand from an assumed increase in population. In order to demonstrate the DFC of these three counties using water-level changes, the area of previous groundwater-to-alternative water conversions must be separated from future conversions AND each annual time step must be depicted.

The HGSD and FBSD have submitted to GMA-14 their current regulations and projected groundwater pumpage projections through the year 2070. This data has been divided into the grid cells/layers relative to the NGCGAM and utilized by the GCDs in development of their DFCs.

Groundwater pumpage within GMA-14 from Fort Bend, Galveston, and Harris counties is regulated by FBSD and HGSD, non GCD governmental agencies (the only GMA in Texas with this occurrence) and the missions of HGSD and FBSD are vastly different from GCDs and do not fit well with a water-level designed DFC process). The groundwater pumpage projections developed in recognition of the HGSD and FBSD regulatory plans have been utilized without adjustment by GMA14 in the DFC process. Therefore, the DFCs adopted by GMA-14 are consistent with the HGSD and FBSD regulatory plans.

Carrizo Sand Aquifer

Grimes County (BGCD)

- The portion of the Carrizo Sand Aquifer occurring in Grimes County is declared non-relevant.

Walker County (BGCD)

- The portion of the Carrizo Sand Aquifer occurring in Walker County is declared non-relevant.

Queen City Aquifer

Grimes County (BGCD)

- The portion of the Queen City Aquifer occurring in Grimes County is declared non-relevant..

Walker County (BGCD)

- The portion of the Queen City Aquifer occurring in Walker County is declared non-relevant..

Sparta Aquifer

Grimes County (BGCD)

- The portion of the Sparta Aquifer occurring in Grimes County is declared non-relevant..

Walker County (BGCD)

- The portion of the Sparta Aquifer occurring in Walker County is declared non-relevant.

Yegua-Jackson Aquifer

Grimes County (BGCD)

- The portion of the Yegua Jackson Aquifer occurring in Grimes County is declared non-relevant..
-

Jasper County (STGCD)

- The portion of the Yegua-Jackson occurring in Jasper County is declared non-relevant.

-

Newton County (STGCD)

- The portion of the Yegua-Jackson occurring in Newton County is declared non-relevant.

Polk County (LTGCD)

- The portion of the Yegua-Jackson occurring in Polk County is declared non-relevant.

Tyler County (STGCD)

- The portion of the Yegua-Jackson occurring in Tyler County is declared non-relevant.

Walker County (BGCD)

- The portion of the Yegua Jackson Aquifer occurring in Walker County is declared non-relevant..

Washington County

- The portion of the Yegua Jackson Aquifer occurring in Washington County is declared non-relevant..

River Alluvium Aquifers

Austin County (BGCD)

- The portion of the Brazos River Alluvium occurring in Austin County is declared non-relevant.
- The portion of the San Bernard River Alluvium occurring in Austin County is declared non-relevant.

Grimes County (BGCD)

- The portion of the Brazos River Alluvium occurring in Grimes County is declared non-relevant.
- The portion of the Navasota River Alluvium occurring in Grimes County is declared non-relevant.

Walker County (BGCD)

- The portion of the San Jacinto River Alluvium occurring in Walker County is declared non-relevant.
- The portion of the Trinity River Alluvium occurring in Walker County is declared non-relevant.

Waller County (BGCD)

- The portion of the Brazos River Alluvium occurring in Walker County is declared non-relevant.

Washington County

- The portion of the Brazos River Alluvium occurring in Washington County is declared non-relevant.

And it is so ordered and passed this 29th day of April, 2016.

Signed _____

Mr. Zach Holland Bluebonnet Groundwater Conservation District

Signed _____

Mr. Kent Burkett Brazoria County Groundwater Conservation District

Signed _____

Ms. Kathy Turner Jones Lone Star Groundwater Conservation District

Signed _____

Mr. Gary Ashmore Lower Trinity Groundwater Conservation District

Signed _____

Mr. John Martin Southeast Texas Groundwater Conservation District

State Office of Administrative Hearings

Lesli G. Ginn
Chief Administrative Law Judge

November 6, 2017

Brian Sledge
Shauna Fitzsimmons
Lone Star Groundwater Conservation
919 Congress Ave., Suite 460
Austin, TX 78701

VIA EMAIL & REGULAR MAIL

RE: Docket No. 958-17-3121; Petition of the Cities of Conroe and Magnolia, Texas Appealing Desired Future Conditions of Gma 14 Adopted by Lone Star Groundwater Conservation District

Dear Mr. Sledge & Ms. Fitzsimmons:

Please find enclosed the Agreed Proposal for Decision in this case.

Sincerely,

Casey A. Bell
Administrative Law Judge

CB/tt
Enclosures

xc: David P. Lein, Graves Dougherty Hearon & Moody, 401 Congress Ave., Suite 2200, Austin, TX 78701- **VIA EMAIL & REGULAR MAIL**
Michael V. Powell, Locke Lord LLP, 2200 Ross Ave., Suite 2800, Dallas, TX 75201- **VIA EMAIL & REGULAR MAIL**
Marvin W. Jones, Sprouse Shrader Smith, PLLC, 701 S. Taylor St., Suite 500, Amarillo, TX 79105 – **VIA EMAIL & REGULAR MAIL**
C. Brantley Jones, Sprouse Shrader Smith, PLLC, 701 S. Taylor, Suite 500, Amarillo, TX 79101 - **VIA EMAIL & REGULAR MAIL**

SOAH DOCKET NO. 958-17-3121

PETITIONS OF THE CITIES OF CONROE AND MAGNOLIA, TEXAS, AND QUADVEST, LP APPEALING DESIRED FUTURE CONDITIONS OF GMA 14 ADOPTED BY LONE STAR GROUNDWATER CONSERVATION DISTRICT	§	**BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS**

AGREED PROPOSAL FOR DECISION

The cities of Conroe and Magnolia, Texas, (Cities) and Quadvest, LP (collectively referred to as Petitioners) filed petitions pursuant to Section 36.1083 of the Texas Water Code appealing desired future conditions (DFCs) of Groundwater Management Area 14 (GMA 14) adopted by the Lone Star Groundwater Conservation District (District). The Cities and the District jointly presented a settlement agreement and agreed to the findings of fact and conclusions of law in this agreed proposal for decision (PFD). Petitioner Quadvest, LP (Quadvest) does not dispute the stipulated facts that form the basis of the findings of fact and expressly stated they have no objections to this agreed PFD or the Final Order. After reviewing the proposed settlement and the agreed stipulations, the Administrative Law Judge (ALJ) recommends that the District Board adopt a Final Order stating the current desired future conditions are no longer reasonable and instructing GMA 14 to revise the desired future conditions for the District in accordance with Section 36.1083(p) of the Texas Water Code.

I. BACKGROUND AND PROCEDURAL HISTORY

GMA 14 adopted DFCs for aquifers within GMA 14 on April 29, 2016. The District adopted the approved DFCs applicable to the District on August 9, 2016. The Cities filed petitions appealing the reasonableness of the DFCs on December 2, 2016 (Docket No. 958-17-3121). Quadvest LP filed a petition appealing the reasonableness of the DFCs on December 6, 2016 (Docket No. 958-17-3122).

Effective January 30, 2017, the State Office of Administrative Hearings (SOAH) and the District entered into an Interlocal Cooperation Contract (SOAH Contract Number 360-17-002) for SOAH to conduct the hearing on the reasonableness of the DFCs and perform related services as contemplated under Section 36.1083 of the Texas Water Code. On March 14, 2017, SOAH received requests to docket these two cases for assignment of an ALJ.

On April 10, 2017, the Texas Water Development Board provided a study containing a scientific and technical analysis of the desired future conditions adopted by the District.

On April 10, 2017, the ALJ adopted Order No. 1 consolidating both dockets under Docket No. 958-17-3121.

On October 10, 2017, the District's Board of Directors considered the results of a Strategic Water Resources Planning Study conducted for the District by LBG-Guyton Associates to evaluate the impacts of the District's 2016 groundwater pumping reductions on local aquifers, to evaluate whether and how additional groundwater supplies could be safely developed in the District, and to develop other related information and recommendations for use in the next five-year cycle of joint planning for establishing goals for future aquifer conditions. Based on the results of new data from the Strategic Water Resources Planning study, the District's Board of Directors changed its policy goals to move away from "sustainability" toward a management policy that allows measured aquifer level declines consistent with the desires of the groundwater producers in the District.

On November 6, 2017, the District and Cities approved a settlement agreement that included a draft PFD and a draft Final Order settling the petitions appealing the reasonableness of the DFCs. Quadvest does not object to the proposed PFD or Final Order. Also on November 6, 2017, the District and Cities also filed Agreed Stipulations which Quadvest does not dispute.

II. APPLICABLE LAW

Appeals of the reasonableness of DFCs are governed by Section 36.1083 of the Texas Water Code. Section 36.1083(h) of the Texas Water Code requires the District to contract with SOAH to conduct a hearing on the reasonableness of the DFCs adopted by the District.

Section 36.1083(e) of the Texas Water Code requires the Texas Water Development Board to conduct an administrative review to determine whether the desired future condition established by the District meets the criteria in Section 36.108(d) of the Texas Water Code. Section 36.1083(e) of the Texas Water Code, also requires the Texas Water Development Board to conduct a study containing scientific and technical analysis of the desired future condition, including consideration of the hydrogeology of the aquifer, the explanatory report, the factors described under Section 36.108(d) of the Texas Water Code and any relevant groundwater availability models, published studies, estimates of total recoverable storage capacity, average annual amounts of recharge, inflows, and discharge of groundwater, or information provided in the petition or available to the Texas Water Development Board.

Section 36.1083(g) of the Texas Water Code requires SOAH to consider the Texas Water Development Board study and the GMA's explanatory report.

Section 36.1083(n) of the Texas Water Code requires the SOAH ALJ to produce findings of fact and conclusions of law in a proposal for decision.

III. RECOMMENDATION

Based on the settlement agreement between the Cities and the District, the Agreed Stipulations filed by the Cities and the District on November 6, 2017, and Quadvest's lack of dispute as to the Agreed Stipulations, the ALJ recommends the District Board adopt a Final Order adopting this PFD and declaring the DFCs for GMA 14 that apply to the District, which were adopted by the District on August 9, 2016, to be no longer reasonable. The ALJ further recommends the Final Order direct the General Manager of the District to transmit a copy of the

Final Order to all groundwater conservation districts comprising GMA 14 and request that GMA 14 promptly convene as required by Texas Water Code §§ 36.1083(p) & (q) to begin the process of adopting new or amended DFCs applicable to the District. In support of this recommendation, the ALJ makes the following undisputed findings of fact and conclusions of law:

IV. FINDINGS OF FACT

1. The Groundwater Management Area (GMA) 14 district representatives adopted desired future conditions (DFCs) for aquifers within GMA 14 on April 29, 2016.

2. The Lone Star Groundwater Conservation District (District) adopted the approved DFCs applicable to the District on August 9, 2016.

3. The cities of Conroe and Magnolia, Texas (Cities) timely filed a petition on December 2, 2016, appealing the reasonableness of the DFCs adopted by the District.

4. Quadvest, LP (Quadvest) timely filed a petition on December 6, 2016, appealing the reasonableness of the DFCs adopted by the District.

5. The District timely contracted with the State Office of Administrative Hearings (SOAH) to hold a hearing on the petitions as required by Section 36.1083 of the Texas Water Code.

6. On April 10, 2017, the Texas Water Development Board provided SOAH its administrative review and a study containing a scientific and technical analysis of the desired future conditions adopted by the District.

7. The District's Board of Directors commissioned a "Strategic Water Resources Planning Study" in October 2014 to evaluate the impacts to local aquifers of its 2016 groundwater pumping reductions, to evaluate whether and how additional groundwater supplies could be safely developed in the District, and to develop other related information and recommendations for use in the next five-year cycle of joint planning for establishing goals for future aquifer conditions.

8. During the pendency of this proceeding and prior to the start of the actual hearing on the merits, on October 10, 2017, the results of Task 3 of the Strategic Water Resources Planning Study was completed and presented to the District's Board of Directors. That study found that additional groundwater withdrawal rates could be achieved if the District allowed measured aquifer level declines based upon the results of groundwater surveys solicited by the District from groundwater producers in the District and the District's resulting analysis of those surveys and the relevant science and data.

9. The District's Board of Directors approved the study and adopted groundwater availability model "Run D" in the Final Report for Task 3 of the Strategic Water Resources Planning Study as the Board's recommended model scenario, and further recommend the GMA adopt new or amended DFCs based upon the results of that study. Based on results of the Strategic Water Resources Planning Study and the District's Board of Directors actions, the District's Board of Directors changed its policy goal to move away from "sustainability," which is one of the primary bases for the DFCs that are the subject of the petitions in this proceeding, to a groundwater management policy and goal that allows measured aquifer level declines over time.

10. Because the District's Board of Directors has changed its policy goal for aquifer management as set forth above and has already voted unanimously to pursue changes to the DFCs that are the subject of this appeal, those DFCs are no longer reasonable.

V. CONCLUSIONS OF LAW

1. Petitions appealing the reasonableness of DFCs may be settled through mediation or other appropriate alternative dispute resolution methods. Tex. Water Code § 36.1083(j).

2. The ALJ is required to produce findings of fact and conclusions of law in a proposal for decision. Tex. Water Code § 36.1083(n).

