

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 at the **District office**, located at 1124 Regal Row, Austin, Texas, on **Thursday, January 28, 2016**, 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 of a General Nature).**
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 a separate item of Regular Business on this agenda.)*

1. Approval of Financial Reports under the Public Funds Investment Act, Directors' Compensation Claims, and Specified Expenditures greater than \$5,000. **NBU**
2. Approval of minutes of the Board's January 14, 2016 Regular Meeting. **Not for public review at this time**
3. Approval of the effectiveness of Directors' communications with stakeholders and constituents for the 1st Quarter FY 2016 (September – November) per the collective judgment of the Board, as required by the District's Management Plan. **Pg. 9**

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 unless the topic is specifically listed elsewhere in this agenda.)*

1. **Standing Topics.**

- i. Personnel matters and utilization
- ii. Upcoming public events of possible interest
- iii. Aquifer conditions and status of drought indicators

2. **Special Topics.** *(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. Update on Team activities and highlights

- ii. Update on regulatory and enforcement activities
- iii. Update on current Aquifer Science Team projects
- iv. Update on activities related to the HCP and the associated draft EIS

4. Discussion and Possible Action.

- a. Discussion and possible action related to preliminary District review of the proposed stormwater controls for State Highway 45 Southwest. **Pg. 12**
- b. Discussion and possible action related to receiving committee recommendations and selecting the Groundwater Stewardship Award winners and approving the staff's selection for Permittee of the Year. **Pg. 23**
- c. Discussion and possible action related to approval of rule concepts for implementation of HB 3405 and other legislation from the 84th Legislative Session including direction to initiate rule making and scheduling of a public hearing. **Pg. 26**
- d. Discussion and possible action related to initiating an enforcement action on permittee, Taliaferro (T.J.) Higginbotham, for alleged violations of the conditions of the Production Permit. **Pg. 31**

5. Directors' Reports. *(Note: Directors' comments under this item cannot address an agenda item posted elsewhere on this agenda and no substantive discussion among the Board Members or action will be allowed in this meeting. Communications reported under this item may be used to support Performance Standard 4-1 of the District's Management Plan related to demonstration of effective communication with District constituents.)*

Directors may report on their involvement in activities and dialogue that are of likely interest to the Board, in one or more of the following topical areas:

- Meetings and conferences attended or that will be attended;
- Conversations with public officials, permittees, stakeholders, and other constituents;
- Commendations; and
- Issues or problems of concern.

6. Adjournment.

Came to hand and posted on a Bulletin Board in the Courthouse, Travis County, Texas, on this, the _____ day of January, 2016, 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

(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 a separate item of Regular Business on this 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 of the Board's January 14, 2016 Regular Meeting.**
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Quarterly Board Judgment of Effective Director Communications

(as required by the District Management Plan)

III.C.4. Objective 4. Demonstrate leadership in external communication, collaboration, coordination and joint planning with respect to groundwater and related resources.

Performance Standard 4-1: Cultivate and communicate effectively and routinely with stakeholders of all types that affect and are affected by the District's programs and policies.

Metric: Collective judgment of the Board once each quarter as to whether communications between the District and its stakeholder community, including constituents and other public officials, are providing an effective basis for District decision-making and for identifying any needed remedial actions.

Date of Meeting:

January 28, 2016

Assessing Preceding Quarter of:

1st Quarter 2016

Collective Judgment:

Satisfactory

Motion by:

Second by:

Supporting documentation attached including:

- Minutes of this meeting
- Copies of Director Compensation forms for previous quarter
- Any other documentation provided by the Directors

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. Standing Topics.

- i. Personnel matters and utilization**
- ii. Upcoming public events of possible interest**
- iii. Aquifer conditions and status of drought indicators**

2. Special Topics.

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. Update on Team activities and highlights**
- ii. Update on regulatory and enforcement activities**
- iii. Update on current Aquifer Science Team projects**
- iv. Update on activities related to the HCP and the associated draft EIS**

Item 4

Board Discussions and Possible Actions

- a. Discussion and possible action related to preliminary District review of the proposed stormwater controls for State Highway 45 Southwest.**

State Highway 45 Southwest
DRAFT BSEACD Stormwater Quality Review Comments
January 21, 2016

Plan review based on documents provided on January 4, 2016 by the CTRMA design team.

The review relies on the "Consent Decree" and the "BSEACD Board Guiding Principles/Design Guidelines and Goals" to perform the stormwater quality assessment and prepare comments on the draft final construction plans, draft Water Pollution Abatement Plan (WPAP), and the draft Environmental Compliance Management Plan (ECMP).

Process

Eleven separate meetings were hosted by the CTRMA design team and included BSEACD, City of Austin, and Travis County staff to detail the project approach, present road and stormwater system designs, receive input/comments from attendees, and provide plan updates. The meetings were well attended, most had over 30 attendees that worked together to improve the water quality protection plan. At the last Technical Work Group (TWG) Meeting on January 13, 2016, the CTRMA project manager described how this process has improved the quality of the construction plans and field requirements to minimize water quality impacts during and after construction. From my perspective, the CTRMA project team responded positively to input, modified the construction plans to enhance water quality protection in almost all cases, and worked proactively with the TWG members. In the end, the construction documents are superior to the original drawings we received in the summer of 2015 and the CTRMA team appears committed to delivering a project that minimizes water quality impacts.

Plan Review

Below, a summary can be found of key Consent Decree Requirements and the BSEACD Guiding Principles and their status in the design process:

Consent Decree

<u>Key Stormwater Mgmt Items</u>	<u>Consent Decree</u>	<u>Status</u>
Hazardous material traps (HMT)	8,000 gallons, concrete lined	>55,000 gallons with clay soil and geomembrane liner
Stormwater basins/treatment	Clay or concrete line pilot channels, retain ½" runoff in sand filter systems	Native soil (high clay content) channels, retains runoff volumes > ½", permeable friction course pavement, filter strips, grass swales
Annual inspection and maintenance	At least once per year, perform maintenance as needed on the HMTs and stormwater basins	Minimum of two inspections per year and after significant rainfall events, perform maintenance
Construction erosion controls	Erosion control guidance	Construction phasing plan (four project segments), minimal excavation, detailed erosion control plan, Environmental Compliance Manager with stop work authority
Construction observation	BSEACD has the option to observe and comment on construction	BSEACD will be allowed to visit the site to observe construction, will be invited to review road rough cut
Cave protection	No construction within 50 feet of a major cave, cave management procedures, no blasting	Minimum 50-foot buffers for all caves, cave management procedures, no blasting
Construction and post-construction water quality monitoring	Obtain 8 samples during each year of construction and first two years of highway facility operation	No water quality monitoring is currently proposed per the criteria. Qualitative (visual observation) monitoring proposed on Bear Creek

Guiding Principles (BSEACD Board, July 16, 2015)

<u>Principles</u>	<u>Status</u>
Staff to participate in CTRMA work group meetings	Attended 11 work group meetings, provided comments throughout the process
Prioritize stormwater quality over hazardous materials, especially during the construction phase	Proposed stormwater basins' and HMT runoff volume exceeds Consent Decree requirements, detailed and phased erosion control plan (see above)
Address hazardous materials but not primary design driver	HMTs are in combination with stormwater basins to minimize disturbance and enhance sheet flow
Consider study to limit/prohibit vehicular traffic conveying hazardous materials	CTRMA evaluated this concept but will not pursue, developed spill response and management plan, will perform HMT inspection and maintenance

Design Guidelines and Goals (BSEACD Board, July 16, 2015)

Well-functioning, low maintenance water quality system	Proposed batch detention system has higher maintenance requirements than sand filters, however, performance can be better and the design has included an innovative outlet approach to enhance function and manage maintenance
Practices that minimize construction disturbance to minimize contact with karst features and natural recharge areas	Project will be constructed in four phases, most of the roadway in fill to minimize excavation, construction phase karst management plan, Bear Creek bridge spans the creek
Well developed and properly inspected erosion control plan	Detailed erosion control plan, project phasing, site Environmental Compliance Manager with stop work authority, contractor environmental incentive bonus
Reasonable hazardous materials traps/conveyance system	Combination of batch detention and HMTs and use of native soils (high clay content) to minimize disturbance and use of concrete lined channels/basins
Non-erosive outfalls from the right-of-way	Design team developed an outfall approach based on BSEACD input, currently reviewing the plans at each outfall to determine appropriate size/application

Document review continues – current construction plan comments relate to a maintenance pad at the batch detention system outlet device, potentially seeking more details/enhancements at the storm drain outfalls from the roadway, and isolation of the first flush of open channel flow into the basins. More comments may be developed. Upcoming review of the WPAP and Environmental Compliance Management Plan.

General comment – It appears that the construction plans address almost all Consent Decree and BSEACD Guiding Principle items, barring several plan review comments that are mostly related to plan details. One item that is missing is the inclusion of construction and post-construction stormwater quality monitoring as described in Exhibit D of the Consent Decree.

Key Item

In the end, construction execution is the most important aspect of the project to minimize water quality impacts. Thus, minimizing sediment disturbance through a phased construction approach, proper erosion control installation, construction monitoring, rapid response to erosion control challenges during large storm events, and ensuring minimal disturbance to discovered geologic features are the key to success. The CTRMA project manager indicated in the January TWG meeting that they plan to offer the contractor an up-front \$500,000 bonus for environmental compliance where the contractor can earn the full amount with no erosion control violations and good housekeeping practices. We were told that the CTRMA will establish a deduction system based on erosion control system deficiencies during the project so the contractor will be motivated to properly operate and maintain the practices to maximize the environmental bonus and water quality protection.

SH 45 Southwest
Environmental Commitments outlined in March 27, 2015 Letter from TxDOT to BSEACD Environmental Commitments - Tracking Matrix

Note: The Barton Springs Edwards Aquifer Conservation District is referred to below as the District or BSEACD.

Detailed Description of Commitment	Fully Compliant	Ongoing	Status
Stormwater Treatment Performance Standard			
SH 45 SW will be designed and perform to achieve a highway runoff total suspended solids (TSS) removal rate of at least ninety percent (90%) of the incremental increase in TSS load using a combination of structural and non-structural BMPs. This is a minimum standard and does not preclude TxDOT or CTRMA from using a better technology that can achieve a higher removal rate of TSS.	X		The Water Pollution Abatement Plan (WPAP), Attachment F to Form 0600, shows the TSS calculations for this project. The total removal rate for the project is 92% of the increase in TSS load.
Structural BMPs			
The following structural BMPs, at a minimum, will be used and maintained, as appropriate, to avoid or minimize the amount of pollutants in the runoff from the roadway:			
A. Permeable friction course (PFC) pavement (on majority of road surfaces)	X		See Roadway Typical Section sheets 17 to 32 of the construction plans.
B. Water quality ponds	X		See Water Quality Pond sheets 1334 to 1378.
C. Vegetated controls such as grassy swales	X		Vegetated ditches were incorporated that will function as grassy swales. See Drainage Plan sheets 563-595 for ditch locations. Their removal efficiency was not included in the TSS removal calculations for the project.
D. Vegetated filter strips (in areas where curbs and other stormwater conveyance infrastructure is not used)	X		See Water Quality Site Plan sheets, included in the WPAP, for the locations.
E. Multiple hazardous materials traps (located at all creeks, waterways, and curveted drainage ways, and each adequately sized to contain a 10,000 gallon spill)	X		The water quality ponds were designed to also serve as hazardous material traps. All pond volumes exceed 10,000 gallons. See Water Quality Pond sheets 1334 to 1378 for details.
Non-structural BMPs			
The following non-structural BMPs will be used, at a minimum, as appropriate, to avoid or minimize the amount of pollutants in the runoff from the roadway:			
A. No herbicide use within the right-of-way	X		Section 2.5 (pg 18) of the Environmental Compliance Management Plan (ECMP) states "the use of chemical pesticides and herbicides will be prohibited in the project area during construction and operation."
B. Vacuum truck utilization, as determined by the independent environmental compliance manager (described below)	X		WPAP Attachment C to Form 0587 and Attachments C and G to Form 0600 both specify the use of vacuum truck for restoring PFC permeability.
C. Periodic inspections of hazardous materials traps and other permanent BMPs at a frequency not less than required under TCEQ's Edwards Aquifer Rules (30 T.A.C. Chapter 213) and the Consent Decree	X		Section 1.5 (pg 10 - 13) of the ECMP requires the Contractor Responsible Person - Environmental (CRPe) to monitor the BMPs shown on the SW3P plans daily and produce daily reports for review by the Independent Environmental Compliance Manager (ECM). The CRPe is also responsible for performing weekly SW3P Field Inspections on behalf of TxDOT and submitting weekly reports to the Independent ECM. This meets the requirement in the Consent Decree for daily inspections of BMPs.
D. Any equipment fuel or hazardous material storage, even if short-term, will be performed within a containment area to prevent the possibility of accidental discharge to groundwater	X		Under Item 7 of the General Notes, the contractor is directed to locate all above ground storage tanks within a contained area at least 150% of the volume of the storage tank. The contractor is also directed to Section 3.0 (pg 19 - 23) of the ECMP, which discusses Hazardous Material Management in further detail. All hazardous materials are required to be stored in a container that is impervious to the hazardous material being stored. Plan Sheets 1288 - 1320 show the layout of the Prohibited Activity zones, which are areas where certain activities, including storage of hazardous materials/fuel, are prohibited.
E. Any equipment fueling will be performed at least 200 feet away from the nearest sensitive karst feature and water crossing	X		The above mentioned Prohibited Activity zones also prohibit fueling and maintenance of equipment within the zone. These zones were established at a minimum of 200' from the sensitive feature openings and water crossings.

