

REGULATIONS AND RULES FOR THE AQUIFER CONSERVANCY PROGRAM

A. Purpose of the Post Oak Savannah Groundwater Conservation District's Aquifer Conservancy Program

A method of groundwater management which is intended to balance the mission of conservation and development of groundwater within the Post Oak Savannah Groundwater Conservation District (District) to meet the needs of this State while protecting the property rights of landowners.

B. Program

The Aquifer Conservancy Program (ACP) is a method of conservation which enables landowner(s) to voluntarily conserve their groundwater by agreeing for a set period of time, to NOT produce or lease the groundwater for all or a portion of their property. The ACP has three requirements:

1. The landowner(s) enter a formal agreement;
2. The landowner(s) may not sell or grant that portion of their groundwater property rights to anyone during the set period; and
3. The landowner shall be paid an agreed upon sum of money each year by the District for the term of the agreement.

Landowners who commit their property by signing up during 2019, will receive "a one-time only" additional compensation of ten dollars per acre committed as an incentive which shall be payable within sixty (60) days of commitment.

Such program does not prohibit use of all other property rights granted by law, nor does it impact portions of the landowner(s) property not under the agreement.

C. Establishment of Fund

1. The District has established and set aside a portion of its current revenues from fees on production and transport to establish the grants to be given to participants in the ACP.
2. Fund payments to participants shall be as follows:
 - a. Five Year Commitment: \$5/ac/year
 - b. Ten Year Commitment: \$8/ac/year
 - c. Twenty Year Commitment: \$10/ac/year

D. Enrollment and Program Year

1. The initial year for the ACP shall begin January 1, 2020.
2. The initial year's enrollment period shall begin June 1, 2019 and continue through August 31, 2019.
3. Thereafter, the enrollment period shall be for ninety (90) days preceding the start of the Program Year.
4. The ACP Program Year is a calendar year, beginning January and ending December.

E. Eligibility

The landowner must meet the following requirements for participation:

1. Applicant(s) must be landowner(s) within the District.
2. Spouses or co-owners must all 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 need to affirm that ownership is held in such manner.
3. Applicant must own both the land and the unencumbered groundwater rights (cannot be sold or leased to others).
4. The land owned and that is desired to be placed in the ACP must be above the Carrizo-Wilcox Aquifers.
5. The landowner(s) must agree to not sell, partition, assign, transfer or permit uses of the committed resource during the term agreed upon.

F. Land Ownership

Ownership of any land and the groundwater rights attached thereto that is placed in the ACP remains with the individual(s) who placed it there. At no time shall the District have any ownership interest in the property or the groundwater or have the ability to control any interest in the property or groundwater. Ownership of the groundwater is not disturbed.

G. Agreement; Adding, Modifying or Terminating Provisions or Acreage

The landowner(s) shall be required to sign an agreement which spells out the amount of acreage desired to be placed into the ACP (by unique property description), the term of years committed to, the amount to be paid at the end of each program year, as well as the terms of the ACP. Such agreement shall be recorded in the county property records of the county in which the property is located.

The agreement may not be terminated prior to the end of the term, except as follows:

1. Death of the landowner. If solely owned, it shall be terminated upon notification by the heirs. If jointly owned, it may be terminated by the remaining landowner if desired.
2. Sale of the property that is the subject of the ACP agreement. The landowner(s) shall be required to notify the District of the sale of all or any portion of the property that is under an ACP agreement. If all of the property is sold, the agreement shall be terminated upon such notification. If only a portion of the property is sold, the agreement shall be adjusted for the duration of the time previously agreed to.
3. Transfer to heir(s). If one or more heir(s) of the landowner(s) become joint owners of the property that is under an ACP agreement and agree to remain a part of the ACP, the agreement shall be adjusted and re-signed by all the landowners for the duration of the time previously agreed to. If all or a portion of the property that is under an agreement is transferred to the landowner(s)' heirs, the heirs shall be given an opportunity to allow such property transferred to continue to be a part of the ACP and enter into their own agreement, or terminate such agreement, with any remainder of such property not transferred adjusted under the agreement for the duration of the time previously agreed to.

H. Exempt Wells

A landowner(s) who commits property to the ACP is still allowed to drill an exempt well, provided all other permitting requirements are met. An exempt well is defined as one that is for domestic or livestock purposes and incapable of producing 25,000 gallons per day (approximately 17.36 gallons per minute). Water wells used to supply water used for drilling oil and gas are also exempt (**this does not include allowance for water used for fracking.**)

I. Participation in Other District Programs

The District has several other programs that it offers to assist landowners. The ACP does not impede any landowner(s) from participating in such programs, including but not limited to, Rainwater Harvesting, Abandoned Well Plugging Grants and Groundwater Well Assistance Program.

J. Program Administration

The District shall have an unaffiliated third party undertake administration of such ACP. All administrative fees shall be taken out of the fund established for the ACP. The full services to be provided by such outside entity shall be established by the Board of Directors and oversight shall be under the General Manager.

K. Ambassador Program

The District encourages all landowners with property within the District's boundaries, whether they are able to participate in the ACP or not, and who feel strongly about supporting conservation of the groundwater resources to show such support by participating as an Ambassador to the ACP.

Those desiring to be Ambassadors shall participate in an orientation program as well as promote and speak about and in support of the ACP to others in the District. All Ambassadors shall be given signage that demonstrates their commitment to the ACP as well as literature that can be provided to those they speak with. No monetary support for such participation will be given.

Sources of Authority

1. Chapter 8865, Special District Local Laws Code.

Sec. 8865.003. FINDINGS OF PUBLIC USE AND BENEFIT. (a) The district is created to serve a public use and benefit.

(b) All land and other property included in the district will benefit from the works and projects accomplished by the district under the powers conferred by Section 59, Article XVI, Texas Constitution.

Sec. 8865.101. GROUNDWATER CONSERVATION DISTRICT POWERS AND DUTIES. Except as otherwise provided by this chapter, the district has the rights, powers, privileges, functions, and duties provided by the general law of this state, including Chapter 36, Water Code, applicable to groundwater conservation districts created under Section 59, Article XVI, Texas Constitution.

2. Chapter 36, Texas Water Code.

Sec. 36.0015. PURPOSE. (a) In this section, "best available science" means conclusions that are logically and reasonably derived using statistical or quantitative data, techniques, analyses, and studies that are publicly available to reviewing scientists and can be employed to address a specific scientific question.

(b) In order to provide for the conservation, preservation, protection, recharging, and prevention of waste of groundwater, and of groundwater reservoirs or their subdivisions, and to control subsidence caused by withdrawal of water from those groundwater reservoirs or their subdivisions, consistent with the objectives of Section 59, Article XVI, Texas Constitution, groundwater conservation districts may be created as provided by this chapter. Groundwater conservation districts created as provided by this chapter are the state's preferred method of groundwater management in order to protect property rights, balance the conservation and development of groundwater to meet the needs of this state, and use the best available science in the conservation and development of groundwater through rules developed, adopted, and promulgated by a district in accordance with the provisions of this chapter.

Sec. 36.158. GRANTS. A district may make or accept grants, gratuities, advances, or loans in any form to or from any source approved by the board, including any governmental entity, and may enter into contracts, agreements, and covenants in connection with grants, gratuities, advances, or loans that the board considers appropriate.

Sec. 36.207. USE OF FEES. A district may use funds obtained from administrative, production, or export fees collected under a special law governing the district or this chapter for any purpose consistent with the district's approved management plan, including, without limitation, making grants, loans, or contractual payments to achieve, facilitate, or expedite reductions in groundwater pumping or the development or distribution of alternative water supplies.