3. The agreed settlement reached by the District and the Cities and not disputed by Quadvest is contemplated under Section 36.1083(j) of the Texas Water Code, meets the requirements of Section 36.1083 of the Texas Water Code, and finally settles all disputes related to the appeal of the reasonableness of the DFCs adopted by the District on August 9, 2016.

SIGNED November 6, 2017.

CASEY A. BELL
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

APPROVED AS TO FORM AND SUBSTANCE AND ENTRY REQUESTED:

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ATTORNEYS FOR THE CITY OF CONROE, TEXAS, AND THE CITY OF MAGNOLIA, TEXAS

NO OBJECTION, AS STATED IN THE AGREED PROPOSAL FOR DECISION:

/s/ Marvin W. Jones

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ATTORNEYS FOR QUADVEST, LP

EXHIBIT A-4

NO. 15-08-08942

CITY OF CONROE, TEXAS; et. al.	§	**IN THE DISTRICT COURT**
	§	
Plaintiffs,	§	
	§	
v.	§	**MONTGOMERY COUNTY, TEXAS**
	§	
RICHARD J. TRAMM, et. al.	§	
	§	
Defendants.	§	**284th JUDICIAL DISTRICT**

ORDER ON CROSS-MOTIONS FOR PARTIAL SUMMARY JUDGMENT

On April 25, 2018, came on for hearing before the Court Plaintiffs' Second Amended Motion for Partial Summary Judgment filed July 31, 2017, and the Lone Star Goundwater Conservation District's "Cross-Motion for Partial Summary Judgment that (Contrary to Plaintiffs' Water Code 36.251 Suit) Its Rules Are Valid," filed August 27, 2017. All parties appeared by and through their respective counsel of record.

The Court having reviewed the Cross-Motions and all Responses thereto, as well as the pleadings in the case and the briefing and arguments of counsel, now rules on these Cross-Motions as follows:

IT IS ORDERED, ADJUDGED, AND DECREED that Plaintiffs' Second Amended Motion for Partial Summary Judgment is hereby Granted.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Lone Star Groundwater Conservation District's "Cross-Motion for Partial Summary Judgment that (Contrary to Plaintiffs' Water Code 36.251 Suit) Its Rules are Valid" is hereby Denied.

This Order decides the legal question whether the following rule of the Lone Star Groundwater Conservation District is valid:

Minute
Date: 9.18.18

1. By [January 1, 2016], each LVGU [large volume groundwater user] in the District must meet its initial conversion obligation, which means each LVGU must reduce its annual groundwater production to the greater of either:

A. No more than 70 percent of its Total Qualifying Demand, which is based upon the LVGU's 2009 permitted authorization, and actually met not less than 30 percent of its Total Qualifying Demand by implementing water conservation measures and/or using an Alternative Water Source; or

B. 10 million gallons.

2. For any growth in water demand experienced by an LVGU after 2009 that cannot be met by implementation of water conservation measures, such increased demand must be met using an Alternative Water Sources beginning in 2016 . . . .

The Court finds that the question decided by this Order on Cross-Motions for Partial Summary Judgment is a controlling question of law as to which there is a substantial ground for difference of opinion. The Court further finds that immediate appeal of this Order will materially advance the ultimate termination of this litigation.

This Order and the underlying controlling question of law involve the parties' competing interpretations of the rule-making powers granted the Lone Star Groundwater Conservation District by Chapter 36 of the Texas Water Code. The Court finds that although it has ruled on the cross-motions for summary judgment as stated above, the parties have made conflicting arguments, and there are substantial grounds for difference of opinion regarding whether Lone Star Groundwater Conservation District has statutory power to adopt and enforce the rule quoted above.

All parties have advised the Court that they request and agree to an interlocutory appeal of this Order. The parties further agree, and the Court rules, that such appeal will be defined by the question addressed in the parties' cross-motions for summary judgment that are identified above.

Minute

Date:_____

Consequently, IT IS HEREBY ORDERED that, pursuant to Texas Civil Practices and Remedies Code § 51.014(d), an interlocutory appeal is ALLOWED from this Order.

It is further Ordered that all other issues remaining in ~~this action~~ the Trial Court are stayed pending the outcome of the interlocutory appeal allowed hereby.

SIGNED this 18 day of September, 2018

LAMAR McCORKLE
SENIOR DISTRICT JUDGE
SITTING BY ASSIGNMENT

APPROVED AS TO FORM:

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ATTORNEYS FOR PLAINTIFF
THE CITY OF CONROE, TEXAS

Minute

Date:_____

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ATTORNEYS FOR THE
LONE STAR GROUNDWATER CONSERVATION DISTRICT

Minute

Date:_____

EXHIBIT A-5

No.4:19-CV-04508

QUADVEST, L.P. vs SAN JACINTO RIVER AUTHORITY

JAMES BEACH

JUNE 14, 2023

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

QUADVEST, L.P., Plaintiff,	}	
V.	}	Civil Action No.4:19-CV-04508
SAN JACINTO RIVER AUTHORITY, Defendant.	}	

****

ORAL AND VIDEOTAPED DEPOSITION OF

JAMES BEACH

June 14, 2023

****

ORAL AND VIDEOTAPED DEPOSITION OF JAMES BEACH, produced as a witness at the instance of the Plaintiff, and duly sworn, was taken in the above-styled and numbered cause on June 14, 2023, from 3:11 p.m. to 6:26 p.m., before Janet G. Hoffman, CSR in and for the State of Texas, reported by a Texas certified machine shorthand reporter, at the office of Lone Star Groundwater Conservation District, 655 Conroe Park North Drive, Conroe, Texas, pursuant to the Federal Rules of Civil Procedure and any provisions stated on the record or attached hereto. Rule 30(b)(5) was waived, by agreement of counsel.

APPEARANCES

FOR THE PLAINTIFF:

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ALSO PRESENT:

MR. JAMES SPIGENER
MR. JACOB STONECIPHER, videographer

I N D E X

E X H I B I T S

NO.	DESCRIPTION	PAGE
Exhibit B	Deposition notice	4
Exhibit 104	Groundwater management plan adopted 10-14-03	8
Exhibit 105	Email chain re determination of available water	19
Exhibit 106	Document dated 8-11-14 by John Seifert re LSGCD - TERS	47
Exhibit 107	Conjunctive Use of Groundwater and Surface Water Facilities Implementation Plan Grand Funding Request	59
Exhibit 108	Conflict of interest questionnaire	62
Exhibit 109	SJRA's pumped groundwater from 2010 through 2022	67
Exhibit 110	Copy of Exhibit 109 with handwriting updates	74
Exhibit 111	PowerPoint presentation	82
Exhibit 112	Lone Star Groundwater Conservation District 2004 Annual Report	84
Exhibit 113	Lone Star Groundwater Conservation District 2005 Annual Report	87
Exhibit 114	Miscellaneous documents re groundwater reduction plan	94

THE VIDEOGRAPHER: We are on the record at approximately 3:11 p.m. Today's date is June 14th, 2023. This is the beginning of media number one in the video-recorded deposition of James Beach. Would counsel please introduce themselves on the record.

MR. ROWE: David Rowe for Quadvest.

MR. ZUCKER: Jim Zucker and Luke Schamel for San Jacinto River Authority.

MS. REESE: Stacey Reese for Lone Star Groundwater Conservation District, nonparty.

JAMES BEACH,

having been first duly sworn, testified as follows:

EXAMINATION

BY MR. ROWE:

Q. Good afternoon, Mr. Beach. How are you?

A. Good afternoon. Very good.

Q. I'll remind you my name is David Rowe. I represent Quadvest. Do you understand that you have been designated as a -- to speak on behalf of Lone Star Groundwater Conservation District in response to a deposition subpoena?

A. I do.

(Exhibit B marked.)

Q. (By Mr. Rowe) Will you take a look at what's been marked as Exhibit A. Do you recognize that as the

deposition notice?

MR. ZUCKER: Think it should be Exhibit B, the second --

MR. ROWE: Oh, that's right. Sorry. Exhibit B.

A. Plaintiff's second amended?

Q. Yes, sir.

A. Yes.

Q. And I understand from prior communications with Lone Star's lawyer, Stacy Reese, that you're going to be prepared to discuss topics 3, 4, 7, and 8. Is that right?

A. Correct.

Q. Before we dig into that, please introduce yourself to the Court. Who are you and how did you draw the black bean for this?

A. I'm James Beach with Advanced Groundwater Solutions. I'm a hydrogeologic consultant to Lone Star.

Q. And by way of background/training, what makes you a -- you call it hydrogeologic consultant?

A. Yes.

Q. Is that --

A. So I have a bachelor's degree in hydrology, a master's degree in hydrology, and 30 years' experience.

Q. So this may be totally random, but what's the

difference between hydrology and hydrogeology, if there is a difference?

A. Hydrology generally is -- refers to surface water. Hydrogeology generally refers to subsurface and groundwater.

Q. And have you been working with Lone Star for a while as a consultant?

A. So the history is I think -- I believe I started with Lone Star in 2020 and have worked with them under two different companies since then.

Q. And generally speaking, what kind of services do you perform for --

A. Hydrogeologic consulting, groundwater consulting. We help the district with permitting applications, hydrogeologic issues associated with rural development, and any other technical issues.

Q. Okay. Got it. Well, somewhat. Can't claim to understand all of this. You understand -- or do you understand, as the designated representative today, that you're supposed to be wearing your Lone Star hat and not your Mr. Beach hat?

A. I do.

Q. Okay. And have you prepared in any way to try to figure out what Lone Star's answers might be to these questions?

so that they can make those decisions. And if they have questions, they can ask us. And we can try to provide input on a scientific basis, hydrogeologic basis to guide their decisions.

Q. And as a scientist, are you okay with the 97,000-acre-foot-per-year number?

MR. ZUCKER: Objection. Form.

A. Yes.

Q. (By Mr. Rowe) I'm handing you what's been marked as 106, I believe. Yeah.

(Exhibit 106 marked.)

Q. (By Mr. Rowe) This is a memo written by John Seifert or Seifert on August 11, 2014. Do you see that?

A. Yes.

Q. And then in the body of the memo, he records it looks like a call he had with somebody named Scott Weisinger. Do you see that?

A. Correct.

Q. Who's Scott Weisinger?

A. He was on the board at that time.

Q. Of Lone Star?

A. Of Lone Star, yes.

Q. And who's John Seifert?

A. He worked for LBG-Guyton & Associates and was a consultant to the district on and off throughout the

year.

Q. I don't know, halfway through or so there's a sentence that says, "After the meeting, according to Scott." Do you see that?

A. Yes.

Q. Brian Sledge admits that there is not a tremendous basis for the 64,000-acre-foot-per-year estimate of availability in the county and that that could be subject to review. Did I read that correctly?

A. You did.

Q. Is this memo a reference to the conversation you were talking about earlier?

A. It is.

Q. And apart from Sledge's admission, do you separately agree that there's really not a tremendous basis for the 64,000-acre-foot-per-year limitation on groundwater use?

MR. ZUCKER: Objection. Assumes facts not in evidence. Asked and answered.

A. Can you restate that question?

Q. (By Mr. Rowe) Sure. Sitting here today as both a consultant and as a representative for Lone Star, do you agree that there's really not a tremendous basis for the 64,000-acre-foot number that was originally adopted by Lone Star?

MR. ZUCKER: Objection. Vague. Asked and answered.

A. I agree.

Q. (By Mr. Rowe) Okay. Different topic. I want to refer you to Exhibit 50, which is in this stack, but I have an extra copy here, so it might be easier to just give you that.

MS. REESE: For the record, can you tell us what Exhibit 50 is?

MR. ROWE: Oh, yeah. It's this --

MS. REESE: Talking points?

MR. ROWE: -- talking points.

Q. (By Mr. Rowe) Mr. Beach, I'm going to ask you about this question that appeared on page 3 about SJRA's supply of surface water.

MR. ZUCKER: Which page are you asking about?

MR. ROWE: Page 3, Bates 98.

MR. ZUCKER: Did you ask a question?

MR. ROWE: No.

Q. (By Mr. Rowe) So are you aware that SJRA signed an option contract with City of Houston to acquire City of Houston's two-thirds water rights in Lake Conroe?

A. I've heard discussion about it. I can't

bypassed is captured. Did I read that correctly?

A. Yes.

Q. Does Lone Star agree with that principle?

A. Generally, yes. That can -- that can occur in an aquifer as pumping increases. Depends on which aquifer. Depends on the location. Depends on a lot of dynamics. But yes, that is possible.

Q. If the bathtub is full, you can't put more water in it?

MR. ZUCKER: Objection. Form.

A. If you put more water in it, it will just run over.

Q. (By Mr. Rowe) That's all the questions I have about Mr. Thornhill's report. I'm handing you what was previously marked as Exhibit 25. This is a copy of an article published by Jace Houston entitled Solving Montgomery County's Water Shortage and the Potential Impact on Lake Level. Have you seen this article before?

A. I've seen some version of it. I'm not sure if it was his final version here, but yes.

MR. ZUCKER: What topic is this just so I can keep track?

MR. ROWE: Topic 3.

Q. (By Mr. Rowe) And the article, first

paragraph, second to the last sentence begins, Now a rapid growth. Do you see that?

A. I do.

Q. He writes, Now a rapid growth has created an overwhelming demand that our underground water supply cannot sustain. We are literally draining the Montgomery County well dry. Did I read that correctly?

