

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 nd JUDICIAL DISTRICT

**PLAINTIFF TEXAS A&M UNIVERSITY SYSTEM’S
FIRST SET OF REQUESTS FOR ADMISSIONS**

TO: Defendants Brazos Valley Groundwater Conservation District and Alan Day, General Manager of Brazos Valley Groundwater Conservation District, by and through their counsel of record, Michael Gershon, LLOYD, GOSSELINK, ROCHELLE & TOWNSEND, 816 Congress Ave., Suite 1900, Austin, Texas 78701.

Pursuant to Rule 198 of the Texas Rules of Civil Procedure, Plaintiff Texas A&M University System (“Texas A&M System”) serves its First Set of Requests for Admissions on Defendants Brazos Valley Groundwater Conservation District (the “District”) and Alan Day (collectively, “Defendants”). Pursuant to Rule 198, Defendants are requested to serve responses and objections to these requests to the offices of Jackson Walker L.L.P., 100 Congress Avenue, Suite 1100, Austin, Texas 78701 within 30 days of service of these requests.

Respectfully submitted,

JACKSON WALKER L.L.P.
100 Congress Avenue, Suite 1100
Austin, Texas 78701
512-236-2000
Fax No. 512-236-2002

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 this the 28th day of February, 2025, a true and correct copy of the above and foregoing document was electronically mailed to the parties registered or otherwise entitled to receive electronic notices in this case pursuant to the Electronic Filing Procedures in this District Court and/or via electronic mail upon:

/s/ Breck Harrison

Breck Harrison

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DISTRICT & ALAN DAY

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MOORE LLC,
CLIFFORD SKILES III, JAMES BRIEN,
ELY FAMILY PARTNERSHIP LLP AND FAZZINO
INVESTMENTS LP

I. INSTRUCTIONS

The following instructions apply to these requests and your responses thereto:

1. These requests are continuing in nature and require supplementary responses if You or Your attorney obtain information which reveals that Your responses were incorrect or incomplete when made or that Your responses are no longer correct or complete.
2. The requirements of the Texas Rules of Civil Procedure shall be strictly complied with. Unless You state an objection or assert a privilege, You must specifically admit or deny the request or explain in detail the reasons that You cannot admit or deny the request. A response must fairly meet the substance of the request.
3. You must serve a written response to these requests within 30 days of service. If a response is not timely served, the requests are considered admitted without the necessity of a court order.
4. These responses may be offered in evidence at the trial of the above cause.
5. Your failure to respond to these requests as required by the Texas Rules of Civil Procedure within the time required may result in entry of judgment against You, assessment of attorneys' fees against You, or other sanctions determined by the Court.

II. DEFINITIONS

The following terms are defined as follows:

1. "Texas A&M System" refers to Texas A&M University System, plaintiff in this proceeding, including its employees, agents and representatives.
2. "District", "You" and "Your" refers to Brazos Valley Groundwater Conservation District, defendant in this proceeding, including its employees, agents, representatives. These terms specifically include Brazos Valley Groundwater Conservation District General Manager Alan Day.
3. As used herein, the terms "Upwell/Landowner Permit Applications" refer to the following transport permit and production permit applications pending before the District:

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; BVDO-0414; and BVTP-001

III. REQUESTS FOR ADMISSIONS

1. Admit that at a District board meeting conducted on February 9, 2023, the District’s board of directors considered the following production permit applications: BVDO-0108; BVDO-0315; BVDO-0316.

RESPONSE:

2. Admit that at a District board meeting conducted on March 9, 2023, the District’s board of directors considered the following transport permit and production permit applications: BVDO-0108; BVDO-0317; BVTP-001.

RESPONSE:

3. Admit that at a District board meeting conducted on September 14, 2023, the District’s board of directors considered the following production permit applications: 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; BVDO-0414.

RESPONSE:

4. Admit that in summer 2024, “District staff discovered that several board meetings had been held and business conducted without quorum present [] due to eligibility of board members serving at the time.” *See Exhibit A (August 8, 2024 Agenda)*

RESPONSE:

5. Admit that “[t]he time period and meetings affected by the lack of a quorum” included the board meetings held on February 9, 2023, March 9, 2023, and September 14, 2023. *See Exhibit A (August 8, 2024 Agenda)*.

