RESOLUTION NO. #18-007

RESOLUTION OF THE BOARD OF DIRECTORS OF THE LONE STAR GROUNDWATER CONSERVATION DISTRICT APPROVING SUBMISSION OF THE DISTRICT GROUNDWATER MANAGEMENT PLAN FOR TEXAS WATER DEVELOPMENT BOARD REVIEW

THE STATE OF TEXAS §
§
LONE STAR GROUNDWATER CONSERVATION DISTRICT §

WHEREAS, the Lone Star Groundwater Conservation District ("District") was created by the Texas Legislature through the enactment of House Bill 2362, Chapter 1321, Acts of the 77th Legislature, Regular Session, 2001 (together with subsequent legislative amendments, the "Act"), pursuant to the authority of Article XVI, § 59 of the Texas Constitution, as a groundwater conservation district operating under Chapter 36, Texas Water Code, Section 59, Article XVI of the Texas Constitution, and the Act;

WHEREAS, the creation of the District was confirmed by the voters of Montgomery County on November 6, 2001, and as required by Chapter 356 of Title 31 of the Texas Administrative Code as in effect at the time, the District's original Management Plan was adopted and submitted to the Texas Water Development Board within two years of the confirmation election and subsequently amended and re-adopted in 2008 and again on November 12, 2013;

WHEREAS, Section 36.1072(e) of the Texas Water Code requires the District to review and readopt its Management Plan with or without revisions at least once every five years, and pursuant to Title 31, Texas Administrative Code, Section 356.54, the District must readopt the plan at least 90 days before the date the current plan expires;

WHEREAS, under the direction of the District Board of Directors ("Board"), the District's staff, legal counsel, and geoscientists reviewed, analyzed, and revised the District's Management Plan in accordance with the statutory requirements provided by Section 36.1071 of the Texas Water Code and the administrative requirements provided by Chapter 356 of Title 31 of the Texas Administrative Code;

WHEREAS, prior to September 11, 2018, a copy of the proposed Management Plan was provided to the Texas Water Development Board ("TWDB") for a preliminary and courtesy review, and all recommendations offered by TWDB staff were considered and incorporated into the revised Management Plan;

WHEREAS, the District issued notices in the manner required by state law and held a public hearing on September 11, 2018, and properly continued hearing to September 18, 2018 to receive public and written comments on the revised Management Plan;

WHEREAS, based on written and public comments received by the District, the proposed Management Plan was non-substantially changed;

WHEREAS, the District will coordinate with the appropriate surface water management entities after the public hearing and readoption of its Management Plan to afford surface water

management entities within the boundaries of the District the opportunity to review and provide comments to the District on its Management Plan;

WHEREAS, the Board finds that the revised Management Plan meets all of the requirements of Chapter 36, Texas Water Code, and 31 Texas Administrative Code Chapter 356;

WHEREAS, due to the passage of House Bill 1982 by the 85th Texas Legislature (Regular Session) in 2017, which amended the Act, the Lone Star Groundwater Conservation District Board of Directors will change from a nine- member appointed Board to a seven- member elected Board, and the first election under the new board structure is scheduled to be held on November 6, 2018;

WHEREAS, the current nine-member appointed Board is sensitive to the limited time in which it will remain in office and is attempting not to pursue any substantive policy changes that are better left to the incoming elected Board to pursue consistent with the priorities of its members;

WHEREAS, in that regard, the Board is sensitive to, and appreciative of, comments from local officials and legislators encouraging it not to pursue any such substantive policy changes in its remaining two months in office; however, the current Board members are required by statute to have a valid management plan in effect at all times, and by the rules of the Texas Water Development Board to timely readopt the Management Plan no later than September 18, 2018, and the Board is simply not comfortable engaging in an action, or inaction, that would cause the District to be in violation of state law;

WHEREAS, because of the foregoing, the District's current Board of Directors desires to place the incoming elected Board in a position of being able to comply with state statutes requiring that the District have a valid management plan in place at all times, but also desires to not take final action to readopt the management plan prior to the incoming elected Board taking office, consistent with requests from local officials and legislators;