Detailed Description of Commitment	Fully Compliant	Ongoing	Status
F. Phased construction practices, where feasible, to limit the area and duration of construction disturbance	X		The construction of this project is divided into four phases to limit the total area of disturbance at any one time. See plan sheet 1185 for an overview of the phases.
Protection of Karst Features and Flint Ridge Cave			
A geologic assessment (GA) has been performed by TxDOT in accordance with TCEQ rules and in support of the state Environmental Impact Statement (EIS) for the purpose of identifying karst features within the SH 45 SW right-of-way that may significantly contribute to recharge of the Edwards Aquifer including Flint Ridge Cave. The GA incorporates the assessment of excavations of karst features identified during the TxDOT karst survey and investigation conducted for the state EIS. The GA provides detailed explanations for why each of the identified potential karst features are considered to be either sensitive or non sensitive.	X		Geologic Assessment is complete.
All sensitive karst features identified in the GA that may significantly contribute to recharge of the Edwards Aquifer, including Flint Ridge Cave, shall be protected using methods that will avoid or minimize the impact to catchment areas and the quantity of interrupted recharge, to the maximum extent practicable.	X		All sensitive karst features identified in the GA will be surrounded by a minimum 50' buffer zone, which will be delineated in the field using chain-link fencing. In addition, many of these features are located in larger Construction Exclusion Zones (CEZs), which are areas where the contractor is prohibited from entering and will be marked off with orange construction fencing. See plan sheets 1288 to 1320 for locations of the buffer zones and CEZs. Also, the project has a robust erosion and sedimentation control plan (see plan sheets 1185 to 1282) to treat construction runoff and protect these features.
TxDOT has provided a copy of the GA with the proposed method for protecting each sensitive karst feature to BSEACD so that BSEACD may evaluate the designation of the sensitive karst features, their spatial relationship to the highway alignment and BMPs, and whether the proposed method of protection is acceptable. To the extent BSEACD has any concerns with the proposed methods of protection of a sensitive karst feature, please let me know as soon as possible, and I will arrange a meeting to hopefully address any concerns. Please be advised that BSEACD will be added to the list of agencies to be notified by the void discovery protocols described in the state EIS for SH 45 SW.	X		BSEACD has been added to the list of notified agencies. See Section 6 "Void Discovery Protocols" of the ECMP on page 30.
Construction and Post-Construction Monitoring and Reporting			
An independent environmental compliance manager shall be retained to (a) be present on-site during construction of SH 45 SW to monitor construction activities and ensure that all environmental commitments in the plans and the EIS for the project are fulfilled; and (b) ensure that, upon completion of construction, all BMPs are implemented and functioning as designed. Should the BMPs fail to perform as designed, any deficiencies would be remedied and mitigated to the maximum extent practicable.	X		An independent firm will be contracted to fill the role of Independent Environmental Compliance Manager (ECM) on this project. The independent ECM will be on site during all construction phase operations. The responsibilities of the Independent ECM are detailed in Sections 1.2 (pg 7) and 1.5 (pg 10 - 13) of the ECMP. The ECMP is being finalized and will be part of the Independent ECM Procurement, CE&I procurement, and the construction contract.
Review and Observation by BSEACD			
During final design, when design is still subject to change and prior to construction bidding, representatives of BSEACD will be permitted 20 business days to review and comment on any plans or subsequent, substantive changes to plans for handling of stormwater runoff, including any plans addressing phased construction practices and commitments to maintenance of the PFC material concerning whether the plans and design meet or exceed the requirements of the Consent Decree.	X		BSEACD has been heavily involved with the project. The project team met with them on 5/12/2015, 6/18/2015, 7/6/2015, and 7/14/2015, to discuss the project and keep the District informed. BSEACD was also involved in the Technical Work Group meetings held on 7/30/2015, 8/20/2015, 10/26/2015, 11/9/2015, and 11/23/2015. Copies of the plans, WPAP, and ECMP were provided to BSEACD for review on 12/19/2015. It is anticipated that the 20 day review period will start upon submittal to BSEACD a summary of City of Austin and BSEACD requests and where in the plans and contract documents the requests were incorporated.
To the extent BSEACD raises any concerns with the plans, and if TxDOT disagrees with the concern raised by BSEACD, TxDOT and BSEACD will convene in an attempt to resolve within 30 calendar days of when BSEACD raises an issue. BSEACD will also have an opportunity to review and comment on the water pollution abatement plan for SH 45 SW as provided for in TCEQ's Edwards Aquifer Rules (30 T.A.C. Chapter 213).		X	Plans and Draft WPAP submitted to BSEACD for review. CTRMA waiting on comments.
Finally, representatives of BSEACD will be permitted to observe construction of SH 45 SW and will be allowed to accompany TxDOT personnel on periodic inspections of BMPs. Observations are subject to reasonable notice, pre-scheduling, and safety-related requirements.	X		This is allowed. See ECMP Section 1.4 "Regulatory Partners" on page 10.

SH 45 Southwest
Consent Decree Commitments Tracking Matrix

Note: The Barton Springs Edwards Aquifer Conservation District is referred to below as the District or BSEACD.

General description	Detailed Description	Fully Compliant	Partially Compliant	Status
Section 2: TxDOT performance of EIS	Consent Decree If federal funds are utilized in the future by defendant TxDOT for design, construction, or property acquisition of current or future extensions of Mopac South and/or Outer Loop Segment 3 (SH 45 SW), a Federal Environmental Impact Statement shall be performed prior to any such action, if required by then existing federal law	X		Federal Funds are not being utilized for SH 45 Southwest. A State Environmental Impact Statement was performed and a Record of Decision was issued March 2015
Section 3: BSEACD review of plan changes	Any change relating to the handling of runoff or storm water which alters the requirements presently included in the construction plans or specifications for Outer Loop Segment 3 plans, which will be developed in the future, whether a result of the requirements of this Judgment or independently implemented by TxDOT or any other entity, will be identified to the District. TxDOT will allow the District a reasonable period of time (at least 20 days from the date that the District is provided a copy of the proposed plan changes) to comment on such modifications prior to implementation	X		BSEACD has been heavily involved with the project. The project team met with them on 5/12/2015, 6/18/2015, 7/16/2015, and 7/14/2015, to discuss the project and keep the District informed. BSEACD was also involved in the Technical Work Group meetings held on 7/30/2015, 8/20/2015, 10/26/2015, 11/19/2015, and 11/23/2015. Copies of the plans, WPAF, and ECPM were provided to BSEACD for review on 12/19/2015. It is anticipated that the 20 day review period will start upon submittal to BSEACD a summary of City of Austin and BSEACD requests and where in the plans and contract documents the requests were incorporated.
Section 4: Survey ROW for recharge features	Prior to developing plans and specifications, TxDOT and the District will perform an on the ground survey of the anticipated ROW for the Outer Loop between MoPac South and FM 1626 to locate and identify significant recharge features. Significant recharge features in this segment will be protected in accordance with this Judgment provisions, provided, however, if a major cave is discovered TxDOT will either realign the highway or provide for a grade separation to protect the cave	X		TxDOT and BSEACD performed an on the ground survey on October 6, 1995. In addition, representatives of BSEACD and TxDOT visited the site and examined natural features on 11/25/14. In addition, a Geologic Assessment was performed and significant features were identified. Sensitive karst features, a classification that encompasses significant recharge features, will have multiple protections in place during construction and operation of the roadway [see plan sheets 1185 - 1282]. Adjustments were made to the roadway alignment and some of the bridges were lengthened to avoid or span over caves F-110, F-64, F-65, F-18, F-157a and F-157b
Section 4: BSEACD review of plans	Additionally, TxDOT will provide the District with draft plans and specifications at no cost for the Outer Loop between MoPac and FM 1626 for review and comment prior to soliciting bids for construction on that portion of the Outer Loop.	X		An electronic copy of the 95% plans and the Water Pollution Abatement Plan (WPAF) were provided to the District for review on December 29, 2015
Section 5: Hazmat Devices at outfalls	At each creek, waterway, or drainage way crossed by Outer Loop Segment 3 between FM 1626 and FM 1826, TxDOT shall require the construction of devices designed to prevent the entry into the Edwards Aquifer of spills of hazardous material on the highway or highway runoff as described more fully below: a) Specifically, such devices shall capture and direct, through a concrete-lined pilot channel, the first 1/2 inch of highway runoff (through sand filters). In lieu of concrete lined pilot channels, TxDOT may use a one-foot thick (after rolling) topsoil layer with a low shrink-swell potential, rolled to eliminate clods and voids and to achieve the greatest field density consistent with vegetation growth. Filter basins lined with a one-foot thick topsoil layer with a low shrink-swell potential shall be constructed to contain the runoff prior to filtration. The basins shall be properly designed to contain and isolate the first 1/2 inch of runoff volume, with an appropriate bypass system for additional flows b) Concrete-lined, off-channel hazardous materials traps, upstream from sand filters, shall be installed on all highway drainage ditches or structures at their points of discharge and at other necessary locations designed to prevent entry of hazardous materials spilled on or adjacent to the highway from entering the Aquifer. Hazardous Material traps shall have a volume of at least 8,000 gallons and be equipped with either an inverted siphon or other device to empty rainfall runoff which may accumulate in the trap during heavy rainfall events. The siphon or other device shall be designed to discharge nonhazardous fluids beginning above the 8,000 gallon capacity into a sand filtration system		X	See below: Compliance: The first 1/2" of highway runoff will be captured and routed to the water quality ponds, which will function as hazardous material traps. The pond splitter boxes will allow flows in excess of the design water quality volume to bypass the ponds. Plan sheets 1334 - 1385 show the pond layouts, design, and details. Variation: This project will utilize batch detention ponds instead of sand filtration ponds. Batch detention ponds were not used at the time that the consent decree was written, but have since become an approved water quality treatment method by TCEQ. Batch detention ponds were chosen because they have a higher TSS removal efficiency than sand filtration ponds and can serve as hazardous material traps. The ponds will be lined with an impermeable earthen liner instead of concrete (see sheet 1352 for liner details). This approach was discussed with the Technical Workgroup (TWG) that included BSEACD Compliance: The batch detention ponds on the project will serve as hazardous material traps (HMTs) with volumes ranging from 55,000 to 347,000 gallons, which is more than the 8,000 gallons required. The ponds are designed to intercept roadway runoff before it enters the Aquifer or surface waterways. Each pond has a valve on the discharge pipe that will be closed most of the time. Under normal operation, when the pond fills to the water quality volume, a 12 hour timer is activated, then the valve will open and the pond will drain. However, in the event of a hazardous material spill, the valves will be set to remain closed until the hazardous material is properly disposed of. Variation: The HMTs/ponds will not be concrete lined or upstream of sand filters. Instead, they will be lined with an impermeable earthen liner and they will be part of the water quality pond. Concrete and earthen liners were discussed with the District, City of Austin, TxDOT, and others at the November 23, 2015 TWG meeting. Volumes above the 8,000 gallons will remain in the pond to be treated, rather than released to a separate sand filtration system
Section 6: Annual inspection and maintenance of Hazmat and water quality ponds	TxDOT will routinely, at least annually, inspect and, as necessary, conduct maintenance operations in the future to ensure that hazardous materials traps and highway runoff filters are able to function in accordance with their design, i.e., that hazmat traps continue at all times in the future to be capable of trapping hazardous material spills of up to 8,000 gallons and that highway runoff filters be at all times capable of trapping and filtering up to first 1/2 inch of runoff from the highway	X		The CTIRMA will be responsible for inspection and maintenance of the batch detention ponds, which also serve as HMTs. The batch detention ponds will be inspected after significant rainfall events, with a minimum of two inspections per year, to ensure the ponds are performing as designed. See Form 0600, Attachment G of the WPAF for the detailed inspection and maintenance for this project
Section 8: no additional access from Bliss Spillar to Loop 1	Outer loop Segment 3, east of its intersection with MoPac South, shall be constructed as a parkway over the recharge zone of the Edwards Aquifer from Bliss Spillar Rd to MoPac South, and TxDOT shall maintain ownership of all control of access points and not allow additional access in the future	X		The proposed design meets this requirement. TxDOT will maintain ownership of ROW and control of access.

