



**NOTICE OF REGULAR MEETING of the
BARTON SPRINGS-EDWARDS AQUIFER CONSERVATION DISTRICT
BOARD OF DIRECTORS**

Thursday, July 10, 2025

5:00 PM

IN-PERSON

Notice is given that a **Regular Meeting** of the Board of Directors (Board) of the Barton Springs-Edwards Aquifer Conservation District will be held on **Thursday, July 10, 2025**, commencing at **5:00 p.m.** at the **District office, located at 1124 Regal Row, Austin, Texas.**

This meeting will be video and audio recorded and the recording will be available on the District's website after the meeting.

Public Comments at the Board Meeting – Please complete a comment card prior to the start of the meeting. Each registered person will be recognized and identified by the Presiding Officer or staff moderating the communications when it is their turn to speak. **Public comment is limited to 3 minutes per person.**

AGENDA

Note: The Board of Directors of the Barton Springs/Edwards Aquifer Conservation District reserves the right to meet in 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. 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.)*
 - a. Approval of Financial Reports under the Public Funds Investment Act, Directors' Compensation Claims, Specified Expenditures greater than \$10,000.
 - b. Approval of minutes of the Board's June 12, 2025, Regular Meeting.

- 4. General Manager's Report.**
 - a. Review of key team activities/projects
 - b. Trinity Sustainable Yield
 - c. Antioch Cave Operations House
 - d. Regional developments of interest
 - e. Aquifer status update
 - f. Upcoming events
- 5. Staff Presentation: Drought Analysis**
- 6. Discussion and Possible Action.**
 - a. Discussion and possible action related to the performance and compliance of District permittees with their User Drought Contingency Plan curtailments.
 - b. Discussion and possible action on Report of Investigation and Notice of Alleged Violation for resolving and enforcement proceeding concerning Cook-Walden/Forest Oaks failure to reduce pumping during District-declared drought.
 - c. Discussion and possible action related to Texas Land Application Permit No. WQ0016373001 and the Decision of the TCEQ Executive Director for Hays Commons Development, Inc.
 - d. Discussion and possible action on declaring Stage IV Exceptional Drought or authorizing the GM to declare the next stage of drought.
- 7. General Counsel's Report:** The District's legal counsel will brief the Board on pertinent legal issues and developments impacting the District since the last Board meeting, and legal counsel's activities on behalf of the District, including without limitation waste injection well monitoring activities including any protests of injection well applications with the Railroad Commission of Texas or the Texas Commission on Environmental Quality (TCEQ), monitoring or protests of water rights, wastewater discharge, or other waste-related applications at the TCEQ that may impact groundwater resources in the District; District rules enforcement activities, rules and management plan implementation issues, groundwater-related legislative activities, joint planning and DFC development activities, developments in groundwater case law and submission of legal briefs, contractual issues related to the District, open government, policy, personnel, and financial issues of the District, threatened or pending claims or litigation against the District, and other legal activities on behalf of the District – Brian Sledge, Legal Counsel, Sledge Law Group, PLLC

8. Director Reports.

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;
- Board committee updates;
- Conversations with public officials, permittees, stakeholders, and other constituents;
- Commendations; and
- Issues or problems of concern.

9. Adjournment.

Please note: This agenda and available related documentation, if any, have been posted on the District 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

Consent Agenda

- a. Approval of Financial Reports under the Public Funds Investment Act, Directors' Compensation Claims, Specified Expenditures greater than \$10,000.
- b. Approval of minutes of the Board's June 12, 2025, Regular Meeting.

Item 4

General Manager's Report

- a. Review of key team activities/projects
- b. Trinity Sustainable Yield
- c. Antioch Cave Operations House
- d. Regional developments of interest
- e. Aquifer status update
- f. Upcoming events

Summary of Team Activities in July 2025

Aquifer Science

June Activities

- AqSci data migration to new database
- Quarterly monitor well visits
- Magellan sampling
- TWDB Sampling
- TAS Phase II Trinity model development (ongoing)
- Barton Springs Multiport study (ongoing)
- Abandoned well risk assessment: Learned new techniques for manipulating raster data; construction of intrinsic vulnerability and specific vulnerability maps are underway.
- District drought analysis: A correlation analysis of drought indicator data (including precipitation, temperature, and vegetation index) has been completed.

On Deck:

- TAS Phase II Trinity model development (ongoing)
- Barton Springs Multiport slug testing
- Quarterly monitor well visits
- TWDB sampling
- Barton Springs manual flow measurements
- Abandoned well risk assessment: completion of intrinsic vulnerability subfactor composite maps
- District drought analysis: predictive temporal trend analysis of Middle Trinity groundwater levels (dtw)

Administration

- The Administrative team handles a variety of recurring tasks, including generating invoices, processing payments, paying bills, and managing meter readings.

Regulatory Compliance

June Activities:

- Staff continued to process new applications, assist permittees with drought compliance, and assess DMF's and additional penalties to eligible overpumpers.
- Staff addressing Director's suggestions to additional changes to drought stage rule update.
- Staff continuing to work with LRE on completion of database development.
- Staff will work with Creedmoor-Maha on applications that were submitted in June.
- Staff is coordinating with Comms Team on sending out initial notices of the update to ALL permittee User Drought Contingency Plans and drought stage rules in early FY26.

On Deck:

- Staff to coordinate and begin early discussions with consultant about potential City of Kyle ASR Step 1 ASR Study.

Communications and Outreach

June Activities

- Assisted with Groundwater to the Gulf and provided water-related curriculum for elementary through high school educators along with environmental science communicators.
- Coordinated and attended LCRA tour of River Operations and Tom Miller Dam with District and HTGCD staff.
- Distributed General Manager posting on District website and on relevant job boards.

On Deck:

- Prepare for disseminating Stage IV drought communications once declared.
- Inform permittees of upcoming drought chart changes, begin printing new signs, and create communications toolkit.

Status Report Update July 10, 2025 Board Meeting

Summary of Significant Activities – Prepared by Staff Leads

Upcoming Dates of Interest

- [TCEQ Public Drinking Water Conference](#) – August 5-6, Austin, TX
- [Texas Alliance of Groundwater Districts \(TAGD\), Annual Summit](#) – August 19-21, San Antonio, TX
- [Geological Society of America \(GSA\) Connects](#) – October 19-22, San Antonio, TX

DROUGHT MANAGEMENT

Drought Status and Water-Level Monitoring (*Justin*)

The District declared Stage III Critical Drought on October 3. This was a result of the Lovelady monitor well's 10-day groundwater level reaching below the District's Stage III threshold of 462.7 feet mean sea level (ft-msl) on Oct. 1. As of July 2, 2025, the District remains in Stage III Critical Drought.

Camp Mabry recorded 0.85 inches of rain while Austin Bergstrom International Airport (ABIA) recorded 2.4 inches – resulting in a combined average of 1.6 inches for the month. This is 1.1 inches below the historical May average of 3.5 inches. The Barton Springs segment of the Edwards Aquifer saw little to no recharge from June rainfall.

Looking ahead, July is typically one of the driest months of the year – second only to February – with an average of 2.1 inches of rain. Most forecasts suggest this July will bring near-normal rainfall.

A combined total of 9.5 inches of rainfall in March, April, and May helped keep spring flow at Barton Springs and water levels at the Lovelady monitor well just above their respective Stage IV Drought thresholds. However, below-average rainfall in June, combined with the onset of the typically dry summer months, has already accelerated the decline in both spring flow and aquifer levels. Unless conditions improve rapidly, all indicators suggest the region will enter Stage IV drought by the July 10 Board Meeting.

As of July 2, the 10-day average flow at Barton Springs is estimated to be between 16 and 20 cubic feet per second (cfs). This range is based on the two most recent manual measurements, taken on June 10 and June 26. Due to recent adjustments to pool levels by City of Austin and pool staff, the real-time USGS gauge is currently considered unreliable. The next manual measurement is scheduled for July 10.

As of July 2, the 10-day average water level at the Lovelady monitor well measured 457.1 feet above mean sea level (ft-msl), placing it within the Stage IV Exceptional Drought threshold. This threshold was officially crossed on June 30. District staff visited the Lovelady well to take a manual tape-down measurement, confirming that the real-time USGS gauge is accurate.

The water level in the Lowe-Coronado Middle Trinity monitor well, located in the Rolling Oaks neighborhood of Driftwood has shown no positive response to recent rains and continues to show rapid declines.

Jacob's Well Spring (JWS) experienced a brief spike in flow following the late May rains, peaking at 14 cfs, but has since dropped back to below 1 cfs. The Blanco River at Wimberley gauge maintains flows between 10 and 13 cfs.

DISTRICT PROJECTS

GMA Joint Planning

➤ ***GMA 10 Coordination (Tim, Bri, Jeff)***

The next GMA 10 meeting is scheduled for August 18, 2025. Members remain without the new GAM. Model files are promised by late July. One outcome of the August meeting, depending on the availability of these model files, is how to proceed during the rest of the current planning cycle. The May meeting was productive, nonetheless, as there is receptivity to arriving at two new Trinity Aquifer DFCs rather than the one currently in place. All meetings are hosted by the Edwards Aquifer Authority in San Antonio. Members of GMA 10 will meet to discuss Trinity DFCs.

