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September 6, 2024

Brazos Valley Groundwater Conservation District  
Attn: Alan Day, General Manager  
112 West 3rd Street  
Hearne, Texas 77859

*Via E-mail*

Re: Proposed Drilling/Operating Permit BVDO-0421 for The Texas A&M University System (A&M) – Contested Case Hearing Request

Dear Mr. Day:

On behalf of High Timber Resources, L.P. (“High Timber”) I am formally requesting the District conduct a contested case hearing on the Application for Drilling/Operating Permit BVDO-0421 filed by Texas A&M University (the “Application”). High Timber is an “affected party” with a “justiciable interest” in the outcome of the requested hearing as these terms are used and defined in Chapter 36, Texas Water Code.<sup>1</sup> The Application is scheduled to be heard by the District Board on September 12, 2024, so this request filed more than five (5) calendar days prior to the hearing is timely.<sup>2</sup>

High Timber applied for and was granted operating permits for 6 wells authorized to produce 11,870 acre-feet of groundwater per annum from the Simsboro Aquifer. The wells are distributed over approximately 4000 acres of land in Robertson County in which High Timber owns or controls the groundwater rights, including the rights in the Simsboro Aquifer. High Timber’s BVGCD Permits are designated as Permit Nos. BVDO 0335 through 0340, by the District. These Permits authorize the production of the permitted groundwater from the Simsboro Aquifer for all beneficial purposes authorized under Texas law and the Rules of the District. The Simsboro Aquifer is the same Aquifer that Texas A&M proposes to drill its new well and produce its requested 1900(+) acre-feet per annum.

On behalf of High Timber, I formally request a contested case hearing on the Application because A&M’s proposed well for new production from the Simsboro Aquifer affects High

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<sup>1</sup> See Tex. Water Code § 36.415(b)(2); BVGCD Rule 14.3.5(b); see generally *City of Waco v. Tex. Comm’n on Environmental Quality*, 346 S.W.3d 781, 802 (Tex. App. – Austin 2011) *rev’d on other grounds*, 413 S.W.3d 409 (Tex. 2013).

<sup>2</sup> BVGCD Rule 14.3.5(a).

Timber's constitutionally protected groundwater interests in, and the ability to use and enjoy High Timber's private property. The Application affects High Timber's legal rights, privileges, power, and economic interests in the operating permits obtained from the Brazos Valley Groundwater Conservation District ("District").

Through the Permits issued to High Timber, and High Timber's state-recognized right to develop groundwater from High Timber's private property, High Timber holds a personal justiciable interest in producing groundwater from the Simsboro. The Application, if granted, would affect these property interests and the legal rights appurtenant thereto by causing further drawdown of the Simsboro. A&M's new production will cause the groundwater levels at High Timber's wells to decline at a greater rate than would occur absent the grant of the Application. Additionally, a more thorough assessment of the Application is needed relative to the District's positions on Desired Future Conditions.

Further, granting A&M's Application would adversely affect High Timber's legal rights, privileges, power, and economic interests in High Timber's permits, and, in particular, the right to receive "fair, impartial, and nondiscriminatory" treatment by the District.<sup>3</sup> I also have the legal right to "rules that are fair and impartial."<sup>4</sup> This right would be affected by the District's granting of A&M's Application before the District has resolved its governance concerns for prior permitting actions regarding numerous landowners, including High Timber.

In sum, the Application affects and prejudices High Timber's personal justiciable interests in the groundwater it has been permitted to produce, thereby affecting their legal rights, privileges, power, and economic interests in both the groundwater and the permits granted to develop and beneficially use that groundwater by the District. These rights and interests which will be injured by the granting of Texas A&M's Application are within the District's regulatory authority. They are not rights and legal interests of either concern to, or injuries common to, the members of the public. They are particularized to High Timber. Accordingly, on behalf of High Timber I request that the District conduct a contested case hearing on A&M's Application and that High Timber Partnership, L.P., be granted party status in the contested case hearing.

Contact information for High Timber and myself is as follows:

High Timber Resources, L.P.  
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<sup>3</sup> See Tex. Water Code § 36.122(q).

<sup>4</sup> See Tex. Water Code § 36.101(2).

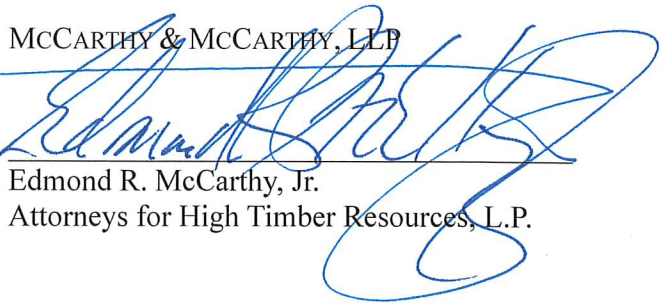
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By copy of this letter, I am providing notice to both Counsel for Texas A&M (Mr. Lynn Sherman) and to the District's General Counsel, Ms. Monique Norman. Please feel free to call me with any questions.

Best wishes.

Sincerely,

MCCARTHY & MCCARTHY, LLP

A handwritten signature in blue ink, appearing to read "Edmond R. McCarthy, Jr.", is written over a horizontal line. The signature is stylized and cursive.

Edmond R. McCarthy, Jr.  
Attorneys for High Timber Resources, L.P.

ERM/tn

cc (via e-mail):

Texas A&M University  
Attn: Lynn Sherman, Attorney

Monique Norman, BVGCD Counsel

High Timber Resources, L.P.  
Attn: Ty & Linda Rampy