

LAW OFFICES OF
McCARTHY & MCCARTHY, L.L.P.

1122 COLORADO STREET, SUITE 2399
AUSTIN, TEXAS 78701
(512) 904-2310
(512) 692-2826 (FAX)

July 9, 2026

Board of Directors
c/o Alan Day, General Manager
Brazos Valley Groundwater Conservation District
112 West 3rd Street
Hearne, Texas 77859

via E-mail

Re: Board Actions related to Improper Open Meetings Postings and Adoption of
Moratorium Negatively Impacting Private Property Rights

Dear President Barfknecht and Board Members:

I am writing to you on behalf of landowner clients located within the District whose property rights are being negatively impacted by recent actions of the Board that are contrary both to the Texas Open Meetings Act and their constitutionally protected private property rights. Specifically, the Board's actions on June 11th, and proposed action today, July 9th, assuming they were legal, were *not* properly posted under the requirements of the Texas Open Meetings Act as discussed below. Moreover, the Board's action on June 11th to adopt a moratorium on permit applications, and the extension of said moratorium that impacts the landowners' ability to apply for and secure the statutorily mandated permits specified in Section 36.113, Texas Water Code, necessary to exercise and enjoy their constitutionally protected groundwater rights, is an *ultra vires* action in excess of the powers granted to the District by the Texas Legislature, as well as a "taking" of their private property rights as discussed below.

A. Open Meetings Issues:

Matters related to groundwater rights and permitting and limitations upon the exercise of those rights, rights which are constitutionally protected property rights, warrant a higher degree of specificity in an open meetings posting than generic simple references to rulemaking, DFCs and similar topics. In particular, notice of a plan to consider and take action on the adoption of an order imposing a prohibition or moratorium on the acceptance and processing of the statutorily mandated permits necessary to exercise those property rights is required. The District's June 11, 2026, and July 9, 2026 Board Agendas fail to provide adequate notice to achieve compliance with Section 551.041 of the Open Meetings Act (Tex. Gov't Code). *See generally*, Attorney General, *2026 Open Meetings Handbook*, at 30-47.

1. June 11, 2025 Board Meeting and Agenda.

Attached as **Appendix “A”** is a copy of the Board’s June 11th Agenda. Among the Board’s actions was the adoption of a moratorium that prohibited the District from accepting or processing any applications for new permits or amendments to permits between the date of that moratorium and July 9, 2026. A copy of the Resolution Order is attached hereto as **Appendix “B.”**

As evidenced by the plain language of the attached June 11th Agenda, and specifically Item Nos. 4 and 5, there is nothing in that Agenda that appraises the members of the public of the Board’s intent to consider, much less act upon, the adoption of an “Order” that imposes a “moratorium” that prohibits them from exercising their constitutionally protected property rights in their groundwater, *i.e.*, filing applications for the Permits mandated by Section 36.113, Texas Water Code and BVGCD’s Rules. As you are well aware from the multiple news articles and reports, issues related to groundwater are paramount in the minds of Texas landowners, whether those groundwater rights are associated with Data Centers, large Export Projects or simply a large use within the District, are of major interest to the Community.

The purpose of the Texas Open Meetings Act, and the requirements for posting transparent and informative agendas, is one of notice to provide “transparency.” Specifically, what are often referred to as “Sunshine Laws” are intended to facilitate the public’s ability to participate in its government, including the ability to know what their government is doing. Nothing in the attached June 11th Agenda suggests even the possibility of the action the Board took with respect to the adoption of a moratorium.

By e-mail correspondence between myself and the District’s General Manager, between June 26, 2026 and June 28, 2026, I inquired about the existence of any supplemental postings or other notice to the public of the Board’s plan to consider and take action on a moratorium at the June 11th meeting. Copies of my e-mails and Mr. Day’s responses are attached hereto as **Appendix “C.”** As you will see in the response from Mr. Day, he believes that Agenda Items 4 and 5 of the June 11th Agenda were the items that gave the public notice of the plan to discuss, consider and take action on the adoption of the moratorium. For your convenience, I am quoting those sections here:

4. **Executive Session:**

- **Texas Government Code 551.071 - To receive attorney-client privileged information regarding:**
 - **pending lawsuit Fazzino Investments, LP v. Brazos Valley Groundwater Conservation District, CASE NO. 6:25-cv-00001, filed in the United States District Court for the Western District of Texas, Waco Division;**
 - **establishing Desired Future Conditions for all aquifers within the boundaries of the BVGCD and related statutory considerations and associated rules**