RESPONSE:

6. Admit the District announced that it discovered the quorum and eligibility issues in the agenda for the District’s August 8, 2024 board meeting. *See Exhibit A (August 8, 2024 Agenda)*.

RESPONSE:

7. Admit the District’s General Manager recommended “that board actions taken during the board meetings that were properly noticed under the District Rules but were later determined to lack a quorum which include February 9, 2023, March 9, 2023, June 8, 2023, August 10, 2023, September 14, 2023, October 12, 2023, November 16, 2023, May 16, 2024, and June 3, 2024 be ratified.” *See* Exhibit A (August 8, 2024 Agenda).

RESPONSE:

8. Admit the District’s agenda for its September 12, 2024 board meeting announced “Discussion and possible action” on proposed District Rule amendments directed at ratifying board action taken in the board meetings affected by a lack of quorum. *See* Exhibit B (September 12, 2024 Agenda).

RESPONSE:

9. Admit that on or about September 5, 2024, the District received a letter from Texas A&M System requesting that contested case hearings and related proceedings, commencing with a preliminary hearing, be held on the Upwell/Landowner Permit Applications before the State Office of Administrative Hearings. *See* Exhibit C (Texas A&M System’s letter to the District).

RESPONSE:

10. Admit that at the time it received Texas A&M System’s September 5, 2024 letter, “the District believed that it would have had to reschedule hearings on applications affected by Director ineligibility and process those applications in accordance with the District’s permitting rules.” *See* Defendants Brazos Valley Groundwater Conservation District and its General Manager’s Joint Response to Intervenor-Defendants’ Motion for Summary Judgment at ¶ 6.

RESPONSE:

11. Admit the version of District Rule 14.3.5 last amended on September 10, 2020, provides that written notice of a request for a contested case hearing to protest a permit application must be provided to the District “at least five (5) calendar days prior to the date of the hearing.”

RESPONSE:

12. Admit the version of District Rule 14.3.5 last amended on September 14, 2023, provides that a request for contested case hearing must be received by the District “by 5:00 p.m. the day before the permit hearing.”

RESPONSE:

13. Admit the District received Texas A&M System's September 5, 2024 letter more than five calendar days prior to September 12, 2024.

RESPONSE:

14. Admit the District received Texas A&M System's September 5, 2024 letter prior to 5:00 p.m. the day before September 12, 2024.

RESPONSE:

EXHIBIT A



Agenda

**BRAZOS VALLEY GROUNDWATER
CONSERVATION DISTRICT
Regular Board Meeting
District Office
112 W. 3rd Street – Hearne, Texas
Thursday, August 8, 2024 – 2:00 p.m.**

Notice is given that the Board of Directors of the Brazos Valley Groundwater Conservation District will hold a Regular Board Meeting on Thursday, August 8, 2024 @ 2:00 p.m. in the District Office.

Call meeting to order

Pledge of Allegiance

Declare quorum present

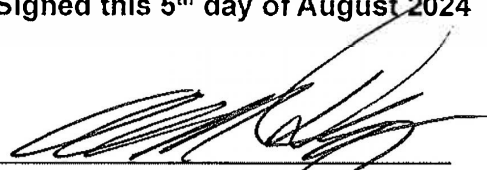
Public Comment

- a) Non-agenda items
- b) Agenda items

1. Discussion and possible action on the minutes of the July 11, 2024 Regular Board Meeting.
2. Financial Report – July 2024
3. Executive Session:
 - Texas Government Code 551.071 – To receive attorney-client privileged information regarding District rule amendments including, but not limited to, amendments to District Rules 2.2, 5.2(f) & (g), 6.1, 6.2, 7.1(c), 8.1, 8.3(h) & (j), 8.4, 8.5(b), 8.7, 8.8, 8.9, 9.1, 10.3, 10.4(d), 14.2, 14.3.5, 14.4, 14.6, and Section 16.
 - Texas Government Code 551.071 – To receive attorney-client privileged information regarding Board actions taken during the following regular Board meetings that were properly noticed under the District Rules, but were later determined to lack a quorum: February 9, 2023, March 9, 2023, June 8, 2023, August 10, 2023, September 14, 2023, October 12, 2023, November 16, 2023, May 16, 2024, and June 3, 2024.
 - Texas Government Code 551.071 – To receive attorney-client privileged information regarding pending transport permit applications for groundwater from the Simsboro Aquifer.
 - Texas Government Code 551.071 - To receive attorney-client privileged information regarding 2024 & 2025 export permit fee structure.
4. Discussion and possible action, following noticed Public Rules Hearing, on proposed District rule amendments including, but not limited to, amendments to District Rules 2.2, 5.2(f) & (g), 6.1, 6.2, 7.1(c), 8.1, 8.3(h) & (j), 8.4, 8.5(b), 8.7, 8.8, 8.9, 9.1, 10.3, 10.4(d), 14.2, 14.3.5, 14.4, 14.6, and Section 16.

