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PETITION FOR INQUIRY OF § BEFORE THE TEXAS COMMISSION  
POST OAK SAVANNAH §  
GROUNDWATER § ON  
CONSERVATION DISTRICT §  
SUBMITTED BY CURTIS §  
CHUBB, PH.D. § ENVIRONMENTAL QUALITY

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**EXECUTIVE DIRECTOR’S RESPONSE TO THE PETITION FOR INQUIRY**

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TO THE HONORABLE COMMISSIONERS OF THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY:

COMES NOW, the Executive Director (ED) of the Texas Commission on Environmental Quality (TCEQ or Commission), and files this Response to the Petition for Inquiry of Post Oak Savannah Groundwater Conservation District (Post Oak) filed by Curtis Chubb, Ph.D. (Petitioner).

**I. INTRODUCTION**

Local groundwater conservation districts (GCD) are created in order to provide for the conservation, preservation, protection, recharging, and prevention of waste of groundwater.<sup>1</sup> GCDs are the “state’s preferred method of groundwater management through rules developed, adopted, and promulgated by a district...”<sup>2</sup> As part of a GCD’s statutory obligation to manage groundwater, GCDs are required to establish desired future conditions (DFCs) of the aquifers within their management area.<sup>3</sup> DFCs are a quantitative description of the desired condition of the groundwater resources in a management area at one or more specified future times.<sup>4</sup> The DFCs adopted by a GCD “must provide a balance between the highest practicable level of groundwater production and the conservation, preservation, protection, recharging, and prevention of waste of groundwater and control of subsidence in the management area.”<sup>5</sup>

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<sup>1</sup> TEX. WATER CODE § 36.0015.

<sup>2</sup> *Id.*

<sup>3</sup> TEX. WATER CODE § 36.108(d).

<sup>4</sup> TEX. WATER CODE § 36.001(30).

<sup>5</sup> TEX. WATER CODE § 36.108(d-2).

The Texas Water Code allows an owner of land within a groundwater management area to file a petition with the Commission requesting an inquiry into a GCD's rules implemented to achieve a DFC.<sup>6</sup> The petition for inquiry alleges:

1. The rules adopted by the Post Oak are not designed to achieve the DFCs adopted by GMA 12 during the joint planning process;
2. The groundwater in the management area is not adequately protected by the rules adopted by Post Oak; and
3. The groundwater in the management area is not adequately protected due to the failure of Post Oak to enforce substantial compliance with its rules.

For the reasons discussed below, the Executive Director recommends dismissing the petition.

## II. PROCEDURAL BACKGROUND

On June 4, 2015, Curtis Chubb, Ph.D. filed with the Commission a petition for inquiry of Post Oak Savannah Groundwater Conservation District. In accordance with 30 TEX. ADMIN. CODE (TAC) § 293.23(d), the petition included a certified statement that described why the Petitioner believes an inquiry is necessary.<sup>7</sup> On June 5, 2015, the Petitioner mailed copies of the petition to eleven GCDs, including all districts that are within and adjacent to Groundwater Management Area 12 (GMA 12)<sup>8</sup>: Brazos Valley GCD, Fayette County GCD, Lost Pines GCD, Mid-East Texas GCD, Post Oak Savannah GCD, Neches & Trinity Valleys GCD, Bluebonnet GCD, Gonzales County Underground Water Conservation District, Barton Springs/Edwards Aquifer Conservation District, Clearwater Underground Water Conservation District, and Colorado County GCD.<sup>9</sup> On June 16, 2015, the Petitioner filed evidence with the Commission that the petition had been provided to the GCDs in accordance with 30 TAC § 293.23(e). The Commission

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<sup>6</sup> TEX. WATER CODE § 36.1082. House Bill 2767 of the 84<sup>th</sup> Texas Legislature moved the requirements for filing a petition for inquiry to Texas Water Code § 36.3011. However, this Petition was filed before HB 2767 took effect on June 10, 2015. All citations in this brief to the Texas Water Code will be to those sections as they were prior to the amendments to Chapter 36 as adopted by the 84<sup>th</sup> Legislature.

<sup>7</sup> 30 TEX. ADMIN. CODE § 293.23(d).

<sup>8</sup> 30 TEX. ADMIN. CODE § 293.23(e) requires the petitioner to "provide a copy of the filed petition to all GCDs within and adjacent to the GMA within five days of the date the petition was filed."

