

NOTICE OF OPEN MEETING

Notice is given that a **Regular Meeting** of the Board of Directors of the Barton Springs/Edwards Aquifer Conservation District will be held **in the District office**, 1124 Regal Row, Austin, TX, on **Thursday, January 13, 2011, commencing at 6:00 p.m.** for the following purposes, which may be taken in any order at the discretion of the Board:

Note: The Board of Directors of the Barton Springs/Edwards Aquifer Conservation District reserves the right to adjourn into Executive Session at any time during the course of this meeting to discuss any of the matters listed on this agenda, as authorized by the Texas Government Code Sections §551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices), 551.087 (Economic Development) 418.183 (Homeland Security). No final action or decision will be made in Executive Session.

1. **Call to Order.**
2. **Citizen Communications (Public Comments).**
3. **Routine Business.**
 - a. **Consent Agenda.** Note: These items may be considered and approved as one motion. Directors or citizens may request any consent item be removed from the consent agenda, for consideration and possible approval as an item of Regular Business.
 1. Approval of Financial Reports under the Public Funds Investment Act, Directors' Compensation Claims, and Specified Expenditures greater than \$5,000.
 2. Approval of minutes from the December 16, 2010, Regular Meeting and Public Hearing.
 3. Approval of out-of-State travel for Brian Smith to attend the Multidisciplinary Conference on Sinkholes and the Engineering and Environmental Impacts of Karst in St. Louis, MO, January 10-14, 2011. **Pg. 15**
 4. Approval of District support of the City of Kyle's application to TWDB for a Water and Wastewater Facility Planning Grant. **Pg. 16**
 - b. **General Manager's Report.** Note: Topics discussed in the General Manager's Report are intended for general administrative and operational information-transfer purposes. The Directors will not take any action on them in this meeting, unless the topic is specifically listed elsewhere in this as-posted agenda.
 1. Personnel matters and utilization;
 2. Upcoming public events of possible interest;
 3. Aquifer conditions and status of drought indicators;
 4. Discussion related to current staff work areas and specific activities of staff teams and directors. Note: Individual topics listed below may be discussed by the Board in this meeting, but no action will be taken unless a topic is specifically posted elsewhere in this agenda as an item for possible action. A Director may request an individual topic that is presented only under this agenda item be placed on the posted agenda of some future meeting for Board discussion and possible action.

- i. Highlights of recent operational team activities.
- ii. Update on grant projects and proposals.

4. Regular Meeting: New Business.

- a. Discussion and possible action related to the format, content, and style of future Board meetings, backup documentation, and agendas. **Pg. 21**
- b. Discussion and possible action related to progress on preparing the District's Annual Report and especially its Appendix B, the basis for the Board's Assessment of Progress on objectives in the Management Plan. **NBU**
- c. Discussion and possible action related to initiating enforcement actions against permittees J D Malone Water System and Manchaca Optimist Youth Sports Complex for failure to pay water use fees. **Pg. 24**

5. Regular Meeting: Continued Business.

- a. Discussion and possible action relating to *City of Kyle vs. Goodman et al. and the Barton Springs Edwards Aquifer Conservation District*, Cause No. 10-1267, 22nd District Court, Hays County, Texas. **NBU**
- b. Update, discussion, and possible action related to making progress concerning the District's legislative agenda and to other relevant legislative initiatives that potentially affect the District. **Pg. 36**
- c. Discussion and possible action related to the change in TCEQ's recommended approach to providing GCD protection in unprotected areas of the Hill Country PGMA. **NBU**
- d. Discussion and possible action related to the Jeremiah Venture TLAP contested case. **NBU**

6. Adjournment.

Came to hand and posted on a Bulletin Board in the Courthouse, Travis County, Texas, on this, the ___th day of January, 2011, at _____ .m.

_____, Deputy Clerk

Travis County, TEXAS

Please note:

This agenda and available related documentation have been posted on our website, www.bseacd.org. If you have a special interest in a particular item on this agenda and would like any additional documentation that may be developed for Board consideration, please let staff know at least 24 hours in advance of the Board Meeting so that we can have those copies made for you.

