

TEXAS A&M UNIVERSITY SYSTEM,	§	
Plaintiff	§	
	§	
and BRAZOS COUNTY, CITY OF	§	
BRYAN, AND CITY OF COLLEGE	§	
STATION,	§	
Intervenor-Plaintiffs	§	
	§	
v.	§	IN THE DISTRICT COURT
	§	
BRAZOS VALLEY GROUNDWATER	§	BRAZOS COUNTY, TEXAS
CONSERVATION DISTRICT AND ITS	§	
GENERAL MANAGER ALAN DAY,	§	472 nd JUDICIAL DISTRICT
Defendants	§	
	§	
and UW BRAZOS VALLEY FARM LLC,	§	
CULA D’BRAZOS LLC, RH ₂ O LLC,	§	
L. WIESE MOORE LLC, CLIFFORD A.	§	
SKILES III, JAMES C. BRIEN, ELY	§	
FAMILY PARTNERSHIP L.L.P, and	§	
FAZZINO INVESTMENTS LP,	§	
Intervenor-Defendants	§	

DEFENDANT BRAZOS VALLEY GROUNDWATER CONSERVATION DISTRICT’S OBJECTIONS AND RESPONSES TO INTERVENOR-DEFENDANTS’ FIRST REQUESTS FOR PRODUCTION

To: Intervenor-Defendants UW Brazos Valley Farm, LLC, Cula D’Brazos LLC, RH₂O LLC, L. Wiese Moore, LLC, Clifford Skiles III, James Brien, Ely Family Partnership L.L.P. and Fazzino Investments LP, by and through their counsel of record, Kevin T. Jacobs, BAKER BOTTS, 910 Louisiana Street, Houston, Texas 77002, Paulina Williams, BAKER BOTTS, 401 South 1st Street, Suite 1300, Austin, Texas 75704, and Jon Miller, RODGERS, MILLER, RODRIGUEZ & FUSCO, P.C., P.O. Box 4884, Bryan, Texas 77805.

Pursuant to Rule 196.2 of the Texas Rules of Civil Procedure, Defendant Brazos Valley Groundwater Conservation District (“Defendant”, “BVGCD”, or the “District”) serves its Objections and Responses to Intervenor-Defendants’ First

Requests for Production, which responses are attached hereto and incorporated herein by reference for all purposes. Defendant reserves the right to supplement and/or amend these responses.

Respectfully submitted,

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Attorneys for the District and its
General Manager in his official capacity

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of March, 2025, a true and correct copy of the foregoing document was served in accordance with the Texas Rules of Civil Procedure on the following counsel of record:

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James C. Brien**

/s/ Michael A. Gershon
Michael A. Gershon

**DEFENDANT BRAZOS VALLEY GROUNDWATER CONSERVATION
DISTRICT'S OBJECTIONS AND RESPONSE TO INTERVENOR-
DEFENDANTS' FIRST REQUESTS FOR PRODUCTION**

REQUEST FOR PRODUCTION NO. 1:

All calendars, whether written or electronic, maintained by or on behalf of Alan Day, Gary Mechler, Christopher Zeig, Jeff Kennedy, John Elliott, Mark Carrabba, Stephen Cast, Lisa Rolke, Monique Norman, and/or Jayson Barfknecht from January 1, 2023 to the present, including but not limited to personal planners, appointment books, digital calendar applications, and any other documents or data used to record or track appointments, events, or activities that discuss, refer to, or relate to the 2024 Ratification Rule, the Landowner Intervenors, or the Regional Water Project.

OBJECTION:

The District objects to this request for production on the basis that this request is overbroad in scope and unduly burdensome, as it seeks information about the “Regional Water Project” and “Landowner Intervenors” without any limitation or relevance to the scope of issues to be determined in this proceeding—a mandamus proceeding concerning the interpretation of a District rule and the obligations of the District thereunder. As such, this request for production does not seek information that is reasonably calculated to lead to the discovery of admissible evidence and is improper.

RESPONSE:

Subject to and without waiving the foregoing objection, the District responds as follows:

Responsive information pertaining to District Rule 8.3(j) will be produced.

REQUEST FOR PRODUCTION NO. 2:

All documents, communications, notes, or other writing made by or on behalf of Alan Day, Gary Mechler, Christopher Zeig, Jeff Kennedy, John Elliott, Mark Carrabba, Stephen Cast, Lisa Rolke, Monique Norman, and/or Jayson Barfknecht that discuss, refer to, or relate to the 2024 Ratification Rule, the Landowner Intervenors, or the Regional Water Project.

