

Aquifer Conservancy Program

1. I am not sure what “Guidance Regulations and Rules” are. I would much rather the public comment be on the actual program document. Since you are asking for public comment, my assumption is that this is to be presented to the public, but I don’t think that is the intent and the way it is written it does not need to be public. This is more about how you, the board, will put the program together. So I am not sure my comments are needed, but they are made assuming this is for the public.

2. Paragraph A:

Most of what is in this section has nothing to do with the purpose of the program. Plus, they are not sentences, so either make them sentences (you are using periods) or make them bullets.

1. “needs of this State” – recommend it be meeting the needs of this district.
2. Using science to understand groundwater or conservation is not a purpose of the program.
3. Managing a fund is not a purpose of the program either. Plus, the bullet is very wordy and does not flow well. If you are going to use it, then it should read, “Managing a fund supporting conservation and development efforts of landowners participating in the program.” Not sure what development is...what are you developing? Pumping water is not development.
4. Determining eligibility is not a purpose either.
5. Determining the aquifers to be protected is also not a purpose.
6. Predicting funds available is not a purpose nor should it be part of the program documentation. Funds will be provided. The way that is done is part of the budget process and not this program.

3. Paragraph B:

It is fine to list all these legal citations, but generally they do not need to be in the program unless you want to show some background. It goes without saying that whatever you list is immaterial. Your program will need to be deemed legally sufficient by your legal team...not by my comments or by what you put in the document.

4. Paragraph C:

Recommend this paragraph read as follows: “The Aquifer Conservancy Program is a voluntary method of conservation enabling landowners to conserve groundwater by agreeing, for a defined period of time, to set aside all or a portion of their property to be

part of the conservancy. Landowners may not sell, lease, or grant their groundwater property rights to anyone during that period. Landowners shall be paid an agreed upon sum of money annually by the Post Oak Savannah Groundwater Conservation District. Participation will not prohibit the use of all other property rights granted by law.”

5. Paragraph D:

This paragraph has way too many details in it that have nothing to do with the program. It should, instead, be as follows:

“The Post Oak Savannah Groundwater Conservation District will provide the following grants to program participants:

5-year participation agreement - \$8 per acre per year
10-year participation agreement - \$10 per acre per year
20-year participation agreement - \$12 per acre per year
One time signing bonus for participants signing agreements in 2019 - \$10 per acre

All annual payments will be paid at the end of each calendar year in which the landowner participates in the program. Should for any reason a landowner fail to abide by the agreed terms of the program, then the landowner will be responsible for returning all funds received during that full participating term. *(Don't be afraid to hold people accountable. It adds credibility to the program and make people more likely to participate because they will know it will be a fair and above-board program.)*

The Post Oak Savannah Groundwater Conservation District will include in its annual budget a line item for funds allocated to this program.

At no time will this agreement allow the Post Oak Savannah Groundwater Conservation District to have any ownership interest in the land or the groundwater nor will the district have any ability to control any interest in that land or groundwater.”

6. Paragraph E:

I prefer the title, “Program Schedule”

It should read: “The program will begin on January 1, 2019 or as soon as the Board of Directors approves the program, whichever is later. There will be an annual enrollment period of ninety (90) days each calendar year beginning on June 1 during which landowners can enter the program.

The landowner’s agreement will be effective on January 1st of the year following the enrollment period with payments to the landowner being made at the end of each program year.”

7. Paragraph F:

This should read as follows:

“Eligibility requirements for the program are:

Applicants must be landowners with clear title to land above the Carrizo-Wilcox Aquifers.

Spouses or co-owners must each agree and sign the agreement. If a landowner is married but owns property as his/her sole and separate property, proof of ownership is required and the spouse will be required to affirm that ownership is held in such manner.

Applicants must not have encumbered the groundwater rights for the groundwater (i.e it cannot be sold or leased to others).

The landowners must agree to not sell, partition, assign, transfer or permit uses of the groundwater during the agreed upon term.

Landowners shall voluntarily sign an agreement which defines the amount of acreage desired to be placed into the program (by unique property description), the term of years committed to, the amount to be paid at the end of each year by Post Oak Savannah Groundwater Conservation District, as well as the terms of the program.

Landowners agree to allow such agreements to be recorded in the county property records of the county in which the property is located.

8. Paragraph G:

Not needed with the above wording.

9. Paragraph H:

The agreement paragraph is not needed with the above wording.

10. Paragraph I:

OK as written.

11. Paragraph J:

Recommend the title be “Drilling Wells on Property Included in the Agreement”

This is ok as is except the first sentence should clarify that drilling is conditional upon it being permitted through the normal permitting process.

12. Paragraph K:

OK, except change title to “ Participation in Other POSGCD Programs”.

13 Paragraph L:

OK

14. Paragraph M:

Ok, except change last word in the paragraph from given to “provided.”

That concludes my comments. Should you elect to delete the paragraphs recommended, then you will need to change the lettering of the following paragraphs.