The Barton Springs/Edwards Aquifer Conservation District is committed to compliance with the Americans with Disabilities Act (ADA). Reasonable accommodations and equal opportunity for effective communications will be provided upon request. Please contact the District office at 512-282-8441 at least 24 hours in advance if accommodation is needed.

Item 1

Call to Order

Item 2

Citizen Communications

Item 3

Routine Business

a. Consent Agenda

- 1. Approval of Financial Reports under the Public Funds Investment Act, Directors' Compensation Claims, and Specified Expenditures greater than \$5,000.**
- 2. Approval of minutes from the December 16, 2010, Regular Meeting and Public Hearing.**
- 3. Approval of out-of-State travel for Brian Smith to attend the Multidisciplinary Conference on Sinkholes and the Engineering and Environmental Impacts of Karst in St. Louis, MO, January 10-14, 2011.**
- 4. Approval of District support of the City of Kyle's application to TWDB for a Water and Wastewater Facility Planning Grant.**



MEMORANDUM

Date: 12/16/2010

To: Kirk Holland

From: Brian Smith

Re: Attendance at 12th Multidisciplinary Conference on Sinkholes and the Engineering and Environmental Impacts of Karst, St. Louis, MO, Jan. 10-14, 2011

I would like to request permission to travel to St. Louis, MO to attend the 12th Multidisciplinary Conference on Sinkholes and the Engineering and Environmental Impacts of Karst from January 10 - 14, 2011. I have been involved with the planning committee for this conference for the past year, and with the help of Brian Hunt have prepared the Program with Abstracts for the conference.

Anticipated costs for attending the conference are listed below:

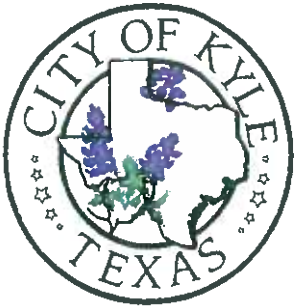
Conference Registration: \$495

Hotel (~\$85/night): \$340

Perdiem (\$50/day): \$200

Airfare: ~\$300

Total estimated cost: \$1,335



CITY OF KYLE

100 W. Center • P.O. Box 40 • Kyle, Texas 78640 • (512) 262-1010 • FAX (512) 262-3800

December 14, 2010

Certified Mail 7006 2760 0004 0512 9209

Mr. W. F. (Kirk) Holland, P.G.
General Manager
BSEACD
1124 Regal Row
Austin, Texas 78748

Re: Notification of Filing Application for TWDB Regional Water Planning Grant

Dear Mr. Holland:

The City of Kyle is filing an application for grant assistance with the Texas Water Development Board. I have been designated as the contact person for the City of Kyle pertaining to this matter.

The purpose of the proposed planning is to evaluate the feasibility of direct reuse of reclaimed water, focusing on an evaluation of two critical benefits of regional importance. First, recognizing the findings of the Plum Creek Watershed Protection Plan, diverting wastewater effluent prior to discharge to Plum Creek could be a means of reducing the loading of nitrogen and phosphorus in the watershed. The second benefit is that reclaimed water will provide the region with a new water supply source that is relatively constant, even during periods of drought and that actually increases with population growth.

As described in the grant program guidelines, any comments regarding the proposed planning must be filed with the City of Kyle and the Texas Water Development Board within 30 days of the date of this notice.


Comments must be submitted to the following:

Mr. James R. Earp, CPM
Interim City Manager
City of Kyle
P.O. Box 40
Kyle, TX 78640-0040

Ms. Carolyn Brittin
Deputy Executive Director
Texas Water Development Board
P.O. Box 13231
Austin, TX 78711-3231

If you have any questions or need any additional information, please do not hesitate to contact me at (512) 262-3924.

Sincerely,


James Earp, CPM
Interim City Manager

cc: Mr. Stephen M. Jenkins, P.E., Espey Consultants, Inc.



