

## **Item 11d | GMA 12 DFC Planning Update | September 2024**

GMA 12 members met Wednesday, September 20, 2024, to discuss topics impacting the future adoption of the 2026 Desired Future Conditions (DFCs). GMA 12 members have previously adopted the position to begin the fourth planning round using the finally adopted Desired Future Conditions from the third planning round as an initial starting point. This facilitated the members' ability to begin discussions of the nine statutorily mandated factors related to the adoption of the fourth round Desired Future Conditions.

Factors 1-3 have been considered earlier in the process. The next three factors were considered during the meeting. They were effects of subsidence, feasibility of the preliminary DFCs, and any other factors not explicitly described in TWC 36.108. Any changes to well pumping files will be considered during the feasibility factor consideration. It has been the practice of the District to account for all current pumping and a reasonable projection of future pumping in the BVGCD well pumping files. AGS has completed the GAM run and presented it to the Board. That presentation was given during the September 20<sup>th</sup> meeting.

There continues to be discussion and a focus surrounding the socio-economic impacts of pumping on domestic wells. It is apparent that all the districts have programs in place to mitigate the impacts of large-scale pumping.

Lost Pines GCD continues to actively campaign for district to possible use different methods for expressing the DFCs. Currently, the DFC expression is an amount (feet) of artesian head reduction allowed as an average across a District (ex.- 262' of reduction in Simsboro in 2070). LPGCD believes that a better expression would be percentage of artesian head remaining at a given time. They believe this is easier for the public to grasp. Either way, the same data is used to come to the ultimate answer. There will continue to be in-depth discussions surrounding this topic in the months ahead.

Members continue to discuss and compare management plans and strategies adopted by each district to deal with the impending reduction in artesian head pressure in the both the Carrizo and Simsboro aquifers due to large scale production projects across GMA 12. BVGCD, LPGCD and POSGCD agree that DFCs have a two-fold purpose. They are both to be used for planning and regulatory purposes. BVGCD and POSGCD have curtailment rules in place that will be used to manage the artesian head as it descends toward to the adopted DFCs.

BVGCD will take the lead in compiling the Explanatory Report. Andy Donnally was the compiler during the last planning round and now works for AGS (James Beach). BVGCD last lead the effort during the second round of planning. Post Oak Savannah spearheaded the effort during the third round and LPGCD organized the last round. Our agreement was to bring an estimated cost of the effort to the next meeting (September 20, 2024) for group consideration.

There was limited discussion related to cost-sharing. The two methods discussed were pro-rata (equal share of cost among members) or combining all five district budgets and

assuming a cost-share relative to your portion of that total. It is likely a funding method will be adopted at the next meeting and an interlocal agreement constructed. During past planning rounds, the three districts (BVGCD, POSGCD, LPGCD) have shouldered most of the cost allowing Fayette County GCD and Mid-East Texas GCD to contribute to the cause based on their budget constraints. There was no final decision made on this issue.

An updated schedule has been created to complete task for final adoption of DFCs. The final three (3) factors are to be considered at the next meeting on December 13, 2024.

Elvis Hernandez, president of Lost Pines GCD board, sent a letter to the BVGCD board and General Manager, addressing differences in the approach BVGCD is using during the current DFC planning round and pumping files being included in model runs. Attached is the letter received from Mr. Hernandez along with a letter of response from the BVGCD General Manager.

September 23, 2024

Alan M. Day, General Manager BVGCD, [aday@brazosvalleygcd.org](mailto:aday@brazosvalleygcd.org)  
Monique M. Norman, [norman.law@earthlink.net](mailto:norman.law@earthlink.net)

My name is Elvis Hernandez and I am President of the Lost Pines Groundwater Conservation District (LPGCD). First, I wish to clarify my request of Mr. Day at the GMA12 meeting on September 20th. I was not asking for a BVGCD bookend run. A bookend run was offered up by Mr Day, but that is not what I am looking for. Dr. Hutchison has already performed a bookend run on the BVGCD full granted production permits.