- **GMA-wide well mitigation under interlocal agreements**
- 5. Discussion and possible action on items listed and deliberated in Executive Session, as noticed above in Agenda Item 4.**
- **Fazzino Investments, LP v. BVGCD**
 - **Matters related to the adoption of Desired Future Conditions and statutory considerations and associated rules**
 - **GMA-wide well mitigation under interlocal agreement**

As you can see, the plain reading of those Agenda Items provides absolutely no reference to a moratorium, nor do they provide the reader any insight or notice of the District's planned actions. Moreover, those agenda items mirror items in the Board's Agendas for May 21st and April 9th such that to the reasonably prudent person they appear to be "standing" items, almost "boilerplate," *i.e.*, nothing special in character. See **Appendix "D"** (copy of May 21st Board Agenda") and **Appendix "E"** (copy of April 9th Board Agenda). Given the significance of that action, *i.e.*, imposing a moratorium on applications causing a taking of the ability to exercise one's constitutionally protected property rights, the intent of the Texas Open Meetings Act mandates that the District properly notice such an intent. Accordingly, all actions by the District related to the moratorium and the adoption on June 11th of the original moratorium were *ultra vires*, illegal, and are voidable.

The use of general umbrella-like terms quoted above as an attempt to cover-up the true intent and actions of the Board, *i.e.*, use of references to "rulemaking" are inadequate to provide the public with notice of the action of a moratorium. This is particularly when the moratorium was *not* done as a "rulemaking," and the referenced agenda items appear to be a carryover from previous meetings.

Assuming that the moratorium was done as a rulemaking, it would have required that the District provide notice to the public of that proposed rule at least 20 days prior to a hearing on that rule, as well as making a copy of the rule available. Texas Water Code § 36.101. Additionally, Section 36.101 would have required that the District provide notice by e-mail to all persons on the District's list for such purposes.

As a person on the District's hearing notice list, who regularly receives e-mails from the District regarding hearings on permits and rulemakings, I was *not* provided with any such e-mail notice regarding a June 11th rulemaking for the moratorium or the planned rulemaking activities contemplated by the June 11th Agenda. See **Appendix "C"** (e-mail of Alan Day dated June 27, 2026).

The Board Members owe a duty to their landowners and constituents within the District to provide them adequate notice. To date, the Board has failed and has acted *ultra viresly* by taking actions in excess of its lawfully authorized authority.

2. July 9, 2026 Agenda.

For reference I have attached a copy of today's Agenda as **Appendix "F."** Again, similar to the June 11th Agenda, it is vague. On this Agenda, Item 1., the District describes plans to amend an a nonspecific "Board Order" regarding a hearing on proposed rules and acceptance of applications.

1. Discussion and possible action to amend Board Order regarding public hearing on proposed rules and acceptance of new permit/permit amendment applications to July 15, 2026.

There is no mention of any "moratorium" being extended, nor even any specific details to identify which Board Order is being adopted. Specifically, there is nothing in the agenda item to give the public notice that the Order creating the moratorium adopted at the June 11th Meeting, which on its face expires today is being extended to July 15th. Accordingly, any member of the public which may have learned about the Moratorium unlawfully adopted June 11th reasonably would think or believe that the Moratorium still expires today after viewing today's Board Agenda Item 1.

The following court opinions support the conclusion that the Board's agenda postings do *not* support any consideration or action related to the adoption of the referenced "Board Order" imposing the moratorium. *See, e.g.*, [t]he Agenda must provide full and adequate notice of the matters to be considered, particularly where the matter is one of high interest within the community. *See, e.g., Cox Enterprises, Inc. v. Board of Trustees*, 706 S.W.2d 956, 958-959 (Tex. 1986); *Webb County v. Mares*, 726 S.W.3d 902, 908-910 (Tex. App. – Houston [14th] 2025, pet. denied); *Mayes v De Leon*, 922 S.W.2d 200, 203 (Tex. App. – Eastland 1996, writ denied). The District's posted agendas provided no perceptible notice a moratorium, *i.e.*, a prohibition on the acceptance and processing of an application for a statutorily required permit or permit amendment.