A. You did.

Q. Does Lone Star believe that as a truthful statement?

A. No.

Q. Okay. I'm handing you again for the second time the 2006 TCB/AECOM study that was marked previously as Exhibit 11. Have you seen this report before?

A. I have, yeah.

Q. Now, before I ask questions about Exhibit 11, I'm going to mark another document as Exhibit 107, which I'm handing to you.

(Exhibit 107 marked.)

Q. (By Mr. Rowe) Exhibit 107 is a copy of the application that Lone Star and SJRA jointly submitted to the water development board for a grant to help them fund what became the study marked as Exhibit 11. Is that correct?

A. It appears to be that way, yes.

Q. So looking at Exhibit 107, flip over to -- I'm going to use Bates numbers.

A. Okay.

Q. Bates 824, it shows you the applicants right at the top. The applicants are Lone Star and the SJRA. Correct?

A. Correct.

Q. And then if we can look at page Bates 826, you'll see that they're asking for $168,000 from the water development board. Right?

A. Correct.

Q. And then if you flip over to page -- well, at the bottom of page 826, there begins a detailed description of why the proposed planning is needed. Correct?

A. Yes.

Q. Okay. And then if you flip over to page 827, beginning with the first full paragraph on page 827 that begins regional water planning indicates -- are you with me?

A. Yes.

Q. -- the second sentence of that paragraph reads, The LSGCD groundwater management plan shows that the safe yield of the aquifer is 64,000 acre-feet per year. The latest TWDB approved demand projection shows

that the year 2010 municipal demand is 68,638 acre-feet. Did I read that correctly?

A. I see that.

Q. Okay. And of course, 64,000 acres we know came from that groundwater management plan. Yes?

A. Uh-huh, correct.

Q. The next paragraph, still on page 827 begins, Regional planning shows that all water supply shortages in Montgomery County will be met by the San Jacinto River Authority. Do you see that statement?

A. I do.

Q. Do you know what regional planning that this was referring to?

A. I would assume that it was the regional planning that led to the state -- the 2002 state water plan. Regional plans are developed prior to, you know, the state water plan. And it's all folded up into the state water plan. I don't know for sure. Other entities do their own region's regional planning. I don't know if that could also be what they're referring to here.

Q. Skipping down, still on page 827, to the item numbered 15 in the second paragraph, the application reads, The TWDB grant, if funded, will support the strategy of converting numerous water user groups from

groundwater to surface water in the southern portion of the county. This conversion is a necessary part of implementing the region's water plan. Did I read that correctly?

A. Yes.

Q. Does this -- does that statement support the idea you were talking about -- actually, Mr. Spigener was talking about it earlier today -- that very early on Lone Star was working with SJRA to try to convert groundwater users to surface water?

MR. ZUCKER: Objection. Mischaracterizes the testimony and the document.

A. I believe it does agree with his testimony.

Q. (By Mr. Rowe) All right. Now, looking at Exhibit 11 -- nope. I keep teasing you with Exhibit 11. We'll get there eventually. I promise. But I want to ask you about this one. I'm handing you what's been marked as Exhibit 108.

(Exhibit 108 marked.)

Q. (By Mr. Rowe) Have you seen Exhibit 108 before?

A. I don't think so.

Q. This is a document titled Conflict of Interest Questionnaire. Yes?

A. It is.

Q. And under box 1, the name of the person doing business with a local government entity -- well, first of all, if you look at the very top, you'll see that it's a Lone Star Groundwater Conservation District document?

A. Okay.

Q. And then box 1 asks, well, who's doing business with Lone Star? And the answer is Turner Collie & Braden. Right?

A. Okay.

Q. And that's -- that's the same Turner Collie and Braden that produced Exhibit 11. Right?

A. To my knowledge, yes.

Q. That's what the TCB stands for?

A. Correct.

Q. Now, if you flip over to page 2 of Exhibit 108 and block 5 or paragraph D, it says describe each affiliation or business relationship. Do you see that?

A. I do.

Q. It reads, Jim Adams is the general manager of the San Jacinto River Authority as well as being a board member of the Lone Star Groundwater Conservation District. Did I read that correctly?

A. Yes.

Q. Then it goes on to explain Turner Collie &

Braden performs engineering services for San Jacinto River Authority. Correct?

A. Correct.

Q. And so TCB is going to do work for both the river authority and Lone Star?

A. It appears that way, yes.

Q. Going back to Exhibit 108, it continues to read, In addition, Bobby Adams is the son of Jim Adams and is a senior officer of Turner Collie & Braden. Right?

A. That's what it says.

Q. So Jim Adams is the general manager of SJRA and his son is a senior officer with TCB. Yes?

A. Yes.

Q. And then TCB is going to do work for both SJRA and Lone Star. Yes?

A. That's what it appears, yes.

Q. And the work that TCB is being asked to do is to produce a report to support this idea of converting groundwater users to surface water. Yes?

A. That's the way the application for funding reads, yes.

Q. Okay. Now let's look at Exhibit 11. So looking at page 1, the cover page has three logos on it, one for Lone Star, one for the water development board,

and one for the SJRA. Right?

A. Yes.

Q. And we know, based on the application, that's because Lone Star and SJRA together hired TCB to prepare this report using money from the development board -- right? -- water development board?

A. Yes.

Q. Looking at page -- I'll use Bates numbers again -- 5325 --

A. Okay.

Q. -- there's an introduction section?

A. Correct.

Q. And then one, two, three -- fourth paragraph, about midway through there's a sentence that begins "A product of the SB1 process"?

A. Correct.

Q. Is the 2007 state water plan, as part of that plan, the annual sustainable recharge rate of the Gulf Coast aquifer in Montgomery County was defined as 64,000 acre-feet. Of course, we know where that number came from. Right?

A. We do.

Q. The report continues, Moreover, the 2007 state water plan identified that Montgomery County will require surface water as an alternative to groundwater

as a water supply source by 2010 and that the SJRA is the most probable supplier of surface water to that county. Did I read that correctly?

A. You did.

Q. Is that a reference to the state water planning that I was asking you about before? Do you know?

A. I believe so.

Q. Okay.

A. This was a different year, just to be clear. They're referring to 2007 here, 2007 state plan. The one I mentioned earlier was 2002. They are published about every five years.

Q. All right. Now, if you flip over to page 5385 --

A. Okay.

Q. -- there's a section called Facilities Implementation Plan. You see that?

A. Yes, got it.

Q. Then under introduction it reads, As is indicated by Figure 10, the magnitude of alternative sources of water suggests that a surface water supply system will be necessary to meet the projected water needs in the future. Did I read that correctly?

A. Yes.

Q. So no surprise that TCB is concluding you've got to build a surface water treatment plant because you've got a water supply shortage. Is that a fair way to read this?

MR. ZUCKER: Objection to the sidebar. Mischaracterizes the document.

A. It appears that they continue to build upon the availability estimate of 64,000. And from that, they move into the facilities implementation plan.

(Discussion off the record.)

MS. REESE: It's 5:58, gentlemen. We've got one hour.

MR. ZUCKER: I think most of that hour should be mine.

MR. ROWE: I think you have 52 minutes left, but never fear. I'm getting close.

A. I'm not used to being argued over.

Q. (By Mr. Rowe) Okay. Next topic. I'm going to mark this document as Exhibit 109.

(Exhibit 109 marked.)

Q. (By Mr. Rowe) Tell me what Exhibit 109 is, please.

A. That was the answer to one of the questions, and it was SJRA's usage from -- or pumped groundwater from 2010 through 2022.

EXHIBIT A-5

Changes and Signature to Deposition of JAMES BEACH

Deposition Date: June 14, 2023

PAGE	LINE	CHANGE	REASON
cover page and page 1		"James Beach in capacity as corporate representative"	clarification
6	15	remove "rural" and insert "rule"	stenographic error

EXHIBIT A-5

I, JAMES BEACH, have read the foregoing deposition and hereby affix my signature that same is true and correct, except as noted above.

JAMES BEACH

THE STATE OF Colorado)
COUNTY OF Rio Grande)

Before me, August 16, 2023, on this day personally appeared JAMES BEACH, known to me (or proved to me under oath or through Driver's License) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that they executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this 16 day of August, 2023.

Kendra Schmittel
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20214050087
MY COMMISSION EXPIRES December 30, 2025

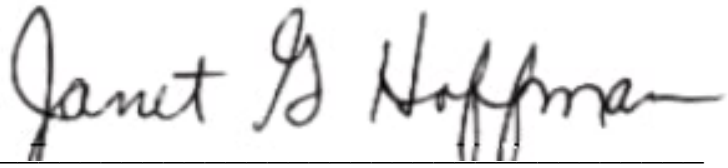
Kendra Schmittel
Notary Public In and For
The State Of Colorado
Commission Expires: 12/30/25

C E R T I F I C A T E

STATE OF TEXAS)
)
COUNTY OF HARRIS)

I, Janet G. Hoffman, Certified Shorthand Reporter in and for the State of Texas, duly commissioned and qualified, do hereby certify that the foregoing is a true, correct, and complete transcript of the proceedings in the foregoing captioned matter taken by me and transcribed from my stenographic notes.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Houston, Texas, this 18th day of July, 2023.



Janet G. Hoffman
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EXHIBIT A-6

Lone Star Groundwater Conservation District

CONFLICT OF INTEREST QUESTIONNAIRE

FORM CIQ

For vendor or other person doing business with local governmental entity

This questionnaire is being filed in accordance with chapter 176 of the Local Government Code by a person doing business with the governmental entity.

By law this questionnaire must be filed with the records administrator of the local government not later than the 7th business day after the date the person becomes aware of facts that require the statement to be filed. *See* Section 176.006, Local Government Code.

A person commits an offense if the person violates Section 176.006, Local Government Code. An offense under this section is a Class C misdemeanor.

OFFICE USE ONLY

Date Received

1 **Name of person doing business with local governmental entity.**

Turner Collie & Braden Inc.

2

☐ **Check this box if you are filing an update to a previously filed questionnaire.**

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than September 1 of the year for which an activity described in Section 176.006(a), Local Government Code, is pending and not later than the 7th business day after the date the originally filed questionnaire becomes incomplete or inaccurate.)

3

Name each employee or contractor of the local governmental entity who makes recommendations to a local government officer of the governmental entity with respect to expenditures of money AND describe the affiliation or business relationship.

No known affiliation or business relationship.

4

Name each local government officer who appoints or employs local government officers of the governmental entity for which this questionnaire is filed AND describe the affiliation or business relationship.

NA

Adopted 11/0212005

EXHIBIT NO. 108

LSGCD_001819

EXHIBIT A-6

CONFLICT OF INTEREST QUESTIONNAIRE
For vendor or other person doing business with local governmental entity

FORM CIQ
Page 2

5

Name of local government officer with whom filer has affiliation or business relationship. (Complete this section only if the answer to A, B, or C is YES.

This section, item 5 including subparts A, B, C & D, must be completed for each officer with whom the filer has affiliation or other relationship. Attach additional pages to this Form CIQ as necessary.

Jim Adams, Board Member of Lone Star Groundwater Conservation District

A. Is the local government officer named in this section receiving or likely to receive taxable income from the filer of the questionnaire?

☐ Yes ☒ No

B. Is the filer of the questionnaire receiving or likely to receive taxable income from or at the direction of the local government officer named in this section AND the taxable income is not from the local governmental entity?

☒ Yes ☐ No

C. Is the filer of this questionnaire affiliated with a corporation or other business entity that the local government officer serves as an officer or director, or holds an ownership of 10 percent or more?

☐ Yes ☒ No

D. Describe each affiliation or business relationship.

Jim Adams is the General Manager of the San Jacinto River Authority as well as being a Board Member of the Lone Star Groundwater Conservation District. Turner Collie & Braden Inc. performs engineering services for the San Jacinto River Authority. In addition, Bobby Adams is the son of Jim Adams and is a senior officer of Turner Collie & Braden Inc.

6

Neil E. Bishop, PhD, PE

Date

Adopted 11/02/2005

EXHIBIT A-7

NO. 15-08-08942

CITY OF CONROE, TEXAS; QUADVEST, L.P., d/b/a QUADVEST WATER AND SEWER UTILITY; WOODLAND OAKS UTILITY, L.P.; CRYSTAL SPRINGS WATER CO., INC., d/b/a CRYSTAL SPRINGS WATER AND SEWER UTILITY; EVERETT SQUARE, INC.; E. S. WATER CONSOLIDATORS, INC.; UTILITIES INVESTMENT CO., INC.; and T&W WATER SERVICE COMPANY	§	IN THE DISTRICT COURT
Plaintiffs,	§	
v.	§	
RICHARD J. TRAMM, SAM W. BAKER, M SCOTT WEISINGER P.G., JIM STINSON, P.E., JOHN D BLEYL, P.E., JACE HOUSTON, ROY MCCOY, JR., RICK MOFFATT, W. B. WOOD, in their Official Capacities as Directors of the Lone Star Groundwater Conservation District; KATHY TURNER JONES, in her Official Capacity as General Manager of the Lone Star Groundwater Conservation District; and the LONE STAR GROUNDWATER CONSERVATION DISTRICT,	§	MONTGOMERY COUNTY, TEXAS
Defendants.	§	284th JUDICIAL DISTRICT

FINAL JUDGMENT

The interlocutory appeal from this Court's Order on Cross-Motions for Summary Judgment signed September 18, 2018, having been dismissed by the Court of Appeals for the Ninth District of Texas and consequently, the stay of this action lifted, the action

came on for final hearing before the Court. All parties appeared by and through their respective counsel of record.

