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| TEXAS A&M UNIVERSITY SYSTEM,   | § | IN THE DISTRICT COURT OF            |
| Plaintiff,                     | § |                                     |
|                                | § |                                     |
| v.                             | § |                                     |
|                                | § |                                     |
| BRAZOS VALLEY GROUNDWATER      | § | BRAZOS COUNTY, TEXAS                |
| CONSERVATION DISTRICT AND ALAN | § |                                     |
| DAY, GENERAL MANAGER OF BRAZOS | § |                                     |
| VALLEY GROUNDWATER             | § |                                     |
| CONSERVATION DISTRICT,         | § |                                     |
| Defendants.                    | § | 472 <sup>nd</sup> JUDICIAL DISTRICT |

**PLAINTIFF TEXAS A&M UNIVERSITY SYSTEM’S  
MOTION FOR CONTINUANCE**

**TO THE HONORABLE JUDGE OF SAID COURT:**

Plaintiff Texas A&M University System (“Texas A&M System”) files this motion seeking a continuance of the hearing set on Intervenors’ Traditional Motion for Summary Judgment, and respectfully shows as follows:

1. On September 12, 2024, Texas A&M System filed this mandamus action seeking an order compelling the Brazos Valley Groundwater Conservation District and its General Manager to refer certain matters to the State Office of Administrative Hearings for contested case proceedings.

2. On November 5, 2024, several parties, collectively “the UW Intervenors,” filed a Petition in Intervention and Response to Application for Injunctive Relief, followed soon after with a Traditional Motion for Summary Judgment. Pursuant to the UW Intervenors’ request, the Court issued a Notice of Setting for a two-hour hearing on their summary judgment motion on December 6, 2024.

3. Texas A&M System has filed, contemporaneously with this Motion for Continuance, its Plea to the Jurisdiction challenging the UW Intervenors' claims on the basis that the Court does not have subject matter jurisdiction over such claims. Intervenors City of Bryan, City of College Station, and Brazos County (the "Brazos County Intervenors") filed their separate Plea to the Jurisdiction this afternoon objecting to the UW Intervenors' claims on additional jurisdictional grounds. Also this date, UW Intervenors' filed a Motion to Strike the Brazos County Intervenors' Original Petition in Intervention.

4. A hearing on UW Intervenors' Traditional Motion for Summary Judgment is inappropriate at this time. The Texas Supreme Court has made clear that the trial court should consider "at its earliest opportunity" whether it has the jurisdictional authority to decide a case, before permitting litigation to proceed. *Tex. Dep't of Parks & Wildlife v. Miranda*, 133 S.W.3d 217, 226 (Tex. 2004); *see also State Bar of Tex. v. Gomez*, 891 S.W.2d 243, 245 (Tex. 1994) ("As a general proposition, before a court may address the merits of any case, the court must have jurisdiction over the party or the property subject to the suit, jurisdiction over the subject matter, jurisdiction to enter the particular judgment, and capacity to act as a court.").

5. Texas A&M System and the other governmental entities that are parties to this lawsuit should not be put to the significant time, effort and expense of responding to the UW Intervenors' summary judgment motion until the jurisdictional challenges are fully resolved. This includes the right to interlocutory appeal, if necessary. It is clear under Texas law that the Court lacks subject matter jurisdiction over the claims and relief sought by UW Intervenors. If the Court were to conclude otherwise and deny the pending pleas to the jurisdiction, however, Texas A&M System and the Brazos County Intervenors have a statutory right to interlocutory appeal under Section 51.014 of the Civil Practice and Remedies Code, which invokes a stay of further

proceedings before the trial court pending resolution of that appeal. In either event, UW Intervenors' summary judgment motion should not be taken up on December 6.

6. Furthermore, the complexity and multitude of issues presented in the Pleas to the Jurisdiction filed by Texas A&M System and the Brazos County Intervenors, and the UW Intervenors' motion to strike and summary judgment motion, and the numerous arguments anticipated from the parties require more than the two-hour setting afforded on December 6. For this additional reason, the UW Intervenors' summary judgment motion should be reset to a later date if it is ultimately determined that the Court does have subject matter jurisdiction over the UW Intervenors' claims.

7. Pursuant to Rule 4 of the Local Rules of Administration for Brazos County Texas, the Court's Notice of Setting remains tentative through November 24, 2024, and this request for continuance is timely under the Court's rules.

WHEREFORE, Plaintiff Texas A&M University System prays that the Court grant this Motion for Continuance, remove the UW Intervenors' Motion for Summary Judgment from the December 6, 2024 docket, to be reset, if necessary, to a date to be determined following the resolution of any jurisdictional appeals, and for such other and further relief, at law or in equity, to which Plaintiff may be shown to be justly entitled.

Respectfully submitted,

By: /s/ Breck Harrison\_\_\_\_\_

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*Attorneys for Plaintiff Texas A&M  
University System*

**CERTIFICATE OF SERVICE**

This is to certify that on November 21, 2024, a true and correct copy of the foregoing was served in accordance with Rules 21 and 21a of the Texas Rules of Civil Procedure on the parties or their counsel of record listed below:

*/s/ Breck Harrison*

Breck Harrison

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**ATTORNEYS FOR THE CITIES  
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STATION AND BRAZOS COUNTY**

42767048v.2

CAUSE NO. 24-002626-CV-472

TEXAS A&M UNIVERSITY SYSTEM,  
Plaintiff,

v.

BRAZOS VALLEY GROUNDWATER  
CONSERVATION DISTRICT AND ALAN  
DAY, GENERAL MANAGER OF BRAZOS  
VALLEY GROUNDWATER  
CONSERVATION DISTRICT,  
Defendants.

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IN THE DISTRICT COURT OF

BRAZOS COUNTY, TEXAS

472<sup>nd</sup> JUDICIAL DISTRICT

UNSWORN DECLARATION OF BRECK HARRISON

1. My name is Breck Harrison, my date of birth is May 10, 1970, and my address is 100 Congress Ave. Suite 1100, Austin, Texas 78701. I am over the age of twenty-one (21) and am fully qualified, competent, and authorized in all respects to make this declaration. The facts stated within this declaration are within my personal knowledge and are true and correct.

2. I am serving as counsel for Plaintiff Texas A&M University System in this lawsuit. I am licensed to practice law in the State of Texas and permitted to practice in the district courts within Brazos County, Texas. I make this Declaration in support of Plaintiffs' Motion for Continuance, which I have read and reviewed. Each of the statements in the foregoing Motion for Continuance are true and correct.

I declare under penalty of perjury that the facts set forth above are true and correct.

Executed in Travis County, State of Texas, on the 21<sup>st</sup> day of November, 2024.

  
Breck Harrison