Trinity Aquifer Sustainable Yield Study & Planning

➤ ***Policy Concepts, Research Needs, and Advisory Workgroup Activity (Tim, Jeff, Bri)***

The Trinity Sustainable Yield Committee met on June 18, 2025 to discuss next steps for Trinity Sustainable Yield science and policy development.

Technical Evaluations (Jeff)

Aquifer Science staff continue to collect and analyze hydrogeologic data to advance the state of the best available science of the Trinity Aquifers. This increased understanding will provide a robust scientific framework to guide Trinity Sustainable Yield policymaking efforts, a major priority for the District. In addition, we continue to maintain and expand the District's monitoring well network, and are closely monitoring impacts from the present drought on aquifer levels in both the Edwards and Trinity Aquifers.

Habitat Conservation Plan (Staff)

Database Management System – LRE Water (Jacob, Tim)

LRE Water has presented us with a next work plan to continue work on a few items that have emerged over the last year but were not part of Phase 2. The pumpage report has been reworked and is being reviewed before being deployed. Updates to the transducer data upload tool have also been made and are under review before deployment. Integrating our geocontacts into our wells layer will be the next priority to complete in Phase 2.

District Drought Temporal Analysis -- (Bri)

A correlation analysis of drought indicator data (including precipitation, temperature, and vegetation index) has been completed. This analysis showed that vegetation and impervious cover data are crucial variables for drought management. Additionally, Middle Trinity groundwater level (dtw) data is currently being compiled for potentiometric surface trend analysis.

Abandoned Well Risk Assessment -- (Bri)

Construction of the intrinsic vulnerability and specific vulnerability maps are underway. Construction of the intrinsic map includes an overlay analysis of vulnerability indicators using the COP+K (Slovene Approach) model, where the C) concentration of flow, O) overlying layers, P) precipitation, and K) karst saturated zone will be evaluated to assess vulnerability. Construction of the specific map includes an overlay analysis of vulnerability indicators using the KAVA (Karst Aquifer Vulnerability Assessment) model, where overlay protection, infiltration conditions, aquifer conditions, precipitation, and land use will be evaluated to assess vulnerability.

ILA Commitments (*Staff*)

The District has an ILA with COA to coordinate studies for the respective HCPs such as scientific feasibility studies and monitoring evaluations; to collaborate on the planning of future Kent Butler Summits; and to exchange technical information regularly on an annual basis. An annual technical meeting is held between the District and COA in December each year to discuss each organization's activities related to their respective HCPs. The next meeting will be held in December 2025.

Region K Planning Activities (*Tim, Bri*)

The next public meeting to discuss comments received on the IPP is scheduled for July 2 in Austin at the LCRA Dalchau Center.

New Maps, Publications, or Reports

A list of recent publications, including our new 2023 Drought Synoptic Study report, can be found at: <https://bseacd.org/scientific-reports/>

RULEMAKING, PERMITTING, AND ENFORCEMENT (Tim, Erin, Jacob, District Counsel, Rules and Enforcement Committee)

Rulemaking and Enforcement

- On June 12, staff presented a draft of Rules and Bylaws with redlined updates relating to drought communications and stage name updates. A few minor additional changes were made per Board direction, and the final draft of the changes will be presented at a public hearing during the regular meeting of the Board on their regular meeting on August 14, 2025.

Drought (Erin)

- Will continue working with permittees to ensure compliance per their Agreed Orders.
- Will continue monthly pumpage analysis to determine all permittee's compliance status of drought curtailments.
- Will continue to assist permittees in ensuring they successfully comply with their UDCPs and Stage III drought curtailments for the month of July.

Enforcement and Compliance Matters (Erin)

Compliance/Enforcement			
Permittee or Entity Name	Aquifer	Use Type	Notes
Aqua Texas, Inc. – Bear Creek Park	Edwards	PWS	Agreed Order Executed.
Aqua Texas, Inc. – Bliss Spillar (Edwards)	Edwards	PWS	Agreed Order Executed.
Aqua Texas, Inc. – Bliss Spillar (Lower Trinity)	Lower Trinity	PWS	Full penalty assessment paid so no Order was agreed too; will assess any overpumpages per Enforcement Plan.
Creedmoor-MAHA	Edwards	PWS	Agreed Order Executed.
Monarch Utilities, Inc.	Edwards	PWS	Agreed Order Executed.
Tindol Restaurant Group, LLC	Middle Trinity	Commercial	Agreed Order Executed.
Aqua Texas, Inc. – Sierra West	Middle Trinity	PWS	Agreed Order Executed.
Seiders, Roy	Middle Trinity	Irrigation	Agreed Order Executed.
Ruby Ranch Water Supply Corporation	Edwards	PWS	Agreed Order Executed; working to fulfill the final technical requirements.
Texas Old Town	Upper Trinity	Irrigation	No agreed order: penalty assessed. Permittee has been in compliance since the assessment was made.
Aqua Texas, Inc. - Onion Creek Meadows	Edwards	PWS	No Agreed Order; assessed penalty of \$7,140 per NOAV.
Cook-Walden/Forest Oaks	Edwards	Commercial	Enforcement recommendation will be presented to the Board July 10, 2025.

Permitting Activity (Erin, Jacob)

Upcoming

<i>Precinct</i>	<i>Application Type</i>	<i>Aquifer</i>	<i>Applicant Name</i>	<i>Use Type</i>	<i>Volume Request (GPY)</i>
2 – Stansberry	WDA/Production	Middle Trinity	Bryan Boyd is consultant	Commercial – Medical Clinic	TBD
<i>In Review</i>					
<i>Precinct</i>	<i>Application Type</i>	<i>Aquifer</i>	<i>Applicant Name</i>	<i>Use Type</i>	<i>Volume Request (GPY)</i>
2- Stansberry	WDA	Middle Trinity	Creedmoor-Maha, WSC	Monitoring	0 – Monitor Well
2 – Stansberry	Aquifer Test	Middle Trinity	Creedmoor-Maha, WSC	Aquifer Test	TBD
4 - Williams	Plugging	TBD	St. Paul's Catholic Church	Abandon	N/A
1 - Cradit	Exempt	Middle Trinity	Rodrigues, Matthew	Domestic	7 GPM
1 - Cradit	Plugging (2)	Edwards	Liberty Civil Construction	Abandoned	0 - Plugging
<i>Recently Approved and/or Admin Complete</i>					
<i>Precinct</i>	<i>Application Type</i>	<i>Aquifer</i>	<i>Applicant Name</i>	<i>Use Type</i>	<i>Volume Request (GPY)</i>
1 - Cradit	LPP	TBD	Hundl, Danielle and Duane	Domestic/Livestock	250,000
2 - Standberry	Capping	Edwards	DFST Properties	Commercial	N/A

AQUIFER STUDIES

(Jeff, Justin, and Tim)

Permitting Hydrogeologic Studies:

AS staff continues to work with Regulatory Compliance on permitting issues as they arise, including provided geologic interpretation of geophysical logs prior to final well completion to ensure that new wells are completed accurately within the target water-bearing interval. In June 2025 AS staff continued to work closely with Jacob Newton and LRE water to ensure that the District's monitoring well data is fully migrated onto the new database. AS worked with Jacob to develop a new public-facing interactive map which will allow the public to view and download all water level data collected by the District. This map has been published and is now available on the District website.

Groundwater Studies: *Dye Tracing, Water Quality, Aquifer Characterizations*

- Barton Springs multiport well study
 - Slug testing scheduled for July 2025
 - Geochemical analysis of multiport samples collected in May 2025
 - Analysis of multiport water level data for validation and improvement of Barton Springs flow estimates.
- Texas Water Development Board (TWDB) sampling – collecting water level, water quality and chemistry from select wells with funding provided by TWDB.
- Magellan Pipeline annual sampling (TPH & BTEX) on June 5, 2025.
- Aquifer Test plans – evaluating submitted plans, designing monitor well networks, and data collection for analysis.
- AS staff are working with the GM on design updates to the drought resources presented in regular monthly board meetings to improve communication on drought impacts.

Field Activities:

- Barton Springs multiport well water quality measurements, rain-event data collection and slug testing.
- Cooperating with USGS and City of Austin staff to confirm accurate real-time gauge reporting at Barton Springs and Lovelady. Conducting bi-weekly to monthly field measurements.
- Cooperating with USGS staff to confirm accurate real-time gauge reporting at Jacob's Well and the Blanco River at Wimberley.
- Calibrating telemetry monitoring equipment at the Needmore index well (Amos) and reviewing pumping and water-level data as drought worsens.
- Antioch- Continuing to maintain the system and to collect data on flow into the vault (when there is flow). A recent visit to Antioch Cave to assess operating components and electronics indicated the need to recondition most electrical systems.
- Well monitoring- Because of drought, staff are increasing the amount of time maintaining equipment in numerous monitor wells and downloading and interpreting data; and occasionally checking on wells that have been reported as "dry".