WHEREAS, in that regard, the current Board of Directors, based upon discussions with the Texas Water Development Board and the Texas Commission on Environmental Quality, has identified a procedural path that will allow the incoming elected Board of Directors to readopt the Management Plan if it chooses to do so in ample time to allow the Texas Water Development Board to approve the readopted Management Plan prior to the expiration of the current Management Plan; to wit, the current Board of Directors will approve the draft Management Plan for submission to the Texas Water Development Board to begin its review of the Plan, but the current Board of Directors will not take action to adopt the Management Plan, but will rather defer to the incoming elected Board of Directors to take formal action to adopt the Management Plan;

WHEREAS, pursuant to discussions with staff of the Texas Water Development Board and the Texas Commission on Environmental Quality, if the incoming elected Board of Directors formally adopts the submitted plan no later than November 16, 2018, the Texas Water Development Board will be able to take action to approve the Management Plan prior to expiration of the current Management Plan on December 17, 2018, and the TCEQ will not take any enforcement action against the District prior to December 18, 2018, if the District pursues this path regarding readoption of the Management Plan;

WHEREAS, thus, this action by the current Board of Directors will place squarely in the hands of the incoming elected Board of Directors whether or not it will remain in compliance with the requirement under state law to maintain a valid approved Management Plan at all times; and

WHEREAS, the incoming elected Board of Directors can further amend and re-adopt the Management Plan at any point in time, and any number of times, and the current Board of Directors encourages the incoming elected Board of Directors to promptly review and take action to review and adopt the proposed Management Plan on or before November 16, 2018;

WHEREAS, this Management Plan re-adoption does not make any substantive policy changes to the existing adopted Management Plan, but rather complies with the updated data sets provided to the District by the Texas Water Development Board, fully acknowledges the substantive policy changes in management goals for the aquifer established by the Board of Directors in October 2017 to allow additional production of groundwater in the District if and when those adopted policy changes and corresponding changes to the desired future conditions for the aquifers are approved by Groundwater Management Area 14; and

WHEREAS, the current Board recommends that the incoming elected Board of Directors continue to work on pursuing changes in the desired future conditions with Groundwater Management Area 14, and to otherwise re-review this re-adopted Management Plan and potentially amend it consistent with state law and their own policy goals and priorities after they have been sworn in as directors of the District.

NOW, THEREFORE, BE IT ORDERED BY THE BOARD OF DIRECTORS OF THE LONE STAR GROUNDWATER CONSERVATION DISTRICT THAT:

1. The above recitals are true and correct;

2. The current Board of Directors of the District hereby submits, without adopting, its revised Management Plan to the Texas Water Development Board to begin review in preparation for approval of the Management Plan by the TWDB on or before December 17, 2018, assuming that the incoming elected Board will timely adopt the Management Plan after it assumes the duties of office but no later than November 16, 2018;

3. The Board of Directors, District staff, and the District's legal counsel and geoscientist are further authorized to take all steps necessary to implement this resolution and submit the revised Management Plan to the TWDB for its approval;

4. The Board of Directors, the District staff, and the District's legal counsel and geoscientist are further authorized to take any and all action necessary to coordinate with the TWDB as may be required in furtherance of TWDB's approval, pending adoption of the Management Plan by the incoming elected Board of Directors, pursuant to the provisions of Section 36.1072 of the Texas Water Code; and

5. The current Board of Directors recommends that the incoming elected Board of Directors: (1) adopt this revised Management Plan on or before November 16, 2018, if it desires to continue to comply with the requirements under state law that the District have a valid and approved Management Plan in effect at all times; (2) continue to work on pursuing changes in the desired future conditions with

Groundwater Management Area 14; and (3) otherwise re-review this revised management plan and potentially amend it consistent with state law and their own policy goals and priorities after they have been sworn in as directors of the District and/or once satisfactory changes to the desired future conditions have been approved by GMA 14.

AND IT IS SO ORDERED.

PASSED AND APPROVED, WITHOUT ADOPTION, FOR SUBMISSION TO THE TEXAS WATER DEVELOPMENT BOARD TO BEGIN ITS REVIEW on this 18th day of September 2018.

LONE STAR GROUNDWATER CONSERVATION DISTRICT.

By: _____

Board President, Rick Moffatt

ATTEST:

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Board Secretary, Gregg Hope