**Barton Springs
Edwards Aquifer**
CONSERVATION DISTRICT

December 14, 2010

Ms. Carolyn Brittin
Deputy Executive Director
Texas Water Development Board
P.O. Box 13231
Austin, TX 78711-3231

RE: TWDB Water and Wastewater Facility Planning Grant
City of Kyle

Dear Ms. Brittin:

The Barton Springs/Edwards Aquifer Conservation District (District) understands that the City of Kyle is submitting an application for State assistance under the Texas Water Development Board (TWDB) Facility Planning Grant program, to evaluate the feasibility of developing reclaimed water as an additional water supply. The District enthusiastically supports this facility planning initiative.

Sustainable supplies of water with a quality that is appropriate for the intended use(s) are critical to the growth and economy of Kyle and the surrounding parts of Hays County. But in sustaining that economic growth, we must carefully consider ways to minimize demands on the over-subscribed Barton Springs segment of the Edwards Aquifer, for which the District is the managing entity, as well as ways to improve water quality in the Plum Creek watershed, especially to reduce its nutrient loading as outlined by the Plum Creek Watershed Partnership. Consequently, we consider that a collaborative regional approach is important, even required, for ensuring public health and safety of Kyle area citizens and other users of this water supply, for protection of endangered species associated with the aquifer, and for continued economic well-being of this area.

Toward that end, the District supports the proposed planning efforts under the TWDB grant and the implementation of a responsible reclaimed water system for irrigation of parklands by the City of Kyle. The District will provide up to six man-weeks of in-kind services, through District staff time and available resources for hydrogeotechnical review, water conservation planning, and regulatory compliance and other institutional systems analysis, valued at up to \$13,200, to further these efforts. This commitment is completely consistent with the District's mission and Management Plan.

If the District's participation would be beneficial to the City and TWDB, Mr. John Dupnik, P.G., the District's Regulatory Compliance Team Leader, will serve as the point of contact for further coordination. Because of the timing of this application and the notice requirements of our Board meetings under the Open Meetings Act, the District was unable to enclose a resolution officially evidencing and authorizing this participation in this letter for the application. However, the District's Board of Directors will consider such a resolution in its first 2011 Board meeting on January 8, 2011; its approval should be confidently anticipated.

We look forward to working with both the City of Kyle and TWDB on this worthwhile project.

Sincerely,

A handwritten signature in blue ink, appearing to read "W F (Kirk) Holland". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

W F (Kirk) Holland, P.G.
General Manager

Item 3

Routine Business

b. General Manager's Report. Note: Topics discussed in the General Manager's Report are intended for administrative and operational information-transfer purposes. The Directors will not deliberate any issues arising from such discussions and no decisions on them will be taken in this meeting, unless the topic is specifically listed elsewhere in this as-posted agenda.

- 1. Personnel matters and staff utilization**
- 2. Upcoming events of possible interest**
- 3. Aquifer conditions.**
- 4. Discussion related to current staff work areas and specific activities of staff teams and directors** Note: Individual topics listed below may be discussed by the Board in this meeting, but no action will be taken unless a topic is specifically posted elsewhere in this agenda as an item for possible action. A Director may request an individual topic that is presented only under this agenda item be placed on the posted agenda of some future meeting for Board discussion and possible action.
 - i. Highlights of recent operational team activities.**
 - j. Update on grant projects and proposals**

Item 4

Regular Meeting: New Business

- a. Discussion and possible action related to the format, content, and style of future Board meetings, backup documentation, and agendas.**

Some Considerations for Possible Changes to Board Meeting's Content, Format, and Back-up Documentation

A. Board Meeting Format, Content, and Style

1. Do we want one or two meetings per month? If two, do they both have the same content, and at the same time of day and day of week?
2. Do we want to time-limit Board discussion of items (or make items time-certain?)
3. Do we want to continue practice of changing order of item deliberation "on the fly?"
4. Do we want a different content/structure to the meeting agenda? If so, what?
5. Do we want an oral General Manager's Report? If so, do we want a different content, structure, style, etc.? If so, what?
6. Do we want a monthly Status Report Update? Do we want to change the content or structure of the Status Report Update? If so, how?
7. Do we want to provide each Director's desk with netbooks/iPads (kept at the office!) that are pre-loaded for each meeting and display (and/or link to) all relevant information (perhaps along with a master display projection?)
8. Do we want or need to do anything to encourage more public participation? If so, what?
9. What else?