<sup>9</sup> The GCDs within GMA 12 are Brazos Valley GCD, Fayette County GCD, Lost Pines GCD, Mid-East Texas GCD, and Post Oak Savannah GCD. The GCDs that are adjacent to GMA 12 are Neches & Trinity Valleys GCD, Bluebonnet GCD, Gonzales County Underground Water Conservation District, and Barton Springs/Edwards Aquifer Conservation District.

received responses to the petition from six GCDs: Post Oak Savannah GCD, Brazos Valley GCD, Fayette County GCD, Lost Pines GCD, Mid-East Texas GCD, and Gonzales County Underground Water Conservation District. The Petitioner has met all requirements of 30 TAC § 293.23 for the Commission to review the petition for inquiry.

### III. PETITION FOR INQUIRY

Texas Water Code § 36.1082 allows an owner of land within a management area to file a petition with the Commission requesting an inquiry into specific actions of a GCD. The Petitioner states that he owns approximately 90 acres of land within GMA 12 and alleges that Post Oak's rules are not designed to achieve the DFCs adopted by GMA 12, the groundwater in the management area is not adequately protected by the district's rules, and that the groundwater in the management area is not adequately protected due to the failure of the district to enforce substantial compliance with its rules.<sup>10</sup>

#### *A. Post Oak has promulgated rules that are designed to achieve the desired future conditions.*

The Petitioner's first stated reason for filing the petition with the Commission is to request an inquiry to ascertain whether the rules adopted by Post Oak are designed to achieve the DFCs adopted by GMA 12.<sup>11</sup> The Petitioner alleges that Post Oak's "approve all permits" philosophy coupled with the district's rules, which allow everyone within the district the right to apply for production permits to pump up to 2 acre-feet per acre per year, is not designed to achieve the DFCs. The petition states that if permits were issued for every acre within the district, the total groundwater production would exceed the Modeled Available Groundwater<sup>12</sup> (MAG) and would reduce the groundwater levels below the adopted DFCs.

The Texas Legislature statutorily recognized that a landowner owns the groundwater below the surface of the landowner's land as real property.<sup>13</sup> This property

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<sup>10</sup> Petitioner's allegations match the bases for a petition pursuant to TEX. WATER CODE § 36.1082(b)(7)-(9) and 30 TAC § 293.23(b)(7)-(9).

<sup>11</sup> Petitioner's Petition at 1. *See also*, TEX. WATER CODE § 36.1082(b)(7) and 30 TAC § 293.23(b)(7).

<sup>12</sup> The MAG is the amount of water that the Texas Water Development Board determines may be produced on an average annual basis to achieve a desired future condition. TEX. WATER CODE § 36.001(25).

<sup>13</sup> TEX. WATER CODE § 36.002.

right entitles the landowner to drill for and produce the groundwater below the surface but does not entitle a landowner the right to capture a specific amount of groundwater.<sup>14</sup> The Texas Water Code authorizes GCDs to place limitations on the right to produce groundwater in an effort to conserve and protect the sustainability of aquifers. The Texas Water Code allows a district to issue production permits up to the point that the total volume of exempt and permitted groundwater production will achieve a DFC.<sup>15</sup> To ensure that the groundwater levels do not recede below the DFCs, the Water Code authorizes a GCD to promulgate rules to regulate the withdrawal of groundwater by setting production limits on wells and limiting the amount of water produced based on acreage or tract size.<sup>16</sup>

In accordance with Chapter 36 of the Water Code, Post Oak has promulgated rules that are designed to accomplish its management and regulatory duties in achieving the DFCs without infringing on landowners' property rights. The goal of Post Oak's rules is to achieve the DFCs through regulating the actual production of groundwater rather than limiting the number of permits that can be issued.<sup>17</sup> This approach puts all landowners on equal footing when requesting permits to produce the groundwater beneath their land.

While Post Oak's Rule 5.1(2) authorizes a maximum total annual production of 2 acre-feet per acre per year of groundwater, that rule is subject to specific constraints. As Post Oak points out, District Rule 5.2 states that the land that is not located over an aquifer will not be included in the volume of water permitted to be produced.<sup>18</sup> <sup>19</sup> Post Oak states that there are no economically viable aquifers located within a large area of Northwest Milam County.<sup>20</sup> Accordingly, all of the acreage within the district is not able to be used to secure production permits. Therefore, the total acreage within the district cannot be used as a basis for determining the effect the production limit has on the DFCs.