5. Discussion and possible action on the ratification of Board actions taken during the following regular Board meetings that were properly noticed under the District Rules, but were later determined to lack a quorum: February 9, 2023, March 9, 2023, June 8, 2023, August 10, 2023, September 14, 2023, October 12, 2023, November 16, 2023, May 16, 2024, and June 3, 2024. The listed past agenda items to be voted on are attached to this notice.
6. Discussion and possible action on the following pending aggregated transport permit applications for groundwater from the Simsboro Aquifer: (BVTP-002) for RH2O LLC; (BVTP-003) for Clifford A. Skiles III; (BVTP-004) for James C. Brien; (BVTP-005) for L. Wiese Moore LLC; (BVTP-006) for Fazzino Investments LP; (BVTP-007) for Ely Family Partnership LP; and (BVTP-008) for Cula d'Brazos LLC, all of whom are co-applicants with UW Brazos Valley Farm LLC.
7. Discussion and possible action on matters involving GMA 12 including but not limited to submitting revised pumping files to GMA 12 for consideration during the fourth round of Desired Future Conditions planning and individual district financial responsibility regarding the Explanatory Report.
8. General Manager's Report
 - a) Drought Monitor Report
 - b) Wells permitted pursuant to District Rule 8.3(j)
 - c) Simsboro Mitigation Management Zone Update
 - d) GMA 12 DFC Update
 - e) District Business & Activities
 - f) Management Plan Update
9. Discussion and possible future agenda items.
10. Adjourn

Signed this 5th day of August 2024


Alan M. Day, General Manager

The Board of Directors may meet in closed session, pursuant to the Texas Open Meetings Act, Texas Government Code §§ 551.071-551.076, to:

- (1) consult with attorney ;
- (2) deliberate regarding the purchase, exchange, lease, or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the District in negotiations with a third person;
- (3) deliberate a negotiated contract for a prospective gift or donation to the District if deliberation in an open meeting would have a detrimental effect on the position of the District in negotiations with a third person;
- (4) to deliberate the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a Board member or District employee;
- (5) to receive information from employees or question employees, but not deliberate public business or agency policy that affects public business; and
- (6) to deliberate the deployment or specific occasions for implementation of security personnel or devices.

The Board may also meet in open session on these matters as required by the Texas Open Meetings Act, Texas Government Code § 551.102.

**** Agenda Items may be taken out of order at the discretion of the Board Chairman**

Thursday, February 9, 2023 – 2:00 p.m.

1. Discussion and possible action on minutes of the January 12, 2023 Regular Board Meeting. **The motion passed.**
2. Financial Report for the month of January 2023. **The motion passed.**
3. Discussion and possible action related to signatories on Certificates of Deposit purchased for the District by the District Investment Officer at Prosperity Bank, SouthStar Bank, and Truist Bank. **The motion passed.**
4. Discussion and possible action on recommendations by the Budget/Finance Committee relating to revisions to the District Bylaws addressing protocol for obtaining quotes for work to be performed for the District and purchasing. **The motion passed.**
5. Presentation, discussion, and possible action of the 2022 District Annual Report. **The motion passed.**
6. Discussion and possible action on the purchase of continuous water level monitoring devices and related equipment from the District Well Assistance Fund. **The motion passed.**

Thursday, March 9, 2023 at 2:00 p.m.

1. Discussion and possible action on minutes of the March 9, 2023 Permit Hearing & Regular Board Meeting. **The motion passed.**
2. Financial Report for the month of March 2023. **The motion passed.**
3. Discussion and possible action on a recommendation by the Education/Conservation Committee related to presentation of a District Groundwater Conservationist of the Year Award. **The motion passed.**
4. Discussion and possible action on approving an addendum to the 2023 District Operating Budget detailing vendors and expenditures by budget line item. **The motion passed.**
5. Discussion and possible action on revisions to the water level measurement protocol when using an electric line or steel tape. **The motion passed.**

Thursday, June 8, 2023 at 2:00 p.m.