OBJECTION:

The District objects to this request for production on multiple grounds. First, this request seeks confidential materials protected by the attorney-client privilege. To that end, the District is withholding some of the requested

materials since they are protected from disclosure by the attorney-client privilege. The material sought involves documents, communications, and notes that were made in confidence and in furtherance of legal advice or representation. Second, this request is overbroad in scope and unduly burdensome, as it seeks information about the “Regional Water Project” and “Landowner Intervenors” without any limitation or relevance to the scope of issues to be determined in this proceeding—a mandamus proceeding concerning the interpretation of a District rule and the obligations of the District thereunder. As such, this request for production does not seek information that is reasonably calculated to lead to the discovery of admissible evidence and is improper. Third, the District objects to this request as it seeks information concerning the District’s adoption of Rule 8.3(j). Texas case law supports the principle that the subjective knowledge, motive, and mental processes of an individual Director is irrelevant and not subject to discovery because the Board’s act of adopting Rule 8.3(j) expresses the collective will of the body. To that end, the District is withholding requested information that is protected from disclosure.

RESPONSE:

Subject to and without waiving the foregoing objection, the District responds as follows:

Based on the foregoing objection, the District is not producing any responsive information.

REQUEST FOR PRODUCTION NO. 3:

All documents and communications between Jayson Barfknecht and Monique Norman regarding the BVGCD’s Board Members’ eligibility, the 2024 Ratification Rule, the Landowner Intervenors, or the Regional Water Project.

OBJECTION:

The District objects to this request for production on the grounds it seeks confidential documents and communications protected by the attorney-client privilege. The District is withholding all of the requested information, as these communications and documents are protected from disclosure by the attorney-client privilege. The information sought involves communications or documents that were made in confidence and in furtherance of legal advice or representation. The District further objects to this request as overbroad in scope and unduly burdensome. This request seeks documents and communications concerning the “Regional Water Project” and “Landowner Intervenors” without any limitation or relevance to the scope of issues to be determined in this proceeding—a mandamus proceeding concerning the

interpretation of a District rule and the obligations of the District thereunder. As such, this request for production does not seek information that is reasonably calculated to lead to the discovery of admissible evidence and is improper. Moreover, the District objects to this request as it seeks information concerning board member's ineligibility and the District's subsequent adoption of Rule 8.3(j). Texas case law supports the principle that the subjective knowledge, motive, and mental processes of an individual Director is irrelevant and not subject to discovery because the Board's act of adopting Rule 8.3(j) expresses the collective will of the body. To that end, the District is withholding requested information that is protected from disclosure.

RESPONSE:

Subject to and without waiving the foregoing objection, the District responds as follows:

Based on the foregoing objection, the District is not producing any responsive information.

REQUEST FOR PRODUCTION NO. 4:

All documents and communications between Gary Mechler and Monique Norman regarding the BVGCD's Board Members' eligibility, the 2024 Ratification Rule, the Landowner Intervenor, or the Regional Water Project.

OBJECTION:

The District objects to this request for production on the grounds it seeks confidential documents and communications protected by the attorney-client privilege. The District is withholding all of the requested information, as these communications and documents are protected from disclosure by the attorney-client privilege. The information sought involves communications or documents that were made in confidence and in furtherance of legal advice or representation. The District further objects to this request as overbroad in scope and unduly burdensome. This request seeks documents and communications concerning the "Regional Water Project" and "Landowner Intervenor" without any limitation or relevance to the scope of issues to be determined in this proceeding—a mandamus proceeding concerning the interpretation of a District rule and the obligations of the District thereunder. As such, this request for production does not seek information that is reasonably calculated to lead to the discovery of admissible evidence and is improper. Moreover, the District objects to this request as it seeks information concerning board member's ineligibility and the District's subsequent adoption of Rule 8.3(j). Texas case law supports the principle that

the subjective knowledge, motive, and mental processes of an individual Director is irrelevant and not subject to discovery because the Board’s act of adopting Rule 8.3(j) expresses the collective will of the body. To that end, the District is withholding requested information that is protected from disclosure.

RESPONSE:

Subject to and without waiving the foregoing objection, the District responds as follows:

Based on the foregoing objection, the District is not producing any responsive information.

REQUEST FOR PRODUCTION NO. 5:

All documents and communications between the BVGCD and the City of Georgetown that discuss, refer to, or relate to the 2024 Ratification Rule, the Landowner Intervenors, or the Regional Water Project.

OBJECTION:

The District objects to this request for production on the basis that this request is overbroad in scope and unduly burdensome, as it seeks information about the “Regional Water Project” and “Landowner Intervenors” without any limitation or relevance to the scope of issues to be determined in this proceeding—a mandamus proceeding concerning the interpretation of a District rule and the obligations of the District thereunder. As such, this request for production does not seek information that is reasonably calculated to lead to the discovery of admissible evidence and is improper.

RESPONSE:

Subject to and without waiving the foregoing objection, the District responds as follows:

The District does not have in its possession responsive information pertaining to District Rule 8.3(j).

REQUEST FOR PRODUCTION NO. 6:

All documents and communications between the BVGCD and the City of Hutto that discuss, refer to, or relate to the 2024 Ratification Rule, the Landowner Intervenors, or the Regional Water Project.