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<sup>14</sup> *Id.*

<sup>15</sup> TEX. WATER CODE § 36.1132.

<sup>16</sup> TEX. WATER CODE § 36.116.

<sup>17</sup> Post Oak Savannah GCD's Response to the Petition, pg. 5.

<sup>18</sup> *Id.* at 5-6. *See also*, District Rule 5.2. (Post Oak Savannah GCD's rules can be found at <http://www.posgcd.org/district-information/district-rules/>)

<sup>19</sup> For example, if a landowner owns ten acres of land but only five of those acres are above an aquifer, the landowner will only be permitted for a maximum production amount of 10 acre-feet per year instead of 20 acre-feet per year.

<sup>20</sup> Post Oak Savannah GCD's Response to the Petition, pg. 6.

Furthermore, the permitted production limits are subject to being reduced pursuant to Section 16 of the district's rules. Section 16 of Post Oak's rules allows the district to reduce the groundwater production authorized in previously issued permits and to lower the permitted production per acre for all permits issued in the future based on the aquifers reaching identified threshold levels.<sup>21</sup> Post Oak uses modeled and actual groundwater data from monitoring wells to determine the effect that the actual production of groundwater has on the aquifer levels. Upon reaching the threshold levels, District Rules 16.4 and 16.7 detail specific actions that the district can take in order to protect the aquifers and to ensure that the DFCs are met.<sup>22</sup>

The Petitioner claims that District Rule 16.7 is ineffective in achieving the DFCs.<sup>23</sup> However; the petition does not provide an explanation as to the reasoning behind this claim. District Rule 16.7 provides Post Oak with the authorization to limit, adjust, and reduce the maximum allowable production of water authorized by a permit.<sup>24</sup> Initially, upon determination by the district that a reduction in groundwater production limits is necessary, the district may reduce by up to two percent per year the volume of water authorized to be produced in a permit.<sup>25</sup> If Post Oak needs to take a more aggressive approach to reducing production levels in an effort to conserve and protect groundwater, Rule 16.7(4) provides Post Oak with authorization to establish a schedule for a phased reduction in the maximum allowable permitted production of groundwater. Rule 16.7 provides Post Oak with the ability to reduce the production limits in permits in order to protect and conserve the groundwater within its boundaries. Without more explanation in the petition, the ED cannot determine that Rule 16.7 is not designed to meet the DFCs.

Post Oak's rules allow adequate flexibility for the district to achieve the DFCs. Post Oak can impose spacing requirements, regulate production, require permits for wells and production, establish water drawdown levels and monitor groundwater levels and production, and make appropriate adjustments to allowable permitted

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<sup>21</sup> District Rule 16.3 and 16.4

<sup>22</sup> District Rule 16.4 is discussed in greater detail in subsection B of this brief.

<sup>23</sup> Petitioner's Petition at 11.

<sup>24</sup> District Rule 16.7.

<sup>25</sup> District Rule 16.7(3).

production.<sup>26</sup> The rules adopted by Post Oak are designed to achieve the DFCs and to ensure protection and conservation of the aquifers in accordance with its statutory obligations. Accordingly, the ED finds no evidence that demonstrates a Commission inquiry is necessary under this reason claimed in the petition.

*B. The groundwater in the area is adequately protected by Post Oak's rules.*

The Petitioner's second stated reason for filing the petition with the Commission is to request an inquiry to ascertain whether the rules adopted by Post Oak are adequately protective of the groundwater in GMA 12.<sup>27</sup> The petition alleges that Post Oak's rules are not protective of the groundwater because the district issues excessive production permits which exceed the MAG.<sup>28</sup> However, as Brazos Valley GCD notes in their amicus brief, the Texas Water Code requires a GCD to issue permits up to the point that the total groundwater production will achieve the applicable DFC, not the MAG.<sup>29</sup>

Texas Water Code § 36.1132 requires a GCD to issue production permits up to the point that the total volume of exempt and permitted groundwater production will achieve a DFC. In issuing permits, the district must manage total groundwater production on a long-term basis by considering, among other factors, the MAG and the estimate of groundwater actually produced under the permits.<sup>30</sup>

