

RESOLUTION NO. 101626

**BARTON SPRINGS-EDWARDS AQUIFER CONSERVATION DISTRICT
RESOLUTION TO ADOPT AMENDMENTS TO THE DISTRICT RULES AND
BYLAWS**

THE STATE OF TEXAS	§
	§
BARTON SPRINGS-EDWARDS AQUIFER	§
CONSERVATION DISTRICT	§

WHEREAS, the Barton Springs-Edwards Aquifer Conservation District (the “District”) was created in 1986 by the Texas Water Commission, now the Texas Commission on Environmental Quality, as a groundwater conservation district under the authority of Section 59, Article XVI, of the Texas Constitution and Chapter 52 (now Chapter 36) of the Texas Water Code; was validated in 1987 by the 70th Texas Legislature by Senate Bill 988, Regular Session; and was confirmed by the voters at an election held on August 8, 1987; and the District’s enabling legislation is now codified at Tex. Spec. Dist. Loc. Laws Code Ann. ch. 8802 (the “District Act”), Section 8802.101 of which grants the District the powers and duties provided by Chapter 36 of the Texas Water Code except as otherwise provided by the District Act;

WHEREAS, Section 8802.0035 of the District Act, added by House Bill 3405, 84th Leg., R.S. (2015), confirms the District’s jurisdiction over groundwater and wells in all aquifers within the District, including the Trinity Aquifer, and extends the District’s jurisdiction over aquifers other than the Edwards Aquifer to the shared territory described in that section;

WHEREAS, the District is a governmental agency and a body politic and corporate, and was created to serve a public use and benefit;

WHEREAS, the Board of Directors (the “Board”) originally adopted the District Rules and Bylaws (Volume 1) on February 15, 1988, and the District’s Well Construction Standards (Volume 2) on November 1, 1991 (collectively, the “Rules”), and has amended the Rules from time to time in accordance with Sections 36.101 and 36.1071(f) of the Texas Water Code, which authorize the District to make and enforce rules and require the District to adopt rules necessary to implement its management plan;

WHEREAS, the Board most recently amended its District Management Plan on August 10, 2023, which amendment the Texas Water Development Board approved on August 15, 2024 (the “Management Plan”), and Objective 1-1(B) of the Management Plan calls for the District to review and modify the Rules as warranted to maintain a sound statutory basis for District operations;

WHEREAS, in 2018 the U.S. Fish and Wildlife Service approved the District's Habitat Conservation Plan (the "HCP") and issued to the District a 20-year Incidental Take Permit for the Barton Springs salamander and the Austin blind salamander under Section 10(a)(1)(B) of the federal Endangered Species Act; the HCP measures are incorporated as objectives and performance standards of the Management Plan; and Section 4.1.3 of the HCP provides that Rule changes that support or are not inconsistent with the biological goals and objectives of the HCP stated in Section 6.1 of the HCP are neither Changed Circumstances nor a requirement for an amended Incidental Take Permit, and the proposed amendments are of that character;

WHEREAS, the proposed amendments to the Rules will promote the conservation, preservation, protection, and recharging of the groundwater resources of the District and the protection of property rights in groundwater, consistent with the authority and duties provided under Chapter 36 of the Texas Water Code and the District Act; will implement the Management Plan and the HCP; will support achievement of the desired future conditions ("DFCs") adopted in Groundwater Management Area 10 for the aquifers within the District; and will implement amendments to Chapter 36 of the Texas Water Code recently enacted by the Texas Legislature;

WHEREAS, the District proposes the following amendments to the Rules, each of which the Board finds to be necessary or appropriate in implementing its authority under Chapter 36 of the Texas Water Code and the District Act, which amendments are generally supported by the express or implied authority in Sections 36.0015, 36.002(d), 36.101(a), 36.1071(f), 36.113, 36.1132, and 36.116 of the Texas Water Code and Section 8802.101 of the District Act, and as otherwise described herein:

(1) amending, adding, or deleting definitions of terms in Rule 2-1; and adding new District Rule 2-4 establishing the citation conventions for the Rules and references therein; these amendments are authorized by Sections 36.101(a), 36.1071(b), 36.108, 36.113(d), and 36.116 of the Texas Water Code and by the District Act;