At the July 30th GMA12 meeting, the LPGCD committed to update their pumping file starting in mid-September. The LPGCD is currently updating their pumping file with all granted permits known to date. The LPGCD has only one large permit in the past 3 years to add and recent sensitivity simulations indicate that LPGCD groundwater production does not significantly impact any other GMA12 GCD.

The latest BVGCD GMA12 proposal, the S19G3+UG50k run, does not include about 140,000 AF/yr of known, granted BVGCD production permits. This is in stark contrast to the attached 2021 BVGCD response to the POSGCD where BVGCD advocates to include all permits. In the BVGCD 2021 response to POSGCD it states, "Groundwater planning is not effective unless it includes known and permitted groundwater production, just as planning a financial budget is not effective unless it includes all known and planned spending. Transparency and inclusion of all known and planned production are vital to water planning for GMA12 and Texas." "to use a GAM run that does not include all known permitting and production in all districts is not only troubling for transparency and accuracy issues, but also for the precedence that it sets in the GMA of not acknowledging each district's local permitting." "Although POSGCD this time is voluntarily asking GMA12 to disregard permits that it has issued, it is concerning that the precedent would be set for the permits issued by the constituent districts to be involuntarily disregarded by the GMA in the future."

The S19G3+UG50k model run, proposed by the BVGCD at the GMA12 on September 20, does not include any of the new production permits granted in September 2023 and involved in the Transport permit application before SOAH. In addition, there are other granted production permits that are not included in the S19G3+UG50k run. For example, BadgerJack, HighTimber and Corpora production permits granted in July of 2023, supposedly with a quorum, are not included. BVGCD granted 192,000 AF/yr of new production permits between July, August and September of 2023. Only a fraction of those new production permits are accounted for in the S19G3+UG50k run proposed to the GMA12 on September 20th. Using the logic that the BVGCD is now using, the LPGCD could remove their 3 largest permits out of their pumping file as no ground has been broken on any of those 3 permits and there's no telling when these 3 LPGCD permits will begin. Instead, the LPGCD includes every permit. Just because a granted permit hasn't yet broken ground is no reason to exclude them from the regional 50 year planning process. If a permit is expected to begin production 5, or 10 years from now, then just add those permits to the pumping file and adjust their start date and ramp-ups accordingly.

September 23, 2024

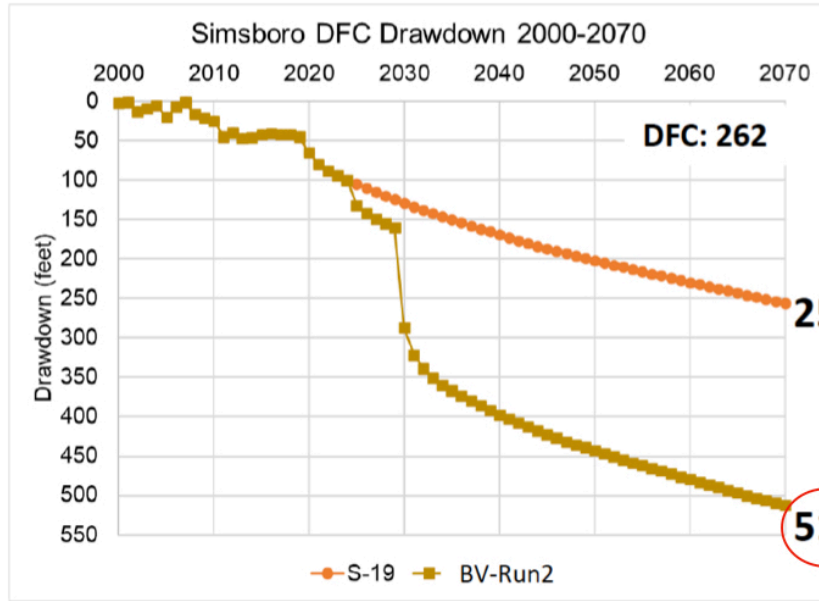
I requested, at the September 20th GMA12 meeting, that all BVGCD granted production permits be included in their proposed model runs (production permits that are not in litigation, and currently there aren't any) - in order to provide all parties a realistic expectation for their investments, as stated in your 2021 response to the POSGCD. The current BVGCD legal position is that all of the 2023 granted 192,000 AF of production permits are valid and legal (as demonstrated by the BVGCD recent rule amendment allowing the GM to act on these new permits, retroactively). Thus, BVGCD should be accounting for all of their production permits in their proposed model runs.

