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June 6, 2017

Ms. Jan Roe
President, Brazos Valley Groundwater Conservation District
1112 West 3rd St.
Hearne, TX 77859

Re: Proposed District Rule Amendments

Dear Ms. Roe:

These comments are submitted to the Brazos Valley Groundwater Conservation District (BVGCD) on behalf of the City of Bryan in response to the District's May 19, 2017 legal notice inviting comments on proposed District rule amendments. The City of Bryan's comments are as follows:

- The proposed amendment to Rule 6.2(e) creating an automatic exemption from spacing requirements is not needed. District Rule 6.2(b) already allows the Board to grant an exemption from spacing requirements if good cause is shown. District Rule 7.1(c) already limits production from a New Well based on its "Production Based Acreage".
- By adopting the proposed rule, the Board will create an opportunity for the person who benefits from the blanket exemption from spacing requirements to game the system. The purpose of the spacing requirement is to prevent interference between wells. The person who is exempted from spacing requirements should not be able to thereafter complain that the well from which he got an exemption from spacing requirements is causing interference with his well. This issue would involve the Board because it has been given authority to minimize interference. If the District elects to adopt a blanket exemption from spacing requirements it should add to the rule "The

owner of the new well exempted from spacing requirements pursuant to this subsection shall not have grounds for relief from the Board for interference caused by a permitted well from which he has been granted an exception from the spacing requirements.”

- The format of the proposed amendment is inconsistent and confusing. Changes to Rule 1.1(15) and 7.1(c) are done using strikeouts to show words deleted and underlining to show new language added. However, changes to Rule 6.2(e) contain no strikeouts showing the existing language that is being deleted. This makes it unclear whether 6.2(e) was intended to be a change to the existing subsection or is a mis-numbering of a new subsection that should be 6.2(f).
- No reason for the deletion of current Rule 6.2(e) has been provided. As currently drafted that rule provides exempt domestic and livestock wells protection against interference from new non-exempt wells in clear and unambiguous language:

“Well spacing rules do not apply to wells that are exempt under Rule 8.1. However, *non-exempt wells are required to observe spacing requirements from exempt wells that are registered with the District.*”

The Board should not replace this clear and unambiguous language with the ambiguous and confusing language of the proposed amendment.

- The proposed amendment to Rule 6.2(e) is ambiguous, confusing and grammatically incorrect. Under the definitions in the District’s current rules the term “new nonexempt wells completed in the District” means all non-exempt wells except those for which drilling or significant development had commenced before December 2, 2004. Is it the Board’s intent to adopt a waiver from spacing that applies retroactively? What is the meaning of “Well spacing...are exempted ...from complying with Rule[s] for permitted wells.
- If the intent of the District is to waive spacing to allow each landowner to seek a permit to produce his Production Based Acreage and to continue to protect registered exempt wells from interference

by new non-exempt wells while avoiding Board creation of an opportunity to game the system it may consider leaving current rule 6.2(e) unchanged, and adding a new 6.2(f) that provides:

“New non-exempt wells permitted in the District after [*the effective date of this amendment*] are exempted from the spacing requirements from permitted wells specified in Rule 6.1(b)(2), (3) to the extent that the spacing requirements would prevent the owner of such new well from seeking to produce his Production Based Acreage under Rule 7.1(c). The owner of such New Well exempted from spacing requirements pursuant to this subsection shall not have grounds for relief from the Board for interference caused by a permitted well from which he has been granted an exception from the spacing requirements.

- The first sentence proposed to be added to 7.1(c) creates confusion because it uses the defined terms New Well and Existing Well without capitalizing them. This change could be clarified and simplified to read:

“This provision applies to New Wells in the Simsboro aquifer.”

The City of Bryan appreciates the opportunity to provide these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Mathews", written in a cursive style.

Jim Mathews

CC: Jayson Barfknecht
Janis Hampton