

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, March 26, 2015**, 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 March 5, 2015 Special-called Meeting and the March 12, 2015 Regular Meeting. **Not for public review at this time**
 - 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. Updates on activity related to the ongoing rule review
- v. Update on efforts to assess saline Edwards desalination/ASR feasibility
- vi. Update on activities related to the HCP and the associated draft EIS
- vii. Update on the status of the City of Kyle's remanded permit application

c. 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;
- Recognition of people doing good things for groundwater management in the District; and
- Issues or problems of concern.

4. Discussion and Possible Action.

- a. Discussion and possible action related to approval of an agreement with TxDOT and Central Texas Regional Mobility Authority in connection with proposed State Highway 45 Southwest and the Consent Decree and Partial Final Judgment in the matter of Save Barton Creek Association v. Federal Highway Administration (W.D. Tex. 1990). **Pg. 15**
- b. Discussion and possible action related to an update on activities related to the Electro Purification Trinity well field located just outside of the District's boundaries. **Pg. 25**
- c. Discussion and possible action related to providing direction to the General Manager on scheduling and participation of Directors in District meetings. **Pg. 31**
- d. Discussion and possible action related to pursuit of the District's legislative agenda including proposed legislation to expand the District's territory. **Pg. 34**

5. Adjournment.

Came to hand and posted on a Bulletin Board in the Courthouse, Travis County, Texas, on this, the _____ day of March, 2015, 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 an item of Regular Business.

- 1. Approval of Financial Reports under the Public Funds Investment Act, Directors' Compensation Claims, and Specified Expenditures greater than \$5,000.**
- 2. Approval of minutes of the Board's March 5, 2015 Special-called Meeting and the March 12, 2015 Regular Meeting.**

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. Updates on activity related to the ongoing rule review**
- v. Update on efforts to assess saline Edwards desalination/ASR feasibility**
- vi. Update on activities related to the HCP and the associated draft EIS**
- vii. Update on the status of the City of Kyle's remanded permit application**

Item 3

Routine Business

c. Directors' Reports. Note: Board Member comments in this part of the agenda cannot address any aspect of an agenda item posted elsewhere on this agenda, and no substantive discussion among the Board Members or action by the Board on these comments will be allowed in this meeting. *(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.)*

Individual Board Members may, on a voluntary basis, make a brief report to the entire Board on their personal involvement in activities and dialogue that are of likely interest to the rest of 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, other stakeholders, and private citizens;**
- **Kudos and recognition of people doing good things for groundwater management in the District;**
- **Concerns about specific issues or problems for groundwater management in the District.**

Item 4

Board discussions and possible actions

- a. Discussion and possible action related to approval of an agreement with TxDOT and Central Texas Regional Mobility Authority in connection with proposed State Highway 45 Southwest and the Consent Decree and Partial Final Judgment in the matter of Save Barton Creek Association v. Federal Highway Administration (W.D. Tex. 1990).**

**FEBRUARY 17²⁵, 2015 DRAFT
SUBJECT TO BOARD/MANAGEMENT APPROVAL**

**AGREEMENT WITH
BARTON SPRINGS/EDWARDS AQUIFER CONSERVATION DISTRICT (BSEACD),
CENTRAL TEXAS REGIONAL MOBILITY AUTHORITY (CTRMA)
AND
TEXAS DEPARTMENT OF TRANSPORTATION (TxDOT)
REGARDING
STATE HIGHWAY 45 SOUTHWEST**

This Interlocal Agreement regarding State Highway 45 Southwest (Agreement) is made effective upon execution by the last party to execute (Effective Date) by and between the Barton Springs/Edwards Aquifer Conservation District (BSEACD), the Central Texas Regional Mobility Authority (CTRMA), and the Texas Department of Transportation (TxDOT) (collectively, the Parties).