1. The following motions for partial non-suit have been filed of record and are pending before the Court.

A. The Motion of Plaintiffs City of Conroe, Texas; Quadvest, L.P., d/b/a Quadvest Water and Sewer Utility; Woodland Oaks Utility, L.P.; Crystal Springs Water Co., Inc. d/b/a Crystal Springs Water and Sewer Utility; Everett Square, Inc.; E.S. Water Consolidators, Inc.; Utilities Investment Co., Inc.; and T&W Water Service Company (hereinafter collectively "Plaintiffs") for non-suit with prejudice of their claims for wrongful taking in violation of Section 17 of Article I of the Texas Constitution and for attorneys' fees against the Lone Star Groundwater Conservation District; and

B. The Motion of Lone Star Groundwater Conservation District for non-suit with prejudice of its counterclaim for attorneys' fees, expert witness fees, and other costs against Plaintiffs; and

C. The Motion of Defendants Richard J. Tramm, Sam W. Baker, M. Scott Weisinger, P.G., Jim Stinson, P.E., John D. Bleyl, P.E., Jace Houston, Roy McCoy, Jr., Rick Moffatt, W. B. Wood, and Kathy Turner Jones, in their official capacities as former directors and the General Manager of the Lone Star Groundwater Conservation District, for non-suit with prejudice of their counterclaim for attorneys' fees against Plaintiffs.

2. The three Motions for partial non-suit identified in Paragraph 1, above, are hereby GRANTED and the claims to which said Motions are directed are DISMISSED with prejudice to the refiling of same.

3. All other claims and counterclaims pending in this action having thereby been non-suited and dismissed with prejudice, Plaintiffs have filed a Motion for Entry of Final Judgment on the basis of this Court's Order on Cross-Motions for Summary Judgment signed September 18, 2018. Having considered Plaintiffs' Motion for Entry of Judgment and this Court's Order on Cross-Motions for Summary Judgment signed September 18, 2018, the Court concludes that Plaintiffs' Motion for Entry of Final Judgment is well taken and hereby GRANTS Plaintiffs' Motion for Entry of Final Judgment as follows:

4. IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT the following provisions from the Lone Star Groundwater Conservation District's Regulatory Plan were adopted by said District without legal authority and consequently are, and have been, unlawful, void, and unenforceable:

> "1. By 2016, each LVGU in the District must meet its Initial Conversion Obligation, which means each LVGU must reduce its annual groundwater production to the greater of either:
>
> A. no more than 70 percent of its Total Qualifying Demand, which is based upon the LVGU's 2009 permitted authorization and actually met not less than 30 percent of its Total Qualifying Demand by implementing water conservation measures and/or using an Alternative Water Source; or
>
> B. 10 million gallons.

2. For any growth in water demand experienced by an LVGU after 2009 that cannot be met by the implementation of water conservation measures, such increased demand must be met using an Alternative Water Source beginning in 2016, unless:

A. The LVGU does in fact timely meet or exceed its Initial Conversion Obligation; and

B. the LVGU's overall annual groundwater production, when averaged over the 2016-2045 planning period, does not exceed:

i. 70 percent of its Total Qualifying Demand, or
ii. 10 million gallons.

Thus, groundwater use by an LVGU after its successful 2016 groundwater reduction and conversion will not exceed either 70 percent of its Total Qualifying Demand or 10 million gallons per year, whichever amount is greater, except as specifically allowed under this averaging provision, regardless of what percentage such groundwater use is of an LVGU's overall water use or demand. In addition, LVGU's must also achieve any further groundwater reductions that may be adopted in the future by the District."

5. IT IS FURTHER ORDERED that all parties to this action shall bear their own costs of court, attorneys' fees, expert witness fees, and all other costs and expenses.

6. This is the Final Judgment of the Court in this action. All relief requested by any party in this action that is not expressly granted herein is hereby DENIED.

DATE SIGNED: May 17, 2019

LAMAR McCORKLE
SENIOR DISTRICT JUDGE
SITTING BY ASSIGNMENT

APPROVED AS TO FORM AND SUBSTANCE:

/s/ Michael V. Powell

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APPROVED AS TO FORM ONLY:

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EXHIBIT A-8

Subject: LSGCD – TERS

By: John Seifert

Date: August 11, 2014, Monday

At the end of the day I call Scott Weisinger to see how the meeting went on August 7 for the LSGCD. He says everything went well. The presentation by Wade Oliver was understood. It was agreed that the District would move forward trying to look at additional water resources, groundwater resources within the county with the long-term objective of having adequate resource surface water and groundwater. It remains to be seen how that will be done. He says that Mike Thornhill and Bob Harden were there and apparently Harden & Associates is going to be hired by the City to review groundwater availability in the County and the independently owned utilities are hiring Mike Thornhill to do something similar. After the meeting, according to Scott, Brian Sledge admits that there is not a tremendous basis for the 64,000 ac-ft/yr estimate of availability in the county and that that could be subject to review. Brian had defended that number for the last 7 or 8 years. They do get updated on GMA 14 with Bill Mullican and the main thing that Scott remembers is that something was due to the state in May of 2016. Other than that, he did not glee much from the presentation. There will be subsequent meetings I am sure, regarding the path forward for the District. Tell him we would be in a position to help in any way that we can.

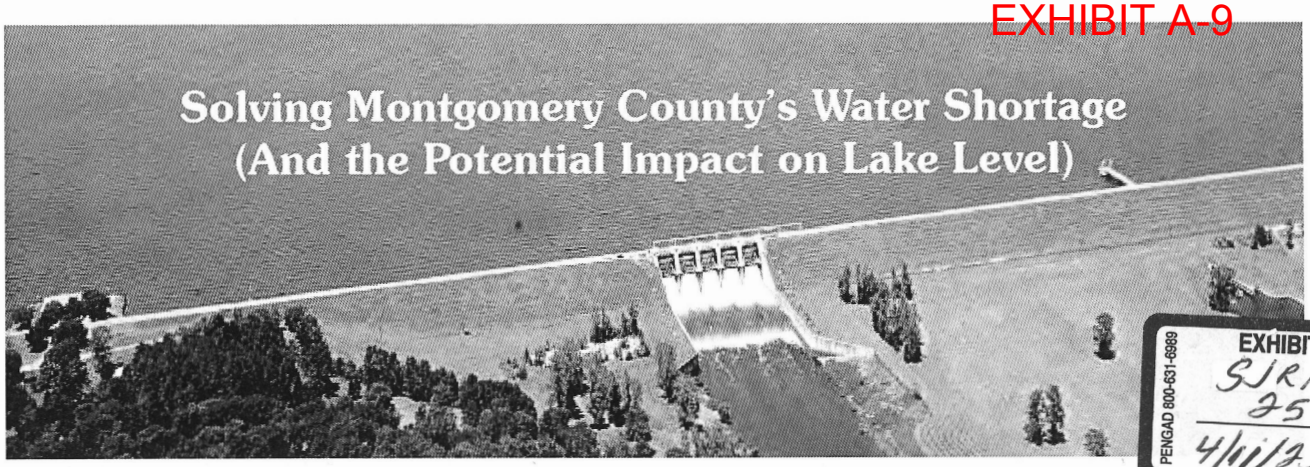
Notes 081114 TERS.docx

LSDBRA.002

EXHIBIT NO. 106

EXHIBIT A-9

Solving Montgomery County's Water Shortage (And the Potential Impact on Lake Level)



by Jace A. Houston, Deputy General Manager

Montgomery County's Groundwater Crisis

You may not know it, but our county is in the midst of a crisis. As Montgomery County's population has grown at an astounding rate, we have always met our growing water demand by drilling water wells and pumping water from our underground aquifers. This remains the case today. Now, our rapid growth has created an overwhelming demand that our underground water supply cannot sustain. We are literally draining the Montgomery County well dry.

Fortunately, it is not too late to solve this crisis. The voter-approved Lone Star Groundwater Conservation District has carefully studied this issue to discover what steps need to be taken to avoid a water supply disaster. As a result of their findings, they have recently adopted regulations giving all large groundwater users in Montgomery County until January 1, 2016, to reduce their consumption of groundwater by 30%.

This is an enormous challenge, and it calls for a well-reasoned, well-engineered solution. Because of Montgomery County's historic reliance on groundwater, there are no large pipelines in place to deliver surface water to the 200-plus water systems around the county that are required to convert, and the cost to install the miles of pipeline necessary to reach every system would be crippling to our economy. That is why the San Jacinto River Authority (SJRA) has voluntarily committed itself to developing and offering a countywide groundwater reduction plan that creates a regional solution and allows all the water users in Montgomery County to work together to achieve compliance in a more efficient and less costly way.

A Solution for the Entire County

Montgomery County benefits when we all work together. The impending groundwater crisis is no different. The SJRA has studied the problem and is proposing a solution that works for all of Montgomery County. The SJRA plan calls for the 200-plus water systems in Montgomery County to work together and split the costs for the construction of the infrastructure necessary to comply with the Lone Star's rules. In fact, the SJRA plan is the only plan that can bring the entire county into compliance cheaply and quickly.

Montgomery County does not need to switch completely off of underground water to comply with the Lone Star rules, and importantly, we don't have to deliver surface water to all 200 systems either. That's really the key to the cost savings. Even though all 200 systems are each required to reduce their groundwater use by 30%, the SJRA plan allows many communities to continue to receive their entire water supply from underground aquifers for many years to come. By participating with other water systems in the SJRA plan, they will be considered to be in compliance with the Lone Star rules because other users in the plan are converting to surface water *on their behalf*.

At the outset, communities such as Conroe and The Woodlands will "over-convert" from underground water supplies to surface water. This "over-conversion" allows all of the participants in the plan to comply with the Lone Star's rules with minimal infrastructure and, therefore, minimal cost.

The SJRA has volunteered to be the leader in this effort for countywide compliance because it is basically the only entity in a position to do so. The future growth of all of Montgomery County is essential to every community in our county. If we leave one community in our county behind, we all lose out.

The Importance of Lake Conroe

The SJRA's plan calls for the utilization of

Montgomery County's own resource, Lake Conroe, for its originally-intended purpose – water supply. The SJRA shares the understanding that Lake Conroe is an invaluable asset for our county, and in recognition of the legitimate concerns of local business and property owners, the SJRA hired an independent engineering firm to conduct a study of the potential impacts that the surface water program might have on lake levels. The report found that this plan will not have a significant adverse effect on lake levels at Lake Conroe.

The SJRA is committed to an open process with honest communication. As lake level concerns have been raised during the development of our surface water plan, SJRA staff and engineers have willingly fielded any and all questions regarding the lake levels of Lake Conroe using the best data and science we have available. Of course, it is not easy to explain how a reservoir operates or how it is permitted by the State of Texas for a certain amount of annual usage, and the purpose of this independent engineering study is to verify, using actual data and computer models, how the reservoir is predicted to respond at various levels of water usage (and to present that data in a graphical format that is hopefully a little easier for people to visualize).

The actual graphs produced from the independent engineering study are presented in full below. It is very difficult to fully explain the nuances of charts and graphs in a written article, but it is my hope that this information will answer most of the questions that we have received and begin to dispel the rumors and sensational claims that have circulated about this project.

Lake Level Data

First, it is important to note that in an average year, seven feet of EXCESS water spills out of Lake Conroe because the lake is simply over full. This is seven feet of lake level that leaves Montgomery County without offering any beneficial use to the citizens of our county. That is almost twice the amount of water that is used in all of Montgomery County in a year's time.

[As an aside, a number of people have asked me why we don't just build another lake below Lake Conroe to capture all that excess water before it reaches the gulf. For purposes of this article, I'll have to give the short answer. First, when I use the term "excess" to refer to the water that flows out of Lake Conroe, I only mean excess as it relates to the amount of water that we are physically and legally able to retain in the lake. Any effort to construct a new lake to capture this unused water would impact the legal rights of other water right holders downstream, including the City of Houston. Plus, there is simply no site where we could build a large enough lake to begin to capture that amount of water.]

In addition to being almost twice the amount of water currently used in Montgomery County, seven feet of lake level is also SEVEN TIMES the amount of water that is needed in the first phase of the surface water program from 2016 to 2025. This fact is extremely important in understanding why the impact on lake level is so minimal. Lake Conroe spills on an average, annual basis much more water than we need for the surface water program. That is why you only see an impact on lake level during very severe, very long-term (multi-year) droughts, and even then you really don't see much impact until the third or fourth phase of the program starting in 2035 or 2045.

In fact, the MAXIMUM amount of water available for consumption from Lake Conroe each year is only four feet of lake level (1/8th inch per day). The SJRA plan would not reach this level of annual usage until 2045 (or even later if we can improve our conservation efforts)! Even when we reach this maximum amount of usage, the average year would still see three feet of lake level flow out of Lake Conroe and out of Montgomery County as EXCESS water.

To demonstrate graphically how lake levels would likely be affected at different levels of usage, the engineers used our records of daily lake levels since the lake was completed in 1973, and then used a computer model to simulate what the lake level would have been if specified amounts of surface water were being used each year. In other words, we know what the lake level has been every day since 1973, and the computer model predicts what the lake level would have been if we had been using one foot of water each year (1/32 inch per day), then two feet of water (1/16 inch per day), then three feet of water (3/32 inch per day), and finally four feet of water (1/8 inch per day).