General description	Detailed Description	Fully Compliant	Partially Compliant	Status
Section 9: limit construction of Access Roads to those shown in previous EIS- notify District of any future requests for road connections	TxDOT shall limit construction of access roads for Outer Loop Segment 3 east of its intersection with MoPac South to those shown in the approved final EIS for Outer Loop Segment 3. Alternative B. TxDOT shall maintain ownership of all control of access points and not allow additional access in the future. TxDOT shall notify the District of any request received in the future to authorize connection of a road (not including driveways) to a frontage road or any request to initiate construction of any road (excluding driveways) providing access between FM 1626 and RM 1826 (including access roads approved by the Environmental Impact Statement)	X		There are no access roads in the proposed project limits, from the intersection with MoPac to the intersection with FM 1626. TxDOT will maintain ownership of ROW and control of access.
Section 10: TxDOT shall not extend MoPac South any further south	TxDOT has no interest in constructing MoPac South any further south than the Outer Loop.	X		No plans to extend MoPac South have been incorporated into the project
Section 11: Implement mitigation and env protections mentioned in the EIS	To the extent not inconsistent with the provisions of this Judgment, TxDOT shall implement all mitigation, environmental protection, and pollution prevention measures described in its EIS for Outer Loop Segment 3 and MoPac South south of U.S. 290.	X		The environmental commitments outlined in the Final EIS for SH 45 Southwest are being included in the construction plans, general notes, WPAP, and Environmental Compliance Management Plan (ECMP)
Section 12: TxDOT shall comply with Preconstruction Procedures	TxDOT shall comply with the preconstruction procedures attached to judgment as Exhibit A, and incorporated herein for all purposes. These preconstruction procedures shall be implemented prior to initiation of construction on Outer Loop Segment 3			The procedures included in Exhibit A and our responses are summarized below under the heading "Consent Decree Preconstruction Procedures - EXHIBIT A"
Section 13: TxDOT shall comply with construction Procedures	TxDOT shall comply with the construction procedures set forth in Exhibit B, attached hereto and incorporated herein for all purposes. These construction procedures shall be applied to all phases of construction for outer loop segment 3 over the recharge zone and to the greatest extent feasible possible over the contributing zone			The procedures included in Exhibit B and our responses are summarized below under the heading "Consent Decree Construction Procedures - EXHIBIT B"
Section 14: The District may advise TxDOT with respect to implementation of procedures	The District may advise TxDOT with respect to the implementation of the preconstruction and construction procedures set forth in Exhibits A & B. Specifically, the District may counsel with TxDOT regarding the location and evaluation of the significance of the recharge features, in accordance with the criteria set forth in Exhibit C, attached hereto and incorporated herein for all purposes; determination of the adequacy of erosion control measures; and determination of the contractor's compliance with the preconstruction and construction procedures	X		BSEACD has been heavily involved with the project. The project team met with them on 5/17/2015, 6/18/2015, 7/6/2015, and 7/14/2015, to discuss the project and keep the District informed. BSEACD was also involved in the Technical Work Group meetings held on 7/30/2015, 8/20/2015, 10/26/2015, 11/9/2015, and 11/23/2015. Copies of the plans, WPAP, and ECMP were provided to BSEACD for review on 12/19/2015
Section 15: TxDOT shall commission an independent study	TxDOT shall commission an independent study by USGS or the UT Bureau of Economic Geology to monitor and investigate the water quality effects of MoPac South and Outer Loop construction and operations. The study's scope will include, but not be limited to, the items set forth in Exhibit D. TxDOT will consult with the District concerning the nature, scope, and progress of the study, both before and during the study. All data and information developed in the study shall be made available to the District	X		TxDOT completed the study as described in Exhibit D. A series of reports from the University of Texas Center for Transportation Research are available as documentation. Staff from the BSEACD were members of the technical review committee. The acknowledgments in the summary and conclusions report list the names of several BSEACD representatives including Bill Couch (former General Manager) and Ron Fieseler (former Senior Environmental Analyst). The summary and conclusions report was published in March 1996. The UT Center for Transportation Research was permitted to conduct the research according to the March 5, 1993 Supplemental Agreement.
Section 16: erect signage informing drivers they are over the Recharge Zone	TxDOT shall erect signage to inform drivers and members of the public that they are over the recharge zone of the Edwards Aquifer and that the area is environmentally sensitive. Such signs shall be posted at or near each entrance to the recharge zone, as it enters and leaves the zone, and periodically as it crosses the zone	X		These signs are included in plans. See sheets 967 - 983
Consent Decree Preconstruction Procedures - EXHIBIT A				
Exhibit A: 1-3: identify and map recharge features	An initial field inspection of proposed ROW will be performed, in cooperation with the District, to identify significant recharge features (SRF). Determination of SRF shall be in accordance with Exhibit C and shall be performed in cooperation with the District. All SRF shall be located by a field survey and mapped on proposed highway plans. SRF shall be ranked or categorized in accordance with the criteria set forth in Exhibit C to determine the degree of protection to be accorded in design and during construction.	X		TxDOT and BSEACD performed an on the ground survey on October 6, 1995. In addition, representatives of BSEACD and TxDOT visited the site and examined natural features on 11/25/14. A Geologic Assessment has been performed for this project and has identified and classified the recharge features found. These features are shown on the construction plans relative to the proposed construction. See plan sheets 1185 - 1249 for protections during construction.
Exhibit A: 4. Prior to construction protect recharge features	Before construction commences, SRF shall be protected in accordance with the standards set forth in Exhibit C	X		The first step in the Sequence of Construction (General) is the establishment of perimeter controls around sensitive features, as shown on the erosion and sediment control plan sheet. See sheet 83 for Sequence of Construction and sheets 1185 - 1249 for erosion and sediment controls.
Exhibit A: 5-6. NO runoff during construction without filter fabric fence or fabric lined rock berms or diverted away	No highway runoff during construction or operation shall be allowed to directly enter SRF without filtration of sediments in the runoff using filter fabric and fabric lined rock berms. This includes areas outside the footprint of the roadway exhibiting SRF. All runoff shall be directed away from any fracture zones during construction or operation which are determined to be SRF, as per Exhibit C. As last resort, if redirection is not feasible, the fracture zone may be sealed.	X		All construction runoff will pass through high service rock berms (includes filter fabric) and/or erosion control logs at a minimum, prior to reaching SRFs. See plan sheets 1185 - 1249 for protections during construction. After construction, roadway runoff will be treated with a combination of PFC, vegetative filter strip, and batch detention ponds, prior to release to a sensitive feature or waterway
Exhibit A: 7 evaluate caves in ROW with boring or seismic	Evaluation of caves and SRF, at selected locations within the ROW, to determine their physical characteristics shall be done by drilling geotechnical test holes, or by other appropriate means, including seismic	X		Geophysical surveys were performed in December 2014 to determine the physical characteristics of the caves and SRFs.
Exhibit A: 8 No construction within 50' of "major" cave	There will be no construction within 50 feet of a major cave, as set forth in Exhibit C	X		A minimum 50' buffer zone has been established for all caves, as shown on plan sheets 1185 - 1282.
Consent Decree Construction Procedures - EXHIBIT B				
Exhibit B: 1. Clear ROW with least amount of disruption- brush stockpile away from features	Clearing of trees and brush in the ROW shall be initially performed with the least disruption possible. Cleared trees and brush shall be stockpiled in areas exhibiting no recharge features.	X		The Sequence of Construction (Tree/Vegetative Clearing) on sheet 83 directs the contractor to clear trees/vegetation with the least disruption possible. Cleared trees will be mulched and used to create the project haul road, as shown on sheets 1187 - 1204.
Exhibit B: 2: After Clearing - survey with District for more caves	After initial clearing, the right of way shall be surveyed, in cooperation with the BSEACD, for any additional SRF. If any additional SRF are located, they shall be protected in accordance with the guidelines in Exhibit C.	X		Sheet 82, TCF Constraints, states "Survey for Additional Recharge Features - After initial clearing, the ROW will be surveyed, in cooperation with the BSEACD "

General description	Detailed Description	Fully Compliant	Partially Compliant	Status
Exhibit B 3: Divert or filter water	During construction, all runoff from the site shall be diverted and filtered through filter fences, sedimentation basins, or rock berms with filter fabric to control sediment loadings.	X		All runoff will pass through a combination of erosion control logs, high service rock filter dams (rock berms) with sediment control fencing, and batch detention ponds, which serve as sedimentation basins, prior to leaving the project area. See plan sheets 1185 - 1249 for protections during construction.
Exhibit B 4: u shaped rock berms must have filter fabric	Rock berms shall not be used for sediment and erosion control without filter fabric. Flow shall not be allowed to bypass rock berms. Rock berms shall be U or J shaped.		X	<i>Compliance:</i> Rock filter dams (RFDs, rock berms) constructed with filter fabric will be used on this project. See plan sheets 1185 - 1249 for RFD layout and sheet 1286 for RFD details. <i>Variation:</i> They will be placed in the roadside ditches and will follow the V-shaped contours of the ditch, which will meet the intent of being a U-shape
Exhibit B 5 & 6: inspect BMPs daily and after rain	Filter fabric fences shall be inspected daily and maintained at all times. Inspection of sediment and erosion control devices shall be performed during and immediately after rainfall events to determine their effectiveness. Appropriate corrective measures shall be immediately performed if these devices are not functioning properly.	X		Section 1.5 of the ECOMP and Section C on the SW3P sheet (1182) requires daily inspection and maintenance of all BMPs by the contractor. The contractor is also required to write daily reports to be submitted to the Independent Environmental Compliance Manager (ECM) for review
Exhibit B: 7 Blasting limited to 5' lifts	Blasting shall be in accordance with the criteria listed in Exhibit C. In addition, blasting shall be limited to the footprint of the roadway and shall not be done in excess of 5 foot lifts per shot.	X		There will be no blasting on this project. It is prohibited by COA Ordinance 75-8-363 within a critical water quality zone or a water quality transition zone or within 300 feet of a critical environmental feature
Exhibit B: 8 no heavy equipment in creek bed exhibiting karst without wood mats	There shall be no heavy equipment used in creek beds and drainage ways exhibiting SRF, except on timber matting.	X		No construction equipment will be allowed in the Bear Creek creek bed. The contractor will be required to either avoid the creek or construct a temporary bridge to cross the creek during construction. Sheets 312 - 314 show the optional temporary crossing requirements if the contractor chooses to implement the temporary crossing
Exhibit B: 9 Construction equipment outside of footprint of roadway limited near karst	Construction or equipment activities outside the footprint of the roadway in areas exhibiting extensive SRF shall be limited.	X		Many areas of the project will be designated Construction Exclusion Zones (CEZs) and will be off limits to the contractor. In addition, other areas will be designated Prohibited Activity zones, where access may be allowed, but certain activities will be prohibited within the zone. See plan sheets 1288 - 1320 for locations of the CEZs and Prohibited Activity areas, as well as a listing of all prohibited activities.
Exhibit B 10: Geotechnical - plug above cavities, use casing for shafts - allow district review of logs	Geotech logs shall be available for inspection by the District. If caves or solution cavities are found, the core holes/borers shall be plugged above the cavity with expanding cement. Bridge piers or columns constructed in major cavities shall be performed using casing, so as to allow a minimum amount of concrete to enter the cavity	X		A draft Geotechnical Report is complete and will be provided to the BSEACD. Void requirements have been incorporated into the plans [sheets 35-41] that included the use of casing.
Exhibit B 11: Allow conservation district to observe and comment on construction activities and provide suggestions	The District shall have the option to observe and comment on construction activities and provide any suggestions	X		The District will be allowed visit the construction site provided they coordinate with the construction team, per pages 10 & 13 of the ECOMP
Exhibit B 12: Hazardous materials stored in clay lined catchment pit	Storage of hazardous materials shall not be permitted without a clay lined catchment pit to contain possible spills		X	Under Item 7 of the General Notes, the contractor is directed to locate all above ground storage tanks within a contained area at least 150% of the volume of the storage tank. The contractor is also directed to Section 3.0 (pg. 19) 231 of the ECOMP, which discusses Hazardous Material Management in further detail. All hazardous materials are required to be stored in a container that is impervious to the hazardous material being stored. Plan Sheets 1288 - 1320 show the layout of the Prohibited Activity zones, which are areas where certain activities, including storage of hazardous materials/fuel, are prohibited. The approach is more protective than a clay lined catchment pit but since the statement is for a clay lined catchment basin, this is being marked as partially compliant
Consent Decree Karst Feature Procedure - EXHIBIT C				
Procedure 1: Feature under Roadway Embankment	1. The feature shall be protected from construction runoff prior to beginning the embankment operation. Protection will consist of encirclement of the feature by silt fence or a rock berm with filter fabric	X		There are no sensitive karst features within the proposed roadway embankment. If any sensitive karst features are discovered during construction, a mitigation plan will be developed including the protections outlined in this exhibit, at a minimum. Mitigation plan will be reviewed by TXDOT and TCEQ, as per the ECOMP Section 6.0.
	2. Seal the feature by placing large rock in the opening of the cavity and cover with natural clay type soil from the project site	X		There are no sensitive karst features within the proposed roadway embankment. If any sensitive karst features are discovered during construction, a mitigation plan will be developed including the protections outlined in this exhibit, at a minimum. Mitigation plan will be reviewed by TXDOT and TCEQ, as per the ECOMP Section 6.0.
	3. Complete the construction of the embankment and roadway over the site	X		There are no sensitive karst features within the proposed roadway embankment. If any sensitive karst features are discovered during construction, a mitigation plan will be developed including the protections outlined in this exhibit, at a minimum. Mitigation plan will be reviewed by TXDOT and TCEQ, as per the ECOMP Section 6.0.
	4. Blasting will be permitted, but shall not exceed 5-foot lifts per shot.	X		Blasting will not be permitted on this project.
Procedure 2: Feature in Roadway Excavation	1. Evaluation of the extent of the feature to be removed should be determined by drilling geotechnical test holes or by other appropriate means, as directed by SDHPT, in cooperation with the District.	X		There are no sensitive karst features within the proposed roadway excavation. If any sensitive karst features are discovered during construction, a mitigation plan will be developed including the protections outlined in this exhibit, at a minimum. Mitigation plan will be reviewed by TXDOT and TCEQ, as per the ECOMP Section 6.0