WHEREAS, BSEACD is a political subdivision of the State of Texas created under the authority of Article XVI, Section 59, of the Texas Constitution, and operates pursuant to the provisions of Chapter 36 of the Texas Water Code and Chapter 8802 Texas Special District Local Laws Code, and is authorized by the Texas Interlocal Cooperation Act, § 791.001, et. seq. of the Texas Government Code to enter into this Agreement; and

WHEREAS, TxDOT is an agency of the State of Texas and is authorized by the Texas Interlocal Cooperation Act, § 791.001, et. seq. of the Texas Government Code, Texas Transportation Code, §201.209 and 43 T.A.C. §9.9 to enter into this Agreement; and

WHEREAS, CTRMA is an agency of the State of Texas created and operating under Texas Transportation Code, Chapter 370 and is authorized by the Texas Interlocal Cooperation Act, § 791.001, et. seq. of the Texas Government Code, to enter into this Agreement; and

WHEREAS, on January 23, 1990, BSEACD and the Texas State Department of Highways and Public Transportation, predecessor agency to TxDOT, agreed and recommended approval of and the Court entered a Consent Decree and Partial Final Judgment (Consent Decree) in settlement and compromise of disputed claims in *Save Barton Creek Association v. Federal Highway Administration* (W.D. Tex. 1990); and

WHEREAS, the Consent Decree, a copy of which is attached as Exhibit "A," contains judgment terms that are binding on TxDOT and BSEACD and that assign different roles and requirements with regard to the ownership, control, and future construction of certain highways in Southwest Travis County; and

WHEREAS, State Highway 45 Southwest (SH 45 SW) is a proposed four-lane state highway consisting of four tolled main lanes of controlled access roadway, with a possible shared-use path on one side, extending approximately 3.6 miles from MoPac to FM 1626; and

WHEREAS, SH 45 SW is subject to the Consent Decree; and

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WHEREAS, under Texas Transportation Code, §373.052, CTRMA has the first option to develop, finance, construct, and operate any new toll project located in the territory of the CTRMA, including Travis County; and

WHEREAS, CTRMA exercised its option under Texas Transportation Code, §373.052, to develop, finance, construct, and operate SH 45 SW; and

WHEREAS, subject to the state Environmental Impact Statement (EIS) and all other required approvals and requirements, CTRMA intends to design and construct SH 45 SW; and

WHEREAS, CTRMA and TxDOT will enter into a Project Development Agreement (PDA) establishing the respective obligations of CTRMA and TxDOT for the design, construction, and operation of SH 45 SW; and

WHEREAS, during the time period since the entry of the Consent Decree, advances have been achieved in the effectiveness of structural and non-structural Best Management Practices (BMPs), which provide for equal or greater protection to groundwater resources than the BMPs required under the Consent Decree; and

WHEREAS, it is the desire of the Parties to use the most effective BMPs in SH 45 SW; and

WHEREAS, BSEACD and TxDOT do not desire to judicially modify the Consent Decree; and

WHEREAS, TxDOT and CTRMA agree to include terms and conditions described in this Agreement in the PDA to ensure SH 45 SW is designed, constructed, and operated in a manner that meets or exceeds all of the requirements in the Consent Decree, recognizing that certain standards and practices not known at the time of the Consent Decree will be used to ensure that the project is designed, constructed, and operated in a more environmentally sensitive and prudent fashion; and

WHEREAS, the Parties desire to enter into this Agreement to: (i) memorialize the commitments of the Parties relative to the design, construction, operation, maintenance oversight, and review of SH 45 SW to ensure compliance with the Consent Decree and protection of groundwater; and (ii) evidence the ultimate rights and responsibilities of the Parties; and

WHEREAS, the Parties will all benefit from the performance obligations under this Agreement; and

WHEREAS, this Agreement concerns the performance of governmental functions and services;

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NOW, THEREFORE, in consideration of the foregoing premises and the mutual promises and agreements of the Parties contained in this Agreement, the Parties agree as follows:

1. Statement of Intent

It is the intent of the Parties that TxDOT and CTRMA use pollution control procedures, techniques, and devices (methods) that meet or exceed the requirements of both this Agreement and the Consent Decree during the construction, operation, and maintenance of SH 45 SW, to achieve protection of water quality and use of the best available technology. The Parties intend that certain standards and practices not known at the time of the Consent Decree will be used to ensure that SH 45 SW is designed, constructed, and operated in a more environmentally sensitive and prudent fashion, and acknowledge that such methods are superior to the outdated methods in the Consent Decree. The Parties acknowledge that the use of a method to protect water quality that meets or exceeds the requirements of both this Agreement and the Consent Decree is adequate consideration to support this Agreement. BSEACD is not waiving its right to comment on or address with TxDOT or CTRMA any concerns regarding the environmental impact analysis, design, construction, or analysis of the roadway.