OBJECTION:

The District objects to this request for production on the basis that this request is overbroad in scope and unduly burdensome, as it seeks information about the “Regional Water Project” and “Landowner Intervenors” without any limitation or relevance to the scope of issues to be determined in this proceeding—a mandamus proceeding concerning the interpretation of a District rule and the obligations of the District thereunder. As such, this request for production does not seek information that is reasonably calculated to lead to the discovery of admissible evidence and is improper.

RESPONSE:

Subject to and without waiving the foregoing objection, the District responds as follows:

The District does not have in its possession responsive information pertaining to District Rule 8.3(j).

REQUEST FOR PRODUCTION NO. 7:

The BVGCD’s litigation hold for this Lawsuit, including all acknowledgments by personnel.

RESPONSE:

By statute, the District is prohibited from destroying any local government records, the subject matter of which is known by the custodian to be in litigation, until the litigation is settled. *See Texas Local Government Code Section 202.002.* The District did not issue a litigation hold for this lawsuit due to the District’s on-going responsibility to maintain and preserve documents for the purposes of complying with Texas statutory law, including the Texas Open Records Act. The District and its Board have strict obligations under the Texas Water Code to comply with the Texas Open Records Act by preserving its minutes, contracts, records, notices, accounts, receipts, and other records in a safe place. *See Texas Water Code Section 36.065.*

REQUEST FOR PRODUCTION NO. 8:

All documents and communications that refer or relate to the BVGCD’s Board Members’ eligibility, the Regional Water Project, the City of Georgetown’s water supply, and/or water supply needs in Williamson, Bell, Travis, and Milam counties.

OBJECTION:

The District objects to this request for production on the basis that this request is overbroad in scope and unduly burdensome, as it seeks documents and communications concerning the “Regional Water Project” and “the City of Georgetown’s water supply, and/or water supply needs in Williamson, Bell, Travis, and Milam counties”, none of which pertains to the scope of issues to be determined in this proceeding—a mandamus proceeding concerning the interpretation of a District rule and the obligations of the District thereunder. As such, this request for production does not seek information that is reasonably calculated to lead to the discovery of admissible evidence and is improper. Moreover, the District objects to this request as it seeks information concerning the BVGCD Board Members eligibility issues. Texas case law supports the principle that the subjective knowledge, motive, and mental processes of an individual Director is irrelevant and not subject to discovery. The Board adopted Rule 8.3(j) to address these ineligibility issues, and the Board’s adoption of Rule 8.3(j) expresses the collective will of the body. To that end, the District is withholding requested information that is protected from disclosure.

RESPONSE:

Subject to and without waiving the foregoing objection, the District responds as follows:

Responsive information pertaining to the BVGCD’s Board Members’ eligibility will be produced.

REQUEST FOR PRODUCTION NO. 9:

All documents and communications that discuss, refer to, or relate to the Bass Transportation Project.

OBJECTION:

The District objects to this request for production on the basis that this request is overbroad in scope and unduly burdensome, as it seeks documents and communications concerning the “Bass Transportation Project” which does not pertain to the scope of issues to be determined in this proceeding—a mandamus proceeding concerning the interpretation of a District rule and the obligations of the District thereunder. As such, this request for production does not seek information that is reasonably calculated to lead to the discovery of admissible evidence and is improper.

RESPONSE:

Subject to and without waiving the foregoing objection, the District responds as follows:

Based on the foregoing objection, the District is not aware of and is not producing any responsive information.

REQUEST FOR PRODUCTION NO. 10:

All documents and communications that discuss, refer to, or relate to meetings regarding Landowner Intervenor's groundwater permits or this Lawsuit from January 1, 2022 to the present.

OBJECTION:

The District objects to this request for production on the basis that this request is vague, as it seeks documents and communications concerning the "Landowner Intervenor's groundwater permits" which does not specify which specific permits Intervenor-Defendants are referencing. Furthermore, the District objects to this discovery request as duplicative, as Intervenor-Defendants already have access to the documents filed in this docket.

RESPONSE:

Subject to and without waiving the foregoing objection, the District responds as follows:

Responsive information concerning this Lawsuit and permit nos. BVDO-0315 to BVDO-0316, BVDO-0317, BVDO-0108, BVDO-0377 to BVDO-0384, BVDO-0385 to BVDO-0389, BVDO-0394 to BVDO-0399, BVDO-0401 to BVDO-0402, BVDO-0408 to BVDO-0414, and BVTP-001 will be produced.

REQUEST FOR PRODUCTION NO. 11:

All request(s) for contested case hearings for all permits issued by the BVGCD that are the subject of this Lawsuit from January 1, 2021 to the present.

RESPONSE:

Responsive information will be produced.

REQUEST FOR PRODUCTION NO. 12:

All request(s) for contested case hearings for all other permits issued by the BVGCD that are not the subject of this Lawsuit from January 1, 2021 to the present.

RESPONSE:

Responsive information will be produced.

REQUEST FOR PRODUCTION NO. 13:

All documents and communications between the BVGCD and College Station that discuss, refer to, or relate to the 2024 Ratification Rule.