General description	Detailed Description	Fully Compliant	Partially Compliant	Status
	2. The feature shall be protected from construction runoff prior to beginning the excavation operation. Protection will consist of encirclement of the feature by silt fence or a rock berm with filter fabric.	X		There are no sensitive karst features within the proposed roadway excavation. If any sensitive karst features are discovered during construction, a mitigation plan will be developed including the protections outlined in this exhibit, at a minimum. Mitigation plan will be reviewed by TXDOT and TCEQ, as per the ECMP Section 6.0.
	3. Blasting will be permitted to remove the feature, but shall not exceed 5-foot lifts per shot.	X		Blasting will not be permitted on this project.
	4. After excavation is begun, a berm will be maintained to prevent any construction runoff from entering any portion of the feature which may remain.	X		There are no sensitive karst features within the proposed roadway excavation. If any sensitive karst features are discovered during construction, a mitigation plan will be developed including the protections outlined in this exhibit, at a minimum. Mitigation plan will be reviewed by TXDOT and TCEQ, as per the ECMP Section 6.0.
	5. After excavation is complete, any remaining portion of the feature exposed by the excavation operation shall be protected from highway runoff or filtered. If sealed, the feature shall be sealed with geotechnical fabric/concrete, as directed by SDHPT, in cooperation with the District.	X		There are no sensitive karst features within the proposed roadway excavation. If any sensitive karst features are discovered during construction, a mitigation plan will be developed including the protections outlined in this exhibit, at a minimum. Mitigation plan will be reviewed by TXDOT and TCEQ, as per the ECMP Section 6.0.
Procedure 3: Feature Catchment receiving Highway Runoff	1. The feature shall be protected from construction runoff prior to beginning construction. Protection will consist of placement of silt fence or a rock berm with filter fabric in an orientation which will intercept any construction of highway runoff and prevent it from entering the feature.	X		All roadway runoff will be intercepted by curb and gutter, concrete rail, or roadside ditches, and directed away from sensitive feature catchment areas. All sensitive features within the ROW are surrounded by a minimum 50' buffer zone, with high-service rock filter dams, silt fence, and biodegradable erosion control logs at the buffer zone limits. (See sheets 1185 - 1249). Any roadway or construction runoff that reaches the feature catchment areas will pass through these controls, at a minimum, prior to reaching the sensitive feature.
	2. At the earliest date possible, an earth berm or ditch shall be constructed to intercept any construction or highway runoff and prevent it from entering the feature.		X	Compliance: The project has been designed so that no proposed roadway runoff will reach the sensitive features. During construction, most runoff from disturbed areas will be diverted away from sensitive features. Variation: Some areas that will be disturbed during construction may drain to the sensitive features. Any runoff that does reach sensitive features will pass through biodegradable erosion control logs, high-performance rock filter dams with sediment control fencing, sand bags, and a minimum 50' buffer zone before reaching the feature.
	3. No blasting will be allowed within 300 feet of these features.	X		Blasting will not be permitted on this project.
Procedure 4: Major Caves	1. SDHPT shall consider highway realignment to bypass the major cave or bridging over the feature as to allow future access.	X		The roadway was designed to avoid or span over all major caves. See project layout sheets 5 - 13.
	2. The major cave shall be protected from construction runoff prior to beginning construction. Protection will consist of placement of silt fence or a rock berm with filter fabric in an orientation which will intercept any construction runoff prior to reaching the feature.	X		All caves within the ROW are surrounded by a minimum 50' buffer zone, with high-service rock filter dams, silt fence, and biodegradable erosion control logs at the buffer zone limits. (See sheets 1185 - 1249).
	3. At the earliest date possible, an earth berm or ditch shall be constructed to intercept any construction or highway runoff and prevent it from entering the feature.		X	Compliance: The project has been designed so that no proposed roadway runoff will reach the caves. During construction, most runoff from disturbed areas will be diverted away from the caves. Variation: Some areas that will be disturbed during construction may drain to the caves. Any runoff that does reach caves will pass through biodegradable erosion control logs, high-performance rock filter dams with sediment control fencing, sand bags, and a minimum 50' buffer zone before reaching the cave.
	4. No blasting will be allowed within 300 feet of these major caves.	X		Blasting will not be permitted on this project.
Quality and Quantity of Runoff from Selected Highways in the Austin, Texas Area - EXHIBIT D				
	Conduct a study to determine quality and quantity of runoff of selected area highways.	X		TXDOT completed the study as described in Exhibit D. A series of reports from the University of Texas Center for Transportation Research are available as documentation. Staff from the BSEACD were members of the technical review committee. The acknowledgements in the summary and conclusions report list the names of several BSEACD representatives including Bill Couch (former General Manager) and Ron Fieseler (former Senior Environmental Analyst). The summary and conclusions report was published in March 1996. The UT Center for Transportation Research was permitted to conduct the research according to the March 5, 1992 Supplemental Agreement.

From: Ginny Burcham [<mailto:gburcham@mobilityauthority.com>]
Sent: Tuesday, January 19, 2016 4:16 PM
To: John Dupnik <jdupnik@bseacd.org>
Cc: Justin Word <jword@mobilityauthority.com>; Sean Beal <sbeal@mobilityauthority.com>
Subject: SH 45 SW IECM Evaluation Committee

Dear John Dupnick,

The Mobility Authority will be procuring Independent Environmental Compliance Management (IECM) Services for the SH 45 Southwest Project in February. The IECM will be responsible for ensuring that the Construction Contractor adheres to the Environmental Compliance Management Plan.

As a person with knowledge and understanding of the 45 SW project, the Mobility Authority would like to extend an invitation for you to be a scoring member of the Response for Qualifications (RFQ) Evaluation Committee. Below is the IECM Procurement Schedule. Please note that as a scoring member, we would like for you to attend all meetings, but attendance would be required at the highlighted meetings.

1	RFQ Submittal Deadline	February 24
2	Evaluation Committee Receives Copy of RFQ's to review	February 25
3	Evaluation Committee Meeting – Discuss RFQ, Determine Best Response or Develop Shortlist for Interviews (if needed)	March 10 from 1:30 - 5
4	Evaluation Committee Meeting – Develop Evaluation Criteria for Interviews (if Needed)	March 15 from 11-1 (lunch provided)
5	Evaluation Committee Meeting – Interview Shortlist (If Needed)	March 17 from 8 – 5 (lunch provided)

The Mobility Authority estimates receiving 4-6 proposals with the average proposal taking a few hours to review. Please note that a scoring member should estimate spending between 25 to 50 hours on the procurement between February 25 and March 27. The amount of time will depend on how many proposals are received and how many meetings you are able to attend. Please note that the Mobility Authority values your input during this process and will provide compensation for your time.

Please let us know if you are interested in participating as a scoring member of the IECM procurement by 5pm this Friday, January 22nd. Feel free contacting me or Justin Word at 512-996-9778 if you have any questions.

Ginny Burcham
Manager of Construction and Maintenance
Central Texas Regional Mobility Authority
(512) 413-5258

Please note my new email address : gburcham@mobilityauthority.com
"Enhancing Mobility Through Innovation"

Item 4

Board Discussions and Possible Actions

- b. Discussion and possible action related to receiving committee recommendations and selecting the Groundwater Stewardship Award winners and approving the staff's selection for Permittee of the Year.**



**Barton Springs
Edwards Aquifer**
CONSERVATION DISTRICT

MEMORANDUM

Date: 1/22/16

To: Board of Directors

From: Robin Gary, Senior Public Information and Education Coordinator

Re: Summary of Groundwater Stewardship Award Nominations

Nominee	Nominated by	Category
Jack Hollon	David Baker, WVWA	All categories, suggests 'Lifetime Achievement'
Jack Hollon	Christine and Rusty Middleton	Aquifer Advocate
Jack Hollon	Larry Calvert, Wimberley Democrats	Aquifer Advocate
Bill Johnson, Save Our Wells	Lila Knight, Save Our Wells	Aquifer Advocate
Bill Johnson, Save Our Wells	Ashley Whittenberger, Hays County Water Watchdogs	Aquifer Advocate
Bill Johnson, Save Our Wells	David Crowell	Aquifer Advocate
Bill Johnson	Beth Smith	Aquifer Advocate
Jason Isaac	David Crowell	Special Award
Will Conley	Patrick Cox	Aquifer Advocate
Centex, David Loftis	Cyndy Slovak-Barton	Innovation
Nico Hauwert	Susan Wall	Innovation
Nico Hauwert	Kuhl, O'Donnell, Sanders, BCCP	Water Quality Protection
City of Sunset Valley	Carolyn Meredith, SV	Water Quality Protection
CoA WPD, Watershed Detectives	Jessica Gordon, CoA WPD	Research/Education
Zara Environmental	John Chenoweth	Research/Education
Colorado River Alliance	Brent Lyles, CRA	Aquifer Advocate
Hill Country Studio	Cliff Kaplan, Hill Country Alliance	Research/Education



**Barton Springs
Edwards Aquifer**
CONSERVATION DISTRICT

MEMORANDUM

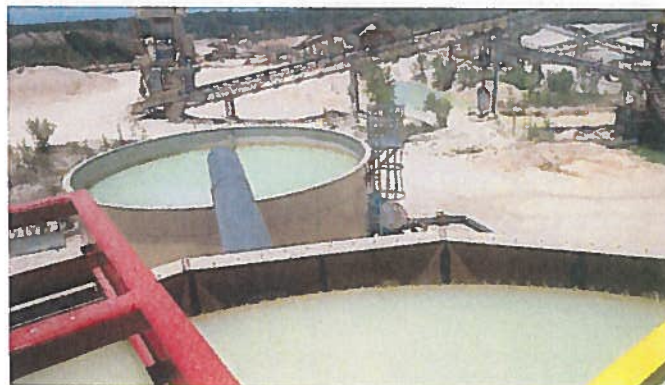
Date: 1/22/16

To: Board of Directors

From: Staff Evaluation Team (John Dupnik, Robin Gary, Kendall Bell-Enders,
and Vanessa Escobar)

Re: Staff Recommendation for 2015 Permittee of the Year

2015 Permittee of the Year – Centex



Centex Materials' staff and leadership have consistently participated in the District's planning process, regularly supported education and outreach efforts, and last year installed a innovative recycling facility that streamlines operations and increases water efficiency.

The company's new recycling facility has allowed for 40-50% water recovery. In January of 2015, Centex Materials began construction on a state of the art water reclamation system to replace their settling pond system for recycling water. Historically, Centex used water from the aquifer with approximately the same amount of recycled water from a settling pond to produce washed concrete and asphalt aggregates for the local construction market. The new water reclamation system installed eliminated the settling pond and allows Centex to recycle 90% of the Edwards Aquifer sourced water used in the production process within thirty minutes therefore reducing the amount of water pumped from the aquifer. Since the system was fully commissioned in May 2015, Centex has only used 57M gallons or 38% of their permitted 151M gallons of water from May 2015 through December 2015.

Centex has demonstrated their commitment to protecting the aquifer resource, reducing demand on groundwater resources, and has proven to be a model permittee in many ways. The staff of the BSEACD seeks to recognize and commend its efforts by awarding Centex Materials "Permittee of the Year" Award.

Item 4

Board Discussions and Possible Actions

c. Discussion and possible action related to approval of rule concepts for implementation of HB 3405 and other legislation from the 84th Legislative Session including direction to initiate rule making and scheduling of a public hearing.

Proposed Rule Revision Concepts 1/28/16

Topic Area :	Definitions
Rationale:	<p>Clarification of some existing defined terms is necessary and the incorporation of some newly defined terms is necessary to support the interpretation of the overall rules and to further clarify the regular permitting processes.</p> <p>Revised or new definitions may include: 'Recreation', 'Wildlife Management', 'Primary Use', 'Multi-Use', 'Commercial', 'Institutional', 'Municipal', 'Industrial', 'Agricultural Livestock', 'Agricultural Irrigation', 'Public Water Supply Use', 'Replacement Well', 'Well Repair', 'Alluvial Aquifers', 'Austin Chalk Aquifer', 'Other Aquifers', 'Alluvial/Chalk MZ', 'Maximum Production Capacity', 'Unreasonable Interference', 'Aquifer Testing', 'Well Owner', 'Best Available Science', 'Operating Permit'</p>
Rule Section(s):	Section 2

Topic Area :	Permit Applications & Administrative Complete Checklist
Rationale:	<p>The application and checklist requirements will clarify details about the Hydrogeological Report requirements, notice requirements, declarations, and drought delay. Other checklist requirements may be streamlined or removed.</p> <p>Incorporate changes that allow General Manager to extend administrative completeness time period for good cause.</p>
Rule Section(s):	Section 3-1.4 A, C, D

Topic Area :	Permit Amendments
Rationale:	<p>A modification to this rule will provide additional clarification that a change of use type may be considered a major or minor amendment. Clarify that, as a major amendment, a permit may be subject to recalculation of permit volume based on the new non-speculative demand for the changed use type. Additionally, add permit volume retirement as a minor amendment action.</p>
Rule Section(s):	Section 3-1.9 A

Topic Area :	Permit Conditions and Requirements
Rationale:	<p>A new permit condition will be added to describe that a permittee may be required as a special provision of the permit to submit or implement a mitigation plan if a mitigation plan is needed to address any potential for unreasonable interference.</p> <p>Another new permit condition will be added to describe that a permit may be modified if the initially permitted use type is no longer the primary use type.</p>
Rule Section(s):	Section 3-1.11

Topic Area :	Aggregation
Rationale:	The rule should be clarified to state that wells of an aggregate system shall be of the same use type and consistent with the intended and permitted purpose.
Rule Section(s):	Section 3-1.14

Topic Area :	<i>Fees and Payment Fees</i>
Rationale:	The rule is being reviewed to ensure that the fees and procedures are consistent throughout the rules in all sections.
Rule Section(s):	Section 3-1.22

Topic Area :	<i>Withdrawals for Management Zones</i>
Rationale:	A section will be added to the rule to address management zones for other aquifers such as Austin Chalk and Alluvial Aquifers.
Rule Section(s):	Section 3-1.23

Topic Area :	<i>Conditional Production Permits</i>
Rationale:	The section will be modified to remove the limit on the aggregate Class D permit volume and clarify that the 2.0 cfs reservation for ASR is a floor and not a ceiling.
Rule Section(s):	Section 3-1.23

Topic Area :	<i>Transfer of Groundwater Out of the District</i>
Rationale:	The rule language pertaining to requirements for a transport permit and transport fees may need be modified to take into consideration the recent HB 3405 annexation. This transfer rule did not anticipate the annexation of new areas and specifically situations of existing contiguous properties being divided by a subsequently imposed jurisdictional District boundary. Change the term 'transfer' to 'export'.
Rule Section(s):	Section 3-1.3.1

Topic Area :	<i>Cancellation of Posted Meetings</i>
Rationale:	Provide more flexibility to allow for cancellation of a posted Board meeting for good and valid reasons other than weather.
Rule Section(s):	Section 3-1.23

Topic Area :	<i>Well Construction Standards</i>
Rationale:	The well construction standards will be updated with minor fixes to provide further clarification on items such as well schematic requirements, logging and reporting requirements, replacement wells and modifications and plugging requirements.
Rule Section(s):	Section 5