2. Analysis of Potential Impacts to the Edwards Aquifer

TxDOT will complete the EIS and prepare the Record of Decision for SH 45 SW in a manner that fully evaluates and discloses the potential environmental impacts of the project, including potential impacts to the Edwards Aquifer and Barton Springs. Execution of this Agreement by BSEACD should not be construed as a determination of the adequacy of TxDOT's Final EIS or approval or disapproval of SH 45 SW.

3. Specific Project Commitments

a. Construction of Access

a. Access to and from SH 45 SW as a Parkway

~~SH 45 SW will be constructed as a parkway with no driveways and no connections other than to MoPac South (Loop 1), Bliss Spillar Road, FM 1626, permitted only to the extent such access is permitted by paragraphs 8 and any other phases of SH 45. BSEACD would be notified of any requests for connections to SH 45 SW9 of the Consent Decree.~~

b. Stormwater Treatment Performance Standard

TxDOT or CTRMA (as designated in a separate PDA) will ensure SH 45 SW will be designed and perform to achieve a highway runoff total

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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 ~~and other dissolved constituents consistent with regional standards.~~

c. 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:

- i. permeable friction course (PFC) pavement (on majority of road surfaces);
- ii. water quality ponds;
- iii. vegetated controls such as grassy swales;
- iv. vegetated filter strips (in areas where curbs and other stormwater conveyance infrastructure is not used); and
- v. multiple hazardous materials traps (located at all creeks, waterways, and culverted drainage ways, and each adequately sized to contain a 10,000 gallon spill).

d. 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:

- i. no herbicide use within the right-of-way;
- ii. vacuum truck utilization, as determined by the independent environmental compliance manager (described below);
- iii. periodic inspections of hazardous materials traps and other permanent BMPs ~~which meet or exceed the requirements of both~~ that a frequency not less than required under TCEQ's Edwards Aquifer Rules (30 T.A.C. Chapter 213) and the Consent Decree;
- iv. 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;

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- v. any equipment fueling will be performed at least 200 feet away from the nearest sensitive karst feature and water crossing; and
 - vi. phased construction practices, where feasible, to limit the area and duration of construction disturbance.
- e. Protection of Karst Features and Flint Ridge Cave
- i. Prior to the commencement of construction, a geologic assessment (GA) will be performed by TxDOT in accordance with TCEQ rules and in support of the state 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 will incorporate the assessment of excavations of karst features identified during the TxDOT karst survey and investigation conducted for the state EIS. The GA will also provide detailed explanations for why each of the identified potential karst features are considered to be either sensitive or not sensitive;
 - ii. 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 are consistent with the intent of paragraph 1 ~~(i.e. meets or exceeds the requirements of both this Agreement and the Consent Decree)~~, and will avoid or minimize the impact to catchment areas and the quantity of interrupted recharge, to the maximum extent practicable; and
 - iii. TxDOT will provide a copy of the GA with the proposed method for protecting each sensitive karst feature to BSEACD and allow a minimum of 20 business days from the Effective Date to evaluate the designation of the sensitive karst features, their spatial relationship to the highway alignment and BMPs, and whether the proposed method of protection meets or exceeds the requirements of both this Agreement and the Consent Decree. To the extent BSEACD raises any concerns with the proposed methods of protection of a sensitive karst feature, 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.
- f. 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.

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g. Construction and Post-Construction Monitoring and Reporting

- i. An independent environmental compliance manager shall be retained by TxDOT or CTRMA, after consulting with BSEACD, 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 (including those intended to ensure that the construction of the project meets or exceeds the requirements of both this Agreement and the Consent Decree), are fulfilled; and
 - b. ensure that, upon completion of construction, all BMPs are implemented and functioning as designed.
- ii. Upon the approximate five-year anniversary of the completion of construction, and on approximate subsequent five-year intervals, up to the 20th anniversary of completion of construction, TxDOT and BSEACD will arrange and perform a joint inspection of the BMPs to ensure that they are implemented and functioning as designed and meet or exceed the requirements of both this Agreement and the Consent Decree. For each of the four five-year inspections, TxDOT will procure a qualified, independent third party to assist with the joint inspection, at a cost not to exceed a total of \$30,000. BSEACD will reimburse TxDOT 50% of the cost of the qualified, independent third party. If BSEACD determines not to divide the cost of the qualified, independent third party, it will so advise TxDOT prior to the inspection, and the joint inspection will proceed without the assistance of the third party.
- iii. To the extent BSEACD desires to install wells to monitor aquifer conditions in the vicinity of SH 45 SW, TxDOT will provide reasonable access to the SH 45 SW right-of-way, subject to appropriate safety requirements.
- iv. TxDOT or CTRMA shall remedy and mitigate to the maximum extent possible should the BMPs fail to perform as designed.