B. The Board Has No Authority to Adopt/Impose a Moratorium on Permitting:

In 1917 Texans approved the passage of the so-called "Conservation Amendment" adding Article XVI, Section 59 to the Texas Constitution. That amendment, according to the Texas Supreme Court, gave the Texas Legislature the authority to pass laws related to the construction, development and preservation of Texas natural resources. *City of Corpus Christi v. City of Pleasanton*, 276 S.W.2d 798, 803 (Tex. 1955). That power included the creation of special purpose districts like BVGCD. Texas Water Code §36.0015. When created, however, Texas law is clear that a "district has only such powers and authority as 'may be conferred by law,'" and that "the power of [such a] district is limited by the terms of applicable statutes authorizing its creation and a district can exercise no authority that the Legislature has not clearly granted." *South Plains Lamesa Railroad, Ltd. v. High Plains Underground Water Conserv. Dist. No. 1*, 52 S.W.3d 770, 776 (Tex. App.–Austin 2001, no pet.) (*citing* TEX. CONST. Art. XVI, § 59(b)); *Guitar Holding Co. v. Hudspeth Cnty Underground Water Conserv. Dist. No. 1*, 263 S.W.3d 910, 917-18 (Tex. 2008) (holding that the rules of a groundwater conservation district exceeded the district's statutory authority); *see e.g., Tri-City Freshwater Supply District No. 2 v. Mann*, 142 S.W.2d 945, 948 (Tex. 1940); Tx Atty. Gen. Op. KP-0247.

Nothing in Chapter 36 of the Water Code, or the District's enabling legislation authorizes the adoption and imposition of a moratorium on permitting. Accordingly, the Directors' action adopting the Order imposing the Moratorium was an *ultra vires* action. See Texas Water Code Chapter 36; Texas Special District Local Laws Code Chapter 8835.

The Board's *ultra vires* actions constitute a "taking" of groundwater owners' property in violation of Article I, Sections 17 and 19 of the Texas Constitution and the Fifth and Fourteenth Amendments to the United States Constitution. Those actions also deprive groundwater owners of their civil rights, giving rise to damages under Sections 1983 and 1988 of Title 42 of the United States Code.

C. Recommendation:

In light of the recent erroneous and ill-advised actions by the Board, the following recommendations are offered:

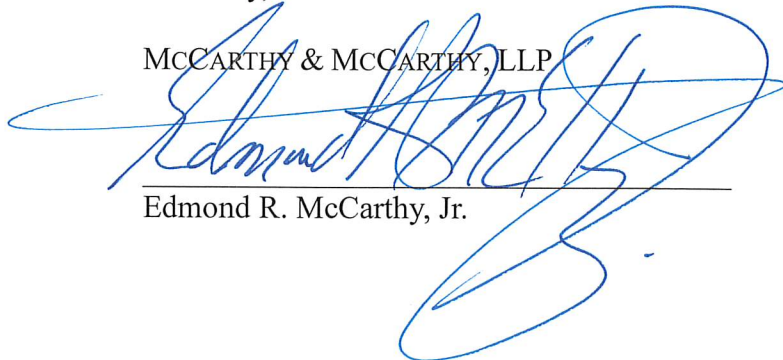
- (i) Table Agenda Item 1;
- (ii) Announce plans to reschedule the July 15th rulemaking hearing for a later date at least 20-days out; and
- (iii) Announce that the Board Order imposing the moratorium on permit applications is of no force and effect and is rescinded and will not be honored or enforced.

Thank you for your prompt attention to these matters of grave concern and the consequences they have on the private property rights of the constituents, particularly the groundwater owners within the District.

Best wishes.

Sincerely,

MCCARTHY & MCCARTHY, LLP


Edmond R. McCarthy, Jr.

ERM/tn
Encl.

Appendix “A”