Trinity Aquifer Modeling Development:

TAS Phase II—a major update and recalibration of the TAS model, is underway. In June 2025, aquifer science staff completed a new model mesh (grid) to be used to represent aquifer layers in TAS Phase II.

The new mesh was reviewed by Dr. Bill Hutchison and Dr. Michelle Sutherland. The next step in TAS Phase II modeling will be building a steady state model onto the new model mesh.

COMMUNICATIONS AND OUTREACH

(Shay)

Drought Communications

- Stage IV Communications
 - Staff have drafted a press release, social media posts, and a postcard to inform the public and permittees about Stage IV once declared by the District.
- Drought-related social media posts - *These were shared on Facebook, Instagram, X, and LinkedIn.*
 - <https://www.facebook.com/share/p/15kB7AVoox/>
 - <https://www.facebook.com/share/p/195rkaCXuM/>
 - <https://www.facebook.com/share/v/1BBKxbA5q7/>
 - <https://www.facebook.com/share/v/16naTqJyZi/>

Website Updates

- [Rainwater Harvesting](#)
 - A new web page was created to encourage people in our territory to explore rainwater harvesting as an alternative source for outdoor irrigation. This page can be found under the homepage navigation bar of the District website under the “Aquifer Science and Conservation” tab.

Outreach

Discovery Day at the Wildflower Center

- On Sunday, June 8, Shay tabled at the Lady Bird Johnson Wildflower Center’s Discovery Day. 995 adults and kids attended and 100+ attendees stopped and visited the District’s table. Many detailed conversations took place regarding drought, groundwater level monitoring, what a groundwater conservation district is, and the work the District does.

[Groundwater to the Gulf](#)

- The annual Groundwater to the Gulf event took place June 10-12 at sites throughout Austin. Over 30 participants attended from across the state. Shay showed participants how to measure Barton Springs flow with oranges, discussed drought conditions, shared the work of the District, and helped lead a cave tour with Austin Water Wildland Conservation’s team. This event is organized by Colorado River Alliance, Texas Parks and Wildlife, the District, and more.

LCRA Tour

- District staff along with team members from the Hays Trinity GCD toured the Tom Miller Dam and River Operations at LCRA near Red Bud Isle. Bob Rose and Dan Yates spoke about the history of the Highland Lakes, past droughts and floods, and the status of surface water today.

General Manager Vacancy

The job description was posted on the District’s website on June 23. It has also been published across the District’s social media outlets along with the following sites with job boards:

- BSEACD website
- Hill Country Alliance
- Texas Water Foundation
- Texas Rural Water Association
- Idealist
- Josh’s Water Jobs
- Texas Alliance for Groundwater Districts
- LinkedIn

Digital Communications Data

Social Media Data				
Platform	June Reach	% MOM Growth: June vs. May	Followers	% MOM Growth: June vs. May
Facebook	1,811	-18%	2,069	1%
Instagram	7,350	-42%	1,878	2%
X	522	-26%	826	0
LinkedIn	4,174	37%	482	11%

Mass Email Data	# Sent	# Opened	Open Rate %	# Clicks	Click Rate %
May & June Newsletter	2,336	959	41%	220	23%

Website Data	Avg. Engagement Time/User	Views	Event Count	Most Visited Page	Top Landing Page
May 2025	69 seconds	6,135	12,651	Drought Status & Resources	Drought Status & Resources
June 2025	36 seconds	3,425	9,947	Drought Status & Resources	Drought Status & Resources

ADMINISTRATION

(Tim, Hannah, and Tina Cooper/AAG)

A Public Hearing will be scheduled at the August 14 Board meeting to discuss and approve a final FY26 budget, including the City of Austin water-use fee, and new fee schedule.

Patrick Hall, CPA, has been asked to submit an engagement letter for the FY 25 audit that can get underway in September. This matter is expected to be brought before the Board at the August 14 regular meeting.

The Administration Team typically has repetitive monthly tasks e.g. monthly bank reconciliations, monthly adjusting journal entries, accounts payable, payroll, contract/grant/project tracking, office maintenance and repairs, budget monitoring, bi-weekly payroll journal updates, directors' compensation, pre-paids, DMFs, posting public meetings, preparing meeting backups, etc. These types of tasks are not listed in this report because they are repetitive. Administration status reports are generally more summarized than the other teams, as we list our extra-ordinary tasks outside of our routine tasks, while supporting all other teams.

Item 5

Staff Presentation: Drought Analysis

Item 6

Board Discussion and Possible Action

- a. Discussion and possible action related to the performance and compliance of District permittees with their User Drought Contingency Plan curtailments.

Item 6

Board Discussion and Possible Action

- b. Discussion and possible action on Report of Investigation and Notice of Alleged Violation for resolving and enforcement proceeding concerning Cook-Walden/Forest Oaks failure to reduce pumping during District-declared drought.



BSEACD STAFF INVESTIGATION REPORT

I. Basic Information

Report Date: July 10, 2025

Permittee/Respondent: Cook-Walden/Forest Oaks

Permittee Contact 1: Rebecca Barrera- Mathei
Phone: 512-892-1172
Mailing Address: 6300 W William Cannon Drive
Austin, TX 78749

Property Address: 6300 W William Cannon Drive
Austin, TX 78749
Lat: 30.23252° N Long: -97.86346° W
and
Lat: 30.23358° N Long: -97.85976° W

BSEACD Staff: Erin Swanson, Regulatory Compliance Manager

II. Investigation Summary

In the most recent months of the drought, the District's General Manager, Dr. Tim Loftus, declared Stage III Critical Drought on October 3, 2024. Then on November 14, 2024 the Board of Directors approved to adopt updates to the District's Enforcement Plan. The District's enforcement plan¹ provides for monthly review of permittee drought target production allocation. The initial evaluations of Cook-Walden/Forest Oaks began with the month of December 2022 because the month of June 2022 was the initial month of a Drought Stage, which is not reviewed under the District's enforcement plan. Evaluations for Cook-Walden/Forest Oaks using the updated Enforcement Plan began the month of December 2024 as this was the first full month of pumpage to occur after the adoption of the new plan.

Under section 3.0 of the District's enforcement plan, permittees are evaluated during drought according to three permitted pumpage tiers (See Tables 1 and 2). Cook/Walden – Forest Oaks Historical Edwards permit falls under Tier 1 because it is permitted for 5,000,000 gallons per year.

Permittees are further evaluated based upon three levels (A, B and C). Each level is associated with how much a permittee over pumps its drought target allocation.

Permitted Pumpage (gallons/year)	
Tier 1:	<12,000,000
Tier 2:	≥ 12,000,000 and < 120,000,000
Tier 3:	≥ 120,000,000

% Pumpage over Monthly Limits	
Level A:	<25%
Level B:	≥ 25% and 100%
Level C:	≥ 100%

Tables 1 and 2: Permitted Pumpage and % pumped over drought target volumes

¹¹ Staff used the Enforcement Plan in effect at the time of violations in its review of Cook-Walden/Forest Oaks system.

Under the current District Enforcement Plan, Tier 1 permittees will be evaluated for non-compliance more recurrent in nature. It takes two monthly occurrences of non-compliance within a six-month period before enforcement action is initiated.

Cook-Walden/Oak Forests' pumping was assessed during month 38, May of 2025, of District declared drought due to the first occurrence of over pumping the drought target allocation initial during month 36, March of 2025 (See Table 3). The evaluation of Cook-Walden/Forest Oaks under the process described above follows:

Year	Month	Drought Stage	Target	Pumpage	Level	% To Target	Notes
2025	March	Critical	168,000	192,600	A	15%	First occurrence of non-compliance.
2025	April	Critical	315,000	166,300		-47%	In compliance.
2025	May	Critical	420,000	531,000	B	26%	Second occurrence of non-compliance.
2025	June	Critical					

Table 3: Cook-Walden/Forest Oaks' monthly pumpage during declared drought stages of beginning March of 2025.

Under section 4.0 of the District's enforcement plan, staff reached out to Aqua Texas representatives in attempt to coordinate a pre-enforcement meeting to discuss over pumpage of allotment and lack of implementation of its User Drought Contingency Plan. Staff reached out initially on June 12, 2025 to begin pre-enforcement discussions. Rebecca Barrera-Mathei responded the a few days later on June 16, 2025, letting staff know that they had a few leaks caused by visitor's to the campus damaging several spigots. These leaks have since been repaired. She also attributed the overpumpage

partially to the installation of grass on several gravesites over the course of three days (one in March and 2 in May).

Below describes the dates and discussions District Staff had with Aqua Texas regarding meeting drought target allocations.

On 10/10/2024, the Board of Directors declared Stage III Critical Drought.

On 12/05/2024, per the District's enforcement plan, section 3.0, staff was to begin assessing compliance of all permittees under the updated Enforcement Plan adopted 11/14/2024.

On 03/13/2025 Staff and Cook-Walden/Oaks Forest' General Manager, Rebecca Barrera-Mathei conversed via email about drought restrictions to the permit during Critical Stage drought.