Topic Area :	<i>Unreasonable Impacts and Mitigation</i>
Rationale:	<p>H.B 3405 expanded the BSEACD jurisdiction and established a procedure for issuing temporary permits to existing well owners. A procedure was also established for converting a temporary permit into a regular permit, and outlined in that procedure were only two factors for which a temporary permit volume could be reduced. A temporary permit volume may be reduced if the District finds that authorizing the full volume would cause:</p> <ol style="list-style-type: none"> (1) a failure to achieve the applicable adopted desired future conditions for the aquifer; or (2) an unreasonable impact on existing wells. <p>In response to H.B. 3405 the District intends to define “unreasonable impact” and to develop new rule language for making determinations of unreasonable impacts. The proposed revisions may include incorporating factors that the Board may consider in making the determination before taking action on a permit. Rule language will also address requirements for monitoring wells or monitoring well agreements that may be needed in some cases.</p> <p>In a situation where there is potential for unreasonable impacts there may also a need to address the potential for mitigation of impacted wells to balance with preventative measures. The District intends to define “mitigation” and to develop new rule language outlining the minimum elements of an acceptable mitigation plan and general implementation requirements.</p>
Rule Section(s):	Section 3-1.6

Other Possible Changes to Rules and Bylaws:

1. Rule 2-10 - Computing Time. Need to allow extension if final date falls on Saturday.
2. Rule 3-1.4.B - Notice. Allow consolidated notice for certain situations.
3. Bylaw 4-6 - Annual Report. Minor fixes to Annual Report requirements.
4. Bylaw 4-8.8 - Purchasing. Minor fixes to reflect purchasing policy.
5. Rules - Add language included in § 36.0015(b) regarding private property rights.
6. Rules - Aquifer storage and recovery rule to incorporate HB 3405 authority.
7. Rules - Appeal of DFC rule to incorporate § 36.1083.
8. Rules - Clean up permit renewals to address changes under §§ 36.1145 and 36.1146.
9. Bylaws – Incorporate changes to conflict of interest laws.
10. Bylaws – Incorporate changes to vendor disclosure

Item 4

Board Discussions and Possible Actions

- d. Discussion and possible action related to initiating an enforcement action on permittee, Taliaferro (T.J.) Higginbotham, for alleged violations of the conditions of the Production Permit.**



BSEACD STAFF INVESTIGATION REPORT

I. Basic Information

Report Date: January 22, 2016

Respondent: Taliaferro Higginbotham IV

Contact: Taliaferro Higginbotham IV

Address: 950 FM 967
Buda, Texas 78610

BSEACD Staff: John T. Dupnik, Kendall Bell-Enders, Vanessa Escobar, Dana Wilson

II. Investigation Summary

Taliaferro Higginbotham IV filed an application for a Freshwater Edwards Class C Conditional production permit on January 13, 2015 to withdraw 270,000,000 gallons/year for Wholesale Public Water Supply. Mr. Higginbotham was in the process of seeking and negotiating a contract with area water providers. Mr. Higginbotham indicated that there cannot be a final agreement and contract until a permit is issued; implying that a production permit is needed first before customers feel comfortable signing a contract for wholesale water supply services.

Staff reviewed the application and determined that the application in combination with proposed special provisions, satisfied the administrative completeness and fee requirements pursuant to District Rule 3-1.4.A. Due to the unique nature of wholesale applicants and the fact that the applicant did not have contracted customers at the time, some requirements in Rule 3-1.4A were not satisfied in the detail that is customary. However, the staff recommended special provisions to ensure that all requirements would be adequately satisfied in detail upon contract submittal. The Board approved the application on September 10, 2015 with fourteen special provisions. (Appendix A)

During an application meeting on 6/18/15 staff met with the applicant, his consultant, and his attorney in which there was discussion to address that a standard production fee would be required regardless of actual use. Staff discussed how the fee would be calculated and based on the approved permit volume of 270,000,000 MGY. Staff specifically emphasized this point in discussions as well as in a draft document that outlined the special provisions. It is important to note that the special provisions were provided to the applicant and his attorney prior to permit approval and the applicant provided documentation that he accepted special provision #1 (related to fee assessment) without comment (Appendix B). The following is an excerpt of the language that was provided in the draft document and ultimately incorporated into the final permit provisions:

"Provision 1. Upon the effective date of the permit and receipt of the initial permit certificate and invoice, the permittee must submit timely payment of production fees. Permittee may render payment in bi-annual installments or in an annual lump sum. Nonpayment of fees following a past-due notice may result in

revocation, termination, cancelation modification, or amendment of the permit pursuant District Rule 3-1.13."

- Pursuant to District Rule 3-1.16, "production fees shall be applied to the total authorized annual pumpage for each permit issued during the fiscal year and all new permittees shall pay fees or the first installment of fees at the time of permit issuance."
- Pursuant to District Rule 3-8.7(A) "failure of new permittees to make the initial production fee payment or initial installment payment within 10 days following the issuance of a new permit constitutes grounds for the District to declare the permit void."
- Pursuant to District Rule 3-8.7(A) "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 3-6.4. The fee payment plus the late payment fee must be made within 30 days following the date the payment is due, otherwise the permit may be declared suspended by the Board (see also Rules 2-10 and 2-11)".

The production permit was issued on September 17, 2015 and invoices were mailed out via certified mail as referenced in the below chronology. The applicant has failed to pay the production fees and has responded to the General Manager via his attorney indicating that he is incapable of paying the fee until he has customers under contract.

III. Alleged Violations:

The District has recorded violations of the following District rules:

Rule 3-1.16: Failure to pay production fees

Rule 3-1.11: Failure to comply with applicable Rules, regulations, Fee Schedule, special provisions and requirement of a permit.

IV. Chronology of Events:

1/13/15	Application Filed
4/13/15	Meeting Discussion with applicant and hand delivery of 90 day Notice of Deficiency Letter
6/18/15	Meeting Discussion with applicant
7/13/15	Administratively Complete Letter issued
7/20/15	Public Notice Posted and Notice Letters Mailed
7/30/15	Email Transmittal of District's Draft Special Provisions
8/9/15	End of Comment Period
8/14/15	Applicant Response. Applicant's formal email response and comments on Draft Special Provisions
9/2/15	District Response. District's formal response to applicant's comments (8/14/15) on Draft Special Provisions
9/10/15	Public Hearing and Application Approval
9/17/15	Permit Certificate signed, dated and effective

10/16/15	Initial Invoice (\$124,250 due 11/5/15, late 11/16/15)
11/16/15	1 st late fee assessed at 10% (\$12,425 due 12/16/15, late 12/16/15) Total \$136,675
12/16/15	2 nd late fee assessed at 10% (\$12,425 due 1/16/16, late 1/16/16) Total \$149,100
1/19/16	3 rd late fee assessed at 10% (\$12,425 due 1/19/16*, late 2/19/16) Total \$161,525 *Intended to be 2/19/16

V. Documentation

- Attachment A - Copy permit and special provisions
- Attachment B - Copy of applicant's response to special provisions
- Attachment C - Invoices



BSEACD STAFF INVESTIGATION REPORT

I. Basic Information

Report Date: January 22, 2016

Respondent: Taliaferro Higginbotham IV

Contact: Taliaferro Higginbotham IV

Address: 950 FM 967
Buda, Texas 78610

BSEACD Staff: John T. Dupnik, Kendall Bell-Enders, Vanessa Escobar, Dana Wilson

II. Investigation Summary

Taliaferro Higginbotham IV filed an application for a Freshwater Edwards Class C Conditional production permit on January 13, 2015 to withdraw 270,000,000 gallons/year for Wholesale Public Water Supply. Mr. Higginbotham was in the process of seeking and negotiating a contract with Water Supply Corporations. Mr. Higginbotham indicated that there cannot be a final agreement and contract until a permit is issued; implying that a production permit is needed first before customers feel comfortable signing a contract for wholesale water supply services.

Staff reviewed the application and determined that the application in combination with proposed special provisions, satisfied the administrative completeness and fee requirements pursuant to District Rule 3-1.4.A. Due to the unique nature of wholesale applicants and the fact that the applicant did not have contracted customers at the time, some requirements in Rule 3-1.4A were not satisfied in the detail that is customary. However, the staff recommended special provisions to ensure that all requirements would be adequately satisfied in detail upon contract submittal and prior to any production from the well. The Board approved the application on September 10, 2015 with fourteen special provisions. (Appendix A)

During an application meeting on 6/18/15 staff met with the applicant, his consultant, and his attorney in which there was discussion to address that a standard production fee would be required regardless of actual use. Staff discussed how the fee would be calculated and based on the approved permit volume of 270,000,000 MGY. Staff specifically emphasized this point in discussions as well as in a draft document that outlined the special provisions. It is important to note that the special provisions were provided to the applicant and his attorney prior to permit approval and the applicant provided documentation that he accepted special provision #1 without comment (Appendix B). The following is an excerpt of the language that was provided in the draft document and ultimately incorporated into the final permit provisions:

"Provision 1. Upon the effective date of the permit and receipt of the initial permit certificate and invoice, the permittee must submit timely payment of production fees. Permittee may render payment in bi-annual installments or in an annual lump sum. Nonpayment of fees following a past-due notice may result in

revocation, termination, cancelation modification, or amendment of the permit pursuant District Rule 3-1.13."

- Pursuant to District Rule 3-1.16, "production fees shall be applied to the total authorized annual pumpage for each permit issued during the fiscal year and all new permittees shall pay fees or the first installment of fees at the time of permit issuance."
- Pursuant to District Rule 3-8.7(A) "failure of new permittees to make the initial production fee payment or initial installment payment within 10 days following the issuance of a new permit constitutes grounds for the District to declare the permit void."
- Pursuant to District Rule 3-8.7(A) "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 3-6.4. The fee payment plus the late payment fee must be made within 30 days following the date the payment is due, otherwise the permit may be declared suspended by the Board (see also Rules 2-10 and 2-11)".

The production permit was issued on September 17, 2015 and invoices were mailed out via certified mail as referenced in the below chronology. The applicant has failed to pay the production fees and has responded to the General Manager that he doesn't intend to pay until he has customers and can produce water.

III. Alleged Violations:

The District has recorded violations of the following District rules:

Rule 3-1.16: Failure to pay production fees

Rule 3-1.11: Failure to comply with applicable Rules, regulations, Fee Schedule, special provisions and requirement of a permit.

IV. Chronology of Events:

1/13/15	Application Filed
4/13/15	Meeting Discussion with applicant and hand delivery of 90 day Notice of Deficiency Letter
6/18/15	Meeting Discussion with applicant
7/13/15	Administratively Complete Letter issued
7/20/15	Public Notice Posted and Notice Letters Mailed
7/30/15	Email Transmittal of District's Draft Special Provisions
8/9/15	End of Comment Period
8/14/15	Applicant Response. Applicant's formal email response and comments on Draft Special Provisions
9/2/15	District Response. District's formal response to applicant's comments (8/14/15) on Draft Special Provisions
9/10/15	Public Hearing and Application Approval
9/17/15	Permit Certificate signed, dated and effective

10/16/15	Initial Invoice (\$124,250 due 11/5/15, late 11/16/15)
11/16/15	1 st late fee assessed at 10% (\$12,425 due 12/16/15, late 12/16/15) Total \$136,675
12/16/15	2 nd late fee assessed at 10% (\$12,425 due 1/16/16, late 1/16/16) Total \$149,100
1/19/16	3 rd late fee assessed at 10% (\$12,425 due 1/19/16*, late 2/19/16) Total \$161,525 *Intended to be 2/19/16

V. Documentation

- Attachment A - Copy permit and special provisions
- Attachment B - Copy of applicant's response to special provisions
- Attachment C - Invoices

Attachment A

Permit Certificate and Special Provisions



**Barton Springs/Edwards Aquifer
Conservation District**

1124 Regal Row Austin, TX 78748

(512) 282-8441

Class C Conditional Production Permit

Permit No: E260-15-01

Owner: Taliaferro (TJ) Higginbotham

System: Higginbotham Wholesale

Mail Address: P.O. Box 1050
Buda, TX 78610

Management Zone: Eastern Freshwater Edwards

Number of Wells: 1

State Well No(s): 58-58-1TJ



Terms: Expires August 31 following the date of issuance. Failure to pay fees, report pumpage, or abide by Rules, Bylaws, or Special Provisions of issuance, will subject this agreement to revocation. Permittee is subject to the enforcement mechanisms available to the District including but not limited to those set out in Rules 3-1.11, 3-1.13, 3-7.11, 3-8.5, 3-8.9 for noncompliance with District Drought Rules including but not limited to mandatory reduction goals.