B. Agenda and Back-up Documentation

1. Do we want the entire Board to be provided an opportunity to preview the agenda before it is posted?
2. Do we want to change the method of delivery of the back-up documentation to Directors, from only hard-copy/snail-mail to only electronic means (email as .pdf attachment or as a link to website location?)
3. Do we want a more formal delivery of staff recommendations on action items (e.g., a "Request for Board Action" document providing background, basis, and staff recommendation)
4. Do we want to continue how "the folders" are currently used for late-breaking or otherwise only recently available back-up info?
5. What else?

Item 4

Regular Meeting: New Business

b. Discussion and possible action related to progress on preparing the District's Annual Report and especially its Appendix B, the basis for the Board's Assessment of Progress on objectives in the Management Plan.

Item 4

Regular Meeting: New Business

c. Discussion and possible action initiating enforcement actions against permittees J D Malone Water System and Manchaca Optimist Youth Sports Complex for failure to pay water use fees.



***** MEMORANDUM *****

Date: January 7, 2011
To: District Board of Directors
From: Dana Christine Wilson, Accounts Receivable
BSEACD General Services Team
Subject: Staff enforcement recommendations for alleged Rule violations by
J D Malone Water System

Recommended Action:

Staff recommends issuance of a Notice of Alleged Violation (NOAV) and suspension of the permit and authorized pumpage.

Alleged Violations:

District records indicate **two (2)** alleged violations for FY 2011 of **District Rule 3-1.16** for failure to pay fees.

Recommended Penalties: According to Rule 3-8.6, request Board to act on 3-8.6 C.

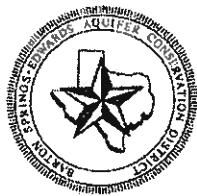
3-8.6. LATE PAYMENT FEES FOR FAILURE TO PAY WATER USE FEES.

- A. Failure of New Permittees to Make Initial Water Use Fee Payment. Failure of new permittees to make the initial annual water use fee payment or the initial installment payment within 10 (ten) days following issuance of a new permit constitutes grounds for the District to declare the permit void. Unless there are extenuating circumstances, the District may declare the permit void if the initial payment is not made within ten (10) days.
- B. Failure to Make Fee Payments. Failure to make complete and timely payments of a fee as required by District Rule 3-1.16 shall automatically result in a late payment fee of 10% of the amount not paid and may result in the loss of any potential credit which may be applicable under Rule 3-1.17. **The fee payment plus the late payment fee must be made within thirty (30) days following the date the payment is due, otherwise the permit may be declared void by the Board. (See also Rules 2-10 and 2-11).**
- C. Loss of Installment Payment Option. The option of making payment of the annual water use fee in installments is made available by the District primarily in order to avoid causing cash flow problems for retail water utilities. **Any permittee who, two or more times during the permit term, makes late payment of fee installments, may be required to pay water use fees during the following two (2) years as an annual payment upon permit issuance, without an installment payment option, unless just cause is shown and an exception granted by the Board.**
- D. After a permit is declared void for failure to make payment of water use fees, all enforcement mechanisms provided by this Rule and the Act shall be available to prevent unauthorized use of the well, and may be initiated by the General Manager without further authorization from the Board.

Early Resolution Incentive and Compliance Recommendations:

Compliance recommendation:

Should JD Malone make payment in full, staff still recommends loss of payment installment option in accordance with 3-8.6 C.



BS/EACD INVESTIGATION REPORT

I. Basic Information

Report Date: January 7, 2011
Permittee/Respondent: J D Malone Water Systems
Permittee Contact: J D Malone
Phone: 512- 282-1306
Address: 10207 Slaughter Creek Drive
Austin, Texas 78748
BS/EACD Staff: Dana Christine Wilson, Accounts Receivable

II. Investigation Summary

This permittee has a long history of failing to make timely fee payments (over 15 years). This permittee was an agenda item before the Board just last August.