Copy of the Board’s June 11th Agenda



Agenda

**BRAZOS VALLEY GROUNDWATER
CONSERVATION DISTRICT
Regular Board Meeting
District Office
112 W. 3rd Street – Hearne, Texas
Thursday, June 11, 2026 – 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, June 11, 2026 @ 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 May 21, 2026, Regular Board Meeting
2. Financial Report – May 2026
3. Review, discussion, and possible action on the readoption of the District Investment Policy.
4. Executive Session:
 - Texas Government Code 551.071 – To receive attorney-client privileged information regarding:
 - o pending lawsuit Fazzino Investments, LP v. Brazos Valley Groundwater Conservation District, CASE NO. 6:25-cv-00001, filed in the United States District Court for the Western District of Texas, Waco Division;
 - o establishing Desired Future Conditions for all aquifers within the boundaries of the BVGCD and related statutory considerations and associated rules
 - o GMA-wide well mitigation under interlocal agreements
5. Discussion and possible action on items listed and deliberated in Executive Session, as noticed above in Agenda Item 4.
 - Fazzino Investments, LP v. BVGCD
 - Matters related to the adoption of Desired Future Conditions and statutory considerations and associated rules
 - GMA-wide well mitigation under interlocal agreement
6. General Manager's Report
 - a) Drought Monitor Report
 - b) Wells permitted pursuant to District Rule 8.3(j)(1)
 - c) Update of Upcoming Permits yet to be drilled
 - d) District Business & Activities

e) Management Plan Update

7. Discussion and possible future agenda items.

8. Adjourn

Signed this 5th day of June 2026



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**

Appendix “B”

Copy of the Resolution Order



**AN ORDER OF THE
BRAZOS VALLEY GROUNDWATER CONSERVATION DISTRICT'S
REGARDING PROPOSED RULES**

WHEREAS, the Brazos Valley Groundwater Conservation District ("District") is charged by the Texas Legislature with providing for the conservation, preservation, protection, and prevention of waste of groundwater, and of groundwater resources under §36.0015, Texas Water Code;

WHEREAS, the District consists of Brazos and Robertson counties;

WHEREAS, the District is authorized to make and enforce fair and impartial rules to manage groundwater resources to conserve and protect the aquifers in the area under §36.101, Tex. Water Code;

WHEREAS, the District is required under §36.113, Texas Water Code, to issue permits for the drilling, equipping, operating, or completing of non-exempt wells or for substantially altering the size of wells or well pumps;

WHEREAS, under §36.113(e), Texas Water Code, the District may impose more restrictive permit conditions on new permit applications and permit amendment applications to increase use by historic users if the limitations: (1) apply to all subsequent new permit applications and permit amendment applications to increase use by historic users, regardless of type or location of use; (2) bear a reasonable relationship to the existing district management plan; and (3) are reasonably necessary to protect existing use;

WHEREAS, under §36.116, Texas Water Code, in order to minimize as far as practicable, the drawdown of the water table or the reduction of artesian pressure, to control subsidence, to prevent interference between wells, to prevent degradation of water quality, or to prevent waste, the District is authorized to regulate the spacing of water wells and the production of groundwater;

WHEREAS, under §36.116(b), Texas Water Code, in promulgating any rules limiting groundwater production, the District may preserve historic or existing use to the maximum extent practicable consistent with the District's management plan;

WHEREAS, under §§36.101, 36.1071, 36.108 and 36.3011, Texas Water Code, the District is required to adopt rules that are designed to achieve the adopted desired future conditions;

WHEREAS, under §36.111, Texas Water Code, the District is authorized to require permit holders to meter their wells using reasonable and appropriate reporting methods and frequency and require that records be kept and reports be made of the drilling, equipping, and completing of water wells and of the production and use of groundwater;

WHEREAS, under §36.122, Texas Water Code, the District may promulgate rules requiring a person to obtain a permit for the transfer of groundwater out of the District;

WHEREAS, under §36.102, Texas Water Code, the District may enforce Chapter 36 of the Texas Water Code and District Rules against any person by injunction, mandatory injunction, or

other appropriate remedy in a court of competent jurisdiction. The Board by rule may set reasonable civil penalties against any person for breach of any rule of the District not to exceed \$25,000 per day per violation, and each day of a continuing violation constitutes a separate violation. If the District prevails in any suit to enforce its rules, the District may seek and the court shall grant against any person, in the same action, recovery for attorney's fees, costs for expert witnesses, and other costs incurred by the District before the court;

WHEREAS, the District finds it is in the public interest and is within the District's duty to conserve, preserve, protect, and prevent the waste of groundwater to require the future transport of groundwater out of the District to be subject to a permit and permit amendment application process that includes hydrologic review and notice and hearing to the public, as authorized by Chapter 36 of the Texas Water Code;

WHEREAS, the District finds it is in the public interest and is within the District's duty to conserve, preserve, protect, prevent the waste of groundwater, to protect historic and existing use and property rights, and to adopt rules that monitor and enforce the adopted desired future conditions, as authorized by Chapter 36 of the Texas Water Code; and

WHEREAS, the District finds it is in the public interest and is within the District's duty to conserve, preserve, protect, and prevent the waste of groundwater to issue a temporary moratorium for no more than thirty (30) days for accepting new applications for operating permits and transport permits and amendments to existing operating and transport permits during the proposed public comment and hearing process, as the Groundwater Availability Model's demonstrate that the current groundwater production permitted by the District will exceed the adopted desired future conditions adopted under Section 36.108, Texas Water Code.