Authorized Groundwater Withdrawal:

Only that amount of water which is required without being wasteful during the term of this agreement, but not to exceed **270,000,000 gallons per year**

Special Provisions: Special Provision pages 1-3

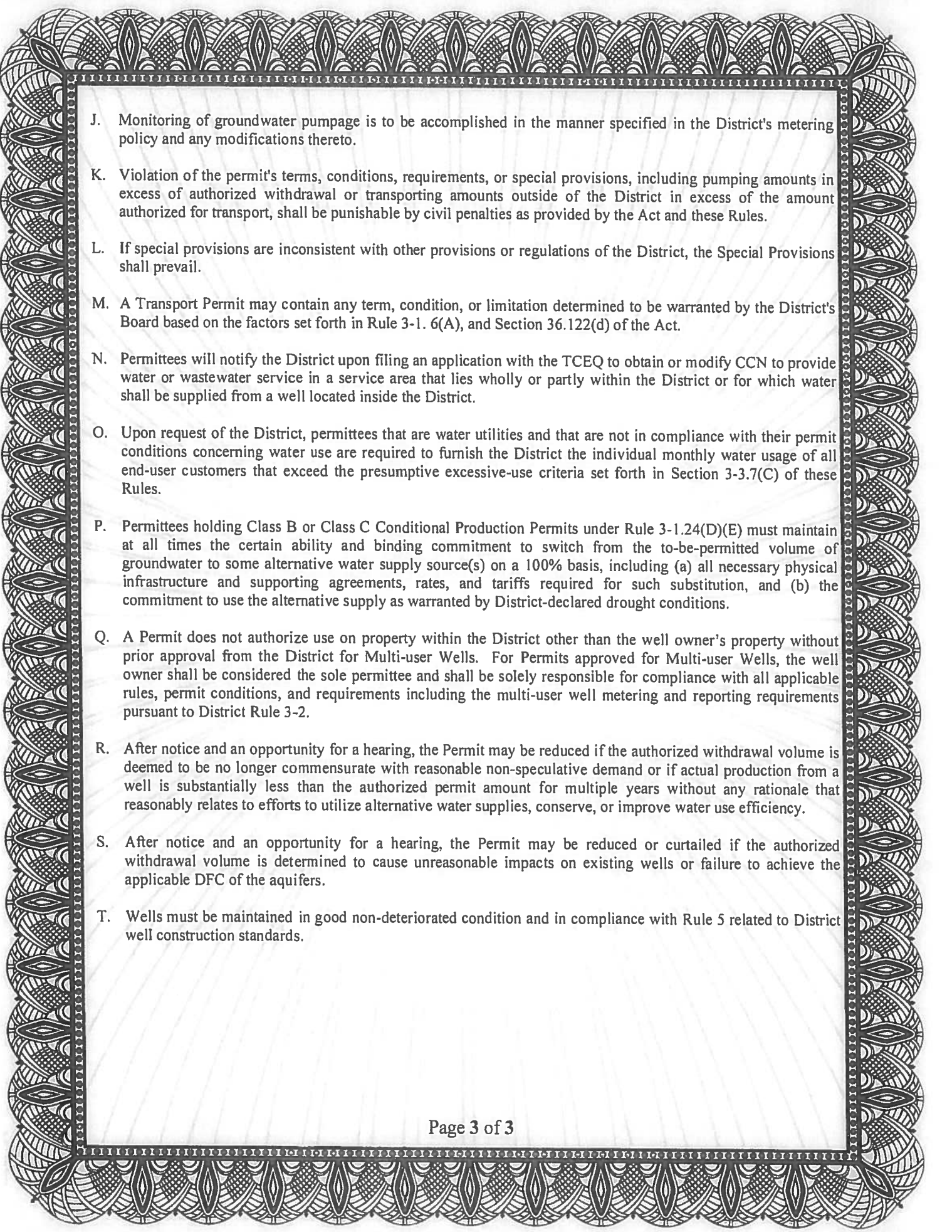
This Permit is hereby issued on this: 17th day of September 2015

By: , General Manager

PERMIT CONDITIONS AND REQUIREMENTS

All permits are granted subject to the Rules, regulations, Orders, special provisions, and other requirements of the Board, and the laws of the State of Texas. In addition, each permit issued shall be subject to the following conditions and requirements:

- A. The permit is granted in accordance with the provisions of S.B. 988 of the 70th Texas Legislature in conjunction with Chapter 36, Texas Water Code, and the Rules, regulations and Orders of the District as may be in effect from time to time, and acceptance of the permit constitutes an acknowledgment and agreement that the permittee will comply with all the terms, provisions, conditions, requirements, limitations, and restrictions embodied in the permit and with the Rules, regulations, and Orders of the District.
- B. The permit confers no vested rights in the holder and the permit is non-transferable. Written notice must be given to the District by the permittee prior to any sale or lease of the well covered by the permit. The permit may be revoked or suspended for failure to comply with its terms, which may be modified or amended pursuant to the requirements of the Act and any applicable Rules, regulations and Orders of the District.
- C. A permit shall be subject to amendment by the District of the amount of water authorized for pumpage based upon a review of the District's sustainable yield model and a determination by the District that an amendment is necessary after considering adequate water levels in water supply wells and degradation of water quality that could result from low water levels and low spring discharge.
- D. The drilling and operation of the well for the authorized use shall be conducted in such a manner as to avoid waste, pollution, or harm to the aquifer.
- E. The permittee shall keep accurate records and meter readings, on a monthly basis, of the amount of groundwater withdrawn, the purpose of the withdrawal, and, for any transporting of water outside the District, the amount of water transported and the identity and location of the recipients. Such records shall be submitted to the District office on a monthly basis, unless some other reporting period is specified in the permit, even if there is zero pumpage or transport for the time period and shall also be available for inspection at the permittee's principal place of business by District representatives. Immediate written notice shall be given to the District in the event a withdrawal or transporting of water exceeds the quantity authorized by the permit or rules. Unless the permittee can present evidence that the pumpage or transport which exceeded the permitted amount is due to an isolated incident that is not likely to be repeated and/or would not result in continued higher demands, the permittee must immediately submit an application to increase the permitted pumpage or transport volume based on the amount of pumpage or transport which exceeded the permitted amount projected for the remainder of the fiscal year.
- F. The well site or transport facilities shall be accessible to District representatives for inspection during normal business hours and during emergencies. The permittee agrees to cooperate fully in any reasonable inspection of the well site or transport facilities and related monitoring or sampling by District representatives. The well owner shall provide a twenty-four (24) hour emergency contact to the District.
- G. The application pursuant to which a permit has been issued is incorporated therein, and the permit is granted on the basis of and contingent upon the accuracy of the information supplied in that application and in any amendments thereof. A finding that false information has been supplied shall be grounds for immediate revocation of a permit. In the event of conflict between the provisions of the permit and the contents of the application, the provisions of the permit shall prevail.
- H. Driller's logs must be submitted within 60 days of the drilling of a well.
- I. For all new public water supply wells, a 150-foot radius sanitary control easement around the well must be recorded with county of record and evidence of said easement or a variance from TCEQ shall be provided to the District 60 days upon completion of the well.

- 
- J. Monitoring of groundwater pumpage is to be accomplished in the manner specified in the District's metering policy and any modifications thereto.
 - K. Violation of the permit's terms, conditions, requirements, or special provisions, including pumping amounts in excess of authorized withdrawal or transporting amounts outside of the District in excess of the amount authorized for transport, shall be punishable by civil penalties as provided by the Act and these Rules.
 - L. If special provisions are inconsistent with other provisions or regulations of the District, the Special Provisions shall prevail.
 - M. A Transport Permit may contain any term, condition, or limitation determined to be warranted by the District's Board based on the factors set forth in Rule 3-1. 6(A), and Section 36.122(d) of the Act.
 - N. Permittees will notify the District upon filing an application with the TCEQ to obtain or modify CCN to provide water or wastewater service in a service area that lies wholly or partly within the District or for which water shall be supplied from a well located inside the District.
 - O. Upon request of the District, permittees that are water utilities and that are not in compliance with their permit conditions concerning water use are required to furnish the District the individual monthly water usage of all end-user customers that exceed the presumptive excessive-use criteria set forth in Section 3-3.7(C) of these Rules.
 - P. Permittees holding Class B or Class C Conditional Production Permits under Rule 3-1.24(D)(E) must maintain at all times the certain ability and binding commitment to switch from the to-be-permitted volume of groundwater to some alternative water supply source(s) on a 100% basis, including (a) all necessary physical infrastructure and supporting agreements, rates, and tariffs required for such substitution, and (b) the commitment to use the alternative supply as warranted by District-declared drought conditions.
 - Q. A Permit does not authorize use on property within the District other than the well owner's property without prior approval from the District for Multi-user Wells. For Permits approved for Multi-user Wells, the well owner shall be considered the sole permittee and shall be solely responsible for compliance with all applicable rules, permit conditions, and requirements including the multi-user well metering and reporting requirements pursuant to District Rule 3-2.
 - R. After notice and an opportunity for a hearing, the Permit may be reduced if the authorized withdrawal volume is deemed to be no longer commensurate with reasonable non-speculative demand or if actual production from a well is substantially less than the authorized permit amount for multiple years without any rationale that reasonably relates to efforts to utilize alternative water supplies, conserve, or improve water use efficiency.
 - S. After notice and an opportunity for a hearing, the Permit may be reduced or curtailed if the authorized withdrawal volume is determined to cause unreasonable impacts on existing wells or failure to achieve the applicable DFC of the aquifers.
 - T. Wells must be maintained in good non-deteriorated condition and in compliance with Rule 5 related to District well construction standards.

Special Provisions – Taliaferro (TJ) Higginbotham

1. Upon the effective date of permit and receipt of the initial permit certificate and invoice, the permittee must submit timely payment of production fees. Permittee may render payment in bi-annual installments or in an annual lump sum. Nonpayment of fees following a past-due notice may result in revocation, termination, cancelation, modification, or amendment of the permit pursuant to District Rule 3-1.13.
2. Prior to producing any groundwater from the well, the Permittee must submit documentation from TCEQ authorizing the Permittee to operate the well as a TCEQ-approved Public Water System.
3. Prior to producing any groundwater from the well, the Permittee must provide a fully-executed copy of the legal instrument(s) or contractual agreement(s) ("contract") between the Permittee and the Permittee's customer(s). The contract(s) must contain the following to be deemed acceptable by the District:
 - a. A contractual demonstration of the Permittee's intent to sell, lease or transfer groundwater to a named customer.
 - b. A contracted maximum annual production volume that is non-speculative.
 - c. A binding commitment demonstrating a requirement of the contracted customer to comply with complete curtailment (100%) during District-declared drought and a declaration by the customer of the customer's intent and ability to satisfy such requirements.
 - d. A binding commitment of the Permittee to enforce requirements of its customers to completely curtail (100%) water deliveries during District-declared drought.
 - e. A binding commitment demonstrating an initial and recurring annual requirement of the contracted customer to demonstrate a reliable and accessible Alternate Water Supply, as defined in Special Provision 8 below, to be available for use during District-declared drought when all of the production authorized under the Class C Conditional Production Permit is completely curtailed (100%) by the District.
 - f. A binding commitment of the customer to provide demonstration of Alternative Water Supply as required by Special Provision 8.
4. The contract documentation required by Special Provision 3 must be submitted within six months of the effective date of the permit. If the Permittee is unable to produce contract documentation deemed acceptable by the District by the end of the six-month period, the Permittee may request an extension by the Board in writing at least ten days before the end of the six-month period. The written request must include a report explaining the status of prospective contract(s) and other relevant information

to support an extension. The Permittee's request for a six-month extension may be denied or granted by the Board.

5. Failure to provide the requisite contract documentation prior to expiration of the six-month period or the six-month extension, if granted, will result in expiration of the permit. Upon permit expiration groundwater produced from the well will not be authorized until a subsequent application is submitted and approved by the Board.
6. Upon the submittal of contract documentation, the initial authorized permit volume of 270 million gallons shall be adjusted by the District to be commensurate with the actual contracted amount not to exceed the initial authorized permit volume of 270 million gallons.
7. Upon the submittal of the contract documentation, the Permittee shall also provide:
 - a. An explanation of how that contracted volume was determined or estimated.
 - b. A statement of intended use type for the produced groundwater that is consistent with wholesale Public Water Supply.
 - c. An explanation of the customer's projected demand for the immediate 5yrs.
 - d. A current map of the service area or receiving area of the customer for which the water is to be produced. The map must show the entire service area or receiving area of the customer.
8. Prior to producing any groundwater from the well and annually prior to permit renewal, the Permittee will certify and provide documentation acceptable to the District demonstrating that the customer(s) have reliable and accessible firm-yield Alternative Water Supply with a volume sufficient to meet customer's service requirements. The Permittee shall require by contract that each customer provide documentation of an Alternate Water Supply to be available for use during District-declared drought when all of the production authorized under the Class C Conditional Production Permit is completely curtailed by the District. "Alternative Water Supply" shall be considered as the sum of the customer's aggregated firm-yield supply from other non-Edwards sources that are equal or greater to the contracted volume between the Permittee and the customer. Permittee shall submit the Alternative Water Supply demonstration to the District by July 1st of each annual permit term prior to permit renewal.
9. Permittee is required to submit written notification to the District informing staff of any new contracts or cancellation, modification, or amendment of existing contracts that change or affect the volume of water supplied by permittee. The notification

must be provided within thirty days after such change. Any new contract or modification or amendment of existing contracts must contain the components mentioned in Special Provision 3 above and the documentation showing compliance with Special Provision 3 shall be provided to the District with the notification required under this provision. Beginning five years after permit issuance and every five years thereafter, the District will review the volume of water permittee has contracted to provide to customers and, after notice and opportunity for hearing, shall amend the permit to adjust the permit volume to be commensurate with the then-existing contracted demand. Unless approved by the District as an amended permit, at no time may permittee exceed the amount permitted by the District.

10. Permittee shall sign and submit a Drought Target Chart within 30 days of permit issuance.
11. Permittee will update the User Conservation Plan (UCP) and the User Drought Contingency Plan (UDCP) when initial final contracts have been executed and upon entering any new contract and any contract amendments.
12. Groundwater production authorized by this permit shall not be considered a firm water supply sufficient to satisfy public water system customers' obligation to maintain a state-mandated sufficiency of water service under TCEQ Rules for public drinking water systems pursuant to 30 TAC §290.44D and/or 291.93, or other regulations applicable to public water supply wells. Therefore, immediate threats to public health and safety or other emergencies of the customers are not valid reasons to continue production during District-declared drought.
13. If Permittee fails to meet any of the permit provisions, the District will pursue enforcement actions, including but not limited to, seeking a Board Order to revoke, suspend, terminate, cancel, modify, or amend the permit in whole or in part pursuant Rule 3-1.13 (A).
14. The permit is not eligible for annual permit renewal pursuant to District Rule 3-1.8 until the Permittee has submitted the required documentation satisfying the conditions of this permit as deemed acceptable by the District.