Post Oak states that its management plan and rules provide a comprehensive regulatory and monitoring program designed to ensure the long-term sustainability of the aquifers.<sup>31</sup> Post Oak states that it will generally issue appropriate permits for up to 2 acre-feet per acre per year of groundwater production in accordance with its rules until such time as the groundwater levels reach the identified threshold levels in Section 16 of the district's rules.<sup>32</sup>

Post Oak's Rule 16.4 is designed to use monitoring and threshold levels to initiate appropriate responses necessary to help achieve the DFCs, conserve and preserve

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<sup>26</sup> Post Oak Savannah GCD's Response to the Petition, Attachment J – Post Oak Savannah GCD's Groundwater Management Plan, pg.1.

<sup>27</sup> Petitioner's Petition at 1. *See also*, TEX. WATER CODE § 36.1082(b)(8) and 30 TAC § 293.23(b)(8).

<sup>28</sup> Petitioner's Petition at 5.

<sup>29</sup> TEX. WATER CODE § 36.1132. *See also*, Amicus Brief of the Brazos Valley GCD, pg. 2.

<sup>30</sup> TEX. WATER CODE § 36.1132(b).

<sup>31</sup> Post Oak Savannah GCD's Response to the Petition, pg. 4.

<sup>32</sup> *Id.*

groundwater availability and protect groundwater users.<sup>33</sup> District Rule 16.4 establishes specific threshold levels at which the district will take action based on the production levels reaching a specific percentage of the MAG.<sup>34</sup> For example, the first threshold level is triggered when the total estimated groundwater production reaches 70% of the MAG.<sup>35</sup> At that point, the district's rules authorize the district to perform studies to provide information on aquifer properties, aquifer recharge, aquifer and surface water interactions, and aquifer pumping in order to improve the models, tools, and methodologies used to analyze data and predict future groundwater levels and availability.<sup>36</sup> Threshold Level 2 is reached when total estimated groundwater production reaches 85% of the MAG. If this occurs, the district is authorized to re-evaluate the management plan and rules regarding management zones, recharge estimates, the collection and analysis of monitoring data, and proposed changes to DFCs.<sup>37</sup> At Threshold Level Three, which is a groundwater drawdown of 95% of the adopted DFC calculated from monitored water levels, the district will conduct a public hearing to discuss the status of the aquifers and develop a Level 3 Response Action Work Plan focused on achieving the district's goals and objectives, including the DFCs.<sup>38</sup>

The Petitioner expresses concern regarding the reliability of using total estimated annual production as a trigger for district action.<sup>39</sup> While the Texas Water Code authorizes a district to estimate total amount of groundwater actually produced under the production permits,<sup>40</sup> Post Oak also monitors the actual groundwater levels of the aquifers through a network of monitoring wells located throughout the district. Post Oak's management plan requires the district to maintain at least 50 monitoring wells that provide coverage across management zones and aquifers within the district.<sup>41</sup> Currently, Post Oak has 88 monitoring wells used to monitor the actual water levels within the aquifers.<sup>42</sup> This well monitoring system provides real-time data to Post Oak

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<sup>33</sup> District Rule 16.4.

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> Petitioner's Petition at 10.

<sup>40</sup> TEX. WATER CODE § 36.1132(b).

<sup>41</sup> Post Oak Savannah GCD's Response to the Petition, Attachment J – Post Oak Savannah GCD's Groundwater Management Plan, pg.10.

<sup>42</sup> Post Oak Savannah GCD's Response to the Petition, pg. 3.

allowing it to analyze the effectiveness of its current approach to achieving the DFCs. Post Oak's rules allow the district the necessary flexibility to adjust its rules and management plan, in addition to reducing production limits, in order to ensure the protection of the aquifers. Post Oak has previously used the data collected by its groundwater monitoring system to respond to increase production in the Yegua-Jackson Aquifer.<sup>43</sup> In that situation, Post Oak amended its well-spacing rules for the wells drilled in the Yegua-Jackson Aquifer in order to reduce possible detrimental effects of increased groundwater production in the area.<sup>44</sup>

The rules adopted by Post Oak are adequately protective of the groundwater in the management area. Post Oak has implemented rules which allow it to amend its rules and re-evaluate its management plan based on the MAG and actual groundwater levels in order to adapt its approach to achieving the applicable DFCs. The GCDs that filed amicus briefs in response to the petition agree that GCDs should achieve their adopted DFCs based on actual aquifer conditions and not just the MAG.<sup>45</sup> Post Oak argues that this approach allows it to issue production permits to each landowner while maintaining the flexibility to amend its rules and production limits to protect the groundwater in the aquifers. This groundwater management methodology is consistent with the requirements of the Texas Water Code. Accordingly, the ED finds no evidence that demonstrates a Commission inquiry is necessary under this reason claimed in the petition.