(2) amending the requirements for applications for Production Permits and other authorizations; specifically, adding the Conditional Trinity Production Permit as a permit type; requiring that a Hydrogeological Report be current, generally meaning completed within the three years preceding the application, subject to the General Manager's acceptance of an older report upon specified findings; authorizing the General Manager to waive the hydrogeologic report and aquifer test requirements upon certain technical showings; and providing that a permit approved during a District-declared drought may, rather than shall, contain a provision delaying its effective date; these amendments are authorized by Sections 36.101(a), 36.113(b) and (c), 36.1131, 36.114, and 36.116 of the Texas Water Code and by the District Act, and implement Objective 4-2 of the Management Plan;

(3) amending the criteria and procedures for action on permits; specifically, requiring the District to consider whether a proposed use of water would unreasonably affect existing permit

holders or registered exempt wells, both in the criteria for action on permits under District Rule 3-1.6(A) and in the definition of Unreasonable Impacts; providing that aggregate authorized production in the Freshwater Edwards Management Zones may not exceed the Extreme Drought MAG or the EDWL; and requiring that all new Production Permits and all amendments increasing authorized production be acted on by the Board, with the General Manager retaining authority over well registrations, minor amendments, and well drilling, plugging, and modification authorizations; these amendments implement Section 36.113(d)(2)(C) of the Texas Water Code, as added by the 89th Legislature, R.S. (2025), and are further authorized by Sections 36.101(a), 36.113(d), and 36.114(b) and (c) of the Texas Water Code and by the District Act;

(4) establishing a permitting and production framework for the Upper, Middle, and Lower Trinity Management Zones; specifically, recognizing Historic Use Status for Historical Trinity Production Permits for nonexempt wells approved before October 16, 2026, or approved thereafter on applications administratively complete before that date; requiring that all other new authorizations and all increases by historic users be issued as Conditional Trinity Production Permits; establishing an initial production allowable per acre of 10,000 gallons per acre per year for each of the Middle and Lower Trinity Management Zones and 5,000 gallons per acre per year for the Upper Trinity Management Zone, which the Board may decrease as necessary to achieve the applicable DFCs, considering the District's progress toward achieving those DFCs and its performance relative to any interim values identified under Section 36.108(d-1a) of the Texas Water Code, but not below the Minimum Production Allowable Per Acre, which is the total annual groundwater availability for the management zone that will achieve the relevant DFC, as determined by the Board after considering the modeled available groundwater and other best available science, divided by the acreage overlying that management zone within the District; limiting the volume authorized under a Conditional Trinity Production Permit to the production allowable per acre multiplied by the applicant's contiguous controlled acreage, less production authorized under other permits and exempt wells tied to the same acreage and management zone; prescribing the determination of contiguous controlled acreage for retail public utilities based on their service areas, as determined by their CCN or corporate boundary; providing that an acre may be credited only once per management zone to avoid double-dipping, that subdivision or replatting on or after October 16, 2026, creates no additional acreage or production allowable, and that the production allowable per acre is a ceiling and not an entitlement; providing a time-limited election for holders of Trinity well drilling authorizations approved before October 16, 2026, to elect, at the time of application, a Historical Trinity Production Permit in an amount not to exceed the anticipated annual pumpage stated in the drilling authorization application, or a Conditional Trinity Production Permit; requiring a Conditional Trinity Production Permit for an increase in pumpage or a change in the historic purpose of use under a Historical Trinity Production Permit; reducing a Historical Trinity Production Permit by the production allowable per acre for each acre of associated acreage that another person becomes authorized to produce from, or that the permittee uses to support a Conditional Trinity Production Permit; limiting new nonexempt Upper Trinity wells to domestic or livestock use, and providing for conversion of existing Upper Trinity wells to

other uses as Conditional Trinity Production Permits; and conforming the Well Construction Standards for Target Production Zones and wells completed in both the Middle and Lower Trinity Management Zones; these amendments prevent the duplicative allocation of limited groundwater availability to the same acreage, help ensure that landowners overlying the Trinity Aquifer have the opportunity to produce their fair share of groundwater, and select a method of regulating production appropriate to the hydrogeological conditions of the Trinity Aquifer and each of its management zones, and are authorized by Sections 36.002(b-1) and (d)(2), 36.0015, 36.101(a), 36.108, 36.113(e), 36.1132, and 36.116(a)(2), (b), (c), (d), and (e) of the Texas Water Code, by the District Act, and by *Edwards Aquifer Authority v. Day*, 369 S.W.3d 814 (Tex. 2012) and *Guitar Holding Co., L.P. v. Hudspeth County Underground Water Conservation District No. 1*, 263 S.W.3d 910 (Tex. 2008); and implement Objectives 4-3, 8-3, and 8-5 of the Management Plan;