1. Discussion and possible action on minutes of the May 11, 2023 Permit Hearing & Regular Board Meeting. **The motion passed.**
2. Financial Report for the month of May 2023. **The motion passed.**
- 3.
4. Discussion and possible action approving a study of groundwater/surface water interaction in the segment of the Brazos River bordering Robertson, Milam, Brazos, and Burleson counties. **The motion passed.**
5. Discussion and possible action to amend the 2023 District Operating Budget related to grant funding. **The motion passed.**
6. Discussion and possible action on draft proposed revision to the District Management Plan for submission to the Texas Water Development Board for preapproval and related to the five-year mandatory update of the Plan by November 30, 2023. **The motion passed.**
- 7.

Thursday, August 10, at 2:00 p.m

1. Discussion and possible action on minutes of the July 13, 2023 Permit Hearing & Regular Board Meeting. **The motion passed.**
2. Financial Report for the month of July 2023. **The motion passed.**
3. Discussion and possible action on an application by the City of Hearne to amend operating permits BVHU-0011, BVHU-0012, BVHU-0013, & BVHU-0014 increasing the rate of production from currently permitted amounts to actual production rates under District Rules 11.1(b) and 11.1(e). **The motion passed.**
- 4.
5. Discussion and possible action approving the creation of an Interlocal Agreement among GMA 12 members detailing the scope of work and financial responsibilities of each member. **The motion passed.**

Thursday, September 14, at 2:00 p.m.

1. Discussion and possible action on minutes of the August 10, 2023 Permit Hearing & Regular Board Meeting. **The motion passed.**
2. Financial Report for the month of August 2023. **The motion passed.**

3. Discussion and possible action on amending the 2023 District Operating Budget related to Engineering/Hydrogeological Services. **The motion passed.**

4. **Thursday, October 12, 2023 at 2:00 p.m**

1. Discussion and possible action on minutes of the September 14, 2023 Permit Hearing & Regular Board Meeting. **The motion passed.**
2. Financial Report for the month of September 2023. **The motion passed.**
3. Discussion and possible action on the Education/Conservation Committee recommendation to re-adopt the District Water Conservation Plan. **The motion passed.**
4. Discussion and possible action on the Education/Conservation Committee recommendation to re-adopt the District Drought Contingency Plan. **The motion passed.**
5. Discussion and possible action on the Personnel Committee recommendation for contracted services for FY2024. **The motion passed.**
6. Discussion and possible action on Resolution 10-12-23.6 relating to suggested revisions to the District Personnel Policy by the Personnel Committee. **The motion passed.**
- 7.
- 8.
- 9.
- 10.
11. Election of a new Secretary for the District Board of Directors. **The motion passed.**

Thursday, November 16, 2023 at 2:00 p.m.

1. Discussion and possible action on minutes of the October 12, 2023 Permit Hearing & Regular Board Meeting. **The motion passed.**
2. Financial Report for the month of October 2023. **The motion passed.**
3. Discussion and possible action on Resolution 11-16-23.3 to adopt the revised District Management Plan prepared for the Texas Water Development Board and required under Chapter 36 of the Texas Water Code. **The motion passed.**
4. Discussion and possible action on the adoption of the FY2024 District Operating Budget. **A motion was made by Jayson Barfknecht, second by Jeff Kennedy to approve the adoption of the FY2024 District Operating Budget as presented to the Board. The motion passed unanimously.**
5. Discussion and possible action on Resolution 11-16-23.5 setting the FY2024 water production and export fee schedule following a public hearing. **The motion passed.**
6. Discussion and possible action to adopt the state agency Prohibited Technologies Security Policy mandated by the passage of SB 1893 during the 88th Legislative Session. **The motion passed.**
- 7.

Thursday, May 16, 2024 at 2:00 p.m.

1. Discussion and possible action on the minutes of the April 11, 2024 Permit Hearing & Regular Board Meeting. **The motion passed.**
2. Financial Report – April 2024. **The motion passed.**
- 3.
4. Discussion and possible action on processing of pending transport permit applications for groundwater from the Simsboro Aquifer. **The motion passed.**
5. Discussion and possible action regarding the drilling of City of Calvert Well #7 (BVDO-0320) under the District's Water Well Assistance Agreement with Permittee UW Brazos Valley Farm, LLC. **The motion passed.**
- 6.