OBJECTION:

The District objects to this request as it seeks information concerning the District's adoption of Rule 8.3(j). Texas case law supports the principle that the subjective knowledge, motive, and mental processes of an individual Director is irrelevant and not subject to discovery because the Board's act of adopting Rule 8.3(j) expresses the collective will of the body.

RESPONSE:

Subject to and without waiving the foregoing objection, the District responds as follows:

Responsive information will be produced.

REQUEST FOR PRODUCTION NO. 14:

All documents and communications between the BVGCD and Bryan that discuss, refer to, or relate to the 2024 Ratification Rule.

OBJECTION:

The District objects to this request as it seeks information concerning the District's adoption of Rule 8.3(j). Texas case law supports the principle that the subjective knowledge, motive, and mental processes of an individual Director is irrelevant and not subject to discovery because the Board's act of adopting Rule 8.3(j) expresses the collective will of the body.

RESPONSE:

Subject to and without waiving the foregoing objection, the District responds as follows:

Responsive information will be produced.

REQUEST FOR PRODUCTION NO. 15:

All documents and communications between the BVGCD and Brazos County that discuss, refer to, or relate to the 2024 Ratification Rule.

OBJECTION:

The District objects to this request as it seeks information concerning the District's adoption of Rule 8.3(j). Texas case law supports the principle that the subjective knowledge, motive, and mental processes of an individual Director is irrelevant and not subject to discovery because the Board's act of adopting Rule 8.3(j) expresses the collective will of the body.

RESPONSE:

Subject to and without waiving the foregoing objection, the District responds as follows:

Responsive information will be produced.

REQUEST FOR PRODUCTION NO. 16:

All documents and communications between the BVGCD and TAMUS that discuss, refer to, or relate to the 2024 Ratification Rule.

OBJECTION:

The District objects to this request as it seeks information concerning the District's adoption of Rule 8.3(j). Texas case law supports the principle that the subjective knowledge, motive, and mental processes of an individual Director is irrelevant and not subject to discovery because the Board's act of adopting Rule 8.3(j) expresses the collective will of the body.

RESPONSE:

Subject to and without waiving the foregoing objection, the District responds as follows:

Responsive information will be produced.

REQUEST FOR PRODUCTION NO. 17:

All documents and communications with third-party consultants, experts, advisors, or individuals outside of the BVGCD who were hired, retained, consulted, or engaged in discussions that refer or relate to the Regional Water Project and associated permits, UW Farm, the City of Georgetown's water supply, water supply by transport from Robertson County to Williamson, Bell, Travis, and Milam counties, and Plaintiff and the Brazos County entities' decision to protest the Regional Water Project permits, including but not limited to all permits at issue in this Lawsuit, from January 1, 2022 to the present.

OBJECTION:

The District objects to this request on the basis that it is vague, overbroad in scope, and unduly burdensome. It is not clear what this request seeks by identifying documents and communications with individuals who "engaged in discussions" about a wide range of topics, none of which pertain to the scope of issues to be determined in this proceeding—a mandamus proceeding concerning the interpretation of a District rule and the obligations of the District thereunder. As such, this request does not seek information that is reasonably calculated to lead to the discovery of admissible evidence and is improper. Furthermore, the District objects to this request for production on the basis this request seeks confidential materials protected by the attorney-client privilege. To that end, the District is withholding requested material that is protected from disclosure by the attorney-client privilege. The material sought involves documents, communications, and notes that were made in confidence and in furtherance of legal advice or representation.

RESPONSE:

Subject to and without waiving the foregoing objection, the District responds as follows:

The District did not hire, retain, or consult with any third-party consultants, experts, advisors, or individuals outside of the BVGCD, other than the District's General Counsel and the District's attorneys in this litigation, for the purposes of drafting and implementing District Rule 8.3(j). To the extent this request seeks documents and communications between Defendant and the District's General Counsel or the District's attorneys in this litigation, those privileged communications will not be produced.

REQUEST FOR PRODUCTION NO. 18:

All documents and communications between the BVGCD and College Station that refer or relate to the BVGCD's Board Members' eligibility, water supply in Brazos County, water rights, the Regional Water Project and associated permits, UW Farm, the City of Georgetown water supply, transport of groundwater from Robertson

County to Williamson, Bell, Travis, and Milam counties, the Plaintiff and the Brazos County Entities' water supply strategies, and the Plaintiff and the Brazos County Entities' decision to protest the Regional Water Project permits, including but not limited to all permits at issue in this Lawsuit, from January 1, 2022 to the present.