(5) amending the requirements for permit terms, renewals, and amendments; specifically, clarifying that permits may not be issued for a term longer than one year, except for Transport Permits under District Rule 3-1.7(C) and as provided in District Rule 3-1.24(I)(2); providing that a Conditional Trinity Production Permit is renewed at the volume supported by the permittee's remaining contiguous controlled acreage, or for a retail public utility, its CCN or corporate boundaries, when a reduction in that acreage causes authorized production to exceed the production allowable per acre; providing that any amendment that increases authorized production from any aquifer or management zone is a major amendment, except for Source and Recovery Permits, and that an increase from a Trinity Management Zone is authorized as a Conditional Trinity Production Permit; relocating the justification requirement for increases; deleting the provisions for aggregating multiple minor amendments; and requiring Trinity permittees to notify the District within 30 days after a reduction in contiguous controlled acreage and to apply for an amendment if the reduction causes an overage; these amendments are authorized by Sections 36.113(a), (e), and (f), 36.1131, 36.114(a) and (b), 36.1145, 36.1146(c), and 36.116(a)(2) and (e)(2) of the Texas Water Code and by the District Act, and implement Objective 2-4 of the Management Plan;

(6) amending the general permit by rule for Limited Production Permits; specifically, limiting eligibility for a Limited Production Permit in a Trinity Management Zone to a tract platted, excepted from platting, or otherwise lawfully conveyed before October 16, 2026, and not further subdivided, with only one such permit per tract, and production under that permit limited to a single Trinity Management Zone; limiting production to 125,000 gallons per year and maximum production capacity to 10,000 gallons per day for applications filed on or after October 16, 2026; and providing for renewal under District Rule 3-1.8; these amendments are authorized by Sections 36.101(a), 36.113, 36.116(a)(2), and 36.117 of the Texas Water Code and by Sections 8802.101 and 8802.106 of the District Act;

(7) amending well spacing and well location requirements; specifically, applying the spacing requirements of District Rule 3-1.12 to wells drilled or modified on or after October 16, 2026;

requiring that a well be drilled within ten feet of its authorized location; addressing contiguous tracts held by the same owner and the effect of later sale, lease, or subdivision; requiring a well in a Trinity Management Zone to be located (a) at least 100 feet from the nearest property line or, if greater, the distance necessary to limit the new well's drawdown at any property line to no more than five percent of the available drawdown in that management zone, and (b) at least 200 feet from any existing well or previously approved well site screened in the same management zone or, if greater, twice the minimum property line distance determined under clause (a); with the drawdown-based distance calculated by the Cooper-Jacob method, using the well's maximum production capacity over a 36-hour pumping period and the transmissivity and storativity values in Table 2 unless site-specific values sealed by a licensed professional geoscientist or licensed professional engineer are used; allowing a retail public utility to use its CCN or corporate boundary as its property line, subject to a one-percent drawdown limit at existing wells; increasing the minimum property line setback in District Rule 5-4(A)(3) from 50 to 100 feet, with an exception for tracts platted or deed restricted before October 16, 2026; and clarifying that the contamination setbacks of District Rule 5-4 and the spacing requirements of District Rule 3-1.12 apply independently; these amendments are authorized by Sections 36.002(d)(1), 36.101(a), 36.113(f), and 36.116(a)(1), (c), and (d) of the Texas Water Code and by the District Act, and implement Objectives 2-1 and 4-2 of the Management Plan;

(8) amending variance procedures; specifically, establishing in District Rule 3-1.25(G) the procedure for variances from minimum well spacing distances, including notice to nearby landowners and registered well owners, administrative action by the General Manager on unopposed requests for wells of 10,000 gallons per day or less outside the Saline Edwards Management Zone, the considerations for action, placement of the burden of proof on the applicant, and the loss of spacing protection for a well authorized by variance; prohibiting a variance from the production allowable per acre limit on Conditional Trinity Production Permits; and limiting variances under District Rule 5-12 to well construction, completion, and plugging standards; these amendments are authorized by Sections 36.101(a), 36.113, 36.114, and 36.116(a)(1) of the Texas Water Code and by the District Act;

(9) amending the provisions governing the Freshwater Edwards Management Zones; specifically, stating the All-Conditions MAG of 16.0 cfs and the Extreme Drought MAG of 5.2 cfs; defining the EDWL as a cap on firm-yield production comprising aggregate authorized production after curtailment plus estimated exempt use; providing that the EDWL may be decreased but shall not be increased and shall be reduced until it no longer exceeds the Extreme Drought MAG; requiring the District to maintain a current accounting of the EDWL; and providing that volumes retired to the Conservation Permit and the Ecological Flow Reserve permanently reduce the EDWL; these amendments are authorized by Sections 36.101(a), 36.1071(b) and (e), 36.108, 36.1132, and 36.116(a)(2) and (d) of the Texas Water Code and by Sections 8802.109 and 8802.110 of the District Act, and implement Objectives 5-5, 8-1, and 8-2 of the Management Plan and HCP Measures 5-5, 8-1, and 8-2;