Attachment B

- **Copy of District's Draft Special Provisions 7/30/15**
- **Copy of Applicant's Response to Draft Special Provisions 8/14/15**
- **Copy of District's Response to Draft Special Provisions 9/2/15**

Vanessa Escobar

From: Bill Dugat <bdugat@bickerstaff.com>
Sent: Thursday, July 30, 2015 2:56 PM
To: andy@thebarrettfirm.com
Cc: John Dupnik; Kendall Bell-Enders; Vanessa Escobar
Subject: Letter to A. Barrett re application
Attachments: Letter to A. Barrett re permit provisions.pdf

Andy:

Attached is a letter transmitting draft special provisions in connection with the permit for TJ Higginbotham.

Bill

Bill Dugat | Attorney | Bickerstaff Heath Delgado Acosta LLP
3711 S. Mo-Pac | Building One | Suite 300 | Austin, TX | 78746
Phone 512.472.8021 | Fax 512.320.5638

bdugat@bickerstaff.com | www.bickerstaff.com



[Austin](#) | [El Paso](#) | [Houston](#) | [Rio Grande Valley](#)



July 30, 2015

Via email: andy@thebarrettfirm.com

Mr. Andrew N. Barrett
3300 Bee Cave Road
Suite 650 #189
Austin, TX 78746

Re: Permit provisions for Production Permit in connection with Application submitted by Taliaferro Higginbotham IV to obtain a conditional Edwards Class C Permit

Dear Andy:

The Barton Springs/Edwards Aquifer Conservation District (District) asked that I forward you the proposed special provisions to be included in the permit associated with the above-described application. The District requests that you provide written comments to the District no later than August 7, 2015.

Sincerely,

William D. Dugat III

WDD/dfb
Enclosure

cc: John Dupnik, P.G., General Manager
Kendall Bell-Enders, Regulatory Compliance Coordinator
Vanessa Escobar, Regulatory Compliance Coordinator

Draft Special Permit Provisions

1. Upon the effective date of permit and receipt of the initial permit certificate and invoice, the permittee must submit timely payment of production fees. Permittee may render payment in bi-annual installments or in an annual lump sum. Nonpayment of fees following a past-due notice may result in revocation, termination, cancelation, modification, or amendment of the permit pursuant to District Rule 3-1.13.
2. Prior to producing any groundwater from the well, the Permittee must submit documentation from TCEQ authorizing the Permittee to operate the well as a TCEQ-approved Public Water System.
3. Prior to producing any groundwater from the well, the Permittee must provide a fully-executed copy of the legal instrument(s) or contractual agreement(s) ("contract") between the Permittee and the Permittee's customer(s). The contract(s) must contain the following to be deemed acceptable by the District:
 - a. A contractual demonstration of the Permittee's intent to sell, lease or transfer groundwater to a named customer.
 - b. A contracted maximum annual production volume that is non-speculative.
 - c. A binding commitment demonstrating a requirement of the contracted customer to comply with complete curtailment (100%) during District-declared drought and a declaration by the customer of the customer's intent and ability to satisfy such requirements.
 - d. A binding commitment of the Permittee to enforce requirements of its customers to completely curtail (100%) water deliveries during District-declared drought.
 - e. A binding commitment demonstrating an initial and recurring annual requirement of the contracted customer to demonstrate a reliable and accessible Alternate Water Supply, as defined in Special Provision 8 below, to be available for use during District-declared drought when all of the production authorized under the Class C Conditional Production Permit is completely curtailed (100%) by the District.
 - f. A binding commitment of the customer to provide demonstration of Alternative Water Supply as required by Special Provision 8.
4. The contract documentation required by Special Provision 3 must be submitted within six months of the effective date of the permit. If the Permittee is unable to produce contract documentation deemed acceptable by the District by the end of the six-month period, the Permittee may request an extension by the Board in writing at least ten days before the end of the six-month period. The written request must include a report explaining the status of prospective contract(s) and other relevant information to support an extension. The Permittee's request for a six-month extension may be denied or granted by the Board.

5. Failure to provide the requisite contract documentation prior to expiration of the six-month period or the six-month extension, if granted, will result in expiration of the permit. Upon permit expiration groundwater produced from the well will not be authorized until a subsequent application is submitted and approved by the Board.
6. Upon the submittal of contract documentation, the initial authorized permit volume shall be adjusted by the District to be commensurate with the actual contracted amount not to exceed the initial permit volume.
7. Upon the submittal of the contract documentation, the Permittee shall also provide:
 - a. An explanation of how that contracted volume was determined or estimated.
 - b. A statement of intended use type for the produced groundwater that is consistent with wholesale Public Water Supply.
 - c. An explanation of the customer's projected demand for the immediate 5yrs.
 - d. A current map of the service area or receiving area of the customer for which the water is to be produced. The map must show the entire service area or receiving area of the customer.
8. Prior to producing any groundwater from the well and annually prior to permit renewal, the Permittee will certify and provide documentation acceptable to the District demonstrating that the customer(s) have reliable and accessible firm-yield Alternative Water Supply with a volume that is greater than or equal to the contracted interruptible volume provided by the Permit. The Permittee shall require by contract that each customer provide documentation of an Alternate Water Supply to be available for use during District-declared drought when all of the production authorized under the Class C Conditional Production Permit is completely curtailed by the District. "Alternative Water Supply" shall be considered as the sum of the customer's aggregated firm-yield supply from other non-Edwards sources that are equal or greater to the contracted volume between the Permittee and the customer. Permittee shall submit the Alternative Water Supply demonstration to the District by July 1st of each annual permit term prior to permit renewal.

Permittee is required to submit written notification to the District informing staff of modified, cancelled and new contractual commitments. Any modified, cancelled, or new contract will require a permit amendment and the permit volume will be adjusted to be commensurate with the new contracted demand. Any new contract must contain the components mentioned in Special Provision 3 above and it shall be provided to the District with the amendment application.

9. Permittee shall sign and submit a Drought Target Chart within 30 days of permit issuance.
10. Permittee will update the User Conservation Plan (UCP) and the User Drought Contingency Plan (UDCP) when initial final contracts have been executed and upon entering any new contract and any contract amendments.
11. The Permittee is not obligated to satisfy public water system customers' obligation to maintain a state-mandated sufficiency of water service under TCEQ Rules for public drinking water systems pursuant to 30 TAC §290.44D and/or 291.93, or other regulations applicable to public water supply wells. Therefore, immediate threats to public health and safety or other emergencies of the customers are not valid reasons to continue production during District-declared drought.
12. If Permittee fails to meet any of the permit provisions, the District will pursue enforcement actions, including but not limited to, seeking a Board Order to revoke, suspend, terminate, cancel, modify, or amend the permit in whole or in part pursuant Rule 3-1.13 (A).
13. The permit is not eligible for annual permit renewal pursuant to District Rule 3-1.8 until the Permittee has submitted the required documentation satisfying the conditions of this permit as deemed acceptable by the District.

Vanessa Escobar

From: Andy Barrett <andy@thebarrettfirm.com>
Sent: Friday, August 14, 2015 2:12 PM
To: Bill Dugat; TJ Higginbotham
Cc: John Dupnik; Kendall Bell-Enders; Vanessa Escobar; David Malish
Subject: Re: Letter to A. Barrett re application
Attachments: 20150814135934815.pdf; Draft Special Permit Provisions.docx

Follow Up Flag: Follow up
Flag Status: Completed

Please find enclosed our responses to the proposed Special Provisions. Thank you for your patience.

--

Andrew N. Barrett

Andy Barrett & Associates, PLLC
3300 Bee Cave Road
Suite 650 #189
Austin, Texas 78746
O 512 600 3800
M 512 217 4956

From: Bill Dugat <bdugat@bickerstaff.com>
Date: Thursday, July 30, 2015 at 2:56 PM
To: Andy Barrett <andy@thebarrettfirm.com>
Cc: John Dupnik <jdupnik@bseacd.org>, Kendall Bell-Enders <kbellenders@bseacd.org>, Vanessa Escobar <vescobar@bseacd.org>
Subject: Letter to A. Barrett re application

Andy:

Attached is a letter transmitting draft special provisions in connection with the permit for TJ Higginbotham.

Bill

Bill Dugat | Attorney | Bickerstaff Heath Delgado Acosta LLP
3711 S. Mo-Pac | Building One | Suite 300 | Austin, TX | 78746
Phone 512.472.8021 | Fax 512.320.5638

bdugat@bickerstaff.com | www.bickerstaff.com



Austin | El Paso | Houston | Rio Grande Valley

Draft Special Permit Provisions

1. Accepted without comment;
2. Accepted without comment;
3. Accepted but we are not sure what form of “binding commitment” the District refers. We intend to have a contract with those provisions in it. We envision the language being something similar to “Customer acknowledges and agrees that this contract is subject to complete curtailment (100%) during District declared drought...”

We assume such language is acceptable.

4. Accepted without comment;
5. Accepted without comment;
6. Comment: we understood that we are being permitted for the volume that we proved and not the volume of a contracted amount. Some contracts may be short term. It seems that it would be administratively awkward to have to amend permit each time a new sale might occur. We believe that the amount permitted should not be adjusted based on each contract.
7. Accepted without comment;
8. We have two comments. First, we disagree that as a permittee we would be required to “certify and provide documentation” that customer has alternative source of water. As a water provider, we are not in position to certify what customer tells us is accurate. Our view is that we will include language in contract with customer that customer acknowledges that contract is subject to full curtailment and customer must have alternative source. We can ask that customer provide that source. However, we cannot be expected to go further than that—we cannot certify that the alternative source is 100% accurate. We would suggest the following first sentence:

“Prior to producing any groundwater from the well and annually prior to permit renewal, the Permittee will provide documentation acceptable to the District demonstrating that the customer(s) have reliable and accessible firm-yield Alternative Water Supply with a volume sufficient to meet customer’s service requirements.”

Second, regarding the second paragraph in Special Provision 8, second sentence, we suggest that sentence be deleted. This is consistent with our comment regarding paragraph 6. We believe that the permitted amount should be the amount requested and

that we show can be pumped. We agree that we report to the District sales, contracts, etc. However, the amount permitted should not depend on the amount of a water contract. We see this as being a potentially expensive and time consuming administrative burden to amend contract every time a new contract or water sale occurs.

9. Our only comment is that we do not know what a “Drought Target Chart” is. Neither Mr. Higginbotham nor his consultants can recall ever running across this term. That said, we can likely agree with requirement once we know what it is.

10. Accepted without comment;

11. We accept this Special Provision but question whether it is sound policy to include in the permit.

12. Accepted without comment;

13. Accepted without comment.

Vanessa Escobar

From: Bill Dugat <bdugat@bickerstaff.com>
Sent: Wednesday, September 02, 2015 1:56 PM
To: andy@thebarrettfirm.com
Cc: John Dupnik; Kendall Bell-Enders; Vanessa Escobar
Subject: Letter to A. Barrett re application
Attachments: Letter to A. Barrett re District response (00852690x7A30F).pdf

Andy:

Attached is a letter concerning special provisions in connection with the permit for TJ Higginbotham.

Bill

Bill Dugat | Attorney | Bickerstaff Heath Delgado Acosta LLP
3711 S. Mo-Pac | Building One | Suite 300 | Austin, TX | 78746
Phone 512.472.8021 | Fax 512.320.5638

bdugat@bickerstaff.com | www.bickerstaff.com



Austin | El Paso | Houston | Rio Grande Valley



September 2, 2015

Via email: andy@thebarrettfirm.com

Mr. Andrew N. Barrett
3300 Bee Cave Road
Suite 650 #189
Austin, TX 78746

Re: Permit provisions for Production Permit in connection with Application submitted by Taliaferro Higginbotham IV to obtain a conditional Edwards Class C Permit

Dear Andy:

The Barton Springs/Edwards Aquifer Conservation District (District) asked that I forward you the District's response to your client's August 14, 2015 comments on special provisions and the District's revised proposed special provisions to be included in the permit associated with the above-described application. This matter is set to be considered by the Board of Directors on September 10, 2015 at the 6:00 p.m. regular Board meeting.

Sincerely,

William D. Dugat III

WDD/dfb
Enclosure

cc: John Dupnik, P.G., General Manager
Vanessa Escobar, Regulatory Compliance
Kendall Bell-Enders, Regulatory Compliance Coordinator

BSEACD Response to Applicant's Comments (8/14/15) on Draft Special Provisions

1. Accepted by District and Applicant.
2. Accepted by District and Applicant.
3. When the applicant provides a contract to satisfy special provision #3, the District will accept stated language, similar to what the applicant has described in recent comments, in order to satisfy provision 3c. However, Special Provision items 3a, 3b, 3d, 3e, and 3f still need to be addressed with additional statements satisfactory to District.
4. Accepted by District and Applicant.
5. Accepted by District and Applicant.
6. This special provision remain the same as originally written and proposed by the District.
7. Accepted by District and Applicant.
8. This special provision has been modified as suggested by the Applicant.

[Please note that the second paragraph of special provision number 8 in the July 30, 2015 special provisions has been numbered as special provision number 9 below and the subsequent provision numbers 9-13 have been renumbered as 10-14.]

9. This special provision remains in place but has been modified to consider the Applicant's comments.
10. A Drought Target Chart has been emailed to the applicant for review and shall be signed and in place according to permit provisions.
11. Accepted by District and Applicant.
12. This special provision has been modified to address the applicant's comment. The phrasing was modified to provide more clarity but the intent of the provision remains the same.
13. Accepted by District and Applicant.
14. Accepted by District and Applicant.