OBJECTION:

The District objects to this request for production on the basis that this request is vague, overbroad in scope, and unduly burdensome, as it seeks documents and communications concerning the “Regional Water Project”, “water supply in Brazos County”, “water rights”, “the City of Georgetown’s water supply”, “transport of groundwater from Robertson County to Williamson, Bell, Travis, and Milam counties”, and the Plaintiff and the Brazos County Entities’ water supply strategies”, none of which pertain to the scope of issues to be determined in this proceeding—a mandamus proceeding concerning the interpretation of a District rule and the obligations of the District thereunder. As such, this request for production does not seek information that is reasonably calculated to lead to the discovery of admissible evidence and is improper. Moreover, the District further objects to this request as it seeks to produce documents and communications concerning Board member’s ineligibility. The ineligibility of Directors Zeig, Elliott, and Kennedy prompted the Board to adopt Rule 8.3(j). Texas case law supports the principle that the subjective knowledge, motive, and mental processes of an individual Director is irrelevant and not subject to discovery. The Board’s act of adopting Rule 8.3(j) expresses the collective will of the body, and as such, documents and communications involving individual Directors and the eligibility of such directors is protected from disclosure.

RESPONSE:

Subject to and without waiving the foregoing objection, the District responds as follows:

Responsive information pertaining to the BVGCD’s Board Members’ eligibility and the Plaintiff’s decision to protest the permits at issue in this Lawsuit will be produced.

REQUEST FOR PRODUCTION NO. 19:

All documents and communications between the BVGCD and City of Bryan that refer or relate to the BVGCD’s Board Members’ eligibility, water supply in Brazos County, water rights, the Regional Water Project and associated permits, UW Farm, the City of Georgetown water supply, transport of groundwater from Robertson County to Williamson, Bell, Travis, and Milam counties, the Plaintiff and the Brazos County Entities’ water supply strategies, and the Plaintiff and the Brazos County

Entities' decision to protest the Regional Water Project permits, including but not limited to all permits at issue in this Lawsuit, from January 1, 2022 to the present.

OBJECTION:

The District objects to this request for production on the basis that this request is vague, overbroad in scope, and unduly burdensome, as it seeks documents and communications concerning the “Regional Water Project”, “water supply in Brazos County”, “water rights”, “the City of Georgetown’s water supply”, “transport of groundwater from Robertson County to Williamson, Bell, Travis, and Milam counties”, and the Plaintiff and the Brazos County Entities’ water supply strategies”, none of which pertain to the scope of issues to be determined in this proceeding—a mandamus proceeding concerning the interpretation of a District rule and the obligations of the District thereunder. As such, this request for production does not seek information that is reasonably calculated to lead to the discovery of admissible evidence and is improper. Moreover, the District further objects to this request as it seeks to produce documents and communications concerning Board member’s ineligibility. The ineligibility of Directors Zeig, Elliott, and Kennedy prompted the Board to adopt Rule 8.3(j). Texas case law supports the principle that the subjective knowledge, motive, and mental processes of an individual Director is irrelevant and not subject to discovery. The Board’s act of adopting Rule 8.3(j) expresses the collective will of the body, and as such, documents and communications involving individual Directors and the eligibility of such directors is protected from disclosure.

RESPONSE:

Subject to and without waiving the foregoing objection, the District responds as follows:

Responsive information pertaining to the BVGCD’s Board Members’ eligibility and the Plaintiff’s decision to protest the permits at issue in this Lawsuit will be produced.

REQUEST FOR PRODUCTION NO. 20:

All documents and communications between the BVGCD and Brazos County that refer or relate to the BVGCD’s Board Members’ eligibility, water supply in Brazos County, water rights, the Regional Water Project and associated permits, UW Farm, the City of Georgetown water supply, transport of groundwater from Robertson County to Williamson, Bell, Travis, and Milam counties, the Plaintiff and the Brazos County Entities’ water supply strategies, and the Plaintiff and the Brazos County Entities’ decision to protest the Regional Water Project permits, including but not limited to all permits at issue in this Lawsuit, from January 1, 2022 to the present.

OBJECTION:

The District objects to this request for production on the basis that this request is vague, overbroad in scope, and unduly burdensome, as it seeks documents and communications concerning the “Regional Water Project”, “water supply in Brazos County”, “water rights”, “the City of Georgetown’s water supply”, “transport of groundwater from Robertson County to Williamson, Bell, Travis, and Milam counties”, and the Plaintiff and the Brazos County Entities’ water supply strategies”, none of which pertain to the scope of issues to be determined in this proceeding—a mandamus proceeding concerning the interpretation of a District rule and the obligations of the District thereunder. As such, this request for production does not seek information that is reasonably calculated to lead to the discovery of admissible evidence and is improper. Moreover, the District further objects to this request as it seeks to produce documents and communications concerning Board member’s ineligibility. The ineligibility of Directors Zeig, Elliott, and Kennedy prompted the Board to adopt Rule 8.3(j). Texas case law supports the principle that the subjective knowledge, motive, and mental processes of an individual Director is irrelevant and not subject to discovery. The Board’s act of adopting Rule 8.3(j) expresses the collective will of the body, and as such, documents and communications involving individual Directors and the eligibility of such directors is protected from disclosure.

RESPONSE:

Subject to and without waiving the foregoing objection, the District responds as follows:

Responsive information pertaining to the BVGCD’s Board Members’ eligibility and the Plaintiff’s decision to protest the permits at issue in this Lawsuit will be produced.