NOW, THEREFORE, BE IT ORDERED BY THE BOARD OF DIRECTORS OF THE BRAZOS VALLEY GROUNDWATER CONSERVATION DISTRICT THAT:

- (1) the District shall hold a public hearing on proposed rules July 9, 2026, that includes proposed rules amendments regarding the enforcement of the adopted desired future conditions, transport permit requirements, and well spacing; and
- (2) the District shall not accept new operating or transport permit applications or permit amendments applications until after the July 9, 2026 public hearing and Board meeting in which the District publicly discusses and acts on new rules.

PASSED AND APPROVED this the 11th day of June 2026

BRAZOS VALLEY GROUNDWATER CONSERVATION DISTRICT



Jayson Barfknecht, President



Jeff Kennedy, Secretary

Appendix “C”

Copies of my e-mails and Mr. Day’s Responses

From: [Ed McCarthy](#)
To: [Alan Day](#)
Cc: [Eddie McCarthy](#)
Bcc: [Ed McCarthy](#)
Subject: BVGCD Moratorium and Rulemaking Hearing
Date: Friday, June 26, 2026 2:51:00 PM
Attachments: [An-Order-Regarding-Proposed-Rules-Moratorium-Executed-6-11-26-1.pdf](#)
[Regular-Board-Meeting-Notice-Agenda-June-11-2026.pdf](#)
[BVGCD-draft-proposed-rule-amendments-for-7-15-26-public-hearing-6-22-26.pdf](#)
[Public-Rules-Hearing-Notice-July-15-2026.pdf](#)

Good afternoon Alan

In reviewing and researching the BVGCD's proposed rulemaking, currently set for hearing on July 15th, I learned about the June 11th moratorium order on new permit/amendment applications related to a rulemaking process to be conducted July 9th (according to the moratorium order). I am trying to reconcile the inconsistency on dates for rule making and get information on when the action on the moratorium dated June 11th was noticed and held in an open meeting. As read it, the attached June 11th Board Meeting Agenda is silent on the subject.

Can you help me out – is there going to be a rulemaking hearing on July 9th and 15th? If not, how does the order for a July 9th hearing in the moratorium affect the noticed hearing for July 15th, and when and where did the moratorium order of June 11th get noticed, posted and acted upon?

As always, I appreciate your assistance.

Thanks.

Ed

From: [Alan Day](#)
To: [Ed McCarthy](#)
Cc: [Monique Norman](#)
Subject: RE: BVGCD Moratorium and Rulemaking Hearing
Date: Saturday, June 27, 2026 7:53:44 AM

Ed,

We will have a board meeting on July 9th to revise and extend the order to July 15th. We will have the Rules Hearing and board meeting on July 15th with possible board action on the proposed rule revisions following the hearing.

We had a notice issue with The Eagle newspaper that created the necessity to reschedule the hearing and board meeting. If you have any questions, please give me a call.

Please reference Agenda items 4 & 5 related to your question about the order.

Have a great weekend!

Alan

From: Ed McCarthy <Ed@ermlawfirm.com>
Sent: Friday, June 26, 2026 2:52 PM
To: Alan Day <aday@brazosvalleygcd.org>
Cc: Eddie McCarthy <Eddie@ermlawfirm.com>
Subject: BVGCD Moratorium and Rulemaking Hearing

Good afternoon Alan

In reviewing and researching the BVGCD's proposed rulemaking, currently set for hearing on July 15th, I learned about the June 11th moratorium order on new permit/amendment applications related to a rulemaking process to be conducted July 9th (according to the moratorium order). I am trying to reconcile the inconsistency on dates for rule making and get information on when the action on the moratorium dated June 11th was noticed and held in an open meeting. As read it, the attached June 11th Board Meeting Agenda is silent on the subject.

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As always, I appreciate your assistance.

Thanks.