III. Alleged Violations:

The District records indicate repeated violations of District Rule **3-1.16 C** for failure to pay fees.

3-1.16. FEES AND PAYMENT OF FEES.

- C. Payment of Fees. All fees are due at the time of application, registration, or permitting. The annual water use fee for a permit shall be paid in annual, quarterly or monthly installments, at the election of the permittee. Permittees whose annual water use fee is \$50.00 or less are required to pay annually. New permittees electing to pay by installments shall make the first installment at the time of permit issuance with subsequent payments due as described below.
- (1) Annual water use fees shall be paid at the time of permit issuance or are due on the fifth day of September of each year upon permit renewal.
 - (2) Quarterly water use fee payments of four (4) equal installments shall be due on or before the fifth day of the months of September, December, March, and June.
 - (3) Monthly water use fee payments of twelve (12) equal installments shall be due on or before the fifth day of each month.
 - (4) Permit renewal fees are due on the fifth day of September of each year.
 - (5) Payments received within the ten (10) days following the due date will not be subject to a late payment fee. Thereafter, the late payment fees set forth in Rule 3-8.6 shall be imposed. (See also Rules 2-10 and 2-11).
 - (6) All fees other than water use fees are due at the time of assessment and are late after ten (10) days. (See also Rules 2-10 and 2-11).

IV. Chronology of Events:

Chronology is shown on statement attached.

V. Documentation

- August 13, 2010 letter
- Statement of Invoice dates and fees charged

Attachment A

Copy of August 13, 2010 Letter



**Barton Springs
Edwards Aquifer**
CONSERVATION DISTRICT

August 13, 2010

 **COPY**

J.D. Malone
10207 Slaughter Creek Drive
Austin, Texas 78748

Dear Mr. Malone:

Currently your account has a past due balance that was due on June 6, 2010. Enclosed is a copy of your invoice including the late fee attached to the past due amount.

Last night the Board renewed permits for the fiscal year 2011 but yours was NOT renewed; it was excluded from renewal. You will not be sent your permit certificate and I will not be billing you until your account is brought into compliance.

After September 1, you will no longer be authorized for production from your well. Any pumpage from your well after that date will be in violation of District rules and would be subject to possible enforcement actions.

You can avoid your permit being brought before the Board by paying your past due amount before September 1. You will also owe another quarter of water use fees (Sept/Oct/Nov) that if your account was in compliance, would be due by September 5th and late on September 16th.

You are also ineligible for any conservation credit because of your past due amount for over 60 days.

If you have any questions, please call the office.

Thank you.

A handwritten signature in black ink that reads "Dana Christine Wilson".

Dana Christine Wilson

Attachment B
Copy of Billing Statement

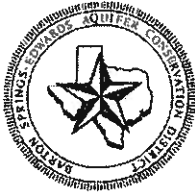
Barton Springs Edwards Aquifer
 1124 Regal Row
 Austin, TX 78748

Statement

Date
1/7/2011

To:
J.D. Malone 10207 Slaughter Creek Drive Austin, Texas 78748

		Amount Due	Amount Enc.		
		\$148.50			
Date	Transaction	Amount	Balance		
08/30/2010	Balance forward		0.00		
09/01/2010	INV #4565. Due 09/01/2010. invoice for 1st q water use fees --- Annual Permit Fee \$50.00 --- Water Use Fees \$85.00	135.00	135.00		
09/16/2010	INV #4604. Due 09/16/2010. late fee assessed on past due 1st q water use fees --- Late Payment Fee \$13.50	13.50	148.50		
10/04/2010	PMT #2834. partial payment -	-93.50	55.00		
11/16/2010	INV #4685. Due 12/05/2010. invoice for 2nd q water use fees --- Water Use Fees \$85.00	85.00	140.00		
12/16/2010	INV #4737. Due 12/16/2010. late fee assessed on unpaid 2nd q water use fees --- Late Payment Fee \$8.50	8.50	148.50		
CURRENT	1-30 DAYS PAST DUE	31-60 DAYS PAST DUE	61-90 DAYS PAST DUE	OVER 90 DAYS PAST DUE	Amount Due
0.00	8.50	85.00	0.00	55.00	\$148.50



***** MEMORANDUM *****

Date: January 7, 2011
To: District Board of Directors
From: Dana Christine Wilson, Accounts Receivable
BSEACD, General Services Team
Subject: Staff enforcement recommendations for alleged Rule violations by
Manchaca Optimist Youth Sports Complex

Recommended Action:

Staff recommends issuance of a Notice of Alleged Violation (NOAV) and suspension of the permit and authorized pumpage.