Monday, June 3, 2024 at 10:00 a.m.

1. Discussion and possible action on authorizing the purchase of the H&R Block building located at 118 W 3rd Street in Hearne, Texas **The motion passed.**

Item 5 – Ratification of Board Actions Due to Lack of Quorum

Just recently District staff discovered that several board meetings had been held and business conducted without quorum present. This was due to eligibility of board members serving at the time. The time period and meetings affected by the lack of a quorum are:

- February 9, 2023
- March 9, 2023
- June 8, 2023
- August 10, 2023
- September 14, 2023
- October 12, 2023
- November 16, 2023
- May 16, 2024
- June 3, 2024

Attached are the minutes of the meetings listed above and the items within each of the agendas on which action was taken.

It is the recommendation of the General Manager that board actions taken during the board meetings that were properly noticed under the District Rules but were later determined to lack a quorum which include February 9, 2023, March 9, 2023, June 8, 2023, August 10, 2023, September 14, 2023, October 12, 2023, November 16, 2023, May 16, 2024, and June 3, 2024 be ratified.

Thursday, February 9, 2023 – 2:00 p.m.

1. Discussion and possible action on minutes of the January 12, 2023 Regular Board Meeting. **The motion passed.**
2. Financial Report for the month of January 2023. **The motion passed.**
3. Discussion and possible action related to signatories on Certificates of Deposit purchased for the District by the District Investment Officer at Prosperity Bank, SouthStar Bank, and Truist Bank. **The motion passed.**
4. Discussion and possible action on recommendations by the Budget/Finance Committee relating to revisions to the District Bylaws addressing protocol for obtaining quotes for work to be performed for the District and purchasing. **The motion passed.**
5. Presentation, discussion, and possible action of the 2022 District Annual Report. **The motion passed.**
6. Discussion and possible action on the purchase of continuous water level monitoring devices and related equipment from the District Well Assistance Fund. **The motion passed.**

Thursday, March 9, 2023 at 2:00 p.m.

1. Discussion and possible action on minutes of the March 9, 2023 Permit Hearing & Regular Board Meeting. **The motion passed.**
2. Financial Report for the month of March 2023. **The motion passed.**
3. Discussion and possible action on a recommendation by the Education/Conservation Committee related to presentation of a District Groundwater Conservationist of the Year Award. **The motion passed.**
4. Discussion and possible action on approving an addendum to the 2023 District Operating Budget detailing vendors and expenditures by budget line item. **The motion passed.**
5. Discussion and possible action on revisions to the water level measurement protocol when using an electric line or steel tape. **The motion passed.**

Thursday, June 8, 2023 at 2:00 p.m.

1. Discussion and possible action on minutes of the May 11, 2023 Permit Hearing & Regular Board Meeting. **The motion passed.**
2. Financial Report for the month of May 2023. **The motion passed.**
- 3.
4. Discussion and possible action approving a study of groundwater/surface water interaction in the segment of the Brazos River bordering Robertson, Milam, Brazos, and Burleson counties. **The motion passed.**
5. Discussion and possible action to amend the 2023 District Operating Budget related to grant funding. **The motion passed.**
6. Discussion and possible action on draft proposed revision to the District Management Plan for submission to the Texas Water Development Board for preapproval and related to the five-year mandatory update of the Plan by November 30, 2023. **The motion passed.**
- 7.

Thursday, August 10, at 2:00 p.m

1. Discussion and possible action on minutes of the July 13, 2023 Permit Hearing & Regular Board Meeting. **The motion passed.**
2. Financial Report for the month of July 2023. **The motion passed.**
3. Discussion and possible action on an application by the City of Hearne to amend operating permits BVHU-0011, BVHU-0012, BVHU-0013, & BVHU-0014 increasing the rate of production from currently permitted amounts to actual production rates under District Rules 11.1(b) and 11.1(e). **The motion passed.**
- 4.
5. Discussion and possible action approving the creation of an Interlocal Agreement among GMA 12 members detailing the scope of work and financial responsibilities of each member. **The motion passed.**

Thursday, September 14, at 2:00 p.m.

1. Discussion and possible action on minutes of the August 10, 2023 Permit Hearing & Regular Board Meeting. **The motion passed.**
2. Financial Report for the month of August 2023. **The motion passed.**
3. Discussion and possible action on amending the 2023 District Operating Budget related to Engineering/Hydrogeological Services. **The motion passed.**
- 4.