h. Review and Observation by BSEACD

- i. 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

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stormwater runoff, including any plans addressing phased construction practices and commitments to maintenance of the PFC material ~~to ensure~~concerning whether the plans and design meet or exceed the requirements of both this Agreement and the Consent Decree. 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); and

- ii. Representatives of BSEACD will be permitted to observe construction of SH 45 SW and will be allowed to accompany TxDOT or CTRMA personnel on periodic inspections of BMPs. Observations are subject to reasonable notice, pre-scheduling with TxDOT/CTRMA, and safety-related requirements.

4. Effect of Agreement on 1990 Consent Decree

BSEACD and TxDOT do not desire to judicially modify the 1990 Consent Decree. BSEACD, CTRMA and TxDOT desire to enter into this separate Agreement ~~to address whether with provisions relating to the~~ design, construction, and operation of SH 45 SW meets that are equally or exceeds both this Agreement and the more protective of the Edwards Aquifer than the 1990 Consent Decree. This Agreement does not affect the enforceability of the 1990 Consent Decree.

5. Inclusion of Terms of this Agreement in Project Development Agreement

TxDOT and CTRMA agree to include the terms of this Agreement as terms and conditions of any PDA between the CTRMA and TxDOT to ensure SH 45 SW is designed, constructed, and operated in a manner that meets or exceeds all of the requirements in the Consent Decree, recognizing that certain standards and practices not known at the time of the Consent Decree will be used to ensure that the project is designed, constructed, and operated in a more environmentally sensitive and prudent fashion.

6. Responsibility for Expenses

Each Party shall pay for its own expenses incurred under this Agreement.

7. Term

This Agreement will terminate on the 40th anniversary of the Effective Date.

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SUBJECT TO BOARD/MANAGEMENT APPROVAL**

**TEXAS DEPARTMENT OF
TRANSPORTATION**

By: _____
LtGen J.F. Weber, USMC (Ret)
Executive Director

Date: _____

**BARTON SPRINGS/EDWARDS AQUIFER
CONSERVATION DISTRICT**

By: _____
~~Robert D. Larsen, Ph.D.~~ Mary Stone
~~Acting~~ Board President

Date: _____

ATTEST:

By: _____
~~Craig Smith~~ Blayne Stansberry
Board Secretary

Date: _____

APPROVED AS TO FORM:

By: _____
William D. Dugat III
Attorney

Date: _____

**FEBRUARY 17²⁵, 2015 DRAFT
SUBJECT TO BOARD/MANAGEMENT APPROVAL**

**CENTRAL TEXAS REGIONAL
MOBILITY AUTHORITY**

By: _____
Mike Heiligenstein
Executive Director

Date: _____

Item 4

Board discussions and possible actions

- b. Discussion and possible action related to update on activities related to the Electro Purification Trinity well field located just outside of the District's boundaries.**

March 12, 2015

Barton Springs Edwards Aquifer Conservation District
Attn: Mr. John T. Dupnik, P.G., General Manager
1124 Regal Row
Austin, Texas 78748

via e-mail

Hays Trinity Groundwater Conservation District
Attn: Mr. Rick Broun, General Manager
PO Box 1648
Dripping Springs, Texas 78620

via e-mail

Plum Creek Conservation District
Attn: Johnie Halliburton, General Manager
1101 W. San Antonio
Lockhart, Texas 78644

via e-mail

Re: Electro Purification, LLC's Hays County Well Field in the Lower Trinity Aquifer
(Lower Cow Creek Formation)

Gentlemen:

The purpose of this letter is to follow-up and confirm both Electro Purification, LLC's ("EP") offer of funding for the purchase and installation of monitoring equipment related to its Hays County groundwater well field project to supply wholesale water to the Goforth SUD, City of Buda and Clark Wilson's proposed Anthem Development (the "EP Project"), and our recent discussions with you about your desire to modify the EP proposal. Specifically, Electro Purification, through its attorney, advised Judge Cobb, Hays County Judge, that in response to the comments during the February 10, 2015 Commissioners Court meeting by representatives of the groundwater districts regarding their desire to install monitoring wells in the vicinity of the EP well field and requesting money from the County to do so, EP had offered to contribute \$20,000.00 to fund the Districts' costs. This contribution amount was calculated on the basis of estimates provided by EP's hydrogeologist to purchase four In-Situ Level Troll 500 transducers and some of the peripherals (wiring and other equipment) associated with the installation of the transducers to operational status in four monitor wells to be selected by the Districts within a one-mile radius of the EP well field.

EP's offer was to make a cash contribution to the Districts with the expectation that the Districts would assume the responsibility for ordering the appropriate equipment and, thereafter installing the equipment in four wells to be developed to monitor the potential impacts, if any, from the production at the EP well field in the Cow Creek Member of the Middle Trinity Aquifer. EP was also anticipating that the Districts would assume responsibility for coordinating with the

landowners on whose property the wells to be monitored would be located to develop the necessary agreements for both the installation, operation and maintenance of these monitoring stations on a long-term basis. Finally, EP expected that the data from these monitor wells would be maintained as public, made available to EP, and that from time to time, that EP's qualified hydrogeologist would be allowed to visit the well site with District representatives to verify the proper installation, maintenance and operation of the equipment. An additional component of EP's offer was that EP would continue to provide data from the EP wells to each of the Districts, or the designated District representative for receipt and maintenance of the data, with the understanding that EP's data would be maintained as public and shared with the other District representatives as well as the general public.

During our meeting on Tuesday, March 3, 2015, the request was made by the Districts for EP to consider modifying the purposes for which the \$20,000.00 donation could be used. Specifically, EP was asked to allow the Districts to use the funds to install one inch PVC tubing down to the Cow Creek member into multiple wells.

EP is amenable to the Districts using EP's funds for the proposed alternative provided that it accomplishes the same objectives, *i.e.*, developing a continuous stream of reliable data that will reflect the aquifer conditions resulting from the operation of the EP well field. To this end, below are some of the concerns that EP would like the Districts to address and provide additional information/specific details, related to how the money (\$20,000.00) would be used.

1. EP proposed a contribution of \$20,000.00, as noted above, based upon the calculation of the costs of four In-Situ Level Troll 500 transducers and associated peripherals in response to the request at the Hays County Commissioners Court for funding to put in four monitor wells so the Districts would have a total of six monitor wells around the EP well field. The comment was made during the Commissioners Court proceedings that the Districts could jointly fund two wells, but needed funding for the other four to accomplish a six well monitor ring. It is our understanding (i) that currently the only existing monitor well in the Middle Trinity (Cow Creek Formation) is the Cox well approximately 2 miles south-southwest from the EP well field, and (ii) that historically neither district has had a monitor well program in place or developed any kind of aquifer data base for the Middle Trinity (Cow Creek Formation) in the vicinity of EP's well field. With respect to the Cox well, EP understands that it does not have any continuous monitoring equipment installed in the well, but is manually measured on a monthly basis.

2. The proposed In-Situ Level Troll 500 transducers would provide a continuous reading/recording stream of data that will accurately reflect ongoing aquifer reactions/conditions to pumping from the aquifer, including production from the EP well field.

3. The proposed use of EP's funds to facilitate the installation of one inch PVC tubes down the proposed monitor wells will facilitate the use in more than four wells of some kind of monitoring device. While on paper this sounds good, please consider the following:

- a) If the monitoring devices are transducers, not only will the original objectives of EP's offer be accomplished, but there will be more wells

accomplishing a development of a continuous stream of data regarding aquifer conditions.