Alleged Violations:

District records indicate **two (2)** alleged violations for FY 2011 of **District Rule 3-1.16** for failure to pay fees.

Recommended Penalties: According to Rule 3-8.6, request Board to act on 3-8.6 C.

3-8.6. LATE PAYMENT FEES FOR FAILURE TO PAY WATER USE FEES.

- A. Failure of New Permittees to Make Initial Water Use Fee Payment. Failure of new permittees to make the initial annual water use fee payment or the initial installment payment within 10 (ten) days following issuance of a new permit constitutes grounds for the District to declare the permit void. Unless there are extenuating circumstances, the District may declare the permit void if the initial payment is not made within ten (10) days.
- B. Failure to Make Fee Payments. Failure to make complete and timely payments of a fee as required by District Rule 3-1.16 shall automatically result in a late payment fee of 10% of the amount not paid and may result in the loss of any potential credit which may be applicable under Rule 3-1.17. **The fee payment plus the late payment fee must be made within thirty (30) days following the date the payment is due, otherwise the permit may be declared void by the Board. (See also Rules 2-10 and 2-11).**
- C. Loss of Installment Payment Option. The option of making payment of the annual water use fee in installments is made available by the District primarily in order to avoid causing cash flow problems for retail water utilities. **Any permittee who, two or more times during the permit term, makes late payment of fee installments, may be required to pay water use fees during the following two (2) years as an annual payment upon permit issuance, without an installment payment option, unless just cause is shown and an exception granted by the Board.**
- D. After a permit is declared void for failure to make payment of water use fees, all enforcement mechanisms provided by this Rule and the Act shall be available to prevent unauthorized use of the well, and may be initiated by the General Manager without further authorization from the Board.

Early Resolution Incentive and Compliance Recommendations:

Compliance recommendation: Should MOYSC make payment in full, staff still recommends loss of payment installment option in accordance with 3-8.6 C.



BS/EACD INVESTIGATION REPORT

I. Basic Information

Report Date: January 7, 2011

Permittee/Respondent: Manchaca Optimist Youth Sports Complex

Permittee Contact: Manchaca Optimist Youth Sports Complex
Phone: 512- 268-0326
Address: P.O. Box 444
Manchaca, Texas 78652

BS/EACD Staff: Dana Christine Wilson, Accounts Receivable

II. Investigation Summary

This permittee has a history of failing to make timely fee payments. The last time they made a payment was in June, 2010. They have made no payments this fiscal year and all attempts to contact via USPS and certified mail have gained no response.

III. Alleged Violations:

The District records indicate repeated violations of District Rule **3-1.16 C** for failure to pay fees.

3-1.16. FEES AND PAYMENT OF FEES.

- C. Payment of Fees. All fees are due at the time of application, registration, or permitting. The annual water use fee for a permit shall be paid in annual, quarterly or monthly installments, at the election of the permittee. Permittees whose annual water use fee is \$50.00 or less are required to pay annually. New permittees electing to pay by installments shall make the first installment at the time of permit issuance with subsequent payments due as described below.
- (1) Annual water use fees shall be paid at the time of permit issuance or are due on the fifth day of September of each year upon permit renewal.
 - (2) Quarterly water use fee payments of four (4) equal installments shall be due on or before the fifth day of the months of September, December, March, and June.
 - (3) Monthly water use fee payments of twelve (12) equal installments shall be due on or before the fifth day of each month.
 - (4) Permit renewal fees are due on the fifth day of September of each year.
 - (5) Payments received within the ten (10) days following the due date will not be subject to a late payment fee. Thereafter, the late payment fees set forth in Rule 3-8.6 shall be imposed. (See also Rules 2-10 and 2-11).
 - (6) All fees other than water use fees are due at the time of assessment and are late after ten (10) days. (See also Rules 2-10 and 2-11).