*C. The implementation and enforcement of Post Oak's rules adequately protect the groundwater within the management area.*

The final reason the Petitioner lists for filing his petition with the Commission is to request an inquiry to ascertain whether the groundwater in GMA 12 is adequately protected due to the failure of Post Oak to enforce substantial compliance with its rules.<sup>46</sup> Petitioner alleges that Post Oak's "approve all permits" philosophy has resulted in the district's failure to enforce District Rule 7.6, which lists the factors that will be

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<sup>43</sup> Amicus Brief of the Brazos Valley GCD, pg. 2.

<sup>44</sup> *Id.* See also, Post Oak Savannah GCD's Response to the Petition, Footnote 10, pg. 4.

<sup>45</sup> Amicus Brief of the Brazos Valley GCD, pg. 1. Amicus Brief of the Fayette County GCD, pg. 2. Amicus Brief of the Gonzales County Underground Water Conservation District, pg. 1. Amicus Brief of the Mid-East Texas GCD, pg. 1.

<sup>46</sup> Petitioner's Petition at 1. See also, TEX. WATER CODE § 36.1082(b)(9) and 30 TAC § 293.23(b)(9).



considered when deciding whether to grant a permit.<sup>47</sup> The Petitioner claims that if the district complies with Rule 7.6 it would decrease the over-permitting of groundwater production in the aquifers.<sup>48</sup>

District Rule 7.6 provides Post Oak with a nonexclusive list of factors that can be considered when determining whether to grant a permit. The rule states that the district

will consider Chapter 36, Texas Water Code, the District Act and rules, the application, and all other relevant factors, including, but not limited to, (1) the management plan; (2) the quality, quantity, and availability of alternative water supplies; (3) the impact on other landowners and well owners from a grant or denial of the permit, or the terms prescribed by the permit including whether the well will interfere with the production of water from exempt, existing or previously permitted wells and surface water resources; (4) whether the permit will result in a beneficial use and not cause or contribute to waste; and (5) if the applicant has existing production permits that are underutilized and fails to document a substantial need for additional permits to increase production.<sup>49</sup>

Post Oak states that it does consider and apply the provisions of Rule 7.6 when reviewing permit applications.<sup>50</sup> Post Oak states that its emphasis in implementing this rule focuses on “managing conservation and production to achieve the DFCs by regulating water production while considering the MAG rather than limiting the permits available to the first come first served approach.”<sup>51</sup>

The Petitioner does not provide any specific instances in which Post Oak has not enforced Rule 7.6. Instead, the Petitioner advocates for the implementation of an alternative methodology for issuing permits. The rules adopted by Post Oak are designed in such a way as to consider the factors in Rule 7.6 when issuing permits in conjunction with the possible effects the increased permits would have on actual groundwater levels. Post Oak’s rules authorize it to address possible issues with increased permitting by reducing the production limits for each permit if necessary to achieve a DFC.

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<sup>47</sup> Petitioner’s Petition at 7-8.

<sup>48</sup> Petitioner’s Petition at 8.

<sup>49</sup> District Rule 7.6.

<sup>50</sup> Post Oak Savannah GCD’s Response to the Petition, pg. 6.

<sup>51</sup> *Id.*

The Petitioner also argues that Rule 7.6 is deficient because it does not reference DFCs or the MAG as factors to be considered for approving a permit.<sup>52</sup> However, as cited *supra*, District Rule 7.6 states that the district will consider Chapter 36 of the Texas Water Code when determining whether to grant a permit. Texas Water Code § 36.1132(b) states that when issuing permits, a district shall manage the total groundwater production to achieve the DFCs and consider the MAG. Therefore, while Rule 7.6 does not expressly include the specific terminology, Post Oak is still required by reference to Chapter 36 to manage groundwater production to achieve the DFCs and consider the MAG when determining whether to grant a permit. Consequently, District Rule 7.6 complies with the Texas Water Code.