- (b) Alternatively, if the Districts are proposing to install the one inch PVC tubing and then use an e-line or similar monitoring device to manually monitor aquifer levels, then we will use the benefit of continuous recording stream of data versus a manually, as when conducted stream of data.
- (c) The Districts would need to develop and adopt a schedule of regular monitoring that would be conducted so that there would always be a comparable set of data going forward. For example, in lieu of continuous monitoring, the next best level would be daily monitoring.
- (d) Obviously, manual monitoring of wells is time consuming and expensive. What schedule of monitoring would the Districts propose – monthly, quarterly, semi-annually, or annually? Obviously, the longer the duration between monitoring events creates less reliability and less detail in the data to be obtained. Assuming some more frequent monitoring schedule is developed, each well needs to be scheduled to be monitored on the same time date for each sequential monitoring. This will provide a level of reliable data over time in lieu of a continuous monitoring scheme. While all wells do not need to be monitored on the same date, they could be monitored during the same week, each well needs to have a set date for when it will be checked. For example, wells one through five in a 20-well array will be monitored on the first day of every month, the next five on the second day, etc. Or, if done quarterly, the same kind of sequencing could be accomplished.

4. What is imperative is that the monitoring not be conducted erratically or only on an "as needed" basis where "as needed" is defined as when a landowner complains he has a drop in his well level.

5. In addition to placing the majority of the monitor wells in the Middle Trinity Aquifer and the Cow Creek member where the EP well field wells will be completed and produced from, it is also essential that properly located wells in the Upper Trinity be established so that we can detect and/or monitor aquifer characteristics in the Upper Trinity (or Upper Glen Rose formation) during periods of EP production so that that data can be analyzed along with the data on the monitoring wells for the Middle Trinity (Cow Creek member).

6. Finally, EP would want to enter into some agreement with the District or Districts about this project. That agreement would include EP's commitment to provide data from its well field as well.

Accordingly, can the Districts please provide more specificity and detail with respect to how this monitoring program would be accomplished?

March 12, 2015

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Finally, and as an added component of the overall monitoring project, assuming that EP's well field is allowed to become operational and fulfill its contracts, EP is willing to commit and contract to contribute annually an additional \$20,000.00 per year, for each year for a period of five years. These contributions would begin in the year that the well field becomes commercially operational in its delivery to water to any of its three customers. The additional \$100,000.00 will be used to enhance the monitoring well ring developed by the Districts to evaluate the aquifer.

After considering the information and issues outlined above, EP would appreciate receiving a written response from the Districts at the earliest possible date so that we can evaluate all of this information and move forward with a plan that has been agreed to by all of the Districts and joined by EP for the benefit of the community to know more precisely what is going on in the aquifers and dispel the unsubstantiated fears that have arisen because of unfortunate statements prematurely made about the EP project.

Thank you for your consideration and response to this request.

Sincerely,

Electro Purification, LLC



Bart Fletcher, Manager

cc: Bill Dugat, BSEACD General Counsel
Greg Ellis, HTGCD General Counsel
Bob Wilson, PCCD General Counsel
The Honorable Jason Isaac, Texas House of Representatives
The Honorable Judith Zaffirini, Texas Senate
The Honorable Donna Campbell, Texas Senate

City of Buda

Attn: Kenneth Williams, City Manager

Goforth SUD

Attn: Debbie Sandoval, President

Anthem Development (150 Mountain City, LP)

Attn: Clark Wilson, President

Tim Throckmorton, EP Manager



**Barton Springs
Edwards Aquifer**
CONSERVATION DISTRICT

March 19, 2015

Mr. Bart Fletcher
Electro Purification, LLC
4605 Post Oak Place Dr.
Houston, TX 77027

Dear Mr. Fletcher:

Thank you for your letter stating your willingness to work with the four districts (Edwards Aquifer Authority, Plum Creek Conservation District, Hays Trinity Groundwater Conservation District, and Barton Springs/Edwards Aquifer Conservation District) on establishing a monitoring network to measure the potential impacts to the aquifers in the vicinity of the Electro Purification wells in central Hays County. We appreciate the level of detail you have put in the letter. To prepare a proper response to your letter, the four districts will need to discuss each point of your letter. As we discussed in our meeting on March 3rd, the districts are evaluating wells in the area and we will soon have some recommendations to make as to which wells to use, what modifications need to be made to the wells, if any, and if the wells will have pressure transducers installed, or if they will be used only for manual measurements.

This week we are collecting a round of water-level measurements from about 50 wells. Many of these are within a 2-mile radius of the EP wells and others are as much as 5 miles away. We will share the results of that survey with you once the data are compiled and a QA check has been done.

We expect to have a formal reply to your letter with input from all four districts by the end of next week. Shortly after that we should have a draft monitoring plan for all parties to review.