On 04/05/2025, District staff reviewed Cook-Walden/Forest Oaks' pumping for the month of March and observed that the permittee had over pumped the target drought volume by 15% for that month. Per the District's enforcement plan section 3.0, the permittee was eligible to be reviewed for potential enforcement and was issued its first occurrence of non-compliance.

On 06/05/2025, District staff reviewed Cook-Walden/Forest Oaks' pumping for the month of May and observed that the permittee had over pumped the target drought volume by 26% for that month. Per the District's enforcement plan section 3.0, the permittee was eligible to be reviewed for potential enforcement and was issued its second occurrence of non-compliance.

On 06/12/2024, Staff notified Cook-Walden/Oak Forest staff via email of the second overpumpage prompting pre-discussion talks to begin in an attempt to resolve the issue.

On 06/16/2025, Cook-Walden/Forest Oaks' General Manager, Rebecca Barrera-Mathei, responded to staff's email. She informed staff that visitor's to the campus ran over several spigots in the cemetery and didn't immediately notify staff of the damage. Staff later found and repaired these damaged spigots. She also, explained that staff had been holding up installing grass on a few more recently dug gravesites, but ended up installing grass on 3/13/25, 5/12/25/, and 5/18/25. She said they will hold off on any more installation until later in the year, if needed.

III. Alleged Violations:

The District has recorded violations of the following District rules:

§3-1.11 (A)(11) 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.

§3-7.6 (A)(1)

All permittees not granted a variance from the Drought Rules shall achieve individual monthly (prorated for partial months) target pumpage volumes for each drought stage by reducing established monthly baseline pumpage by the respective percentage reductions associated with each drought stage.

IV. Chronology of Events:

- 06/09/22: The Board of Directors declared Stage II Alarm drought. 07/05/22: Meter Readings were considered initial month.
- 10/20/22: General Manager, Dr. Tim Loftus, declares Stage III Critical drought.
- 12/14/23: The Board of Directors declared Stage IV Exceptional drought.
- 02/08/24: General Manager, Dr. Tim Loftus, declares Stage III Critical drought.
- 03/01/24: General Manager, Dr. Tim Loftus, declares Stage II Alarm drought.
- 10/10/24: General Manager, Dr. Tim Loftus, declares Stage III Critical drought.
- 04/05/25: Cook-Walden/Forest Oaks over pumped the drought target amount by 15% for the month of March.
- 06/05/25: Cook-Walden/Forest Oaks over pumped the drought target amount by 26% for the month of May.
- 06/25: Cook-Walden/Forest Oaks staff responded to District staff's pre-enforcement discussion request.
- 06/12/25: The Board of Directors is informed of the second occurrence of non-compliance and directs staff to begin the enforcement process.

V. Documentation

- Attachment A – 03/13/2025 drought restriction discussion email and 06/12-18/2025 notification and response emails.

**ATTACHMENT A: 03/13/2025 Drought Restriction
Discussion Emails and 06/12-18/2025
Notification of Overpumpage and Response E-
Mails**

RE: Restrictions

From Barrera- Manthei, Rebecca <Rebecca.Barrera@Dignitymemorial.com>

Date Thu 3/13/2025 10:16 AM

To Jacob Newton <jnewton@bseacd.org>

Cc Hannah Riggs <hriggs@bseacd.org>

Thank you very much!

REBECCA BARRERA-MANTHEI

General Manager

📞 512.892.1172 📠 512.426.4647

Cook-Walden Forest Oaks

Funeral Home & Cemetery

Cookwaldenforestoaks.com



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MEMORIAL

From: Jacob Newton <jnewton@bseacd.org>

Sent: Thursday, March 13, 2025 10:09 AM

To: Barrera- Manthei, Rebecca <Rebecca.Barrera@Dignitymemorial.com>

Cc: Hannah Riggs <hriggs@bseacd.org>

Subject: RE: Restrictions

Hello,

Currently we are in Stage III Critical Drought that comes with a 30% reduction in use.

I have attached a drought target chart that indicates how much can be used in each month based on what stage of drought we are currently in.

I have also attached the UDCP for Cook-Walden Forest Oaks that gives a guide for actions to take during drought.

Let me know if you have any questions.

Thank you,



Jacob Newton

Regulatory Compliance Coordinator

512-282-8441 Ext. 109

1124 Regal Row Austin, TX 78748

www.bseacd.org



From: Hannah Riggs <hriggs@bseacd.org>
Sent: Thursday, March 13, 2025 9:35 AM
To: Barrera- Manthei, Rebecca <Rebecca.Barrera@Dignitymemorial.com>
Cc: Jacob Newton <jnewton@bseacd.org>
Subject: Re: Restrictions

Hi Rebecca-

Let me connect you with our Regulatory Compliance Coordinator, Jacob Newton, as he will be able to help you out with this.

Thank you,
Hannah



Hannah Riggs

Office Manager

512-282-8441 Ext. 100

1124 Regal Row Austin, TX 78748

www.bseacd.org



From: Barrera- Manthei, Rebecca <Rebecca.Barrera@Dignitymemorial.com>
Sent: Thursday, March 13, 2025 8:15 AM

To: Hannah Riggs <hriggs@bseacd.org>

Subject: Restrictions

Hannah,

What are the current restrictions we want to start planting?

REBECCA BARRERA-MANTHEI

General Manager

📞 512.892.1172 📠 512.426.4647

Cook-Walden Forest Oaks

Funeral Home & Cemetery

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MEMORIAL

RE: Cook-Walden Forest Oaks recent use

From Barrera- Manthei, Rebecca <Rebecca.Barrera@Dignitymemorial.com>

Date Wed 6/18/2025 9:42 AM

To Jacob Newton <jnewton@bseacd.org>

Jacob,

What is a Nova? Can I attend this meeting?

Grass was placed on 3/13, 5/12,5/18

The leaks were found when we turned on the water and repaired asap. We don't leave the water running for the families to use.

We have placed signs out in the cemetery reminding families we are on water restrictions. However we also have an obligation to meet the families request of grass being planted on their loved ones property.

Trust me I balance the complaints weekly with planting grass, dead grass and being fined by you all.

REBECCA BARRERA-MANTHEI

General Manager

📞 512.892.1172 📠 512.426.4647

Cook-Walden Forest Oaks

Funeral Home & Cemetery

Cookwaldenforestoaks.com



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MEMORIAL

From: Jacob Newton <jnewton@bseacd.org>

Sent: Wednesday, June 18, 2025 9:28 AM

To: Barrera- Manthei, Rebecca <Rebecca.Barrera@Dignitymemorial.com>

Subject: RE: Cook-Walden Forest Oaks recent use

Hi Rebecca,

Thank you for the response. Any information that we can pass on to the Board is always helpful. When were the leaking spigots noticed and taken care of?
When did the installation of grass occur?

At the July board meeting a NOAV will go before the board that they may decide to issue. This will include both the March and May violations. The daily penalties are determined by taking the average daily use and determining which day the permitted target was surpassed.

Please let us know if you have any questions.

Thank you,



Jacob Newton

Regulatory Compliance Coordinator

(512) 282-8441 Ext. 109
1124 Regal Row Austin, TX 78748
www.bseacd.org

From: Barrera- Manthei, Rebecca <Rebecca.Barrera@Dignitymemorial.com>
Sent: Monday, June 16, 2025 11:27 AM
To: Jacob Newton <jnewton@bseacd.org>
Subject: RE: Cook-Walden Forest Oaks recent use

Hi Jacob,

We had two incidents that families ran over spigots and didn't tell us but we found later. We also installed grass on to graves for families who had never had grass before. We will not be placing anymore grass until later in the year.

REBECCA BARRERA-MANTHEI

General Manager

📞 512.892.1172 📠 512.426.4647

Cook-Walden Forest Oaks

Funeral Home & Cemetery

Cookwaldenforestoaks.com



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MEMORIAL

From: Jacob Newton <jnewton@bseacd.org>
Sent: Thursday, June 12, 2025 1:23 PM
To: Barrera- Manthei, Rebecca <Rebecca.Barrera@Dignitymemorial.com>
Subject: Cook-Walden Forest Oaks recent use

Good afternoon Rebecca,

I wanted to reach out about the recent use from Cook-Walden Forest Oaks.

In the month of March, Cook-Walden overpumped their target by 15% and then again by 26% in May.

Per our rules this prompts the enforcement process to begin, and we will need to have a pre-enforcement meeting to talk about any reasons that have caused the higher use and hopefully find some solutions.

Any information that you can provide for us to pass along to the Board will be very helpful, please let us know if you have any questions.