REQUEST FOR PRODUCTION NO. 21:

All documents and communications between the BVGCD and TAMUS that refer or relate to the BVGCD’s Board Members’ eligibility, water supply in Brazos County, water rights, the Regional Water Project and associated permits, UW Farm, the City of Georgetown water supply, transport of groundwater from Robertson County to Williamson, Bell, Travis, and Milam counties, the Plaintiff and the Brazos County Entities’ water supply strategies, and the Plaintiff and the Brazos County Entities’ decision to protest the Regional Water Project permits, including but not limited to all permits at issue in this Lawsuit, from January 1, 2022 to the present.

OBJECTION:

The District objects to this request for production on the basis that this request is vague, overbroad in scope, and unduly burdensome, as it seeks documents and communications concerning the “Regional Water Project”, “water supply in Brazos County”, “water rights”, “the City of Georgetown’s water supply”, “transport of groundwater from Robertson County to Williamson, Bell, Travis, and Milam counties”, and the Plaintiff and the Brazos County Entities’ water supply strategies”, none of which pertain to the scope of issues to be determined in this proceeding—a mandamus proceeding concerning the interpretation of a District rule and the obligations of the District thereunder. As such, this request for production does not seek information that is reasonably calculated to lead to the discovery of admissible evidence and is improper. Moreover, the District further objects to this request as it seeks to produce documents and communications concerning Board member’s ineligibility. The ineligibility of Directors Zeig, Elliott, and Kennedy prompted the Board to adopt Rule 8.3(j). Texas case law supports the principle that the subjective knowledge, motive, and mental processes of an individual Director is irrelevant and not subject to discovery. The Board’s act of adopting Rule 8.3(j) expresses the collective will of the body, and as such, documents and communications involving individual Directors and the eligibility of such directors is protected from disclosure.

RESPONSE:

Subject to and without waiving the foregoing objection, the District responds as follows:

Responsive information pertaining to the BVGCD’s Board Members’ eligibility and the Plaintiff’s decision to protest the permits at issue in this Lawsuit will be produced.

REQUEST FOR PRODUCTION NO. 22:

All documents and communications between the BVGCD and other entities including members of or consultants for Groundwater Management Area 12 or the Region G Planning Group, educational institutions, municipalities, or water users in the region that refer or relate to the Regional Water Project and associated permits, UW Farm, the City of Georgetown water supply, transport of groundwater from Robertson County to Williamson, Bell, Travis, and Milam counties, and the Plaintiff and the Brazos County Entities’ decision to protest the Regional Water Project permits, including but not limited to all permits at issue in this Lawsuit, from January 1, 2022 to the present.

OBJECTION:

The District objects to this request for production on the basis that this request is vague, overbroad in scope, and unduly burdensome, as it seeks documents and communications concerning the “Regional Water Project”, “water supply in Brazos County”, “water rights”, “the City of Georgetown’s water supply”, “transport of groundwater from Robertson County to Williamson, Bell, Travis, and Milam counties”, and the Plaintiff and the Brazos County Entities’ water supply strategies”, none of which pertain to the scope of issues to be determined in this proceeding—a mandamus proceeding concerning the interpretation of a District rule and the obligations of the District thereunder. As such, this request for production does not seek information that is reasonably calculated to lead to the discovery of admissible evidence and is improper. Moreover, the District further objects to this request as it seeks to produce documents and communications concerning Board member’s ineligibility. The ineligibility of Directors Zeig, Elliott, and Kennedy prompted the Board to adopt Rule 8.3(j). Texas case law supports the principle that the subjective knowledge, motive, and mental processes of an individual Director is irrelevant and not subject to discovery. The Board’s act of adopting Rule 8.3(j) expresses the collective will of the body, and as such, documents and communications involving individual Directors and the eligibility of such directors is protected from disclosure. Furthermore, this requests seeks documents and communications between the BVGCD and “water users in the region” without any definition or limitation in scope for whom this requests seeks information about. As such, this request for production does not seek information that is reasonably calculated to lead to the discovery of admissible evidence and is improper.

RESPONSE:

Subject to and without waiving the foregoing objection, the District responds as follows:

Responsive information pertaining to the BVGCD’s Board Members’ eligibility and the Plaintiff’s decision to protest the permits at issue in this Lawsuit will be produced.

REQUEST FOR PRODUCTION NO. 23:

All other documents, such as public statements, releases, and/or media communications, the BVGCD has made that refer or relate to water supply in Brazos County, water rights, the Regional Water Project and associated permits, UW Farm, the City of Georgetown water supply, transport of groundwater from Robertson County to Williamson, Bell, Travis, and Milam counties, the Plaintiff and the Brazos County Entities’ water supply strategies, and the Plaintiff and the Brazos County Entities’ decision to protest the Regional Water Project permits, including but not limited to all permits at issue in this Lawsuit, from January 1, 2022 to the present.