Sincerely,

John T. Dupnik, P.G.
General Manager

Item 4

Board discussions and possible actions

c. Discussion and possible action related to providing direction to the General Manager on scheduling and participation of Directors in District meetings.



**Barton Springs
Edwards Aquifer**
CONSERVATION DISTRICT

MEMORANDUM

Date: March 19, 2015
To: Board of Directors
From: John T. Dupnik, P.G., General Manager
Re: Agenda Item 4.c

At the February 26, 2015, the Board discussed coordination of Director’s attendance in the number of meetings related to certain high-priority topics affecting the District where participation would generally need to be limited to less than a quorum or to two directors.

These quazi-committees would generally be designated with two primary Director representatives and alternates where other Directors may have an interest. The Board could also opt to designate the entire Board as a committee of the whole for certain high-priority topics or events of interests to all the Directors. The following is offered to assist the General Manager in coordinating such Director participation.

Factors considered in the committee make up include: 1) proximity to precinct, 2) knowledge base, 3) interest level and 4) availability.

	Mary Stone (pct 1)	Blayne Stansberry (pct 2)	Blake Dorsett (pct 3)	Bob Larsen (pct 4)	Craig Smith (pct 5)
SH 45*	P	A2	A3	P	A1
Other TxDOT projects	A2	P	A3	A1	P
General Legislative Agenda*	A1	A2	A3	P	P
EP/Annexation	P	P	A2	A1	A3
Alternative Supplies (Desal/ASR)	A3	A2	A1	P	P
HCP/EIS*	A3	A1	A2	P	P
Recharge Enhancement/Flood Control	A2	A1	P	P	A3

* = Standing subcommittee, P = Primary, A1, A2, A3 = Alternates in order

Item 4

Board discussions and possible actions

d. Discussion and possible action related to pursuit of the District's legislative agenda including proposed legislation to expand the District's territory.

84R7594 SGA-F

By: Isaac

H.B. No. 3405

A BILL TO BE ENTITLED

AN ACT

relating to the territory and authority of the Barton Springs-Edwards Aquifer Conservation District to regulate certain wells for the production of groundwater.

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

SECTION 1. Subchapter A, Chapter 8802, Special District Local Laws Code, is amended by adding Section 8802.0035 to read as follows:

Sec. 8802.0035. SHARED TERRITORY; JURISDICTION. (a) The territory of the district includes any territory that is:

(1) inside the boundaries of the Edwards Aquifer Authority; and

(2) in Hays County.

(b) The Edwards Aquifer Authority has jurisdiction over any well that is drilled to produce water from the Edwards Aquifer in the shared territory described by Subsection (a).

(c) The district has jurisdiction over any well that is drilled to produce water from any aquifer other than the Edwards Aquifer in the shared territory described by Subsection (a).

(d) The district has jurisdiction over any well that is drilled to produce water from the Edwards Aquifer or any other

aquifer in the territory described by Section 8802.003.

SECTION 2. As soon as practicable after the effective date of this Act, and in conformance with the requirements of Section 8802.053, Special District Local Laws Code, the board of directors of the Barton Springs-Edwards Aquifer Conservation District shall revise the single-member districts as the board considers appropriate to reflect the changes in territory made by Section 8802.0035, Special District Local Laws Code, as added by this Act.

SECTION 3. (a) The legislature validates and confirms all acts and proceedings of the board of directors of the Barton Springs-Edwards Aquifer Conservation District that were taken before the effective date of this Act.

(b) Subsection (a) of this section does not apply to any matter that on the effective date of this Act:

(1) is involved in litigation if the litigation ultimately results in the matter being held invalid by a final judgment of a court; or

(2) has been held invalid by a final judgment of a court.