Thank you,



Jacob Newton

Regulatory Compliance Coordinator

(512) 282-8441 Ext. 109

1124 Regal Row Austin, TX 78748

www.bseacd.org

***** MEMORANDUM *****

Date: July 10, 2025

To: District Board of Directors

From: Erin Swanson, Regulatory Compliance Manager

Subject: Staff enforcement recommendations for Cook-Walden/Forest Oaks

Background:

In the most recent months of the drought, the District's General Manager, Dr. Tim Loftus, declared Stage III Critical Drought on October 3, 2024. Then on November 14, 2024 the Board of Directors approved to adopt updates to the District's Enforcement Plan. The District's enforcement plan¹ provides for monthly review of permittee drought target production allocation. The initial evaluations of Cook-Walden/Forest Oaks began with the month of December 2022 because the month of June 2022 was the initial month of a Drought Stage, which is not reviewed under the District's enforcement plan. Evaluations for Cook-Walden/Forest Oaks using the updated Enforcement Plan began the month of December 2024 as this was the first full month of pumpage to occur after the adoption of the new plan.

Under section 3.0 of the District's enforcement plan, permittees are evaluated during drought according to three permitted pumpage tiers (See Tables 1 and 2). Cook-Walden/Forest Oaks' Historical Edwards permit falls under Tier 1 because it is permitted for 5,000,000 gallons per year.

Permittees are further evaluated based upon three levels (A, B and C). Each level is associated with how much a permittee over pumps its drought target allocation.

<i>Permitted Pumpage (gallons/year)</i>	
Tier 1:	< 12,000,000
Tier 2:	≥ 12,000,000 and < 120,000,000
Tier 3:	≥ 120,000,000

<i>% Pumpage over Monthly Limits</i>	
Level A:	< 25%
Level B:	≥ 25% and < 100%
Level C:	≥ 100%

Tables 1 and 2. Pumpage matrix used in potential penalty calculation.

Under the current District Enforcement Plan, Tier 2 permittees will be evaluated for non-compliance

more recurrent in nature. It takes two monthly occurrences of non-compliance within a six-month period before enforcement action is initiated.

Coko-Walden/Forest Oaks' pumping was assessed during month 38, May of 2025, of District declared drought due to the first occurrence of over pumping the drought target allocation initial during month 36, March of 2024 (See Table 3). The evaluation of Cook-Walden/Forest Oaks under the process described above follows:

Year	Month	Drought Stage	Target	Pumpage	Level	% To Target	Notes
2025	March	Critical	168,000	192,600	A	15%	First occurrence of non-compliance.
2025	April	Critical	315,000	166,300		-47%	In compliance.
2025	May	Critical	420,000	531,000	B	26%	Second occurrence of non-compliance.
2025	June	Critical					

Table 3. Pumpage history during declared drought stages beginning March of 2025.

Alleged Violations:

District records also indicated approximately eleven (11) alleged daily violations of **District Rule §3-7.6** for failure to reduce pumpage during District declared drought in accordance with monthly pumpage limits of the UDCP. District Rule §3-7.6(A)(1) provides all permittees shall achieve individual monthly target pumpage volumes for each drought stage by reducing established monthly baseline pumpage by the respective percentage reductions associated with each drought stage. Daily violations related to Rule 3-7.6 were calculated for each occurrence of noncompliance per the enforcement plan. Cook-Walden/Forest Oaks was informed of the drought overpumpage violations and staff-initiated pre-enforcement notifications in June of 2025. Pumping is recorded on a monthly basis. Staff calculated an average daily usage, therefore, to determine the number of days that the drought-curtailed volume was exceeded for each month of noncompliance. For March, staff calculated overpumpage occurred on the 28th day of the month resulting in four (4) days of overpumpage. For April overpumpage began on day 25 of the month resulting in seven (7) days of alleged violations. Consequently, staff calculated a total of eleven (11) alleged daily violations.

Base Penalties:

Penalties were determined from the ranges specified in District Enforcement Plan guidelines for violations and penalty assessments. Penalties range from \$200 to \$3,200 daily for violations of Rule 3-7.6 for Tier 2 permittees and staff calculated penalties for December 2024 (first occurrence) and April 2025. Penalties are for each alleged daily violation (11 days). Penalties based on three severity options (low, mid, and high) within the specified ranges are provided below (Table 3) for Board consideration.

Rule Violation	Level	Drought Stage	Months	No. of Days in Violation	Daily Penalties			Total Penalties		
					low	mid	High	low	mid	high
§3-7.6	A	Critical	March 28 th – 31 st	4	\$100	\$150	\$200	\$400	\$600	\$1,600
§3-7.6	B	Critical	May 25 th – 30 th	7	\$200	\$300	\$400	\$1,400	\$2,100	\$2,800
Sub Total								\$1,800	\$2,700	\$4,400

Table 3. Drought penalty calculations for months non-compliance occurred.

In accordance with section 4.1 of the District’s adopted enforcement plan, the amount of the penalties assessed shall be determined considering the following factors:

- (1) The severity or seriousness of the violation;
- (2) Whether the violation was willful, intentional, or could have been reasonably anticipated and avoided;
- (3) Whether the violator acted in good faith to avoid or mitigate the violation, or to correct the violation after it became apparent and compensate those affected;
- (4) The economic gain obtained by the violator through the violation;
- (5) Whether similar violations have been committed in the past;
- (6) The amount necessary to deter future violations;
- (7) Any other matter that justice may require;

In consideration of these factors District staff calculated penalties for each of the 11 daily violations or a total of \$1,800. The low-range is warranted given their clean compliance record both through the history of the permit and throughout the entirety of the current drought. This assessment is also warranted due to the successful attempt to resolve the damaged spigot issue.

Staff Recommendation:

Staff recommends that the Board assess a penalty amount of \$1,800 for overpumpage of the Cook-Walden/Forest Oaks’ production permit’s monthly drought curtailment volumes for the months of March of 2025 and May of 2025.

Additionally, staff recommends a reduction of 30% or \$540 to the assessed penalty amount for a new reduced penalty total of \$1,260 for a clean compliance record of more than 11 years., as outlined in Section 4.3 of the District’s Enforcement Plan.

Drought Enforcement Plan Excerpts

Drought Management and Enforcement Process

1.0 Drought Enforcement Strategy

The District's approach to drought management described here flows from and is consistent with District Rules 3-7.8 and 3-8. It describes the appropriate implementation mechanisms, public awareness efforts, aquifer and drought monitoring, and permittee performance monitoring and assessment to be used during drought. Compliance and enforcement efforts specified below elaborate District Rule 3-8 and center on assessment of permittee performance on a monthly basis to identify the various levels of non-compliance with mandatory pumpage reductions. This monthly assessment will focus the District's early efforts on permittees with the more egregious levels of over-pumpage, on the basis of both the percentage of pumpage over their monthly pumpage limits and the volumes of their permitted pumpage.

2.0 Implementation Mechanisms

2.1 Drought Declaration Notices

The District will declare the commencement of drought by sending written notice to all District permittees when specified aquifer conditions are met in accordance with the approved District drought trigger methodology and after the Board has approved the declaration. The staff will assess the continuation of and stage of an indicated drought continuously, and notify all permittees when a more or less severe drought stage is declared and when the drought no longer exists

2.2 Public Awareness

Once drought is officially declared by the District, the District will implement measures to provide public awareness including but not limited to:

- Web site updates on aquifer conditions and permittee pumpage performance
- Press releases and guest columns in the local newspapers
- Recurring articles and columns in District newsletter
- Drought and aquifer condition updates provided via e-newsletter to permittees
- Outreach and education by District educators.

2.3 Monthly Compliance Evaluations

- Monthly evaluations of permittee performance and compliance with monthly drought limits will begin on the latest date that all meters readings are required to be submitted each month (the 5th of each month). Staff will identify permittees who have failed to report meter readings by the monthly reporting deadline while in District-declared drought. District will notify all those who have not reported that the District will obtain the meter readings at a fee of \$50 to the permittee. District staff

will follow up with meter readings for all delinquent permittees to ensure necessary readings are available to assess drought compliance.

- Should a more or less severe drought stage be declared in the middle of a particular month, the District will evaluate and measure compliance with the less stringent drought stage requirements for that month that the status change occurred. Compliance with the measures of the newly declared stage will be required in the following month.
- Staff will generate a list of non-compliant permittees based on permitted volume and percentage over-pumped. Non-compliance will be categorized in tiers in accordance with the following criteria:

Permitted Pumpage (gallons/year)		% Pumpage over Monthly Limits	
Tier 1:	< 12,000,000	Level A:	< 25%
Tier 2:	≥ 12,000,000 and < 120,000,000	Level B:	≥ 25% and 100%
Tier 3:	≥ 120,000,000	Level C:	≥ 100%

- Staff will send notices of overpumpage to all non-compliant permittees to notify them of their overpumpage and to inform them of their level of non-compliance. This notice will also include the amount of a drought management fee if a fee is assessed
- Staff will identify and red flag suspect permittee meter readings, on the basis of previous readings, and conduct follow-up meter reading verifications.
- Staff will monitor pumping trends of those permittees that repeatedly over-pump monthly limits while in Drought and take action based on Enforcement Procedures outlined below.
- Staff will evaluate compliance trends of all other permittees to identify efforts to comply or escalating overpumpage.
- Staff will report and update monthly, all non-performing permittees after the third consecutive enforceable month of District declared drought, by posting a list of those permittees not meeting their monthly pumpage limits on the District website and at the District office for public review.