Thursday, October 12, 2023 at 2:00 p.m

1. Discussion and possible action on minutes of the September 14, 2023 Permit Hearing & Regular Board Meeting. **The motion passed.**
2. Financial Report for the month of September 2023. **The motion passed.**
3. Discussion and possible action on the Education/Conservation Committee recommendation to re-adopt the District Water Conservation Plan. **The motion passed.**
4. Discussion and possible action on the Education/Conservation Committee recommendation to re-adopt the District Drought Contingency Plan. **The motion passed.**
5. Discussion and possible action on the Personnel Committee recommendation for contracted services for FY2024. **The motion passed.**
6. Discussion and possible action on Resolution 10-12-23.6 relating to suggested revisions to the District Personnel Policy by the Personnel Committee. **The motion passed.**
- 7.
- 8.
- 9.
- 10.
11. Election of a new Secretary for the District Board of Directors. **The motion passed.**

Thursday, November 16, 2023 at 2:00 p.m.

1. Discussion and possible action on minutes of the October 12, 2023 Permit Hearing & Regular Board Meeting. **The motion passed.**
2. Financial Report for the month of October 2023. **The motion passed.**
3. Discussion and possible action on Resolution 11-16-23.3 to adopt the revised District Management Plan prepared for the Texas Water Development Board and required under Chapter 36 of the Texas Water Code. **The motion passed.**
4. Discussion and possible action on the adoption of the FY2024 District Operating Budget. **A motion was made by Jayson Barfknecht, second by Jeff Kennedy to approve the adoption of the FY2024 District Operating Budget as presented to the Board. The motion passed unanimously.**
5. Discussion and possible action on Resolution 11-16-23.5 setting the FY2024 water production and export fee schedule following a public hearing. **The motion passed.**
6. Discussion and possible action to adopt the state agency Prohibited Technologies Security Policy mandated by the passage of SB 1893 during the 88th Legislative Session. **The motion passed.**
- 7.

Thursday, May 16, 2024 at 2:00 p.m.

1. Discussion and possible action on the minutes of the April 11, 2024 Permit Hearing & Regular Board Meeting. **The motion passed.**
2. Financial Report – April 2024. **The motion passed.**
- 3.
4. Discussion and possible action on processing of pending transport permit applications for groundwater from the Simsboro Aquifer. **The motion passed.**
5. Discussion and possible action regarding the drilling of City of Calvert Well #7 (BVDO-0320) under the District's Water Well Assistance Agreement with Permittee UW Brazos Valley Farm, LLC. **The motion passed.**
- 6.

Monday, June 3, 2024 at 10:00 a.m.

1. Discussion and possible action on authorizing the purchase of the H&R Block building located at 118 W 3rd Street in Hearne, Texas **The motion passed.**

EXHIBIT B



Agenda

**BRAZOS VALLEY GROUNDWATER
CONSERVATION DISTRICT
Regular Board Meeting
District Office**

**112 W. 3rd Street – Hearne, Texas
Thursday, September 12, 2024 – 2:00 p.m.**

Notice is given that the Board of Directors of the Brazos Valley Groundwater Conservation District will hold a Regular Board Meeting on Thursday, September 12, 2024 @ 2:00 p.m. in the District Office.