(10) clarifying and conforming the provisions for Conditional Production Permits in the Freshwater Edwards Management Zones; specifically, redesignating those permits as Conditional Edwards Production Permits to distinguish them from Conditional Trinity Production Permits; clarifying that a new permit qualifies as a Class B Conditional Permit under District Rule 3-1.24(D)(1)(a) only if it was approved and issued on or before March 24, 2011, eliminating an overlap with the criterion for Class C Conditional Permits, which applies to permits approved and issued after that date; providing that an increase in pumpage under a Historical or Class A Conditional Permit made on or after October 16, 2026, is not eligible for designation as a Class B Conditional Permit under District Rule 3-1.24(D)(1)(b) and (c), but may be designated as a Class C Conditional Permit; conforming the term of Class B and Class C Conditional Edwards Production Permits to the one-year permit term under District Rule 3-1.7, subject to the annual review already required by District Rule 3-1.24(I)(2); and providing that a permit issued under the Offset Curtailment Schedule in District Rule 3-7.6(C)(7) is a Class C Conditional Edwards Production Permit; these amendments are authorized by Sections 36.101(a), 36.113(e), 36.1145, and 36.116(d) of the Texas Water Code and by Section 8802.109(c) of the District Act;

(11) amending and clarifying drought rules; specifically, retitling District Rule 3-7.6 as Drought Curtailment Requirements; applying mandatory monthly curtailments to Conditional Trinity Production Permits of 20 percent during Stage 1 Alarm Drought and to Historical and Conditional Trinity Production Permits of 30 percent during Stage 2 Critical and Stage 3 Exceptional Drought; providing that proportional adjustment in the Trinity Management Zones may be accomplished by reducing the production allowable per acre; subjecting a Designated Alternative Water Supply Well authorized under a Conditional Trinity Production Permit to the production allowable per acre; and adding District Rule 3-7.6(C)(7), establishing an Offset Curtailment Schedule under which an applicant that permanently and irrevocably retires, or funds the retirement of, Historic Use to the Conservation Permit and the Ecological Flow Reserve may obtain a separate Class C Conditional Edwards Production Permit for an eligible volume not exceeding 75 percent of the retired volume, curtailed at the percentages applicable to Historical Edwards Production Permits, which schedule is available to any qualifying applicant regardless of the type or location of use and confers no Historic Use Status; these amendments are authorized by Sections 36.101(a), 36.1071(a)(6), 36.113(e), 36.1131(b)(10), and 36.116(a)(2), (b), and (d) of the Texas Water Code and by Sections 8802.109 and 8802.110 of the District Act, and implement Objectives 5-2, 5-4, and 5-5 and Table 1-1 of the Management Plan and HCP Measures 5-2, 5-4, 5-5, and 8-2;

(12) amending civil penalty and enforcement provisions; specifically, increasing the maximum civil penalty under District Rules 3-7.10 and 3-8.12 from \$10,000 to \$25,000 per day; providing for a penalty greater than that maximum where necessary to outweigh the economic benefit of a violation; incorporating by reference the factors for determining the amount of a civil penalty, the deferral of a portion of a civil penalty for corrective action, and the recovery of a civil penalty by a water and sewer utility from responsible customers; and conforming the District's

authority to enter land to plug or cap an abandoned or deteriorated well; these amendments implement Sections 36.102(b), (b-1), and (f), 36.1021, and 36.1022 of the Texas Water Code, as amended and added by House Bill 5560, 89th Leg., R.S. (2025), and are further authorized by Sections 36.102(c), 36.118, and 36.123 of the Texas Water Code and by Sections 8802.101 and 8802.107(e) of the District Act;

(13) amending the Bylaws; specifically, conforming the conflict of interest provisions of District Bylaw 4-1.4 to Section 36.058(b)(2) of the Texas Water Code; providing in District Bylaw 4-9.7 that a continuance may not exceed the time limit for issuance of a final decision under District Bylaw 4-9.11.1(B); and correcting internal references in District Bylaws 4-9.16 and 4-11; these amendments are authorized by Sections 36.058, 36.101(b), and 36.409(c) and Subchapter M of Chapter 36 of the Texas Water Code and by the District Act; and

(14) other minor conforming, clarifying, or nonsubstantive changes.

