

MATHEWS & FREELAND, LLP

ATTORNEYS AT LAW

JIM MATHEWS
JOE FREELAND
BEN MATHEWS

8140 North Mopac Expressway
Westpark IV, Suite 240
Austin, Texas 78759
(512) 404-7800

MARK WALKER
OF COUNSEL

October 6, 2025

Via email: aday@brazosvalleygcd.org

Mr. Alan M. Day, General Manager
Brazos Valley Groundwater Conservation District
112 West 3rd Street
Hearne, Texas. 77859

Re: City of Bryan's Comments on the Draft BVGCD Rules

Dear Mr. Day:

Please accept this letter as the comments of the City of Bryan regarding the Draft BVGCD Rules published for the October 9, 2025, Public Rules Hearing.

Overview

Bryan supports the changes highlighted in the Draft BVGCD Rules. The changes will allow BVGCD to obtain information regarding all proposed uses of groundwater from the district for the purpose of determining whether the groundwater will be put to a beneficial use.

Bryan suggests additional changes that will allow BVGCD to gain information into the ultimate end-user's planned use of groundwater produced in the district and whether that user, which may not be the applicant or well owner, will agree to avoid waste and to achieve water conservation. The scope of BVGCD's enforcement authority is generally limited to applicants – well owners and operators. When issuing permits to entities that will not be the ultimate end users of the water, BVGCD needs to understand the ultimate end-user's plans and what control/recourse the applicant might have if the end user fails to put the groundwater produced in the district to a beneficial use.

Finally, Bryan suggests some changes to the language describing the factors to be considered by BVGCD when issuing transport permits. This language is intended to provide additional clarity to the statutory language.

Suggested Changes to Draft Rule

Bryan's suggested changes are highlighted below.

Section 7.1(e)

(e) Beneficial Use

Production limits on wells will be based on evidence of beneficial use submitted in Operating Permit applications, ~~including Wells intended to provide water to end users other than the applicant will require~~ evidence of legal obligation to provide the water to end users. The District shall verify the actual use of permitted wells by operating a well water level monitoring and well meter verification program at intervals that the District deems appropriate

To avoid permitting beyond actual planned beneficial use when the applicant is not the end user, BVGCD needs the ability to confirm that the applicant has an actual legal obligation to provide water to the end user.

Section 8.3(c)

- (c) Before granting or denying a drilling and/or operating permit for a well, or permit amendment under §36.1146, the District shall consider whether:
- (1) the application conforms to the requirements prescribed by these Rules and Chapter 36, Texas Water Code, and is accompanied by the prescribed fees, and is therefore Administratively Complete;
 - (2) the applicant violated the District's Rules and Chapter 36, Texas Water Code, prior to submitting its application to the District by either drilling or operating a well(s) without a permit;
 - (3) the proposed use of water unreasonably affects existing groundwater and surface water resources, existing permit holders, ~~or wells that are registered with the District and exempt from the requirement to obtain a permit District rules;~~
 - (4) the proposed use of water is dedicated to an actual beneficial use and whether sufficient evidence of an intended actual beneficial use is presented, including evidence of legal obligation to provide water to end users, ~~other than the applicant, as applicable;~~
 - (5) the proposed use of water is consistent with the District's Certified Water Management Plan, including the District's Availability Goals;
 - (6) ~~the applicant and, if the applicant is not the end user, all subsequent users of the water, has have~~ agreed to avoid waste and achieve water conservation;
 - (7) the applicant has agreed that reasonable diligence will be used to protect groundwater quality and that the applicant will follow well plugging guidelines

- at the time of well closure;
- (8) would not be otherwise contrary to the public welfare; and
 - (9) this section does not apply to the renewal of an operating permit issued under §36.1145.

In situations where the applicant is not the end user, BVGCD needs to know whether all users of the water, as well as the applicant, will take steps to avoid waste and achieve water conservation.

Rule 10.3(f)

- (f) provide information showing what water conservation measures the applicant, and all subsequent users, have adopted, what water conservation goals they have established, and what measures and time frames are necessary to achieve the applicant's established water conservation goals; and

In situations where the applicant is not the end user, BVGCD needs to know what conservation goals have been adopted by all subsequent users of the water.

Rule 10.3(g)

- (g) if and when the water is to be resold to others, provide a description of the applicant's and/or all subsequent resellers' service area, metering, leak detection and repair program for its water storage, delivery and distribution system, drought or emergency water management plan, and information on each subsequent customer's water demands, including population and customer data, water use data, water supply system data, alternative water supply, water conservation measures and goals, conjunctive use, and the means for implementation and enforcement of all applicable rules, plans, and goals.

This change will allow BVGCD to obtain necessary information regarding all subsequent users of the transported groundwater.

Rule 10.4(b) & (d)

- (b) In determining whether to issue, deny or condition a permit to transfer groundwater out of the District, the Board shall be fair, impartial, and nondiscriminatory and shall consider [the permits considerations provided by these Rules in Sections 7 and 8, as well as the](#) following factors when deciding whether to issue, deny, or impose conditions on a drilling, operating, or transport:
 - (1) the availability of water in the District and in the proposed receiving area

- during the period for which the water supply is requested as shown on the approved regional plan(s) for the area within the District and the proposed receiving area;
- (2) the projected effect of the proposed transfer on aquifer conditions, depletion, subsidence, or effects on existing permit holders or other groundwater users within the District; and
 - (3) how the proposed transport is addressed in any approved regional water plan(s) including the Region G Water Plan and certified District Management Plan, including conditions limiting transport to volumes specifically identified in water management strategies originating in aquifers subject to the District's permitting authority.

- (d) In addition to conditions provided by Section 36.1131, Texas Water Code, the operating permit to transport water out of the District shall specify:
- (1) the amount of water that may be transferred out of the District;
 - (2) the period for which the water may be transferred, which shall be:
 - (i) at least three years if construction of a conveyance system has not been initiated prior to the issuance of the permit, and shall be automatically extended to the terms 30 years if construction of a conveyance system is begun before the expiration of the initial term; or
 - (ii) at least 30 years if construction of a conveyance system has been initiated prior to the issuance of the permit;
 - (3) reporting requirements, including but not limited
 - (i) to flow meter installation, testing, and regulation calibration,
 - (ii) submission of production reports to the District,
 - (iii) separate meter requirements for exported water from non-exported permitted water;
 - (4) the installation and reporting of monitoring wells;
 - (5) Well Assistance provisions, if applicable;
 - (6) the required submission of all groundwater conveyance and user agreements related to the export permit;
 - (7) the technical description of the facilities to be used;
 - (8) water conservation and drought contingency plans, including plans prepared by all subsequent users; and
 - (9) periodic review and permit limitations based on aquifer conditions.

Mr. Alan Day, General Manager

October 6, 2025

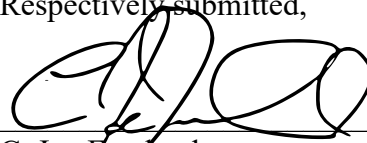
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These proposed changes will allow BVGCD's to take advantage of the extensive planning efforts performed by the regional water planning groups and incorporate that planning information into BVGCD's permitting.

Conclusion

The City of Bryan respectfully requests that BVGCD consider these comments on the Draft Rules and incorporate Bryan's comments into the final rules.

Respectively submitted,

A handwritten signature in black ink, appearing to read 'C. Joe Freeland', is written over a horizontal line.

C. Joe Freeland

Mathews & Freeland, LLP

Attorneys for City of Bryan