SECTION 4. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government

Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

HB 3405/SB 1440

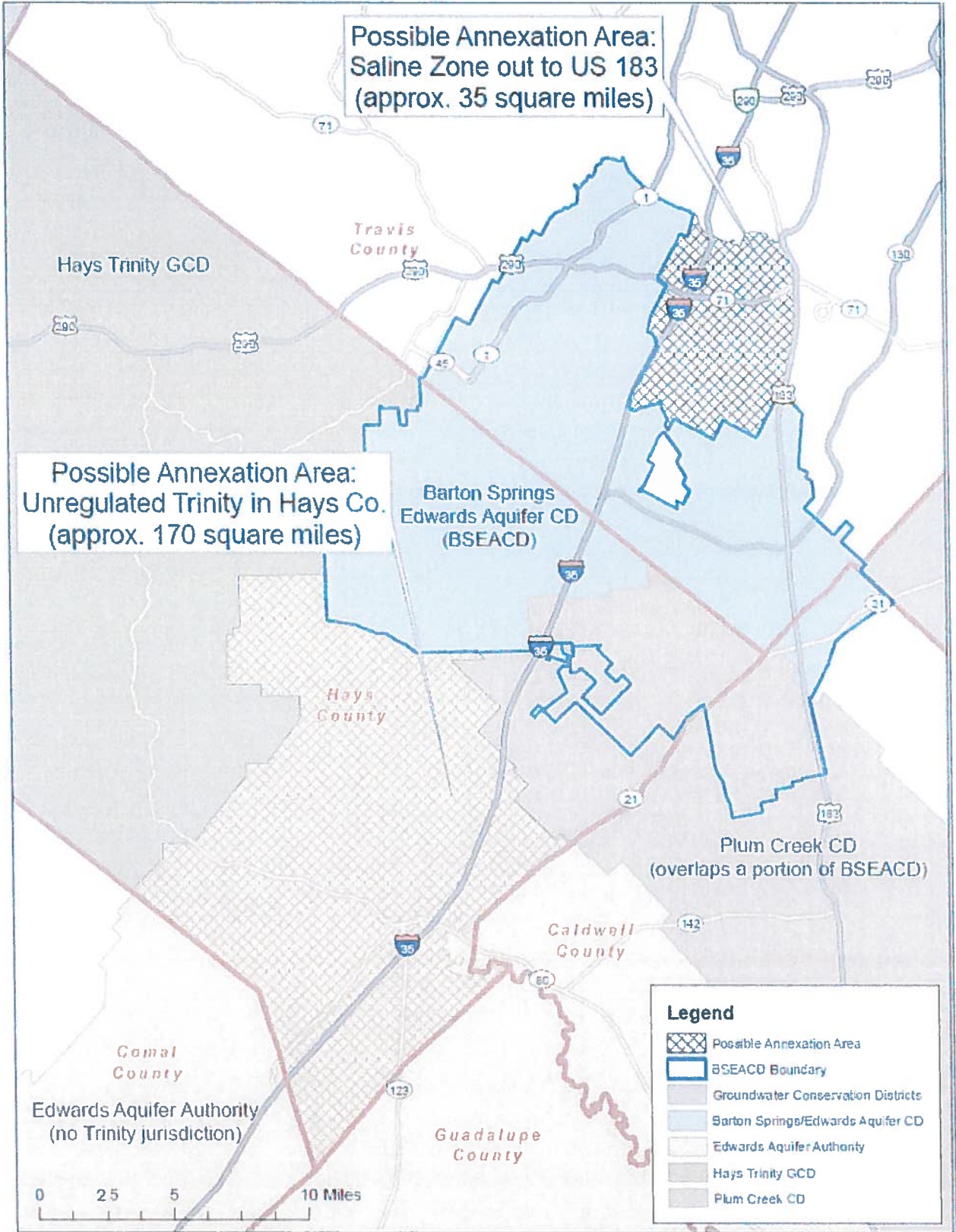
Punch list of bill objectives for 3/18 briefing with Representatives Rodriquez, Howard, and Isaac and Senator Watson's office.

Bill objective as originally filed:

1. Expand BSEACD territory to include unregulated Hays County
2. Clarify authority over all aquifers
3. Validate prior actions

Additional bill objectives with amendments:

1. Expand BSEACD to include saline Edwards buffer in Travis County (See map)
2. Clarify jurisdiction over all wells and groundwater
3. Reconcile overlap area with Plum Creek CD
4. Expand Directors from 5 to 7
 - a. Fix Austin territory and expand from 2 to 3 Directors
 - b. Fix Non Austin area and expand from 3 to 4 Directors
 - c. One temporary Director appointed from each new area
5. Include escape clause if single-member District convention is struck down by courts
(LULAC/EAA lawsuit)
6. Include \$1,000,000 cap with CPI adjuster on Austin's Fee



Item 5

Adjournment