Ed

From: [Ed McCarthy](#)
To: [Alan Day](#)
Cc: [Monique Norman](#); [Eddie McCarthy](#)
Bcc: [Ed McCarthy](#)
Subject: RE: BVGCD Moratorium and Rulemaking Hearing
Date: Saturday, June 27, 2026 11:56:00 AM
Attachments: [Regular-Board-Meeting-Notice-Agenda-June-11-2026.pdf](#)

Alan

Thank you for the clarification on the dates for the Rule Making Hearing.

I did not see an attachment to your email, so that I am clear, when you refer to agenda items 4 & 5, are you referring to the attached June 11th Agenda?

Thanks.

Ed

Cc: Monique Norman
Eddie McCarthy

From: Alan Day <aday@brazosvalleygcd.org>
Sent: Saturday, June 27, 2026 7:54 AM
To: Ed McCarthy <Ed@ermlawfirm.com>
Cc: Monique Norman <norman.law@earthlink.net>
Subject: RE: BVGCD Moratorium and Rulemaking Hearing

Ed,

We will have a board meeting on July 9th to revise and extend the order to July 15th. We will have the Rules Hearing and board meeting on July 15th with possible board action on the proposed rule revisions following the hearing.

We had a notice issue with The Eagle newspaper that created the necessity to reschedule the hearing and board meeting. If you have any questions, please give me a call.

Please reference Agenda items 4 & 5 related to your question about the order.

Have a great weekend!

Alan

From: Ed McCarthy <Ed@ermlawfirm.com>
Sent: Friday, June 26, 2026 2:52 PM

From: [Alan Day](#)
To: [Ed McCarthy](#)
Cc: [Monique Norman](#)
Subject: RE: BVGCD Moratorium and Rulemaking Hearing
Date: Sunday, June 28, 2026 10:30:49 AM

Ed,

I apologize for not doing a better job of referencing my response. Yes, I referenced the June 11th agenda which you attached.

Have a great day!

Alan

From: Ed McCarthy <Ed@ermlawfirm.com>
Sent: Saturday, June 27, 2026 11:56 AM
To: Alan Day <aday@brazosvalleygcd.org>
Cc: Monique Norman <norman.law@earthlink.net>; Eddie McCarthy <Eddie@ermlawfirm.com>
Subject: RE: BVGCD Moratorium and Rulemaking Hearing

Alan

Thank you for the clarification on the dates for the Rule Making Hearing.

I did not see an attachment to your email, so that I am clear, when you refer to agenda items 4 & 5, are you referring to the attached June 11th Agenda?

Thanks.

Ed

Cc: Monique Norman
Eddie McCarthy

From: Alan Day <aday@brazosvalleygcd.org>
Sent: Saturday, June 27, 2026 7:54 AM
To: Ed McCarthy <Ed@ermlawfirm.com>
Cc: Monique Norman <norman.law@earthlink.net>
Subject: RE: BVGCD Moratorium and Rulemaking Hearing

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We will have a board meeting on July 9th to revise and extend the order to July 15th. We will have

the Rules Hearing and board meeting on July 15th with possible board action on the proposed rule revisions following the hearing.

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Please reference Agenda items 4 & 5 related to your question about the order.

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Alan

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Sent: Friday, June 26, 2026 2:52 PM
To: Alan Day <aday@brazosvalleygcd.org>
Cc: Eddie McCarthy <Eddie@ermlawfirm.com>
Subject: BVGCD Moratorium and Rulemaking Hearing

Good afternoon Alan

In reviewing and researching the BVGCD's proposed rulemaking, currently set for hearing on July 15th, I learned about the June 11th moratorium order on new permit/amendment applications related to a rulemaking process to be conducted July 9th (according to the moratorium order). I am trying to reconcile the inconsistency on dates for rule making and get information on when the action on the moratorium dated June 11th was noticed and held in an open meeting. As read it, the attached June 11th Board Meeting Agenda is silent on the subject.

Can you help me out – is there going to be a rulemaking hearing on July 9th and 15th? If not, how does the order for a July 9th hearing in the moratorium affect the noticed hearing for July 15th, and when and where did the moratorium order of June 11th get noticed, posted and acted upon?

As always, I appreciate your assistance.

Thanks.
Ed

Appendix “D”

Copy of May 24th Board Agenda



Agenda

**BRAZOS VALLEY GROUNDWATER
CONSERVATION DISTRICT
Regular Board Meeting
District Office
112 W. 3rd Street – Hearne, Texas
Thursday, May 21, 2026 – 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, May 21, 2026 @ 2:00 p.m. in the District Office.