WHEREAS, after publication of the proposed amendments to the Rules and public notice of a hearing on the same in accordance with Sections 36.101(d) and (e) of the Texas Water Code and District Bylaw 4-10.1, which notice was provided not later than the 20th day before the date of the hearing, the Board held a rulemaking public hearing on October 16, 2026, at which the Board received and considered all oral and written comments from the public and from the directors, staff, and professional consultants of the District on the proposed amendments to the Rules;

WHEREAS, in adopting the amendments, the Board considered all groundwater uses and needs; developed rules that are fair and impartial; considered the groundwater ownership and rights described by Section 36.002 of the Texas Water Code; considered the public interest in conservation, preservation, protection, recharging, and prevention of waste of groundwater; and considered the goals of the Management Plan, as required by Section 36.101(a) of the Texas Water Code and District Bylaw 4-10.2;

WHEREAS, the Board finds that the more restrictive permit conditions that the amendments place on new permit applications and on applications to increase use by historic users apply to all such applications regardless of type or location of use, bear a reasonable relationship to the Management Plan, and are reasonably necessary to protect existing use, as provided by Section 36.113(e) of the Texas Water Code, and that the amendments preserve historic or existing use to the maximum extent practicable consistent with the Management Plan, as provided by Section 36.116(b) of the Texas Water Code;

WHEREAS, the Board finds that the amendments that refer to the date on which a tract was platted, conveyed, or subdivided use that date solely as a basis for well spacing, tract size, and groundwater production limitations authorized by Sections 36.002(d)(1), 36.101(a), and 36.116(a)

of the Texas Water Code, and do not regulate zoning or the subdivision of land within the meaning of Section 8802.102 of the District Act;

WHEREAS, the Board finds that the drought curtailments in the amendments restrict groundwater production during District-declared drought as specified in the Management Plan, including Objective 5-2 and Table 1-1, as required by Section 8802.109(a) of the District Act;

WHEREAS, the Board finds that the amendments support and are not inconsistent with the biological goals and objectives stated in Section 6.1 of the HCP;

WHEREAS, the Board finds that minor clarifying, typographical, formatting, and nonsubstantive edits to the Rules make the Rules more user-friendly, lessen the possibility of confusion, misinterpretation, or misapplication of the Rules, and improve the efficiency of District processes, and that the proposed amendments include such edits, which will benefit the public and the District staff in implementing the Rules;

WHEREAS, the Board finds that the proposed amendments to the Rules, attached hereto as "Attachment A" (Volume 1, Rules and Bylaws) and "Attachment B" (Volume 2, Well Construction Standards), are each and all merited and necessary to support the District's efforts in managing the groundwater resources within the boundaries of the District in a manner consistent with Chapter 36 of the Texas Water Code, the District Act, the Management Plan, and the HCP, and that each proposed amendment is supportable under the laws of the State of Texas; and

WHEREAS, the Board finds that all provisions of the Rules as amended are duly authorized by the powers and duties granted to the District under the District Act and Chapter 36 of the Texas Water Code.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED BY THE BOARD OF DIRECTORS OF THE BARTON SPRINGS-EDWARDS AQUIFER CONSERVATION DISTRICT THAT:

1. The above recitals are true and correct.
2. The Board of Directors hereby approves and adopts the proposed amendments to the District Rules and Bylaws (Volume 1) and the District's Well Construction Standards (Volume 2).
3. The District Rules and Bylaws and the Well Construction Standards, as amended and included with this resolution as "Attachment A" and "Attachment B," respectively, are the Rules of the Barton Springs-Edwards Aquifer Conservation District, adopted pursuant to the requirements of Section 36.101 of the Texas Water Code.

4. The attached amendments to the Rules take effect upon their adoption on October 16, 2026.
5. The District's Board, its officers, District staff, and legal counsel are further authorized to take any and all actions necessary to implement this resolution.
6. The District's General Manager and legal counsel are further authorized to make any typographical corrections, formatting, conforming, or other nonsubstantive changes to the Rules as amended by the adoption of this resolution.

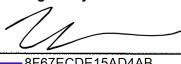
AND IT IS SO ORDERED.

PASSED AND ADOPTED on this 16th day of October, 2026.

BARTON SPRINGS-EDWARDS AQUIFER CONSERVATION DISTRICT

By: 
Board President

ATTEST:

Signed by: 
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Board Secretary