We can compare the modeled results in each case to the historic record of lake level and get a pretty good feel for what impact, if any, the future use of lake water will have on the lake level.

Some important facts to remember as you look at each of the graphs. First, the dashed red line on the graph corresponds to 201 feet above mean

sea level, which is the normal pool level of Lake Conroe. Any time the lake rises above this level, water begins to spill over the dam and down the river.

Also, in each of the following graphs, the engineers have inserted a dashed reference line at 197' MSL – this is four feet below normal pool level, and it represents a level at which recreational lake users experience significant access issues. This line is included simply as a reference for comparing historic lake levels to predicted lake levels.

It is also very important to note that these graphs do NOT take into account any additional conservation and drought contingency measures that may be implemented in the future. The SJRA intends to pursue both conservation and drought contingency efforts that will help mitigate any periods of significant lake level decline. Also, the SJRA is researching technical options for reducing surface water usage during times of severe drought. We are not taking a "wait and see" approach. We intend to take proactive steps to help protect lake levels.

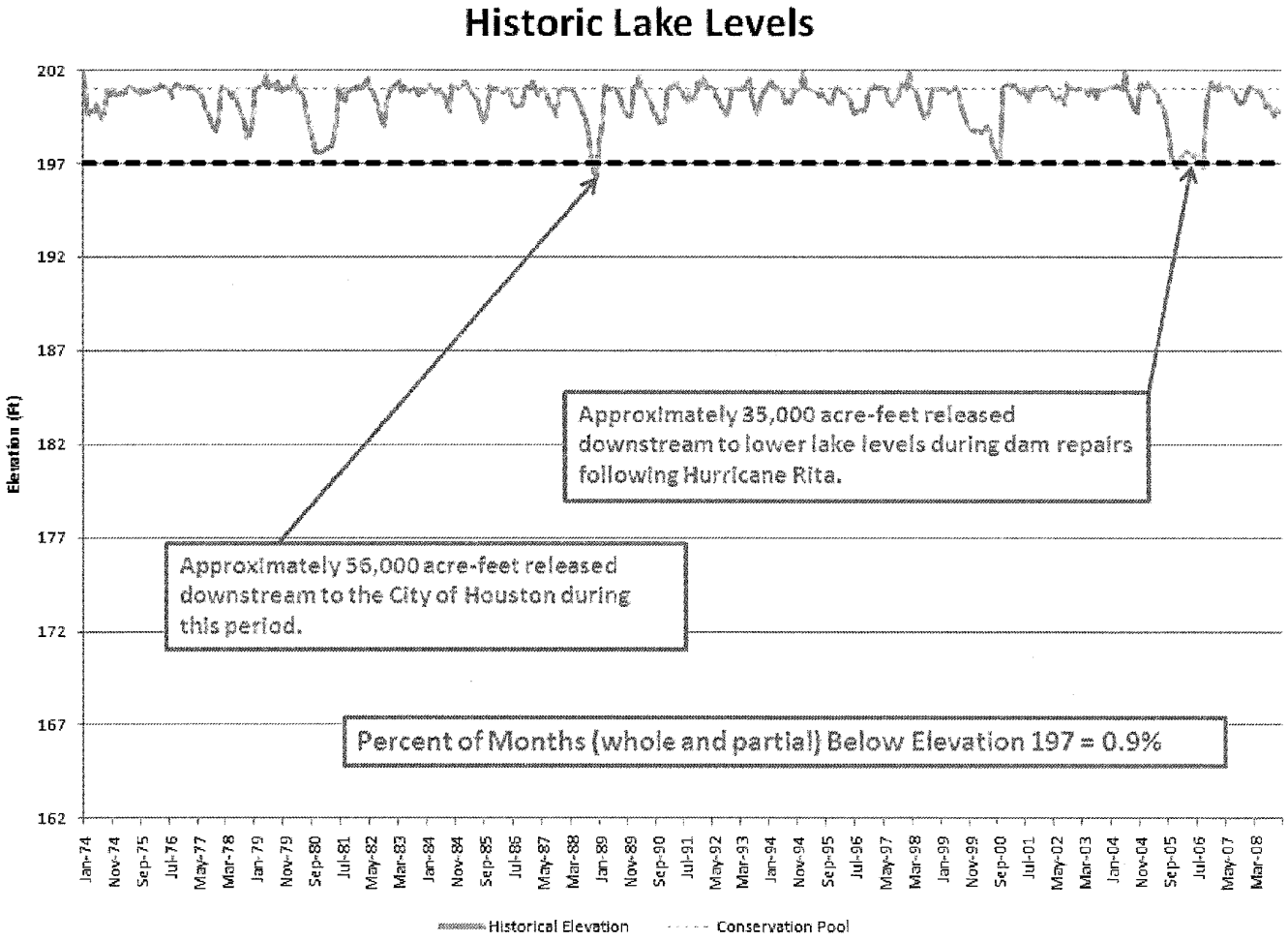


Figure 1. This graph shows the historic lake levels of Lake Conroe since it was completed in 1973. The key points to notice are the three occasions when the lake dipped to the 197' level. One event in the late-1980s corresponded to a large release called for by the City of Houston. The event beginning in 2005 followed an intentional release when the lake had to be lowered due to damage from Hurricane Rita. The third event was in the late 1990s and occurred over a three-year drought period. Overall, the lake was below 197' less than one percent of the months of record.

EXHIBIT A-9

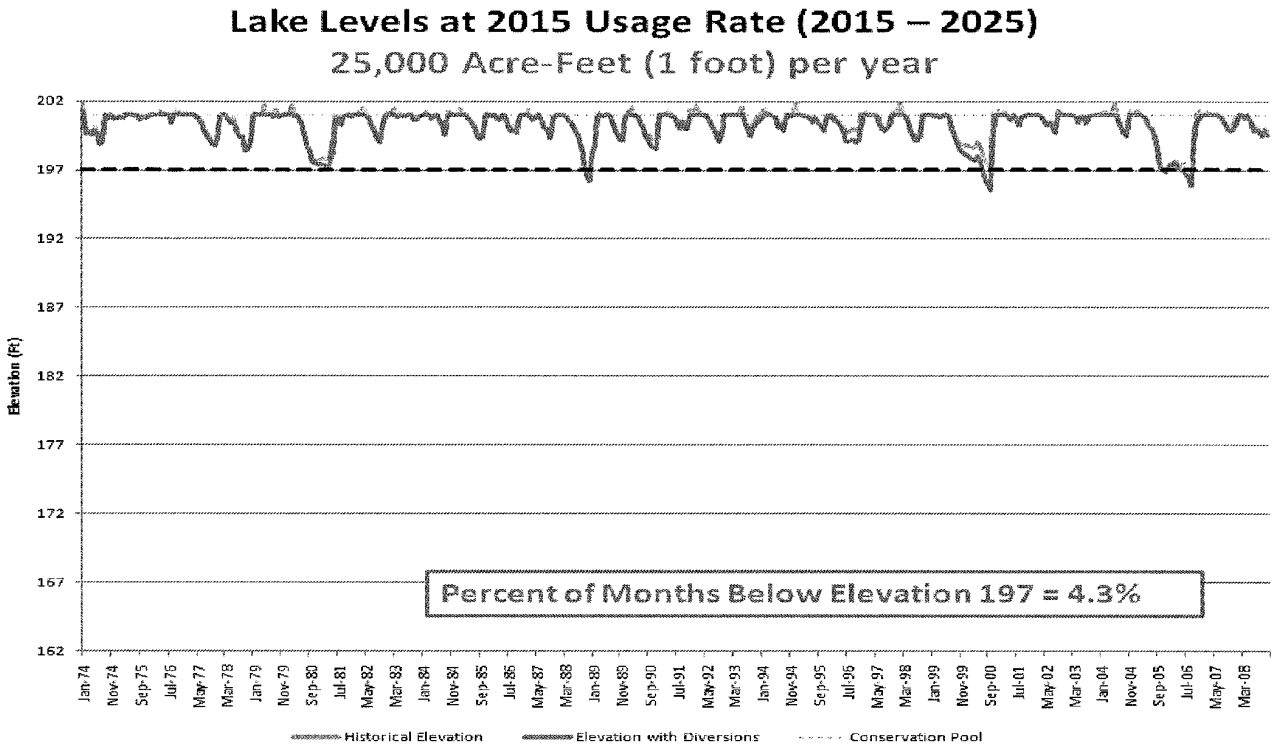


Figure 2. This graph shows the historic lake level (green line) compared to the lake level that would have occurred if we had been using surface water from Lake Conroe at the Phase 1 rate of 25,000 acre feet per year (1/32 inch per day). As you can see, the difference between the historic lake levels and the predicted levels is almost imperceptible. This usage rate of 25,000 acre-feet per year is the maximum amount proposed to be used through the year 2025.

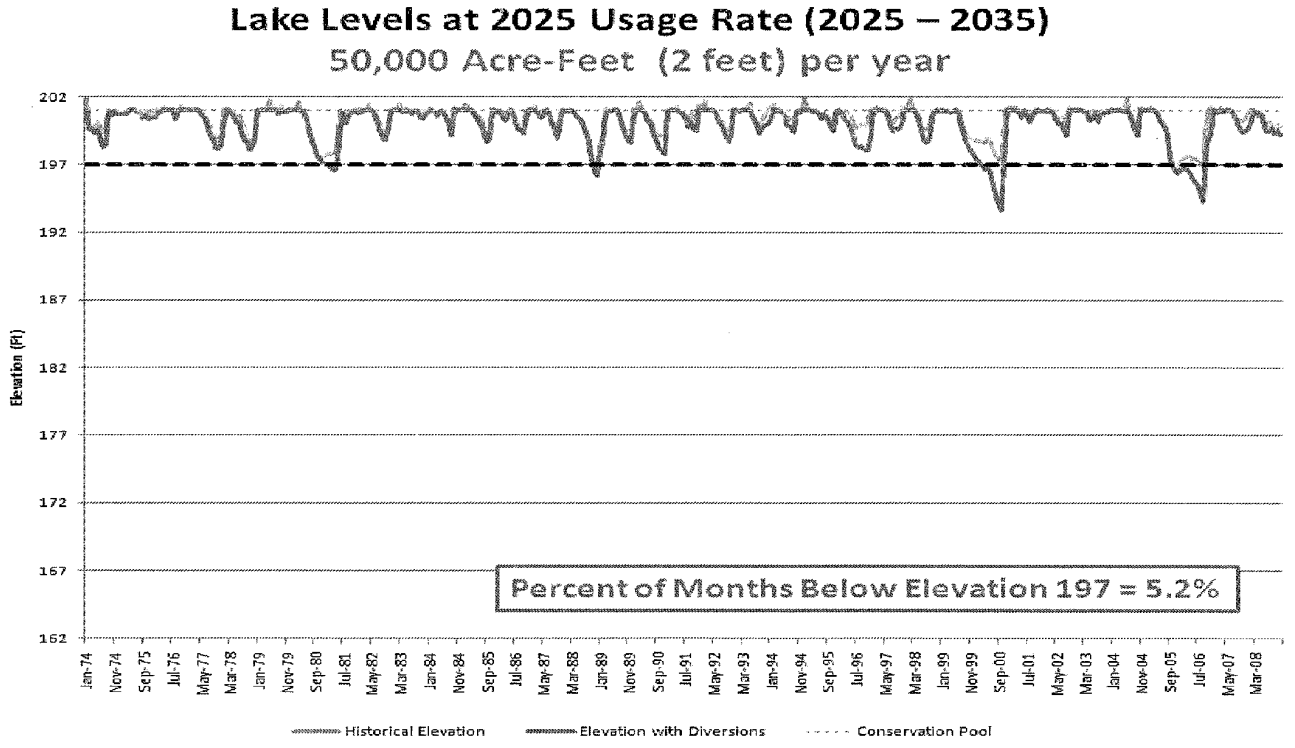


Figure 3. Phase 2 of the proposed groundwater reduction plan would begin in 2025 and raise the surface water consumption from Lake Conroe to 50,000 acre feet per year (1/16 inch per day). This graph shows that the difference between the historic levels and the predicted levels is still minimal. This level of usage would carry the program through approximately 2035.