IV. Chronology of Events:

Chronology is shown on statement attached.

V. Documentation

- Statement of invoice dates and fees charged

Attachment A
Copy of Billing Statement

Barton Springs Edwards Aquifer
 1124 Regal Row
 Austin, TX 78748

Statement

Date
1/7/2011

To:
Manchaca Optimist Youth Sports Complex c/o Larry Huffard P.O. Box 444 Manchaca, Texas 78652

		Amount Due	Amount Enc.		
		\$1,814.50			
Date	Transaction	Amount	Balance		
06/15/2010	Balance forward		765.00		
06/16/2010	INV #4487. Due 06/16/2010. late fee assessed --- Late Payment Fee \$76.50	76.50	841.50		
06/16/2010	PMT #1691. late payment for 4th q water use fees - late fee still applies and remains outstanding	-765.00	76.50		
09/01/2010	INV #4566. Due 09/01/2010. invoice for 1st q water use fees --- Annual Permit Fee \$50.00 --- Water Use Fees \$765.00	815.00	891.50		
09/16/2010	INV #4606. Due 09/16/2010. late fee assessed on past due 1st q water use fees --- Late Payment Fee \$81.50	81.50	973.00		
11/16/2010	INV #4686. Due 12/05/2010. invoice for 2nd q water use fees --- Water Use Fees \$765.00	765.00	1,738.00		
12/16/2010	INV #4736. Due 12/16/2010. late fee assessed on unpaid 2nd q fees --- Late Payment Fee \$76.50 --- --- The nonpayment on this permit (since 6/16) will be an agenda item at the January 13, 2011 Board Meeting for possible action to void this permit.	76.50	1,814.50		
CURRENT	1-30 DAYS PAST DUE	31-60 DAYS PAST DUE	61-90 DAYS PAST DUE	OVER 90 DAYS PAST DUE	Amount Due
0.00	76.50	765.00	0.00	973.00	\$1,814.50

Item 5

Regular Meeting: Continued Business

- a. Discussion and possible action relating to *City of Kyle vs. Goodman et al. and the Barton Springs Edwards Aquifer Conservation District*, Cause No. 10-1267, 22nd District Court, Hays County, Texas.**

Item 5

Regular Meeting: Continued Business

- b. Update, discussion, and possible action on progress concerning the District's legislative agenda and on other relevant legislative initiatives of other groups that potentially affect the District.**

82Rxxx _____

By: Watson

S.B. No. xxx

A BILL TO BE ENTITLED

AN ACT

relating to a restriction on permits authorizing direct discharges of waste or pollutants into water in certain areas associated with the Barton Springs segment of the Edwards Aquifer.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter B, Chapter 26, Water Code, is amended by adding Section 26.0462 to read as follows:

Sec. 26.0462. RESTRICTION ON PERMITS FOR DIRECT DISCHARGES OF WASTE OR POLLUTANTS INTO WATER IN CERTAIN ZONES OF BARTON SPRINGS SEGMENT OF EDWARDS AQUIFER. (a) The commission may not:

(1) issue a new permit authorizing the direct discharge of waste or pollutants into any water in:

(A) the portion of the recharge zone of the Barton Springs segment of the Edwards Aquifer, as defined by the commission; or

(B) the contributing zone associated with the recharge zone described by Paragraph (A), as defined by the commission; or

(2) amend a permit issued before September 1, 2009, to authorize an increase in the amount of waste or pollutants that may be directly discharged into any water described by Subdivision (1).

(b) Section (a) does not apply if the direct discharge to the receiving stream authorized under a Texas Pollutant Discharge Elimination System permit is the product of advanced water treatment. For purposes of this section, advanced water treatment means the set of wastewater and water treatment technologies that achieve:

(1) primary and secondary drinking water standards promulgated by the commission to protect human health; and

(2) a level of quality that precludes adverse acute and chronic toxic effects on aquatic life and on human health resulting from water recreation, consumption of aquatic organisms, or consumption of drinking water in the receiving stream.