Please reference the BV-Run2 model run, presented to the GMA12 in May, that includes all of the new BVGCD granted permits. This BV-Run2 predicts a 513' 2070 drawdown in the Simsboro. The new proposed S19G3+UG50k model run from September predicts 329'. Where's the difference come from? The difference is that about 140,000 AF of granted BVGCD production permits are excluded in the new S19G3+UG50k model run, contrary to BVGCD own policy, as stated in the attached 2021 response letter to POSGCD.

The BVGCD board has every right to select 329' of drawdown as their new proposed 2070 DFC. The DFC is a policy decision made by the board. If 329' of drawdown in the year 2070 is BVGCD's new proposed DFC, then run the model with all granted production permits and assumptions until that DFC is met, but please include all of the granted production permits - just as BVGCD advocated in 2021. I trust this letter will be reviewed by the entire BVGCD board since the decision whether to include all permits in proposed GMA12 model runs, I believe, is a board policy decision. BVGCD is not being consistent and changing the criteria for permit inclusion in proposed model runs. I am not asking for anything that BVGCD didn't already advocate in the past and in the attached 2021 letter to POSGCD.

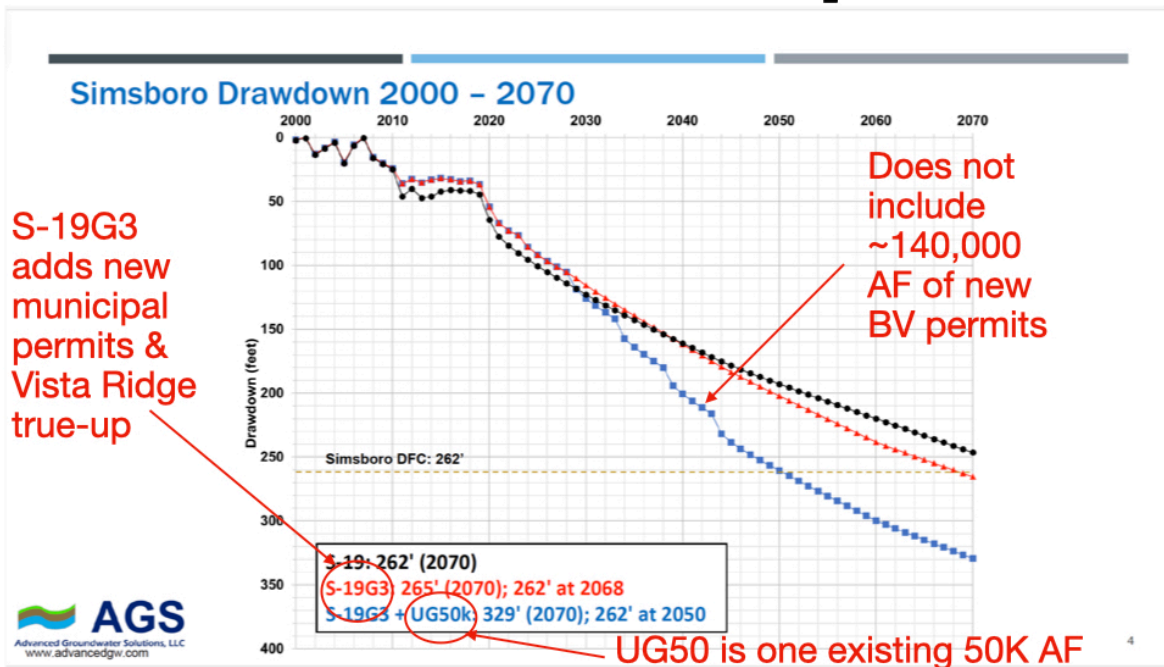
Thank you.