OBJECTION:

The District objects to this request for production on the basis that this request is vague, overbroad in scope, and unduly burdensome, as it seeks documents and communications concerning the “Regional Water Project”, “water supply in Brazos County”, “water rights”, “the City of Georgetown’s water supply”, “transport of groundwater from Robertson County to Williamson, Bell, Travis, and Milam counties”, and the Plaintiff and the Brazos County Entities’ water supply strategies”, none of which pertain to the scope of issues to be determined in this proceeding—a mandamus proceeding concerning the interpretation of a District rule and the obligations of the District thereunder. As such, this request for production does not seek information that is reasonably calculated to lead to the discovery of admissible evidence and is improper.

RESPONSE:

Subject to and without waiving the foregoing objection, the District responds as follows:

Responsive documents pertaining to the Plaintiff’s decision to protest the permits at issue in this Lawsuit will be produced.

REQUEST FOR PRODUCTION NO. 24:

All studies, reports or analyses the BVGCD has conducted or reviewed that refer or relate to the purported effect of the Regional Water Project.

OBJECTION:

The District objects to this request for production on the basis that this request is overbroad in scope and unduly burdensome, as it seeks studies, reports or analyses of the “Regional Water Project” which does not relate to the scope of issues to be determined in this proceeding—a mandamus proceeding concerning the interpretation of a District rule and the obligations of the District thereunder. As such, this request for production does not seek information that is reasonably calculated to lead to the discovery of admissible evidence and is improper. To the extent this request seeks such materials, the District objects and will not produce any studies, reports or analyses.

RESPONSE:

Subject to and without waiving the foregoing objection, the District responds as follows:

Based on the foregoing objection, the District is not producing any responsive information.

REQUEST FOR PRODUCTION NO. 25:

All studies, reports, or analyses of the past, present, or future artesian head of College Station's wells.

OBJECTION:

The District objects to this request for production on the basis that this request is overbroad in scope and unduly burdensome, as it seeks studies, reports or analyses of the "artesian head of College Station's wells" which does not relate to the scope of issues to be determined in this proceeding—a mandamus proceeding concerning the interpretation of a District rule and the obligations of the District thereunder. As such, this request for production does not seek information that is reasonably calculated to lead to the discovery of admissible evidence and is improper. To the extent this request seeks such materials, the District objects and will not produce any studies, reports or analyses.

RESPONSE:

Subject to and without waiving the foregoing objection, the District responds as follows:

Based on the foregoing objection, the District is not producing any responsive information.

REQUEST FOR PRODUCTION NO. 26:

All studies, reports, or analyses of the past, present, or future artesian head of the City of Bryan's wells.

OBJECTION:

The District objects to this request for production on the basis that this request is overbroad in scope and unduly burdensome, as it seeks studies, reports or analyses of the "artesian head of the City of Bryan's wells" which does not relate to the scope of issues to be determined in this proceeding—a mandamus proceeding concerning the interpretation of a District rule and the obligations of the District thereunder. As such, this request for production does not seek information that is reasonably calculated to lead to the discovery of admissible evidence and is improper. To the extent this request

seeks such materials, the District objects and will not produce any studies, reports or analyses.

RESPONSE:

Subject to and without waiving the foregoing objection, the District responds as follows:

Based on the foregoing objection, the District is not producing any responsive information.

REQUEST FOR PRODUCTION NO. 27:

All studies, reports, or analyses of the past, present, or future artesian head of TAMUS's wells.

OBJECTION:

The District objects to this request for production on the basis that this request is overbroad in scope and unduly burdensome, as it seeks studies, reports or analyses of the "artesian head of TAMUS's wells" which does not relate to the scope of issues to be determined in this proceeding—a mandamus proceeding concerning the interpretation of a District rule and the obligations of the District thereunder. As such, this request for production does not seek information that is reasonably calculated to lead to the discovery of admissible evidence and is improper. To the extent this request seeks such materials, the District objects and will not produce any studies, reports or analyses.

RESPONSE:

Subject to and without waiving the foregoing objection, the District responds as follows:

Based on the foregoing objection, the District is not producing any responsive information.

REQUEST FOR PRODUCTION NO. 28:

All documents and communications that discuss, refer to, or relate to the 2024 Ratification Rule, including drafts, amendments, and interpretations of the same.

OBJECTION:

The District objects to this request for production on the basis this request seeks confidential materials protected by the attorney-client privilege. To that end, the District is withholding requested material that is protected from disclosure by the attorney-client privilege. The material sought involves documents, communications, and notes that were made in confidence and in furtherance of legal advice or representation. Furthermore, the District objects to this request as it seeks confidential documents and communication protected by the attorney work product privilege. Moreover, the District objects to this request as it seeks information concerning the District's adoption of Rule 8.3(j). Texas case law supports the principle that the subjective knowledge, motive, and mental processes of an individual Director is irrelevant and not subject to discovery because the Board's act of adopting Rule 8.3(j) expresses the collective will of the body. To that end, the District is withholding requested information that is protected from disclosure.

RESPONSE:

Subject to and without waiving the foregoing objection, the District responds as follows:

Based on the foregoing objection, the District is not producing any responsive information.