2.5 Determination of Occurrence of Non-compliance

Determinations of an occurrence of substantial non-compliance will be made based on 1) repeated events of non-compliance, 2) specific causes of overpumpage, and 3) the permittee's response to the reported overpumpage. In determining an occurrence, the District will take into consideration the permittee's demonstrated efforts to achieve pumpage reductions and any documented trends in prior water use reductions.

3.0 Timelines and Phasing of Determinations

Initial Month of a Drought Stage: No enforcement will be initiated for non-compliance in the initial month of Alarm Stage Drought if the timing of the declaration does not allow for a full month (after notice has been provided to the permittees) to begin assessing compliance with monthly limits. Overpumpage

notices will be sent to all permittees who over-pumped their monthly pumpage limits to inform them of the on-going pumpage assessment being conducted by the District during drought and to notify them of the District's authority to enforce against non-compliance. For the initial month of Critical Stage Drought, the permittees will only be subject to the conditions of the Alarm Stage Drought until such time that a full month is available to assess compliance.

1-3 Months: Enforcement efforts will focus initially on the more egregious and sustained non-compliance by the large volume permittees. During the first three consecutive enforceable months of District declared drought, monthly assessment of overpumpage violations will focus on *Tier 3* permittees with *Level B/C* non-compliance. As a practical matter, the initial assessment and enforcement activities during this period will focus on *Tier 3* permittees with */Level C* non-compliance plus those who are irrigators.

4-6 Months: After the third consecutive enforceable month of District declared drought, monthly assessment of non-compliance will be expanded to include *Tier 2* permittees. Evaluation of compliance with Critical Stage Drought requirements will begin after the first full enforceable month and will focus on *Tier 2* and *Tier 3* permittees with *Level B/C* non-compliance.

After 6 Months: After the first six (6) consecutive enforceable months of District declared drought, monthly assessment of non-compliance for *Tier 2* and *Tier 3* permittees will include *Level A/B/C* and will be expanded to include *Tier 1* permittees. Enforcement efforts for *Tier 1* permittees permitted for more than 2,000,000 gallons annually will be reserved for only those occurrences that are egregious and/or recurrent in nature. This will be determined when a *Tier 1* permittee reports six (6) or more months of level B or greater overpumpage or when the monthly volume overpumped equals a volume that would trigger an enforcement action for a *Tier 2* permittee. Enforcement efforts for *Tier 1* permittees permitted for 2,000,000 gallons or less will generally be reserved only for non-compliance that warrants enforcement as determined by the Board.

4.0 Drought Enforcement Procedures

Levels of non-compliance will be assessed with actions taken in accordance with the Districts Enforcement Plan and Procedures and the following enforcement protocol for those permittees with consistent or increasing levels of non-compliance*.

1st Occurrence: For the initial occurrence of non-compliance, a meeting or teleconference will be arranged with the permittee representative and the District GM and staff to discuss the particular causes of the non-compliance. The discussion will focus on compliance with the measures of the UDCP and identifying causes of excessive water use/loss or other possible relevant causes for overpumpage. Specific commitments and timelines to achieve pumpage reductions will be requested and documented.

2nd Occurrence: For those permittees with a first occurrence of non-compliance and recurrent months of reported non-compliance, staff may refer the case to the Board with a recommendation to issue a NOAV. Further enforcement efforts will proceed in accordance with the District *Enforcement Procedures* and the *Penalty Assessment Guidelines*.

For those permittees with a first violation who continue to have recurrent months of reported non-compliance but with some improvement, a meeting will be arranged with the permittee representatives, GM and staff, and the appropriate District Director at the District office. Discussion will focus on the implementation of the documented measures, the success or failure of those specific measures, and the

commitments to achieve pumpage reductions resulting from the first violation discussions. More detailed analysis of causes for continued non-compliance will be conducted to result in more specific and binding measures for committed pumpage reductions by the permittee.

3rd Occurrence:

For permittees with a second occurrence who continue to have multiple months of reported non-compliance, the GM may refer the case to the Board with a recommendation to issue an NOAV. Further enforcement efforts will proceed in accordance with the District *Enforcement Procedures* and the *Penalty Assessment Guidelines*.

* If a permittee is non-responsive to any of the bulleted elements of these enforcement procedures, the GM may recommend to Board that either an NOAV be issued, a Show Cause Hearing be conducted, or an enforcement action be pursued on the violation immediately, whichever is more likely to elicit a constructive response.



**Barton Springs
Edwards Aquifer**
CONSERVATION DISTRICT

NOTICE OF ALLEGED VIOLATION

July 14, 2025

Regular US Mail & Electronic Mail

Cook-Walden/Forest Oaks
Attn: Rebecca Barrera-Mathei
6300 W William Cannon Drive
Austin, TX 78749

RE: Notice of Alleged Violations of District Rules & Bylaws.

Dear Permittee:

On July 10, 2025 the Board of Directors of the Barton Springs/Edwards Aquifer Conservation District (District) determined that sufficient information exists to warrant this notice, alleging that the well owner at 6300 W William Cannon Drive (Lat: 30.23252° N Long: -97.86346° W) and (Lat: 30.23358° N Long: -97.85976° W) violated the District Rules & Bylaws. District records demonstrably indicate alleged violation of **District Rule §3-7.6** for failure to reduce pumping during District declared drought. A copy of the District's investigation report is enclosed.

The District expects complete compliance with all District Rules, and your permit with the District is predicated on that compliance. Pursuant to §36.102 of the Texas Water Code and the penalty schedule contained in §3-7.10 of the District's Rules, the District is authorized to assess civil penalties of up to \$10,000 for each act of violation and for each day of violation for Rule §3-7.6. The indicated penalties are based on several factors including: (1) the severity, seriousness, or magnitude of the violations; (2) whether the violation was willful, intentional, or could have been reasonably anticipated and avoided; (3) whether the violator adequately responded and communicated with the District and acted in good faith to avoid or mitigate the violation; (4) the violation was during a District declared drought, (5) the history of past violations; (3) the amount necessary to deter future violations; (4) efforts made to correct the violations; and (6) any other matters that justice may require. Accordingly, the District Staff is recommending to the Board of Directors **the assessment of a penalty of \$1,260**. A copy of the District penalty calculation is enclosed.

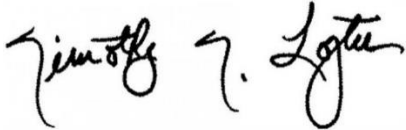
If necessary, the District will file civil suit to enforce and achieve compliance with its rules but prefers to resolve the case without the need for litigation.

If you choose to contest these allegations, notify the District within thirty (30) days of this notice. You will be cited to appear and will be provided a hearing before the Board where you may show cause why an enforcement action should not be initiated against you. Failure to respond to this

notice in the specified timeframe will result in the referral of this matter to the District Board of Directors and the scheduling of a formal public hearing at which time the District Staff will provide a recommendation to the Board to file a lawsuit against you and seek civil penalties, court costs and attorney's fees.

If you have any questions regarding this matter, contact the Regulatory Compliance Team, by phone at (512) 282-8441.

Sincerely,

A handwritten signature in black ink, reading "Timothy T. Loftus". The signature is written in a cursive, flowing style.

Timothy T. Loftus, Ph.D.
General Manager

cc: Mr. Brian Sledge, Esq., District Counsel

Item 6

Board Discussion and Possible Action

- c. Discussion and possible action related to Texas Land Application Permit No. WQ0016373001 and the Decision of the TCEQ Executive Director for Hays Commons Development, Inc.



June 26, 2025

VIA ELECTRONIC FILING (at www.tceq.texas.gov/agency/decisions/cc/comments.html)

Ms. Laurie Gharis
Chief Clerk TCEQ, MC-105
P.O. Box 13087
Austin, Texas 78711-3087

Re: Application by Hays Commons Development Inc. for TCEQ Permit No. WQ0016373001 – **REQUEST FOR CONTESTED CASE HEARING**

To the Texas Commission on Environmental Quality:

My law firm represents the Barton Springs–Edwards Aquifer Conservation District (“BSEACD”) in connection with the above-referenced matter and hereby files this letter on its behalf. By way of this letter, BSEACD respectfully *requests a contested case hearing* and submits these comments in connection with this application for a new Texas Land Application Permit (“TLAP”).

This letter also serves as a request that I be added to your official mailing list for this matter. The following contact information is provided:

Drew Miller
Kemp Smith, LLP
2905 San Gabriel Street, Suite 205
Austin, TX 78705
Telephone: 512.320.5466
Fax: 512-293-5533
drew.miller@kempsmith.com

Introduction – the Barton Springs Edwards Aquifer Conservation District

BSEACD is a groundwater conservation district created by order of the Texas Water Commission in 1986, validated by special act of the Texas Legislature in 1987 (later codified in Chapter 8802, Special District Local Laws Code (“BSEACD Enabling Act”)), and then confirmed by the voters within the BSEACD. BSEACD has the powers, duties, authority, and responsibilities set forth in Chapter 36, Water Code, and in the BSEACD Enabling Act. BSEACD has authority over issues contemplated as a result of the filing with the Texas Commission on Environmental Quality (“TCEQ”) of the Application by Hays Commons Development Inc. for TCEQ Permit No. WQ0016373001 (“Application”). The proposed wastewater treatment facility and disposal site are located within the jurisdictional boundaries of BSEACD.

