

September 5, 2024

Via E-Mail: aday@brazosvalleygcd.orgBrazos Valley Groundwater Conservation District
c/o Mr. Alan M. Day, General Manager
112 West 3rd Street
Hearn, TX 77859

RE: Request for a Contested Case Hearing

Dear Mr. Day and BVGCD Board Members:

On behalf of the Texas A&M University System, I am requesting a contested case hearing before the State Office of Administrative Hearings (SOAH) on the permit and permit amendment applications for: (1) transport permit BVTP-001;¹ (2) the seven revised transport permit applications identified in Agenda Item 11 of the BVGCD's upcoming meeting on Sept. 12, 2024 (i.e., BVTP-002 through BVTP-008); and (3) the production wells that predicate, at least in part, transport permit BVTP-001² and the transport permits BVTP-002 through BVTP-008.³ These permit applications are at issue in Agenda Items 10 and 11 in BVGCD's Notice of a Regular Board Meeting, which is to be held on Sept. 12, 2024.

Under BVGCD Rule 14.3.5(a), a contested case hearing must be requested the day before the permit hearing. Because the BVGCD Board of Directors' meetings lacked a quorum when the permit and permit amendment applications discussed in items 1 and 3 in the paragraph above were previously considered, the Board has not yet acted upon them; therefore, this request is timely.⁴ The seven revised transport permit applications at issue in item 2 above appear to be being presented for action in Agenda Item 11 anew, and this request is timely as well. The A&M System also requests the Board of Directors to schedule a preliminary hearing to hear the A&M System's request for a contested case hearing and that such preliminary hearing be scheduled with the SOAH

¹ Noticed on Feb. 7, 2023.

² The production permits that predicate BVTP-001 are: BVDO-0254; BVDO-0255; BVDO-0256; BVDO-0292; BVDO-0293; BVDO-0294; BVDO-0295; BVDO-0296; BVDO-0297; BVDO-0298; BVDO-0299; BVDO-0300; BVDO-0301; BVDO-0302; BVDO-0303; and BVDO-0304.

³ The production permits that predicate BVTP-002 through BVTP-008 are: BVDO-0108; BVDO-0315; BVDO-0316; BVDO-0317; BVDO-0377; BVDO-0378; BVDO-0379; BVDO-0380; BVDO-0381; BVDO-0382; BVDO-0383; BVDO-0384; BVDO-0385; BVDO-0386; BVDO-0387; BVDO-0388; BVDO-0389; BVDO-0394; BVDO-0395; BVDO-0396; BVDO-0397; BVDO-0398; BVDO-0399; BVDO-0401; BVDO-0402; BVDO-0408; BVDO-0409; BVDO-0410; BVDO-0411; BVDO-0412; BVDO-0413; and BVDO-0414.

⁴ These permit hearings were held on: Jan. 13, 2022; Apr. 14, 2022; Oct. 20, 2022; Feb. 9, 2023; Mar. 9, 2023; and Sep. 14, 2023. TWC § 36.406 and BVGCD Rule 14.4(a) require that a permit hearing must be conducted by a quorum of the Board.

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pursuant to Texas Water Code, Sections 36.4051(b)(3) and 36.416(b) and BVGCD Rule 14.3(b). In advance of a preliminary hearing, the A&M System would expect to determine and provide notice as to which of these applications it was opposed and would continue to contest.

The A&M System will be adversely affected by these applications. The A&M System operates seven wells with BVGCD, three of which that produce from the same aquifer, the Simsboro, as the applications at issue would. The A&M System's wells are the sole source of municipal and operations waters needs for the College Station and RELLIS campuses, which supports 70,000 students, 13,000 faculty and staff, and over a billion dollars in cutting-edge research, and an additional well to be sourced from the Simsboro will be added in the near future to meet the growing needs of the campuses and facilities. All of these wells will be adversely affected, and if the production permits are granted at their proposed volumes, then the A&M System's wells will either need to be redrilled or have their pumps lowered. The A&M System's interest is not that of the general public, and it is uniquely—and adversely—affected by the applications.

Sincerely,



Lynn R. Sherman

cc: Monique Norman