REQUEST FOR PRODUCTION NO. 29:

All documents and communications identified, referenced, or relied upon in your Initial Disclosures, supplemental disclosures, and interrogatory responses.

OBJECTION:

The District objects to this request for production on the basis this request seeks confidential materials protected by the attorney-client privilege. To that end, the District is withholding requested material that is protected from disclosure by the attorney-client privilege. The material sought involves documents, communications, and notes that were made in confidence and in furtherance of legal advice or representation. Moreover, the District objects to this request as it seeks information about interrogatories which concerned the District's Board ineligibility issues and the District's subsequent adoption of Rule 8.3(j). Texas case law supports the principle that the subjective knowledge, motive, and mental processes of an individual Director is irrelevant and not subject to discovery. The Board's act of adopting Rule 8.3(j) expresses the collective will of the body. To that end, the District is withholding requested information that is protected from disclosure.

RESPONSE:

Subject to and without waiving the foregoing objection, the District responds as follows:

Responsive, non-privileged information will be produced.

REQUEST FOR PRODUCTION NO. 30:

All documents and communications regarding the BVGCD's policies concerning, referring to, and/or relating to conflicts of interest.

RESPONSE:

Responsive information will be produced.

REQUEST FOR PRODUCTION NO. 31:

All rules and/or policies that govern the BVGCD's Board and/or Board members.

OBJECTION:

The District objects to this request for production on the basis that this request is overbroad in scope, as it seeks, without limitation, any rule or policy which could possibly govern the conduct of the District's Board, even if the rule or policy bears no relation to the scope of issues to be determined in this proceeding—a mandamus proceeding concerning the interpretation of a District rule and the obligations of the District thereunder. As such, this request for production does not seek information that is reasonably calculated to lead to the discovery of admissible evidence and is improper.

RESPONSE:

Subject to and without waiving the foregoing objection, the District responds as follows:

Responsive information will be produced.

REQUEST FOR PRODUCTION NO. 32:

All documents and communications regarding any conflict of interest or potential conflict of interest regarding Jayson Barfknecht.

OBJECTION:

The District objects to this request for production on the basis that this request is overbroad in scope, as it seeks documents and communications targeted at an individual director whose service on the board was not impacted by board ineligibility issues relevant to this proceeding. This request bears no relation to the scope of issues to be determined in this proceeding—a mandamus proceeding concerning the interpretation of a District rule and the obligations of the District thereunder. As such, this request for production does not seek information that is reasonably calculated to lead to the discovery of admissible evidence and is improper.

RESPONSE:

Subject to and without waiving the foregoing objection, the District responds as follows:

Based on the foregoing objection, the District is not producing any responsive information.

REQUEST FOR PRODUCTION NO. 33:

All documents and communications regarding any conflict of interest or potential conflict of interest regarding Gary Mechler.

OBJECTION:

The District objects to this request for production on the basis that this request is overbroad in scope, as it seeks documents and communications concerning an individual director whose service on the board was not impacted by board ineligibility issues relevant to this proceeding. This request bears no relation to the scope of issues to be determined in this proceeding—a mandamus proceeding concerning the interpretation of a District rule and the obligations of the District thereunder. As such, this request for production does not seek information that is reasonably calculated to lead to the discovery of admissible evidence and is improper.

RESPONSE:

Subject to and without waiving the foregoing objection, the District responds as follows:

Based on the foregoing objection, the District is not producing any responsive information.

REQUEST FOR PRODUCTION NO. 34:

All groundwater permits held and/or applications made by Jayson Barfknecht, his family members, or entities in which he holds ownership interests.

OBJECTION:

The District objects to this request for production on the basis that it is overbroad in scope. Mr. Barfknecht's service on the District Board was not impacted by the board ineligibility issues relevant to this proceeding. This request seeks unrelated, targeted information about an individual director and his family members, which does not pertain to the scope of issues to be determined in this proceeding—a mandamus proceeding concerning the interpretation of a District rule and the obligations of the District thereunder. As such, this request does not seek information that is reasonably calculated to lead to the discovery of admissible evidence and is improper.

RESPONSE:

Subject to and without waiving the foregoing objection, the District responds as follows:

None at this time.

REQUEST FOR PRODUCTION NO. 35:

All groundwater permits held and/or applications made by Gary Mechler, his family members, or entities in which he holds ownership interests.

OBJECTION:

The District objects to this request for production on the basis that it is overbroad in scope. Mr. Mechler's service on the District Board was not impacted by the board ineligibility issues relevant to this proceeding. This request seeks unrelated, targeted information about an individual director and his family members, which does not pertain to the scope of issues to be determined in this proceeding—a mandamus proceeding concerning the interpretation of a District rule and the obligations of the District thereunder. As such, this request does not seek information that is reasonably calculated to lead to the discovery of admissible evidence and is improper.

RESPONSE:

Subject to and without waiving the foregoing objection, the District responds as follows:

None at this time.