221 N. Kansas St.
Suite 1700
El Paso, TX 79901
915 533-4424
Kempsmith.com

2905 San Gabriel Street
Suite 205
Austin, TX 78705
512 320-5466
Kempsmith.com

3800 E. Lohman Ave.
Suite C
Las Cruces, NM 88011
575 527-0023
Kempsmith.com

BSEACD was created to provide for the conservation, preservation, protection, recharging and prevention of waste¹ of groundwater within the Barton Springs segment of the Edwards Aquifer and other aquifers within its jurisdictional boundaries. *See* Tex. Water Code § 36.0015; Tex. Spec. Dist. Local Laws Code § 8802.002.

I. BSEACD is an Affected Person Under the Applicable Factors

BSEACD is an “affected person” under 30 Tex. Admin. Code § 55.203 and, as such, is authorized to submit this request. *See* 30 Tex. Admin. Code § 55.201(b)(4). Moreover, TCEQ’s rule governing the determination of *affected persons* in this proceeding expressly states that local governments with authority under state law over issues raised by an application may be considered “affected persons.” 30 Tex. Admin. Code § 55.203(b)

Issues involving the impact of the proposed facility on groundwater within BSEACD’s jurisdiction have been raised by the Application. For example, under TCEQ’s siting criteria, TCEQ may not issue a permit for a new facility unless it finds that the proposed site, when evaluated in light of the proposed design, construction or operational features, minimizes possible contamination of groundwater. 30 Tex. Admin. Code § 309.12. In making this determination, the TCEQ may consider (1) groundwater conditions such as groundwater flow rate, groundwater quality, and aquifer recharge conditions; and (2) soil conditions such as stratigraphic profile and complexity, hydraulic conductivity of strata, and separation distance from the facility to the aquifer. *Id.*

The proposed wastewater treatment facility and disposal site are to be located on the recharge zone of the Barton Springs segment of the Edwards Aquifer. The proposed facility and disposal site also lie within BSEACD’s boundaries and are therefore subject to BSEACD’s jurisdiction. Wastewater associated with the proposed facility has the potential for entering the Edwards Aquifer, among other ways, via the known and unknown faults and recharge features that are located on or near the disposal site. The proposed wastewater treatment facility and disposal site are located on the outcrop of some of the more permeable units of the Edwards Aquifer that are within boundaries of the BSEACD.

In determining whether BSEACD is an “affected person” entitled to a contested case hearing, the following factors may be considered:

- (1) whether the interest claimed is one protected by the law under which the application will be considered;

¹ The term “waste” with respect to groundwater is defined broadly to include: “pollution or harmful alteration of groundwater . . . by . . . deleterious matter admitted from another stratum or from the surface of the ground.” Tex. Water Code § 36.001(8)(D).

- (2) distance restrictions or other limitations imposed by law on the affected interest;
- (3) whether a reasonable relationship exists between the interest claimed and the activity regulated;
- (4) likely impact of the regulated activity on the health, safety, and use of property of the person;
- (5) likely impact of the regulated activity on use of the impacted natural resource by the person;
- (6) whether the requestor timely submitted comments on the application that were not withdrawn; and,
- (7) for governmental entities, their statutory authority over or interest in the issues relevant to the application.

See 30 Tex. Admin. Code § 305.203(c). Set forth below is an analysis related to these factors.

A. The interests claimed by BSEACD are protected by the law under which the Application will be considered (30 Tex. Admin. Code § 305.203(c)(1)).

The interests claimed by BSEACD include its interests in fulfilling its statutory obligations and duties to protect groundwater, including by preventing pollution or harmful alteration of groundwater. *See, e.g.*, Tex. Water Code §§ 36.001(8); 36.0015. In addition, BSEACD is also legally required to implement a Habitat Conservation Plan and Incidental Take Permit approved by the U.S. Fish and Wildlife service to protect two federally-listed endangered species that rely on both the quality and quantity of groundwater within BSEACD's jurisdiction.

The Application will be considered by TCEQ pursuant to Chapter 26, Water Code, and applicable TCEQ rules, including 30 Tex. Admin. Code §§ 309.12 (Site Selection to Protect Water in the State), 309.13 (Unsuitable Site Characteristics) and 309.20 (Land Application of Sewage Effluent). These rules and their enabling statute include the protection of groundwater resources among their central goals. *See, e.g.*, Tex. Water Code §§ 26.001(5), 26.027, 26.128 & 26.401; 30 Tex. Admin. Code §§ 309.12, 309.13 & 309.20(a)(4), (b)(2) & (c)(1).

B. There are distance restrictions imposed by law that are related to BSEACD's interests (30 Tex. Admin. Code § 305.203(c)(2)).

Buffer zone requirements applicable to the proposed project require that a wastewater treatment plant unit be located a minimum horizontal distance of 250 feet from a private water well and a minimum horizontal distance of 500 feet from a public water well site or other similar sources of public drinking water. *See* 30 Tex. Admin. Code §§ 309.13(c); 290.41(c)(1)(C). A land

application field must be located a minimum horizontal distance of 150 feet from a private water well and a minimum horizontal distance of 500 feet from a public water well site, spring or other similar sources of public drinking water. These restrictions may affect certain water wells within BSEACD's jurisdiction and may affect certain well owners and users of groundwater within BSEACD's jurisdiction.

C. A reasonable relationship exists between BSEACD's interests and the activity regulated (30 Tex. Admin. Code § 305.203(c)(3)).

The disposal of domestic wastewater via land application is *closely* related to BSEACD's interest in fulfilling its obligations to protect and prevent the pollution of groundwater within its jurisdiction. By its very nature, the disposal of domestic wastewater by land application has the potential to negatively impact groundwater resources.

D. BSEACD has legitimate concerns regarding the impact of the disposal of domestic wastewater that would be authorized by the Draft Permit on health and safety, and the use of property, within its jurisdiction (30 Tex. Admin. Code § 305.203(c)(4)).

Chapter 26, Water Code, and TCEQ's rules implementing the permitting provisions of that statute are meant to, among other things, preserve and protect the quality of groundwater in Texas. As further described below, BSEACD has legitimate concerns regarding whether the activities to be authorized by the Draft Permit would negatively impact groundwater within its jurisdiction. Negative impacts on groundwater could affect the health and safety of persons (and wildlife including endangered species) within BSEACD's jurisdiction. Moreover, such negative impacts could affect the use of groundwater (which is considered property in Texas).

E. BSEACD has legitimate concerns regarding the likely impact of the regulated activity on the use of impacted natural resources (30 Tex. Admin. Code § 305.203(c)(5)).

As previously noted, BSEACD has legitimate concerns regarding whether the activities to be authorized by the Draft Permit would negatively impact groundwater and the use of groundwater within its jurisdiction. Groundwater may be considered a natural resource.

F. The requestor timely submitted comments that were not withdrawn (30 Tex. Admin. Code § 305.203(c)(6)).

BSEACD timely submitted comments on the Application that have not been withdrawn.²

² Letter from Timothy T. Loftus, General Manager, BSEACD to TCEQ Chief Clerk submitting public comments re: TLAP No. WQ0016373001 (dated Jul. 16, 2024) ("BSEACD Comments Letter")

G. Statutory authority over or interest in the issues relevant to the Application (30 Tex. Admin Code § 305.203(c)(7)).

BSEACD has statutory authority over or interest in the issues relevant to the Application. BSEACD's powers under Chapter 36, Water Code, and the BSEACD Enabling Act, include, among other things, the authority to prohibit persons from polluting or harmfully altering the character of groundwater by activities on the surface of the ground that will cause or allow pollutants or other deleterious matter to enter groundwater from the surface or recharge features. *See* Tex. Water Code §§ 36.001, 36.101, 36.102.

Accordingly, BSEACD has authority under state law over issues relating to the potential impact of the facility that would be authorized by the granting of this Application on groundwater within BSEACD's jurisdiction. BSEACD is concerned that if the Application is granted, the groundwater within BSEACD's jurisdiction will suffer adverse impacts.

Based on the above analysis of factors and considerations, BSEACD clearly has a justiciable interest affected by the Application and qualifies as an affected person in connection with the Application.

II. List of Relevant and Material Disputed Issues of Fact that were Raised by BSEACD During the Public Comment Period and that are the Basis for this Hearing Request

The following is a list and summary of relevant and material disputed issues of fact that were raised by BSEACD during the public comment period and that are the basis for this hearing request.

A. The Application and the Draft Permit do not meet the applicable standards of TCEQ's "Edwards Aquifer Rules" (30 Tex. Admin. Code Chapter 213, Subchapter A).