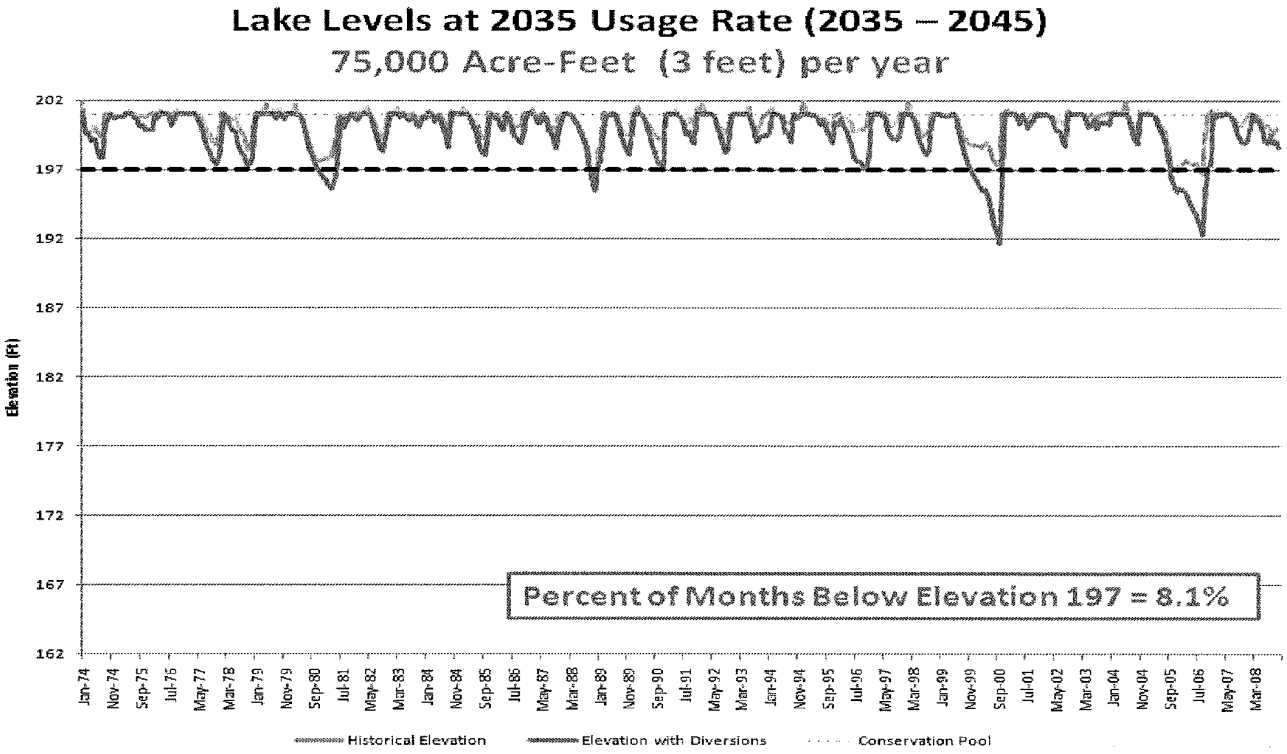


Figure 4. Phase 3 of the SJRA plan is proposed to begin in 2035 at a usage rate of 75,000 acre-feet per year (3/32 inch per day). At this level of usage, you begin to see a fairly significant impact on lake level during extended droughts such as the three-year drought in the late 1990s and the two-year drought following Hurricane Rita. Apart from these multi-year droughts, the difference in lake level is still fairly minimal.

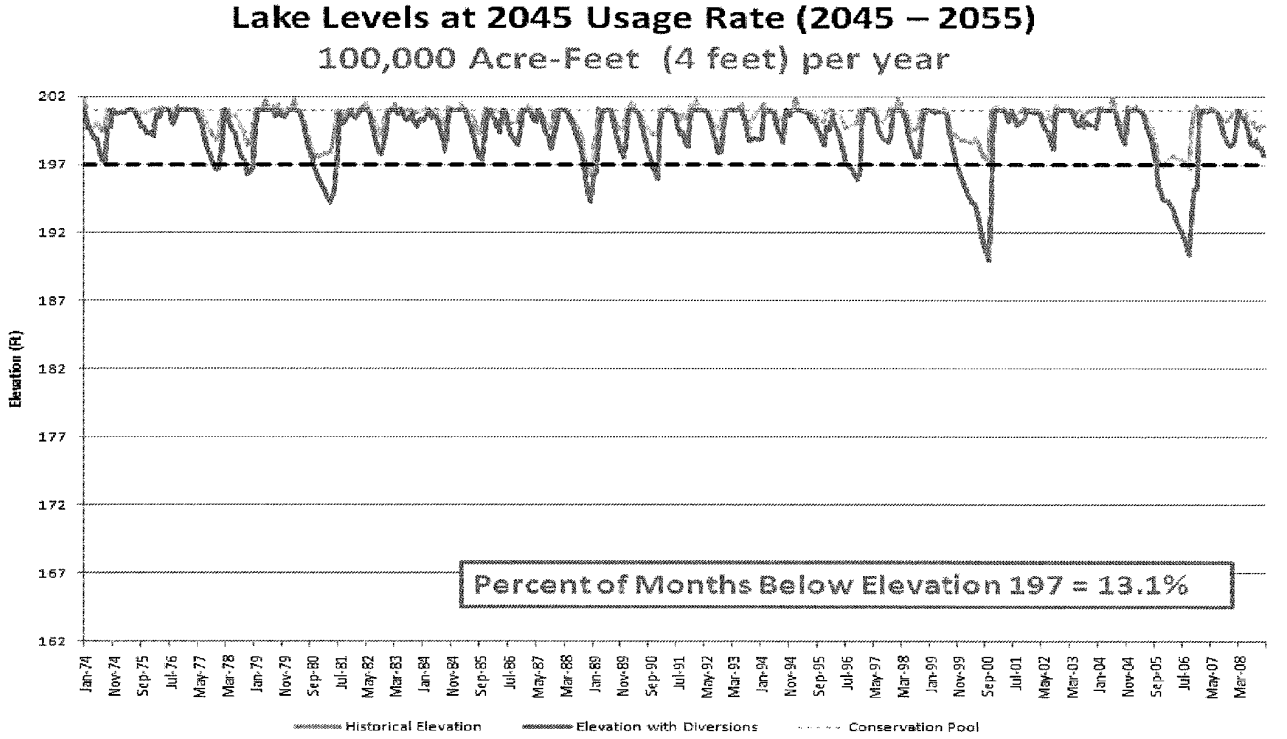


Figure 5. The maximum amount of water allowed by state permit to be withdrawn from Lake Conroe on an annual basis is 100,000 acre-feet per year (1/8 inch per day). The proposed SJRA plan would not reach this level of withdrawal until after 2045. Figure 5 confirms that the greatest impact on lake level is during severe, multi-year droughts, although you do begin to see more frequent periods where the lake falls below 197'.

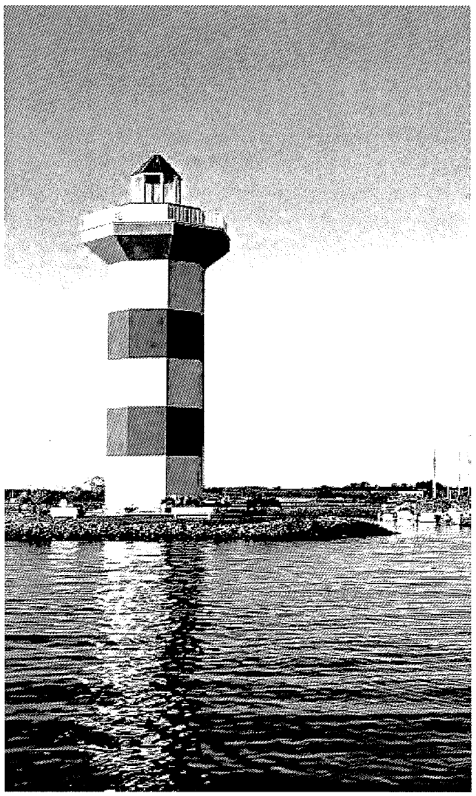
EXHIBIT A-9

What We Have Learned

This independent engineering study shows us that it is indeed weather, not human consumption, that is the main determinant of lake levels for Lake Conroe. Again, in an average year, we are currently releasing seven feet of lake level from Lake Conroe as excess water. This excess water is not being used at all in Montgomery County.

Even so, the SJRA is committed to seeking responsible solutions to mitigate any effects on lake levels. For example, the SJRA is encouraging a countywide effort to introduce conservation measures and ordinances to cut wasteful consumption of our water supply. There are other mitigation measures being studied as well, such as a comprehensive drought management plan. We will keep you updated as these plans are further developed.

Addressing Montgomery County's groundwater shortage is imperative, and the countywide solution makes the most sense from many different perspectives, including economic. We realize that the residents of Montgomery County have many concerns and questions, and we share those same concerns for the continued growth and economic vitality of our county.



San Jacinto River Authority
PO Box 329, Conroe, TX 77305
1577 Dam Site Rd, Conroe, TX 77304
(936) 588-1111 main
www.sjra.net

WHEREAS, Texas Water Code Chapter 36.108 requires the Groundwater Conservation Districts located whole or in part in a Groundwater Management Area designated by the Texas Water Development Board to adopt desired future conditions for the relevant aquifers located within the management area;

WHEREAS, the groundwater conservation districts located wholly or partially within Groundwater Management Area 14, as designated by the Texas Water Development Board, as of the date of this resolution are as follows: Bluebonnet Groundwater Conservation District, Brazoria County Groundwater Conservation District, Lone Star Groundwater Conservation District, Lower Trinity Groundwater Conservation District, and Southeast Texas Groundwater Conservation District;

WHEREAS, Fort Bend Subsidence District, Harris-Galveston Subsidence District, and stakeholders from Chambers County and Washington County also contributed to the development of the desired future conditions for Groundwater Management Area 14; and

WHEREAS, the Fort Bend Subsidence District and Harris-Galveston Subsidence District, together encompassing Fort Bend, Harris and Galveston counties, regulate groundwater withdrawals within their jurisdictions, are not a voting member of Groundwater Management Area 14 and are not a groundwater conservation district; and

WHEREAS, the groundwater conservation districts of Groundwater Management Area 14 have met at various meetings and conducted joint planning in accordance with Texas Water Code Chapter 36.108 since September 2005; and

WHEREAS, the groundwater conservation districts of Groundwater Management Area 14 have solicited and considered public comment at specially called Public Meetings; and

WHEREAS, the groundwater conservation districts of Groundwater Management Area 14 received and considered technical advice regarding local aquifers, hydrology, geology, recharge characteristics, local groundwater demands and usage, population projections, ground and surface water inter-relationships, and other considerations that affect groundwater conditions; and

WHEREAS, the groundwater conservation districts of Groundwater Management Area 14 used this information to develop DFCs for the portions of the northern segment of the Gulf Coast Aquifer occurring within the bounds of Groundwater Management Area 14; and

WHEREAS, the groundwater conservation districts of Groundwater Management Area 14 declared the segments of the Carrizo-Wilcox Aquifer, Queen City Aquifer, Sparta Aquifer, Yegua-Jackson Aquifer, Brazos River Alluvium Aquifer, Navasota River Alluvium Aquifer, San Bernard River Alluvium Aquifer, San Jacinto River Alluvium Aquifer, and Trinity River Alluvium Aquifer occurring within the bounds of GMA 14 non-relevant for the purposes of joint planning; and

WHEREAS, the groundwater conservation districts of Groundwater Management Area 14 approach for the development of the desired future conditions included utilizing multiple metrics identified as limiting factors of the Gulf Coast Aquifer and constraints of the groundwater water availability model to utilize the best available science as well as address the 2016 petition of Lone Star Groundwater Conservation District's desired future conditions; and

WHEREAS, the groundwater conservation districts of Groundwater Management Area 14 conducted many model runs of the updated Northern Gulf Coast Groundwater Availability Model with various pumping distributions in each county and the desired future condition presented below was consistent with the distribution used in the 2016 round of joint planning in Groundwater Management Area 14; and

WHEREAS, the groundwater withdrawals utilized as well data pumping in the groundwater availability model for the counties within the Subsidence Districts was held at the levels allowed in their current regulatory plans (Fort Bend Subsidence District, 2013; Harris-Galveston Subsidence District, 2013) for the purpose of evaluating and developing the desired future conditions for other counties in Groundwater Management Area 14; and

WHEREAS, the modeled pumping demand in each county was set at a maximum of 30,000 acre-feet per year above the maximum projected water demand between 2020 and 2070 in the current State Water Plan to allow for additional growth and to constrain a model flaw of the general head boundary; and

WHEREAS, following public discussion and due consideration of the current and future needs and conditions of the aquifers in question, the current and projected groundwater demands, and the potential effects on springs, surface water, habitat, and water-dependent species through the year 2080, the groundwater conservation districts of Groundwater Management Area 14 have analyzed drawdown estimations from numerous pumping scenarios using the Houston Area Groundwater Availability Model and have voted on a motion made and seconded to adopt a desired future condition stated as follows:

In each county in Groundwater Management Area 14, no less than 70 percent median available drawdown remaining in 2080 or no more than an average of 1.0 additional foot of subsidence between 2009 and 2080.

WHEREAS, Texas Water Code Chapter 36.108(d-4), states "after a district receives notification from the Texas Water Development Board that the desired future conditions resolution and explanatory report under Subsection (d-3) are administratively complete, the district shall adopt the applicable desired future conditions in the resolution and report"; and

WHEREAS, Texas Administrative Code Chapter 356.52 requires that the management objectives be specific and time-based statements of future outcomes that are linked to a management goal, in addition performance standards for each management objective are required to evaluate the effectiveness and efficiency of district activities; and

WHEREAS, the implementation of the desired future condition involves taking the single Groundwater Management Area 14-wide desired future condition statement and quantifying it for use as a management goal and objective for inclusion in the district's management plan; and

WHEREAS, the updated Northern Gulf Coast Groundwater Availability Model simulation that serves as the basis for the Groundwater Management Area 14-wide desired future condition provides the foundation for the desired future condition adopted by the district;

NOW THEREFORE BE IT RESOLVED, that the groundwater conservation districts of Groundwater Management Area 14 do hereby document, record and confirm a desired future condition stated above and below was adopted by all member districts present.

In each county in Groundwater Management Area 14, no less than 70 percent median available drawdown remaining in 2080 or no more than an average of 1.0 additional foot of subsidence between 2009 and 2080.