Special Permit Provisions

1. Upon the effective date of permit and receipt of the initial permit certificate and invoice, the permittee must submit timely payment of production fees. Permittee may render payment in bi-annual installments or in an annual lump sum. Nonpayment of fees following a past-due notice may result in revocation, termination, cancelation, modification, or amendment of the permit pursuant to District Rule 3-1.13.
2. Prior to producing any groundwater from the well, the Permittee must submit documentation from TCEQ authorizing the Permittee to operate the well as a TCEQ-approved Public Water System.
3. Prior to producing any groundwater from the well, the Permittee must provide a fully-executed copy of the legal instrument(s) or contractual agreement(s) ("contract") between the Permittee and the Permittee's customer(s). The contract(s) must contain the following to be deemed acceptable by the District:
 - a. A contractual demonstration of the Permittee's intent to sell, lease or transfer groundwater to a named customer.
 - b. A contracted maximum annual production volume that is non-speculative.
 - c. A binding commitment demonstrating a requirement of the contracted customer to comply with complete curtailment (100%) during District-declared drought and a declaration by the customer of the customer's intent and ability to satisfy such requirements.
 - d. A binding commitment of the Permittee to enforce requirements of its customers to completely curtail (100%) water deliveries during District-declared drought.
 - e. A binding commitment demonstrating an initial and recurring annual requirement of the contracted customer to demonstrate a reliable and accessible Alternate Water Supply, as defined in Special Provision 8 below, to be available for use during District-declared drought when all of the production authorized under the Class C Conditional Production Permit is completely curtailed (100%) by the District.
 - f. A binding commitment of the customer to provide demonstration of Alternative Water Supply as required by Special Provision 8.
4. The contract documentation required by Special Provision 3 must be submitted within six months of the effective date of the permit. If the Permittee is unable to produce contract documentation deemed acceptable by the District by the end of the six-month period, the Permittee may request an extension by the Board in writing at least ten days before the end of the six-month period. The written request must include a report explaining the status of prospective contract(s) and other relevant information to support an extension. The Permittee's request for a six-month extension may be denied or granted by the Board.

5. Failure to provide the requisite contract documentation prior to expiration of the six-month period or the six-month extension, if granted, will result in expiration of the permit. Upon permit expiration groundwater produced from the well will not be authorized until a subsequent application is submitted and approved by the Board.
6. Upon the submittal of contract documentation, the initial authorized permit volume of 270 million gallons shall be adjusted by the District to be commensurate with the actual contracted amount not to exceed the initial authorized permit volume of 270 million gallons.
7. Upon the submittal of the contract documentation, the Permittee shall also provide:
 - a. An explanation of how that contracted volume was determined or estimated.
 - b. A statement of intended use type for the produced groundwater that is consistent with wholesale Public Water Supply.
 - c. An explanation of the customer's projected demand for the immediate 5yrs.
 - d. A current map of the service area or receiving area of the customer for which the water is to be produced. The map must show the entire service area or receiving area of the customer.
8. Prior to producing any groundwater from the well and annually prior to permit renewal, the Permittee will certify and provide documentation acceptable to the District demonstrating that the customer(s) have reliable and accessible firm-yield Alternative Water Supply with a volume sufficient to meet customer's service requirements. The Permittee shall require by contract that each customer provide documentation of an Alternate Water Supply to be available for use during District-declared drought when all of the production authorized under the Class C Conditional Production Permit is completely curtailed by the District. "Alternative Water Supply" shall be considered as the sum of the customer's aggregated firm-yield supply from other non-Edwards sources that are equal or greater to the contracted volume between the Permittee and the customer. Permittee shall submit the Alternative Water Supply demonstration to the District by July 1st of each annual permit term prior to permit renewal.

[Please note that the second paragraph of special provision number 8 in the July 30, 2015 special provisions has been numbered as special provision number 9 below and the subsequent provision numbers 9-13 have been renumbered as 10-14.]
9. Permittee is required to submit written notification to the District informing staff of any new contracts or cancellation, modification, or amendment of existing contracts that change or affect the volume of water supplied by permittee. The notification

must be provided within thirty days after such change. Any new contract or modification or amendment of existing contracts must contain the components mentioned in Special Provision 3 above and the documentation showing compliance with Special Provision 3 shall be provided to the District with the notification required under this provision. Beginning five years after permit issuance and every five years thereafter, the District will review the volume of water permittee has contracted to provide to customers and, after notice and opportunity for hearing, shall amend the permit to adjust the permit volume to be commensurate with the then-existing contracted demand. Unless approved by the District as an amended permit, at no time may permittee exceed the amount permitted by the District.

10. Permittee shall sign and submit a Drought Target Chart within 30 days of permit issuance.
11. Permittee will update the User Conservation Plan (UCP) and the User Drought Contingency Plan (UDCP) when initial final contracts have been executed and upon entering any new contract and any contract amendments.
12. Groundwater production authorized by this permit shall not be considered a firm water supply sufficient to satisfy public water system customers' obligation to maintain a state-mandated sufficiency of water service under TCEQ Rules for public drinking water systems pursuant to 30 TAC §290.44D and/or 291.93, or other regulations applicable to public water supply wells. Therefore, immediate threats to public health and safety or other emergencies of the customers are not valid reasons to continue production during District-declared drought.
13. If Permittee fails to meet any of the permit provisions, the District will pursue enforcement actions, including but not limited to, seeking a Board Order to revoke, suspend, terminate, cancel, modify, or amend the permit in whole or in part pursuant Rule 3-1.13 (A).
14. The permit is not eligible for annual permit renewal pursuant to District Rule 3-1.8 until the Permittee has submitted the required documentation satisfying the conditions of this permit as deemed acceptable by the District.

Attachment C

Copy of District's Mailed Invoices

Barton Springs Edwards Aquifer

1124 Regal Row
Austin, TX 78748

Invoice

Date	Invoice #
10/16/2015	6602

Bill To
Mr. Taliaferro S Higginbotham IV P O Box 1050 Buda, TX 78610

Terms	Due Date
Late on 11/16/15	11/5/2015

Description	Amount
Annual Permit Fee (Sept 1, 2015 to Aug 31, 2016)	50.00
Annual Production Fees (270,000,000 gallons per year @ \$0.46/1000 gallons)	124,200.00
<p>Per Special Provision #1 regarding payment of production fees: You may opt to pay in 2 bi-annual installments of \$62,100 each in which case this invoice total will be adjusted to reflect the annual permit fee of \$50 and the bi-annual production fee of \$62,100 for a new invoice total of \$62,150.</p> <p>If you opt to pay in bi-annual installments, please contact our office prior to the due date (11/5/2015), and we will reissue a revised invoice.</p> <p>If you have any questions, please give us a call.</p>	
Permit Approved for 270,000,000 Gallons	
Total	\$124,250.00
Payments/Credits	\$0.00
Balance Due	\$124,250.00

Phone #
512-282-8441

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Taliaferro S. Higginbotham IV
P.O. Box 1050
Buda, TX 78610

COMPLETE THIS SECTION ON DELIVERY

A. Signature  ☐ Agent ☒ Addressee

B. Received by (Printed Name) **Taliaferro S. Higginbotham IV** C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
 If YES, enter delivery address below: ☐ No

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. 7010 0290 0001 2495 9151

PS Form 3811, February 2004

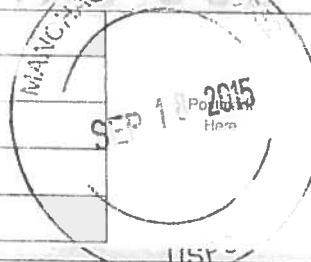
Domestic Return Receipt

102595-02-M-1540

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

Postage \$
 Certified Fee
 Return Receipt Fee
 (Endorsement Required)
 Restricted Delivery Fee
 (Endorsement Required)
 Total Postage & Fees \$



Sent to

Taliaferro S. Higginbotham IV
P.O. Box 1050
Buda, TX 78610

PS Form 3800, August 2006

See Reverse for Instructions

7010 0290 0001 2495 9151

Barton Springs Edwards Aquifer
1124 Regal Row
Austin, TX 78748

Statement

Date
11/16/2015

To:
Mr. Taliaferro S Higginbotham IV P O Box 1050 Buda, TX 78610

					Amount Due	Amount Enc.
					\$136,675.00	
Date	Transaction				Amount	Balance
10/15/2015 10/16/2015	Balance forward INV #6602. Due 11/05/2015. invoice for annual production fee --- Annual Permit Fee \$50.00 --- Production Fees \$124,200.00 --- --- Per Special Provision #1 regarding payment of production fees: --- You may opt to pay in 2 bi-annual installments of \$62,100 each in which case this invoice total will be --- adjusted to reflect the annual permit fee of \$50 and the bi-annual production fee of \$62,100 for a new invoice total of \$62,150. --- If you opt to pay in bi-annual installments, please contact our office prior to the due date (11/5/2015), and we will reissue a revised invoice. --- --- If you have any questions, please give us a call.				124,250.00	0.00 124,250.00
11/16/2015	INV #6718. Due 12/16/2015. late fee assessed --- Late Payment Fee \$12,425.00				12,425.00	136,675.00
CURRENT		1-30 DAYS PAST DUE	31-60 DAYS PAST DUE	61-90 DAYS PAST DUE	OVER 90 DAYS PAST DUE	Amount Due
12,425.00		124,250.00	0.00	0.00	0.00	\$136,675.00

1124 Regal Row
Austin, TX 78748

Date	Invoice #
11/16/2015	6718

Bill To
Mr. Taliaferro S Higginbotham IV P O Box 1050 Buda, TX 78610

Terms	Due Date
	12/16/2015

Description		Amount
Late fee assessed on past due production fees		12,425.00
Total		\$12,425.00
Payments/Credits		\$0.00
Balance Due		\$12,425.00

Phone #
512-282-8441

Barton Springs Edwards Aquifer
1124 Regal Row
Austin, TX 78748

Statement

Date
12/16/2015

To:
Mr. Taliaferro S Higginbotham IV P O Box 1050 Buda, TX 78610

					Amount Due	Amount Enc.
					\$149,100.00	
Date	Transaction				Amount	Balance
10/15/2015	Balance forward					0.00
10/16/2015	INV #6602. Due 11/05/2015. invoice for annual production fee --- Annual Permit Fee \$50.00 --- Production Fees \$124,200.00 --- --- Per Special Provision #1 regarding payment of production fees: --- You may opt to pay in 2 bi-annual installments of \$62,100 each in which case this invoice total will be --- adjusted to reflect the annual permit fee of \$50 and the bi-annual production fee of \$62,100 for a new invoice total of \$62,150. --- If you opt to pay in bi-annual installments, please contact our office prior to the due date (11/5/2015), and we will reissue a revised invoice. --- --- If you have any questions, please give us a call.				124,250.00	124,250.00
11/16/2015	INV #6718. Due 12/16/2015. late fee assessed --- Late Payment Fee \$12,425.00				12,425.00	136,675.00
12/16/2015	INV #6735. Due 01/16/2016. invoice for 2nd late fee --- Late Payment Fee \$12,425.00				12,425.00	149,100.00
CURRENT		1-30 DAYS PAST DUE	31-60 DAYS PAST DUE	61-90 DAYS PAST DUE	OVER 90 DAYS PAST DUE	Amount Due
24,850.00		0.00	124,250.00	0.00	0.00	\$149,100.00

1124 Regal Row
Austin, TX 78748

Date	Invoice #
12/16/2015	6735

Bill To
Mr. Taliaferro S Higginbotham IV P O Box 1050 Buda. TX 78610

		Terms	Due Date
			1/16/2016
Description	Amount		
Second late fee assessed on past due production fee	12,425.00		
	Total	\$12,425.00	
	Payments/Credits	\$0.00	
	Balance Due	\$12,425.00	

Phone #
512-282-8441

Barton Springs Edwards Aquifer
1124 Regal Row
Austin, TX 78748

Statement

Date
1/19/2016

To:
Mr. Taliaferro S Higginbotham IV P O Box 1050 Buda, TX 78610

					Amount Due	Amount Enc.
					\$161,525.00	
Date	Transaction				Amount	Balance
10/14/2015	Balance forward					0.00
10/16/2015	INV #6602. Due 11/05/2015. invoice for annual production fee --- Annual Permit Fee \$50.00 --- Production Fees \$124,200.00 --- --- Per Special Provision #1 regarding payment of production fees: --- You may opt to pay in 2 bi-annual installments of \$62,100 each in which case this invoice total will be --- adjusted to reflect the annual permit fee of \$50 and the bi-annual production fee of \$62,100 for a new invoice total of \$62,150. --- If you opt to pay in bi-annual installments, please contact our office prior to the due date (11/5/2015), and we will reissue a revised invoice. --- --- If you have any questions, please give us a call.				124,250.00	124,250.00
11/16/2015	INV #6718. Due 12/16/2015. late fee assessed --- Late Payment Fee \$12,425.00				12,425.00	136,675.00
12/16/2015	INV #6735. Due 01/16/2016. invoice for 2nd late fee --- Late Payment Fee \$12,425.00				12,425.00	149,100.00
01/19/2016	INV #6750. Due 01/19/2016. invoice for late fee --- Late Payment Fee \$12,425.00				12,425.00	161,525.00
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		0.00	0.00	0.00	161,525.00	\$161,525.00

Barton Springs Edwards Aquifer

1124 Regal Row
Austin, TX 78748

Invoice

Date	Invoice #
1/19/2016	6750

Bill To
Mr. Taliaferro S Higginbotham IV P O Box 1050 Buda, TX 78610

1/19 is default
date
Should be
2/16/2016

Terms	Due Date
	1/19/2016

Description	Amount
Late assessed on unpaid production fee	12,425.00
Total	
Payments/Credits	
Balance Due	

Phone #
512-282-8441

Item 5

Director's Reports

Directors' Reports. *(Note: Directors' comments under this item cannot address an agenda item posted elsewhere on this agenda and no substantive discussion among the Board Members or action will be allowed in this meeting. Communications reported under this item may be used to support Performance Standard 4-1 of the District's Management Plan related to demonstration of effective communication with District constituents.)*

Directors may report on their involvement in activities and dialogue that are of likely interest to the Board, in one or more of the following topical areas:

- Meetings and conferences attended or that will be attended;
- Conversations with public officials, permittees, stakeholders, and other constituents;
- Commendations; and
- Issues or problems of concern.

Item 6

Adjournment