TCEQ's Edwards Aquifer Rules expressly prohibit new discharges "into or adjacent to water in the state that would create additional pollutant loading on the recharge zone." 30 Tex. Admin. Code § 213.6(a)(1) (emphasis added). The term "adjacent to water in the state" includes wastewater disposal via land application.

BSEACD is concerned that activities authorized by the Draft Permit will result in negative impacts on the quality of groundwater within the recharge zone of the Barton Springs segment of the Edwards Aquifer, and carry the potential for contamination of that vital water source.³ BSEACD is concerned that such activities would likely create additional pollutant loading on the

³ BSEACD Comment Letter, Comment Nos. 1, 2, 3, 6 & 7.

recharge zone, and that the issuance of this Draft Permit is therefore in conflict with 30 Tex. Admin. Code § 213.6(a)(1).⁴

More particularly, BSEACD disagrees with the ED's assertion that "if the proposed facility is constructed and operated . . . according to the draft permit," highly sensitive and vital groundwater resources will not be impacted. BSEACD is also concerned that the facility will not be constructed and operated as required by all applicable regulations and according to the Draft Permit. BSEACD also disagrees that requirements concerning buffers, application rates, maintaining crop health, pond liners, leak detection and inspections required under the Draft Permit are sufficient to protect nearby groundwater resources.⁵ BSEACD believes that it is inevitable that bypasses of treatment facilities will occur, resulting in the land application and/or discharge into water in the State of untreated or partially treated wastewater, thus seriously endangering nearby groundwater resources.⁶

BSEACD also believes that the buffer requirements set forth in special provisions contained in the Draft Permit are insufficient in this situation to protect the Barton Springs segment of the Edwards Aquifer. BSEACD believes that the special provisions meant to address any recharge features discovered during excavation, construction or operation of the proposed facility are also insufficient in this situation to protect the Barton Springs segment of the Edwards Aquifer. Finally, BSEACD further believes that the special provision allowing the potential for permit review during the Water Pollution Abatement Plan review and approval process is also insufficient in this situation to protect the Barton Springs segment of the Edwards Aquifer.

B. The activities that would be authorized under the Draft Permit are likely to result in negative effects on the Barton Springs segment of the Edwards Aquifer within its recharge zone (30 Tex. Admin Code §§ 309.12, 309.20)

BSEACD is concerned that activities authorized by the Draft Permit would likely result in negative impacts within the recharge zone of the Barton Springs segment of the Edwards Aquifer, potentially leading to the contamination of the aquifer. This concern is based on, among other things: the volume and rate of land application of wastewater/effluent; the underlying geology of the proposed site; the shallow soils at the proposed site; inadequacy of the proposed buffers surrounding Critical Environmental Features; and the nutrient concentrations in the wastewater effluent to be land applied and/or discharged.⁷

The volume of wastewater to be disposed of via land application and the rate of land application to be allowed under the Draft Permit are likely to create saturated soil conditions that

⁴ Executive Director's Response to Public Comment ("ED Response to Public Comment"), Response 1.

⁵ *Id.*

⁶ *Id.*

⁷ BSEACD Comment Letter, Comment Nos. 1, 2, 3, 6 & 7.

can lead to infiltration into the aquifer. BSEACD is also concerned that the soils at the subject location are shallow and unable to support robust vegetation, thus leading to additional infiltration. Given the nature of the soils and underlying geology at the proposed site, BSEACD believe that there is a high likelihood of negative impacts on the aquifer. Moreover, BSEACD believes that the capacity of the storage pond to be authorized under the Draft Permit is inadequate given the other concerns mentioned above.

BSEACD also believes that the buffers around Critical Environmental Features as required under the Draft Permit are inadequate for protecting such features, surface water, and associated groundwater. BSEACD also believes that special provisions in the Draft Permit related to monitoring of irrigation fields are inadequate to consistently prevent runoff and infiltration to groundwater.

C. Activities to be authorized under the Draft Permit are likely to result in negative impacts on, and possibly contamination of, nearby surface water, including Little Bear Creek.

BSEACD is concerned that activities authorized by the Draft Permit would likely result in negative impacts on, and possibly contamination of, nearby surface water, including Little Bear Creek.⁸ Contamination of surface water within the recharge zone of the Barton Springs segment of the Edwards Aquifer can lead to contamination of the aquifer.

The volume of effluent/wastewater to be disposed of via land application and the rate of land application to be allowed under the Draft Permit are likely to create saturated soil conditions that can lead to runoff reaching nearby surface water, including Little Bear Creek. BSEACD is also concerned that the soils at the subject location are shallow and unable to support robust vegetation, thus leading to runoff reaching nearby surface water including Little Bear Creek. \ The fact that the proposed irrigation area is upslope and adjacent to Little Bear Creek and also situated on either side of an ephemeral tributary of Little Bear Creek heightens these concerns. Given the nature of the soil, underlying geology, and the slopes in the area, BSEACD believes that there is a high likelihood of pollution in Little Bear Creek from direct runoff. Moreover, BSEACD believes that the capacity of the storage pond that would be authorized under the Draft Permit is inadequate given the other concerns mentioned above.

D. The nitrogen and phosphorus limits in the Draft Permit are too high.

BSEACD remains concerned that the nitrogen and phosphorus limits as set forth in the Draft Permit are too high and are insufficiently protective of water quality in nearby surface waters, especially under saturated soil conditions.⁹ Furthermore, any single new source of groundwater pollution needs to be considered in the context of cumulative impacts and research conducted by

⁸ *Id.*, Comment Nos. 1, 3, 4, 5, 6 & 7.

⁹ *Id.*, Comment No. 1.

the U.S. Geological Survey (and supported by BSEACD Staff and others) which indicates that groundwater nitrogen concentrations from watershed loading are on the rise. If effluent/wastewater with such concentrations reaches the aquifer, it will degrade groundwater quality.

E The activities authorized under the Draft Permit will likely result in the oversaturation of soils and lead to runoff impacting surface water and ultimately groundwater (see 30 Tex. Admin. Code § 309.20(a)(4)(B)).

BSEACD is concerned that the permit, if granted, will allow for the application of effluent at a rate equivalent to a doubling of average rainfall for the location. This rate of application has a high potential for creating saturated soil conditions that could lead to runoff directly impacting surface water and causing infiltration into the aquifer.¹⁰ Moreover, the soils in the area are shallow and unable to support robust vegetation, thus exacerbating this risk.¹¹ The ED's Response to Comments on these points does not adequately address BSEACD's previously stated concerns.

F. BSEACD is concerned that the activities authorized under the Draft Permit will negatively impact wildlife, including two endangered species of salamanders that it is required to protect.

BSEACD notes that in addition to implementing its duties and obligations under Chapter 36, Water Code, and executing its state-required management plan, it also implements a Habitat Conservation Plan and Incidental Take Permit approved by the U.S. Fish and Wildlife Service, which protects two endangered salamander species.¹² Both species depend on the water quality (in addition to the rate of flow) at the Barton Springs Pool, connected to the Barton Springs segment of the Edwards Aquifer.¹³

In response to this previously stated concern, the ED refers to water quality standards and procedures that establish goals that surface waters cannot be toxic to aquatic or terrestrial organisms and to prevent toxic effects. BSEACD is concerned that any measures included in the Draft Permit meant to achieve such goals are inadequate and in direct conflict with BSEACD's obligation to protect wildlife, including or especially the endangered species mentioned above.

Thank you in advance for your considerations of this request for a contested case hearing and these comments.

¹⁰ *Id.*, Comment No. 3.

¹¹ ED's Response to Public Comment, Response 10.

¹² BSEACD Comment Letter at 3.

¹³ *Id.*

Office of the Chief Clerk, TCEQ

Application by Hays Commons Development Inc. for TCEQ Permit No. WQ0016373001

Request for Contested Case Hearing and Comments

June 25, 2025

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Respectfully submitted,

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**ATTORNEYS FOR BARTON
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CONSERVATION DISTRICT**

Item 6

Board Discussion and Possible Action

- d. Discussion and possible action on declaring Stage IV Exceptional Drought or authorizing the GM to declare the next stage of drought.

Item 7

General Counsel's Report

The District's legal counsel will brief the Board on pertinent legal issues and developments impacting the District since the last Board meeting, and legal counsel's activities on behalf of the District, including without limitation waste injection well monitoring activities including any protests of injection well applications with the Railroad Commission of Texas or the Texas Commission on Environmental Quality (TCEQ), monitoring or protests of water rights, wastewater discharge, or other waste-related applications at the TCEQ that may impact groundwater resources in the District; District rules enforcement activities, rules and management plan implementation issues, groundwater-related legislative activities, joint planning and DFC development activities, developments in groundwater case law and submission of legal briefs, contractual issues related to the District, open government, policy, personnel, and financial issues of the District, threatened or pending claims or litigation against the District, and other legal activities on behalf of the District – Brian Sledge, Legal Counsel, Sledge Law Group, PLLC

Item 8

Director Reports

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
- Board committee updates
- Conversations with public officials, permittees, stakeholders, and other constituents
- Commendations
- Issues or problems of concern

Item 9

Adjournment