Call meeting to order

Pledge of Allegiance

Declare quorum present

Public Comment

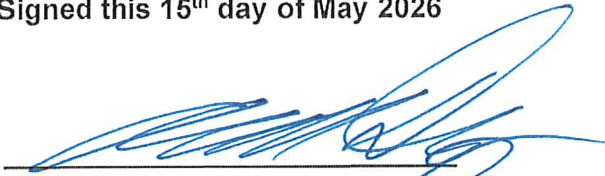
a) Non-agenda items

b) Agenda items

1. Discussion and possible action on the minutes of April 9, 2026, Permit Hearing & Regular Board Meeting
2. Financial Report – April 2026
3. Discussion and possible action regarding the engagement of a contractor to complete an access into the H&R Block property and incorporating the area into the existing District Office space.
4. Executive Session:
 - Texas Government Code 551.071 – To receive attorney-client privileged information regarding:
 - pending lawsuit Fazzino Investments, LP v. Brazos Valley Groundwater Conservation District, CASE NO. 6:25-cv-00001, filed in the United States District Court for the Western District of Texas, Waco Division;
 - establishing Desired Future Conditions for all aquifers within the boundaries of the BVGCD and related statutory considerations and associated rules
 - GMA-wide well mitigation under interlocal agreements
5. Discussion and possible action on items listed and deliberated in Executive Session, as noticed above in Agenda Item 4.
 - Fazzino Investments, LP v. BVGCD
 - Matters related to the adoption of Desired Future Conditions and statutory considerations and associated rules
 - GMA-wide well mitigation under interlocal agreements

6. General Manager's Report
 - a) Drought Monitor Report
 - b) Wells permitted pursuant to District Rule 8.3(j)(1)
 - c) Update of Upcoming Permits yet to be drilled
 - d) District Business & Activities
 - e) Management Plan Update
7. Discussion and possible future agenda items.
8. Adjourn

Signed this 15th day of May 2026


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**

Appendix “E”

Copy of April 9th Board Agenda



Agenda

**BRAZOS VALLEY GROUNDWATER
CONSERVATION DISTRICT
Regular Board Meeting
District Office
112 W. 3rd Street – Hearne, Texas
Thursday, April 9, 2026 – 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, April 9, 2026 @ 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 March 9, 2026, Permit Hearing & Regular Board Meeting
2. Financial Report – March 2026
3. Discussion and possible action regarding sealed bids received in response to a notice of renovation work to be completed on the former H&R Block property and incorporating the property into the existing District Office space.
4. Discussion of the House Natural Resources and Senate Water, Agriculture, and Rural Affairs Committee 89th Legislative Interim charges.
5. Executive Session:
 - Texas Government Code 551.071 – To receive attorney-client privileged information regarding:
 - pending lawsuit Fazzino Investments, LP v. Brazos Valley Groundwater Conservation District, CASE NO. 6:25-cv-00001, filed in the United States District Court for the Western District of Texas, Waco Division;
 - establishing Desired Future Conditions for all aquifers within the boundaries of the BVGCD and related statutory considerations and associated rules
6. Discussion and possible action on items listed and deliberated in Executive Session, as noticed above in Agenda Item 5.
 - Fazzino Investments, LP v. BVGCD
 - Matters related to the adoption of Desired Future Conditions and statutory considerations and associated rules

7. General Manager's Report
 - a) Drought Monitor Report
 - b) Wells permitted pursuant to District Rule 8.3(j)(1)
 - c) Update of Upcoming Permits yet to be drilled
 - d) District Business & Activities
 - e) Management Plan Update
8. Discussion and possible future agenda items.
9. Adjourn

Signed this 2nd day of April 2026



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**

Appendix “F”

Copy of Today’s (July 9th) Agenda



Agenda

**BRAZOS VALLEY GROUNDWATER
CONSERVATION DISTRICT
Regular Board Meeting
District Office
112 W. 3rd Street – Hearne, Texas
Thursday, July 9, 2026 – 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, July 9, 2026 @ 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 to amend Board Order regarding public hearing on proposed rules and acceptance of new permit/permit amendment applications to July 15, 2026.
2. Adjourn

Signed this 2nd day of July 2026

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**