Call meeting to order

Pledge of Allegiance

Declare quorum present

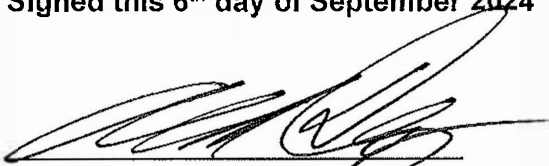
Public Comment

- a) Non-agenda items
- b) Agenda items

1. Discussion and possible action on the minutes of the August 8, 2024 Rules Hearing, Public Permit Hearing & Regular Board Meeting.
2. Financial Report – August 2024
3. Presentation of the 2023 District Financial Audit by Russell Armagost CPA from Milberger, Nesbitt, and Ask, LLP.
4. Discussion and possible action on the adoption of the FY2023 District Financial Audit.
5. Discussion & possible action to amend the 2024 District Operating Budget
6. Presentation by Mark Nickels updating the Board on progress related to the Brazos River Alluvium Aquifer groundwater/surface water interaction study sponsored by the Brazos Valley GCD and being conducted by Baylor University.
7. Discussion and possible action to ratify payment to Albo LLC for the contracted demolition of the building at 213 S. Magnolia Street, Hearne, Texas.
8. Discussion and possible action on the Personnel Committee recommendation for contracted services for FY2025.
9. Executive Session:
 - Texas Government Code 551.071 – To receive attorney-client privileged information regarding District rule amendments including, but not limited to, amendments to District Rules 2.2, 5.2(f) & (g), 6.1, 6.2, 7.1(c), 8.1, 8.3(h) & (j), 8.4, 8.5(b), 8.7, 8.8, 8.9, 9.1, 10.3, 10.4(d), 14.2, 14.3.5, 14.4, 14.6, and Section 16.

- Texas Government Code 551.071 – To receive attorney-client privileged information regarding pending transport permit applications for groundwater from the Simsboro Aquifer.
 - Texas Government Code 551.071 - To receive attorney-client privileged information regarding 2024 & 2025 export permit fee structure.
10. Discussion and possible action, following noticed Public Rules Hearing, on proposed District rule amendments including, but not limited to, amendments to District Rules 2.2, 5.2(f) & (g), 6.1, 6.2, 7.1(c), 8.1, 8.3(h) & (j), 8.4, 8.5(b), 8.7, 8.8, 8.9, 9.1, 10.3, 10.4(d), 14.2, 14.3.5, 14.4, 14.6, and Section 16.
 11. Discussion and possible action on the following pending aggregated transport permit applications for groundwater from the Simsboro Aquifer: (BVTP-002) for RH2O LLC; (BVTP-003) for Clifford A. Skiles III; (BVTP-004) for James C. Brien; (BVTP-005) for L. Wiese Moore LLC; (BVTP-006) for Fazzino Investments LP; (BVTP-007) for Ely Family Partnership LP; and (BVTP-008) for Cula d’Brazos LLC, all of whom are co-applicants with UW Brazos Valley Farm LLC.
 12. General Manager’s Report
 - a) Drought Monitor Report
 - b) Wells permitted pursuant to District Rule 8.3(j)
 - c) Simsboro Mitigation Management Zone Update
 - d) GMA 12 DFC Update (GAM Run presentation for GMA 12)
 - e) District Business & Activities
 - f) Management Plan Update
 13. Discussion and possible future agenda items.
 14. Adjourn

Signed this 6th day of September 2024



Alan M. Day, General Manager

The Board of Directors may meet in closed session, pursuant to the Texas Open Meetings Act, Texas Government Code §§ 551.071-551.076, to:

- (1) consult with attorney ;
- (2) deliberate regarding the purchase, exchange, lease, or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the District in negotiations with a third person;
- (3) deliberate a negotiated contract for a prospective gift or donation to the District if deliberation in an open meeting would have a detrimental effect on the position of the District in negotiations with a third person;
- (4) to deliberate the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a Board member or District employee;
- (5) to receive information from employees or question employees, but not deliberate public business or agency policy that affects public business; and
- (6) to deliberate the deployment or specific occasions for implementation of security personnel or devices.

The Board may also meet in open session on these matters as required by the Texas Open Meetings Act, Texas Government Code § 551.102.

**** Agenda items may be taken out of order at the discretion of the Board Chairman**

Item 10 – Consideration & Adoption of Proposed District Rule Revisions

The current set of rules were properly noticed, public comment taken on each proposed revision, and adopted by the Board on September 14, 2023. It was later determined by District staff that three (3) of the current board members had either been ineligible for appointment to the board at the time of their appointment or had become ineligible since the original appointment date. This led to a lack of quorum during the September 14, 2023 board meeting invalidating the action taken by the Board related to the rules.

District staff reinitiated the process for rulemaking by properly posting notice on July 16, 2024 for a Public Rules Hearing on August 8, 2024. The proposed rule revisions have been distributed to the requested distribution list and placed on the District website for public review and comments.

This agenda item is posted as an action item for adoption of proposed rule revisions following the Public Rules Hearing held on August 8, 2024 prior to the Regular Board Meeting. Date of the effective rules is proposed to be retroactive to September 14, 2023.

It is the recommendation of the General Manager that the proposed rule revisions originally developed by the Rules Committee, the Board, District Staff, and vetted by the public be adopted.

EXHIBIT C

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.

September 5, 2024

Page 2 of 2

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