# BV model run Jan - May



January - May, 2024 BV-Run2 = 513'

# BV model run - Sept.



September, 2024 S-19G3 + 50k = 329' = GAM output = new DFC increases



# BRAZOS VALLEY GROUNDWATER CONSERVATION DISTRICT

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Dear Mr. Hernandez,

Thank you for your comments. In Groundwater Management Area 12, iron sharpens iron. We are constantly learning and getting more accurate information and modeling to aid local groundwater management planning, leading to the adoption of the Desired Future Conditions for the area's aquifers. We appreciate that Post Oak Savannah Groundwater Conservation District (POSGCD) was the first in the area to undergo the permitting of and production from a major water export project and we continue to learn from POSGCD's experiences.

On May 23, 2024, the Brazos Valley Groundwater Conservation District (BVGCD) presented to GMA 12 the GAM Run BV-Run2, which contained all BVGCD permitted production, as you acknowledged. At that time, the BVGCD had issued permits for about 336,000 acre-feet/year in the Simsboro Aquifer and these permits were included in BV-Run2. As you know, the validity of 57,782 acre-feet/year of those permits have come into question and is currently in litigation. A total of about 55,000 acre-feet of Simsboro water was produced in 2023.

The BVGCD adopted a rule change that doubled the spacing requirement tied to the production acreage groundwater rights that are required to be legally controlled by permittees. In the buildup to the adoption of the rule requiring increased production acreage, BVGCD had a surge of permit applications. Since that rule change, submitted permit applications in BVGCD has drastically slowed.

The BVGCD is currently in litigation regarding a planned export project that accounts for up to 100,000 acre-feet/year. The production permit applications associated with the transport permit applications were included in BV-Run2.

Groundwater conservation districts are required to regulate to achieve the adopted Desired Future Conditions (DFCs), not the Modeled Available Groundwater (MAG), and can permit above the MAG. The MAG is only a consideration in groundwater permitting. The BVGCD has adopted a curtailment rule that requires cutbacks of actual (not permitted) production when 90% of the adopted DFCs are triggered. The BVGCD, as required by State law, is regulating groundwater production to the adopted DFC water levels, not the MAG planning numbers. BVGCD is also monitoring water levels to assess DFC compliance and reviews this data annually.

On September 20, 2024, the BVGCD presented to GMA 12 Run S-19G3 and S-19G3 + UG50K, as compared to the current adopted DFCs of S-19. Based on our local knowledge and current understanding of permits and the plans of permittees, the BVGCD staff currently believes that the S-19G3 + UG50K GAM model run presents a reasonable estimate of the potential groundwater

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production projects within BVGCD. One purpose of providing the results of S-19G3 + UG50K to GMA 12 was to provide insight and transparency regarding our local understanding of the BVGCD permits and to clearly illustrate the differences between the impacts of the total permitted pumping (BV-Run2) and our “best estimate” of pumping as we understand it today. The BVGCD Board has not yet voted during this planning period on an adopted run for GMA 12 DFC purposes.

In regards to the letter to POSGCD in the last round of planning, BVGCD’s main concern was that POSGCD proposed to adopt a DFC run that not only did not acknowledge permitted production, but did not acknowledge the actual production that they were on notice from the permittee was going to be used that year. In contrast, BVGCD has shown GMA 12 the impacts of all permitted pumping and our “best estimate.” Please note that our “best estimate” does include all known pumping that is currently occurring, plus our best estimate of expected pumping. Thus, the BVGCD-proposed S-19G3 + UG50K “best estimate” run does allow for considerably more groundwater production than is currently occurring. All of these runs are part of the process of finding the balance between highest practicable production and conservation, and are intended to provide insight for other districts into BVGCD issues and are not intended to be final at this time.

In closing, I appreciate the dialogue and the opportunity to clarify our approach, assumptions, and process as we work with the districts in GMA 12 to determine our next DFC. I look forward to seeing LPGCD assessment of your permits, pumping, and impacts so we can continue to discuss the important task of determining appropriate DFCs in GMA 12.

With Best Regards,

Alan M. Day  
General Manager  
Brazos Valley Groundwater Conservation District