(c) Sections (a) and (b) do not affect the authority of the commission to authorize stormwater and certain non-stormwater discharges as specified in:

(1) the commission's individual permits for municipal separate storm sewer systems; and

(2) the commission's general permits for stormwater and associated non-stormwater discharges from small municipal separate storm sewer systems, industrial facilities, and construction activities.

SECTION 2. The change in law made by this Act applies only to an application for a permit or permit amendment that is submitted to the Texas Commission on Environmental Quality on or after the effective date of this Act. An application for a permit or permit

S.B. No. xxx

amendment that was submitted to the Texas Commission on Environmental Quality before the effective date of this Act is governed by the law in effect at the time the application was filed, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2011.

Prospective Language for New Bill Enabling Flow Augmentation, ASR and Desalination of the Edwards Aquifer and Injection in Underlying Trinity Aquifer

Texas Water Code Sec. 27.051(h). The commission may not authorize by rule or permit an injection well that transects or terminates in the Edwards Aquifer except as provided in this subsection. The commission by rule may authorize injection of groundwater withdrawn from the Edwards Aquifer, or injections of other natural waters, including storm water, flood water, or groundwater, through wells, improved sinkholes or caves located in karst topographic areas. The commission by rule may authorize (a) the injection of desalination concentrate in a well that transects or terminates in the Saline Portion of the Edwards Aquifer, and (b) the injection of Fresh Water in a well that transects or terminates in the Saline Portion of the Edwards Aquifer as part of an Aquifer Storage and Recovery facility. For purposes of this subsection, "Edwards Aquifer" has the meaning assigned by Section 26.046(a); the "Saline Portion of the Edwards Aquifer" means that part of the Edwards Aquifer that contains only groundwater with a total dissolved solids concentration greater than 1000 mg/L; and "Fresh Water" means water that contains a total dissolved solids concentration less than 1000 mg/L and is otherwise suitable as a source of drinking-water supply.

Texas Water Code Sec. 26.046. HEARINGS ON PROTECTION OF EDWARDS AQUIFER FROM POLLUTION. (a) As used in this section, " Edwards Aquifer" means that portion of an arcuate belt of porous, water-bearing limestones

composed of the Comanche Peak, Edwards, and Georgetown formations trending from west to east to northeast through Kinney, Uvalde, Medina, Bexar, Kendall, Comal, and Hays counties, respectively, and as defined in the most recent rules of the commission for the protection of the quality of the potable underground water in those counties. For purposes of this subsection, "Edwards Aquifer" does not include the Saline Portion of the Edwards Aquifer, as defined in Texas Water Code Section 27.0519(h).

Texas Water Code Section 626, Section 1.03 DEFINITIONS. In this article:

(1) "Aquifer" means the Edwards Aquifer, which is that portion of an arcuate belt of porous, water-bearing, predominately carbonate rocks known as the Edwards and Associated Limestones in the Balcones Fault Zone extending from west to east to northeast from the hydrologic division near Brackettville in Kinney County that separates underground flow toward the Comal Springs and San Marcos Springs from underground flow to the Rio Grande Basin, through Uvalde, Medina, Atascosa, Bexar, Guadalupe, and Comal counties, and in Hays County south of the hydrologic division near Kyle that separates underground flow toward the San Marcos River from underground flow to the Colorado River Basin, and excluding the Saline Portion of the Edwards Aquifer, which is that part of the aquifer that contains only groundwater with a total dissolved solids concentration greater than 1000 mg/L.

Item 5

Regular Meeting: Continued Business

c. Discussion and possible action related to the change in TCEQ's recommended approach to providing GCD protection in unprotected areas of the Hill Country PGMA.

Item 5

Regular Meeting: Continued Business

- d. Discussion and possible action related to the Jeremiah Venture TLAP contested case.**

Item 6
Adjournment