The implementation and enforcement of Post Oak's rules adequately protect the groundwater within the management area. Accordingly, the ED finds no evidence that demonstrates a Commission inquiry is necessary under this reason claimed in the petition.

#### IV. REVIEW PANEL

Section 36.1082(d) of the Texas Water Code provides that if the petition is not dismissed, the Commission shall appoint a review panel consisting of a chairman and four other members.<sup>53</sup> The Commission must also appoint a disinterested person to serve as a nonvoting recording secretary for the review panel.<sup>54</sup>

If the Commission elects not to dismiss the petition, the Commission must issue an order appointing the members of the review panel and directing them to, not later than the 120th day after appointment, "review the petition and any evidence relevant to the petition and, in a public meeting, consider and adopt a report to be submitted to the commission."<sup>55</sup> The review panel report must include a summary of evidence considered, list of findings, and recommended actions appropriate for the Commission to take under Texas Water Code, § 36.303 and 30 TAC § 293.22.<sup>56</sup>

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<sup>52</sup> Petitioner's Petition at 8.

<sup>53</sup> TEX. WATER CODE § 36.1082(d) and 30 TAC § 293.23(g)(1).

<sup>54</sup> TEX. WATER CODE § 36.1082(d) and 30 TAC § 293.23(g)(2).

<sup>55</sup> TEX. WATER CODE § 36.1082(e) and 30 TAC § 293.23(g)(4).

<sup>56</sup> TEX. WATER CODE § 36.1082(f) and 30 TAC § 293.23(h).

### *A. Selection Process*

From July 3, 2015 to July 17, 2015, the ED received six nominations for volunteers to serve on a potential five member review panel regarding the inquiry into Post Oak Savannah GCD. The completed nomination forms are attached as Attachment A.

The Texas Water Code requires the Commission to appoint a director or general manager of a district located outside the management area that is the subject of the petition; and may not appoint more than two members of the review panel from any one district.<sup>57</sup> All six of the nominees willing to serve on the review panel are from groundwater management areas other than GMA 12; and none of the nominees are from the same district.

### *B. Nominees*

The ED lists the following nominees for consideration by the Commission in order of tenured experience with respect to groundwater district service:

1. C. E. Williams, Panhandle GCD Manager; more than 26 years of experience; GMA 1.<sup>58</sup>
2. Mike McGuire, Rolling Plains GCD General Manager; 15 years of experience; GMA 6.
3. Joe B. Cooper, Middle Trinity GCD Manager; 13 years of experience; GMA 8.
4. Jim Conkwright, Prairielands GCD General Manager; 11 years of experience; GMA 8 and GMA 1.<sup>59</sup>
5. Steven Walthour, North Plains GCD General Manager; 8 years of experience; GMA 1.

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<sup>57</sup> TEX. WATER CODE § 36.1082(d) and 30 TAC § 293.23(g).

<sup>58</sup> Mr. Williams noted on the nomination form that he would not be willing to travel or serve at his own expense. All other nominees have noted that they are willing to travel and serve at their own expense.

<sup>59</sup> While Mr. Conkwright's nomination form list his tenure with Prairielands GCD as one year, Staff has working knowledge of Mr. Conkwright's previous 10 years of experience working as General Manager of High Plains UWCD No. 1.

6. Leah Adams, Panola County GCD General Manager; 4 years of experience; GMA 11.

The disinterested staff nonvoting recording secretary available and willing to serve is Michael Chadwick, P.G. of the Water Availability Division.

## V. RECOMMENDATION

As the petition indicates, the Petitioner has a different approach to the management of groundwater in GMA 12. While the Petitioner's management approach of regulating the issuance of permits rather than by regulating the production of groundwater may be a method which could also achieve the DFCs, that approach does not consider a landowner's right to produce groundwater beneath his/her property.

Post Oak's rules are designed to acknowledge a landowner's right to produce the groundwater that is below their land while protecting and conserving the groundwater in the aquifers to ensure that the DFCs are met. Post Oak's rules protect the groundwater by establishing enough flexibility for the district to adapt to the changing circumstances of the actual aquifer levels and to reduce production as necessary to achieve the DFCs. Accordingly, the Executive Director respectfully recommends that this petition be denied.

Respectfully submitted,

Texas Commission on Environmental Quality

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REPRESENTING THE EXECUTIVE  
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