AND IT IS SO ORDERED.

PASSED AND ADOPTED on this 5th day of January 2022.

Signed _____

Mr. Zach Holland — Bluebonnet Groundwater Conservation District

Signed _____

Ms. Beverly Hopkins — Brazoria County Groundwater Conservation District

Signed Samantha Reiter

Ms. Samantha Reiter — Lone Star Groundwater Conservation District

Resolution 2021-10-5

Signed _____

Mr. Gary Ashmore — Lower Trinity Groundwater Conservation District

Signed _____

Mr. John Martin — Southeast Texas Groundwater Conservation District

EXHIBIT A-11

RESOLUTION #22-007

RESOLUTION FOR THE ADOPTION OF THE DESIRED FUTURE CONDITION FOR THE GULF COAST AQUIFER THAT APPLIES TO THE LONE STAR GROUNDWATER CONSERVATION DISTRICT

THE STATE OF TEXAS §

COUNTY OF MONTGOMERY §

WHEREAS, the Lone Star Groundwater Conservation District ("Lone Star") was created by the Legislature of the State of Texas by the Act of May 17, 2001, 77th Leg., R.S., ch. 1321, 2001 Tex. Gen. Laws 3246, as amended (the "Enabling Act"), as a groundwater conservation district operating under Chapter 36, Texas Water Code, and the Enabling Act; and

WHEREAS, pursuant to § 35.151 of the Texas Water Code, the Texas Water Development Board ("TWDB") has designated groundwater management areas that, together, cover all major and minor aquifers in the state, and, through Title 31 Texas Administrative Code §356.21, the TWDB has designated the area encompassing all of Austin, Brazoria, Chambers, Fort Bend, Galveston, Grimes, Hardin, Harris, Jasper, Jefferson, Liberty, Montgomery, Newton, Orange, Polk, San Jacinto, Tyler, Walker, Waller, and Washington counties as Groundwater Management Area No. 14 ("GMA 14"); and

WHEREAS, Lone Star and four other groundwater conservation districts, Bluebonnet Groundwater Conservation District, Brazoria Groundwater Conservation District, Lower Trinity Groundwater Conservation District, and Southeast Texas Groundwater Conservation District, (collectively referred to herein as the "Districts") are located wholly or partially within GMA 14; and

WHEREAS, the Districts are authorized by Chapter 36, Texas Water Code, to engage in joint planning activities for the coordinated management of the aquifers located in GMA 14, and are required to establish desired future conditions ("DFC(s)") for the relevant aquifers within GMA 14; and

WHEREAS, Section 36.108 of the Texas Water Code requires representatives from the Districts to hold joint planning meetings for the consideration of DFC options, the proposal of DFCs for adoption, and after the contemplation of comments and suggested revisions provided by the public and Districts, the adoption of DFCs for each relevant aquifer in GMA 14 and the submission of an explanatory report to the TWDB; and

WHEREAS, the District representatives for GMA 14 have engaged in joint planning activities and developed DFCs, and on January 5, 2022, the District representatives for GMA 14 took final action to adopt DFCs for the relevant aquifers in GMA 14 by resolution and then submitted the Desired Future Conditions Explanatory Report to the TWDB as required by Section 36.108(d-3) of the Texas Water Code; and

WHEREAS, the DFCs adopted by the District representatives of GMA 14 are described in terms of no less than 70 percent median available drawdown remaining in 2080 or no more than an average of 1.0 additional foot of subsidence between 2009 and 2080; and

WHEREAS, Section 36.108(d-4) of the Texas Water Code states "after a district receives notification from the Texas Water Development Board that the desired future conditions resolution and explanatory report

under Subsection (d-3) are administratively complete, the district shall adopt the applicable desired future conditions in the resolution and report"; and

WHEREAS, Lone Star received a letter notifying Lone Star that the Executive Administrator of the TWDB has determined that the DFC resolution and explanatory report are administratively complete, and therefore Lone Star may proceed with the adoption of the DFC that applies to Lone Star in compliance with Section 36.108(d-4) of the Texas Water Code; and

WHEREAS, for the reasons set forth in Lone Star's Summary Report for Public Comments Received and Position Paper submitted to the Districts in GMA 14, the Lone Star Board finds that the DFC of no less than 70 percent median available drawdown remaining in 2080 is reasonable and necessary for the effective and prudent management of groundwater resources within Montgomery County; and

WHEREAS, the Lone Star Board also finds that all notice requirements for a meeting, held this day, to take up and consider the adoption of the DFC described herein that applies to Lone Star have been, and are, satisfied;

NOW, THEREFORE, be it resolved by the Board of Directors of the Lone Star Groundwater Conservation District that the following DFC is hereby established for the Gulf Coast Aquifer as the DFC that applies to Lone Star:

No less than 70 percent median available drawdown remaining in 2080.

AND IT IS SO ORDERED.

PASSED AND ADOPTED on this 13th day of September, 2022.

LONE STAR GROUNDWATER CONSERVATION DISTRICT

By: _____
James Spigener, Board President

ATTEST:

_____
Larry Rogers, Secretary

EXHIBIT A-12

5 Jun 2024

Lone Star GCD
655 Conroe Park North Drive
Conroe, TX 77303

To Whom It May Concern:

The enclosed 4-page document addressed to the TCEQ is a petition filed by me concerning the overuse of Montgomery County, Texas, groundwater. In order for this petition to be properly processed, *Title 30 Texas Administrative Code §293.23(e)* requires that a copy of this petition be provided to all GCDs within and adjacent to Groundwater Management Area 14, where I reside.

Thank you, in advance, for any cooperative action taken by you at the TCEQ's request during the processing of this petition.

Bill Beran

Bill Beran
12002 Walden Rd
Montgomery, TX 77356

wberan@consolidated.net

EXHIBIT A-12

5 June 2024

Office of the Chief Clerk, MC105
TCEQ
PO Box 13087
Austin, TX 78711-3087

Subject: Overuse of Groundwater – Montgomery County

Dear Sir/Madam:

Being an "Affected Person" as defined in the Texas Water Code (TWC) Section 36.3011 (1), namely, ***owner of land in the management area***, I am filing this petition for the following reason: ***The groundwater in the management area is not adequately protected by the rules adopted by the Lone Star Groundwater Conservation District*** (TWC Section 36.3011 (b) (8)).

The Board of Directors of Montgomery County's Lone Star Groundwater Conservation District (LSGCD) have formally introduced groundwater production rates in their Desired Future Conditions (DFC) that greatly exceed aquifer recharge rates. Montgomery County's excessive use of groundwater has in the past created serious declines in all our water wells' productivity. The foremost symptoms have been the need for expensive water well rework, including lowering the screens of many existing wells. We also require additional wells just to keep pace with current demand. Montgomery County's population is increasing at record rates with no end in sight, so our water demand will assuredly increase for many years to come despite the success of conservation practices that are reducing per capita usage. LSGCD's liberal policy regarding groundwater use is only going to accelerate depletion of our aquifer's artesian pressure, invite permanent compaction of our clay-based aquifer soils, and further contribute to more ground faulting and surface subsidence issues.

This impending disaster is **totally unnecessary** because we're fortunate enough to already have a functioning alternative surface water source in place! The San Jacinto River Authority (SJRA) had previously constructed and put into operation the facilities to implement a Groundwater Reduction Plan (GRP) back in

Bill Beran, 12002 Walden Rd, Montgomery, TX 77356 wberan@consolidated.net

2015! This GRP utilized the ample surface water resource of Lake Conroe in order to keep the county's groundwater withdrawal rates no higher than the estimated recharge rate of 64,000 ac-ft/yr. This rate was mandated by the LSGCD's then appointed Board of Directors to stabilize aquifer artesian pressures and halt looming subsidence issues. The only cure for the problem was to permanently reduce county-wide groundwater usage. LSGCD determined that our 2009 level of usage needed to be permanently reduced by 30%, targeting year 2015 as the starting date. Locating alternative water sources wasn't going to easy, and could be expensive, nonetheless Montgomery citizens largely understood this was necessary to stop the serious well yield declines. Furthermore, they had voted this LSGCD into existence back in 2001 in order to fix the problem.

The SJRA devised a sensible long-term multi-phase GRP that capitalized on the near-by Lake Conroe reservoir for a surface water source. To obtain the necessary funding, they garnered 149 signed contracts from the majority of county's MUDs, IOUs, and municipalities for participation in this Plan. Financing from the TWDB immediately followed and the SJRA was soon off and running to build the surface water treatment plant, complete with the initial (Phase 1) pipeline distribution system. The completed facility began Phase 1 operations on schedule in 2015 with a capacity of up to 25,000 ac-ft/yr of treated surface water. The distribution pipelines were initially run to only the two largest cities, Conroe and The Woodlands, in order to keep Phase 1 costs as low as possible (even at that, total cost of the entire system's first phase was close to $500 million). In so doing, the two cities single-handedly met LSGCD's mandate by shouldering the total groundwater reduction requirement for the entire county. The later GRP Phases 2, 3, and 4 (spread over 30 years) would incrementally step up the amount of treated lake water to the maximum authorized 100,000 ac-ft/yr limit for Lake Conroe; the distribution pipelines would also be extended to other participants of the GRP.

Phase 1 of this GRP was up and running successfully for over two years, producing around 20,000 ac-ft/yr and reducing groundwater demand to acceptable levels. In fact, combined with a few years of very wet weather about this same time, one could already see evidence in the data that groundwater levels as well as subsidence rates were being favorably affected (reference "Land Subsidence and Aquifer Compaction in Montgomery County, Texas, U.S.: 2000-2020" – Wang, et al).

But, in 2017, a bill orchestrated by a local state representative ultimately passed the Texas legislature and changed the LSGCD Board of Directors (BOD) from

being appointed to being elected. The elected Board, essentially comprised of all new members, immediately cancelled the earlier mandated 64,000 ac-ft/yr groundwater pumping limit, and replaced it with a significantly higher level of 97,000 ac-ft/yr. Nevertheless, the effects from the earlier two-years of GRP surface water use and unusually wet weather significantly reduced normal groundwater demand. This apparently led the newly elected LSGCD Board to conclude, and publicly declare, that their liberal groundwater policies clearly posed no threat to aquifer health!

Turning to the attached graph, note the differences between the conservative policy (green) and liberal policy (red) on our confined aquifers: Plan "A" reflects the previously appointed Board's approach while Plan "B" illustrates the elected Board's strategy and which is now officially part of their DFC. The deterioration of the aquifers' productivity from implementing Plan "B", typical of a confined aquifer "mining" operation, is quite obvious.

So, why would a groundwater conservation organization suddenly revert back to production rates that created our aquifer problems in the first place? Obviously, a radical change in the Conservation District's mindset was accomplished following the earlier-mentioned BOD election process. Some have speculated that the substantial time and money contributed to the election campaign by our county's *groundwater suppliers* were instrumental in getting liberal-minded candidates into office. Their contribution to the campaign included many town hall meetings aimed at convincing voters that our aquifers had enormous capacity and would certainly not exhibit any distress from higher production rates; furthermore, Montgomery County would purportedly have no subsidence issues resulting from higher rates. Thus, with supposedly no negative impact on aquifer health, it could be that the voters found their best interest was served by electing candidates who permitted more groundwater use, thus avoiding the extra $0.50 or so per 1000 gallons that surface water would cost them. Whatever the actual incentives, the subsequent election outcome shows the remarkable results of that campaign with 100% of the District's BOD now backing higher production rates!

In conclusion, while their *incentives* are difficult to ascertain, the LSGCD's current *actions* will unquestionably and needlessly impair our aquifers! So, in advance, thank you for taking responsible measures to rectify this matter!

Respectfully,

Bill Beran

Bill Beran, 12002 Walden Rd, Montgomery, TX 77356 wberan@consolidated.net

EXHIBIT A-12

William Beran
12002 Walden Rd
Montgomery, TX 77356-8031

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Lone Star GCD
655 Conroe Park North Drive
Conroe, TX 77303

77303-220655

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SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

LONE STAR GCD
655 CONROE PARK NORTH DRIVE
CONROE, TX 77303

9590 9402 8823 4005 4228 19

2. Article Number (Transfer from service label)

9589 0710 5270 0361 6899 72

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent
☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☐ Adult Signature
☐ Adult Signature Restricted Delivery
☐ Certified Mail®
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☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
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☐ Insured Mail Restricted Delivery (over $500)
☐ Priority Mail Express®
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☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery

PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Return Receipt

EXHIBIT A-13

RESOLUTION NO. R-19-007

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHENANDOAH, TEXAS OPPOSING THE INCLUSION OF THE 2010 DESIRED FUTURE CONDITIONS IN THE GROUNDWATER MANAGEMENT PLAN OF THE LONE STAR GROUNDWATER CONSERVATION DISTRICT.

