



BRAZOS VALLEY GROUNDWATER CONSERVATION DISTRICT

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Post Oak Savannah GCD Board of Directors,

The Brazos Valley Groundwater Conservation District (“BVGCD”) supports Groundwater Management Area 12’s (“GMA 12”) recognition and inclusion of its constituent groundwater districts’ local management and permitting. The desired future conditions (“DFCs”) adopted under Section 36.108 of the Texas Water Code, are a joint planning tool of the management area that must include in its planning numbers the groundwater permits issued by each groundwater district that are currently in effect, as well as known production. Groundwater planning is not effective unless it includes known and permitted groundwater production, just as planning a financial budget is not effective unless it includes all known and planned spending. Transparency and inclusion of all known and planned production are vital to water planning for GMA 12 and Texas.

Inclusion of all the groundwater districts’ permitting and production numbers in the planning model runs recognizes districts’ local control, groundwater management, permitting, and production. The request of Post Oak Groundwater Conservation District (POSGCD) to use a Groundwater Availability Model (“GAM”) run that does not include all known permitting and production in all districts is not only troubling for transparency and accuracy issues, but also for the precedence that it sets in the GMA of not acknowledging each district’s local permitting. Although POSGCD this time is voluntarily asking GMA 12 to disregard permits that it has issued, it is concerning that the precedent would be set for the permits issued by the constituent districts to be involuntarily disregarded by the GMA in the future. The implication of granting the POSGCD request is for GMA 12 to adopt a policy to amend its districts’ permits.

In developing DFCs, GMA 12 must consider nine factors, for which at least four incorporate known permitting and production in the GMA:

- (1) aquifer uses or conditions within the management area, including conditions that differ substantially from one geographic area to another;
- (2) the water supply needs and water management strategies included in the state water plan;

- (6) socioeconomic impacts reasonably expected to occur;

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- (7) the impact on the interests and rights in private property, including ownership and the rights of management area landowners and their lessees and assigns in groundwater as recognized under Section 36.002;

Tex. Water Code §36.108(d).

If POSGCD or any other district would like to adjust the numbers in the GAM runs for the DFCs, then they can locally address their permitting and production under their authority granted by Chapter 36 of the Texas Water Code. Groundwater districts currently have the authority to amend their existing permits. A district is authorized to amend permits for the “operation of, or production of groundwater from, wells or pumps that may be necessary to prevent waste and achieve water conservation, minimize as far as practicable the drawdown of the water table or the reduction of artesian pressure, lessen interference between wells, or control and prevent subsidence.” Tex. Water Code §36.113(f). The POSGCD may amend its permits and then the GMA 12 would recognize its new permitting numbers in the next round of joint planning and DFC establishment.

Further, POSGCD could amend its rules to either change the groundwater production rate allowed or could amend its curtailment rule to decrease the trigger threshold and require curtailment earlier under the current DFCs. And, POSGCD could use its rules allowing management zones that are authorized by Section 36.116(d) of the Water Code to address the unique effects of its Carrizo Aquifer permitted production. Groundwater districts have many tools to address groundwater production and their existing permits under the local control of Chapter 36. However, POSGCD has not availed itself of any of these options. Instead, POSGCD commenced a campaign to GMA 12 in January 2021, at the end of this DFC joint planning cycle, to have the GMA use numbers only in the Carrizo Aquifer and only for POSGCD that do not reflect its issued permits and known production, while all other input numbers for the aquifers for all of the other districts reflect the issued permits inclusive of known production.

Instead of amending its permits and then submitting those new numbers to the GMA, POSGCD is taking a backwards approach by advocating for GMA 12 to use permitting and production numbers that do not reflect the current reality. The POSGCD could then use the new DFCs to force permit amendments within its district. The joint planning process is a bottom-up joint water planning tool, not top down. The GMA 12 recognizes all of its districts local management and permitting and will continue to do so. GMA member districts should not be put in a position to replace local management, as they are being asked to do.

Respectfully,



Stephen Cast, Board President
Brazos Valley Groundwater Conservation District