WHEREAS, on August 9, 2016 the Lone Star Groundwater Conservation District (the "District") adopted certain Desired Future Conditions for aquifers within Groundwater Management Area 14 to be applicable within the District; and

WHEREAS, the City of Shenandoah, Texas joined by certain other parties appealed the District's 2016 decision in an administrative proceeding styled SOAH DOCKET NO. 958-17-3121; PETITIONS OF THE CITIES OF CONROE AND MAGNOLIA, TEXAS AND QUADVEST LP APPEALING DESIRED FUTURE CONDITIONS OF GMA 14 ADOPTED BY LONE STAR GROUNDWATER CONSERVATION DISTRICT; and

WHEREAS, after extensive pretrial proceedings the parties entered into a settlement agreement in SOAH DOCKET NO. 958-17-3121 wherein the parties agreed that the August 9, 2016 Desired Future Conditions adopted by the District are "no longer reasonable"; and

WHEREAS, the current elected board of the Lone Star Groundwater Conservation District has worked diligently to adopt new Desired Future Conditions respecting the statutory process, private property rights and the legitimate interests of all stakeholders, however, the District as yet has been unable to complete the process for establishing reasonable Desired Future Conditions; and

WHEREAS, in response to statutory mandates on March 12, 2019 the District adopted a Groundwater Management Plan which was submitted to the Texas Water Development Board for review for administrative completeness;

WHEREAS, the Texas Water Development Board has rejected the District proposed Groundwater Management Plan and has directed that the Plan incorporate the 2010 DFCs that were based on assumptions similar to the 2016 DFCs and are similarly flawed and objectionable; and

WHEREAS, incorporation of the 2010 DFCs would require the District to regulate to the same flawed, unconstitutional and confiscatory standards of the u unreasonable Desired Future Conditions vigorously contested by the City of Shenandoah and others in the appeal in SOAH DOCKET NO. 958-17-3121 and would effectively ignore the outcome of that appeal.

WHEREAS, The City of Shenandoah, Texas vigorously opposes the incorporation of the 2010 Desired Future Conditions into the District's Groundwater Management Plan.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SHENANDOAH, TEXAS:

Section 1. The City Council of the City of Shenandoah, Texas opposes the order of the Texas Water Development Board to implement the 2010 Desired Future Conditions adopted by the prior unelected District board.

EXHIBIT A-13

Section 2. The City Council of the City of Shenandoah, Texas calls upon the District and the Texas Water Development Board to respect the outcome of SOAH DOCKET NO. 958- 17-3121 and to reject the use of the 2016 or 2010 Desired Future Conditions for any purpose.

Section 3. The City Administrator is directed to provide a copy of this resolution to the Lone Star Groundwater Conservation District and the Texas Water Development Board.

PASSED, APPROVED, AND ADOPTED this the 24th day of July, 2019.

CITY OF SHENANDOAH, TEXAS

M. RITCHEY WHEELER, Mayor

ATTEST:

COURTNEY CLARY, City Secretary

CITY OF SHENANDOAH TEXAS

APPROVED AS TO FORM:

WILLIAM C. FEREBEE, City Attorney

EXHIBIT A-13

CERTIFICATE FOR RESOLUTION

I.

On the 11th day of July, 2019, the City Council of the City of Conroe, Texas, consisting of the following qualified members, to-wit: **Toby Powell, Mayor; Duke Coon, Mayor Pro Tem; Council Members Seth Gibson, Duane Ham, Jody Czajkoski, and Raymond McDonald**, did convene in public session in the Council Chambers of the City Hall at 300 West Davis in Conroe, Texas. The roll being first called, a quorum was established, all members were present except the following: Mayor Pro Tem Duke Coon and Council Member Raymond McDonald. The Meeting was open to the public and public notice of the time, place and purpose of the Meeting was given, all as required by Chapter 551, Texas Government Code.

II.

WHEREUPON, AMONG OTHER BUSINESS transacted, the Council considered adoption of the following written Resolution, to-wit:

RESOLUTION NO. 4456-19

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CONROE, TEXAS OPPOSING THE INCLUSION OF THE 2010 DESIRED FUTURE CONDITIONS IN THE GROUNDWATER MANAGEMENT PLAN OF THE LONE STAR GROUNDWATER CONSERVATION DISTRICT

III.

Upon motion of Council Member Ham, seconded by Council Member Gibson, all members present voted for adoption of the Resolution, except the following: No one voted against and no one abstained. A majority of those Council Members present having voted for adoption, the presiding officer declared the Resolution passed and adopted.

IV.

A true, full and correct copy of the Resolution adopted at the Meeting is attached to and follows this Certificate.

SIGNED AND SEALED this 11th day of July, 2019.

SOCO M. GORJON, City Secretary

EXHIBIT A-13

RESOLUTION NO. 4456-19

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CONROE, TEXAS OPPOSING THE INCLUSION OF THE 2010 DESIRED FUTURE CONDITIONS IN THE GROUNDWATER MANAGEMENT PLAN OF THE LONE STAR GROUNDWATER CONSERVATION DISTRICT

WHEREAS, on August 9, 2016 the Lone Star Groundwater Conservation District (the "District") adopted certain Desired Future Conditions for aquifers within Groundwater Management Area 14 to be applicable within the District; and

WHEREAS, the City of Conroe, Texas joined by certain other parties did appeal the District's 2016 decision in an administrative proceeding styled SOAH DOCKET NO. 958-17-3121; PETITIONS OF THE CITIES OF CONROE AND MAGNOLIA, TEXAS AND QUADVEST LP APPEALING DESIRED FUTURE CONDITIONS OF GMA 14 ADOPTED BY LONE STAR GROUNDWATER CONSERVATION DISTRICT; and

WHEREAS, after extensive and contentious pretrial proceedings the parties entered into a settlement agreement in SOAH DOCKET NO. 958-17-3121 wherein the parties agreed that the August 9, 2016 Desired Future Conditions adopted by the District are "no longer reasonable"; and

WHEREAS, the current elected board of the Lone Star Groundwater Conservation District has worked diligently to adopt new Desired Future Conditions respecting the statutory process, private property rights and the legitimate interests of all stakeholders, however, the District as yet has been unable to complete the process for establishing reasonable Desired Future Conditions; and

WHEREAS, in response to statutory mandates on March 12, 2019 the District adopted a Groundwater Management Plan which was submitted to the Texas Water Development Board for review for administrative completeness;

WHEREAS, the Texas Water Development Board has rejected the District proposed Groundwater Management Plan and has directed that the Plan incorporate the 2010 DFCs that were based on assumptions similar to the 2016 DFCs and are similarly flawed and objectionable; and

WHEREAS, incorporation of the 2010 DFCs would require the District to regulate to the same flawed, unconstitutional and confiscatory standards of the unreasonable Desired Future Conditions vigorously contested by the City of Conroe and others in the appeal in SOAH DOCKET NO. 958-17-3121 and would effectively ignore the outcome of that appeal; and

WHEREAS, the City of Conroe, Texas will vigorously oppose by all available means, including litigation if necessary, the incorporation of the 2010 Desired Future Conditions into the District's Groundwater Management Plan.

EXHIBIT A-13

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CONROE, TEXAS:

Section 1. The City Council of the City of Conroe, Texas opposes the order of the Texas Water Development Board to implement the 2010 Desired Future Conditions adopted by the prior unelected District board.

Section 2. The City Council of the City of Conroe, Texas calls upon the District and the Texas Water Development Board to respect the outcome of SOAH DOCKET NO. 958-17-3121 and to reject the use of the 2016 or 2010 Desired Future Conditions for any purpose.

Section 3. The City Administrator is directed to provide a copy of this resolution to the Lone Star Groundwater Conservation District and the Texas Water Development Board.

PASSED AND APPROVED this the 11th day of July, 2019.

TOBY POWELL, Mayor

APPROVED AS TO FORM:

MARCUS L. WINBERRY, City Attorney

ATTEST:

SOCO M. GORJON, City Secretary

EXHIBIT A-13

RESOLUTION R19-0820A

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILLIS, TEXAS OPPOSING THE INCLUSION OF THE 2010-DESIRED FUTURE CONDITIONS IN THE GROUNDWATER MANAGEMENT PLAN OF THE LONE STAR GROUNDWATER CONSERVATION DISTRICT.

WHEREAS, on August 9, 2016 the Lone Star Ground Water Conservation District (the "District") adopted certain Desired Future Conditions for aquifers within Groundwater Management Area 14 to be applicable within the District; and

WHEREAS, the City of Willis, Texas joined by certain other parties appealed the District's 2016 decision in an administrative proceeding styled SOAH DOCKET NO. 958-17-3121; PETITIONS OF THE CITIES OF CONROE AND MAGNOLIA, TEXAS AND QUADVEST LP APPEALING DESIRED FUTURE CONDITIONS OF GMA 14 ADOPTED BY LONE STAR GROUNDWATER CONSERVATION DISTRICT; and

WHEREAS, the current elected board of the Lone Star Groundwater Conservation District has worked diligently to adopt new Desired Future Conditions respecting the statutory process, private property rights and the legitimate interests of all stakeholders, however, the District as yet has been unable to complete the process for establishing reasonable Desired Future Conditions; and

WHEREAS, in response to statutory mandates on March 12, 2019 the District adopted a Groundwater Management Plan, which was submitted to the Texas Water Development Board for review for administrative completeness;

WHEREAS, the Texas Water Development Board has rejected the District proposed Groundwater Management Plan and has directed that the Plan incorporate the 2010 DFCs that were based on assumptions similar to the 2016 DFCs and are similarly flawed and objectionable; and

WHEREAS, incorporation of the 2010 DFCs would require the District to regulate to the same flawed unconstitutional and confiscatory standards of the unreasonable Desired Future Conditions vigorously contested by the City of Willis and others in the appeal in SOAH DOCKET NO. 958-17-3121 and would effectively ignore the outcome of that appeal.

WHEREAS, the City of Willis, Texas vigorously opposes the incorporation of the 2010 Desired Future Conditions into the District's Groundwater Management Plan.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WILLIS, TEXAS:

Section 1. The City Council of the City of Willis, Texas opposes the order of the Texas Water Development Board to implement the 2010 Desired Future Conditions adopted by the prior unelected District board.

EXHIBIT A-13

Section 2. The City Council of the City of Willis, Texas calls upon the District and the Texas Water Development Board to respect the outcome of SOAH DOCKET NO. 958-17-3121 and to reject the use of the 2016 or 2010 Desired Future Conditions for any purpose.

Section 3. The City Manager is directed to provide a copy of this resolution to the Lone Star Groundwater Conservation District and the Texas Water Development Board.

PASSED, ADOPTED, AND APPROVED this the 20 day of August, 2019.

CITY OF WILLIS, TEXAS

Leonard Reed, Mayor

ATTEST:

Marissa Quintanilla, City Secretary

APPROVED AS TO FORM:

Larry L. Foerster, City Attorney

EXHIBIT A-14

Texas Water Development Board

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

January 25, 2023

Todd Kana, Mayor
Don Doering, City Administrator
ddoering@cityofmagnolia.com
18111 Buddy Riley Blvd.
Magnolia, Texas 77354

Re: Clean Water State Revolving Fund Application for Financial Assistance
(Project No. 73938)

Mayor Kana and Mr. Doering:

The Texas Water Development Board (TWDB) has reviewed the City of Magnolia's (City) application for financial assistance from the Clean Water State Revolving Fund (CWSRF). The City's application requests $10,350,000.00 in financial assistance, including seventy percent principal forgiveness, for expansion of the Nichols Sawmill wastewater treatment plant. If the application is approved, the City would sell debt obligations to TWDB and enter into a principal forgiveness agreement for the portion of the loan intended to be forgiven. TWDB would then need to ensure the City repaid the loan and met all requirements of the principal forgiveness agreement and CWSRF program.

One purpose of TWDB's review of the City's application is to assess the City's ability to manage current and future obligations, including its material contracts. And, as part of the application process, TWDB requires a certification the applicant is, or will become, in compliance with all its material contracts. The City included this certification in its application affidavit signed by Don Doering, City Administrator, despite ongoing litigation with the San Jacinto River Authority (SJRA) concerning the City's failure to pay the full rates for water purchased under its Groundwater Reduction Plan (GRP) Contract.

The City's failure to pay in full for water received from SJRA and the resulting litigation raise significant concerns about the City's commitment to repay any future loans from TWDB and to comply with any related contracts. Information TWDB has received from SJRA indicates the balance owed by the City under its GRP Contract was $894,729.44 as of August 31, 2022, which is a material sum for the City. Nevertheless, our review of the City's audited financial statements for the period ending September 30, 2021, found no reference to the ongoing litigation or any provision that has been made to pay SJRA if the City's defense is unsuccessful.

EXHIBIT A-14

Because of these issues, TWDB is unable to move forward with the City's CWSRF application without further assurances from the City regarding its GRP Contract. Under Rule 375.42(a) the Executive Administrator may request "information or data for any portion of the application be modified or supplemented." To supplement your application certification, TWDB requests the City provide the following by February 8, 2023:

- Proof the City has as remitted payment in full for all outstanding amounts sought by SJRA in litigation concerning the City's GRP contract or arranged to do so.
- A certified copy of a City resolution stating the City's commitment to comply with its GRP Contract and any rate orders issued by SJRA in the future.
- Any other information the City would like to provide in support of its certification that it is, or will become, in compliance with its material contracts.

The City's application will be placed on hold pending receipt of these items. Subject to any mutually agreed upon extension, if the City fails to timely provide the items listed above its application may be deemed incomplete and will be bypassed in accordance with 31 TAC § 375.42.

If you have questions, contact Nancy Richards at 512-963-0250 or Annette Mass at Annette.mass@twdb.texas.gov.

Sincerely,

Jeff Walker Digitally signed by Jeff Walker Date: 2023.01.25 07:15:11 -06'00'

Jeff Walker
Executive Administrator

am/JW