GUIDANCE REGULATIONS AND RULES FOR THE

AQUIFER CONSERVANCY PROGRAM

A. Purpose of the Post Oak Savannah Groundwater Conservation District's Aquifer Conservancy Program

1. A method of groundwater management which is intended to balance the mission of conservation and development of groundwater to meet the needs of this State while protecting the property rights of landowners.

2. Using best available science to facilitate the understanding of the conservation and/or development of the groundwater resources

3. Managing a conservation fund established to support the conservation and development efforts of landowners who desire to participate in the Aquifer Conservancy Program.

4. Determine the eligibility of participants in the Aquifer Conservancy Program

5. Determine the aquifers to be protected by and through the Aquifer Conservancy Program and encourage landowners to not produce or lease permitted amounts of water

6. Using best available information to predict the resources available and the funds necessary to sustain the Aquifer Conservancy Program.

B. Sources of Authority

1. Chapter 8865, Special District Local Laws Code.

Sec. 8865.003. FINDINGS OF PUBLIC USE AND BENEFIT. (a) The district is created to serve a public use and benefit.

(b) All land and other property included in the district will benefit from the works and projects accomplished by the district under the powers conferred by Section 59, Article XVI, Texas Constitution.

Sec. 8865.101. GROUNDWATER CONSERVATION DISTRICT POWERS AND DUTIES. Except as otherwise provided by this chapter, the district has the rights, powers, privileges, functions, and duties provided by the general law of this state, including Chapter 36, Water Code, applicable to groundwater conservation districts created under Section 59, Article XVI, Texas Constitution.

2. Chapter 36, Texas Water Code.

Sec. 36.0015. PURPOSE. (a) In this section, "best available science" means conclusions that are logically and reasonably derived using statistical or quantitative data, techniques, analyses, and studies that are publicly available to reviewing scientists and can be employed to address a specific scientific question.

(b) In order to provide for the conservation, preservation, protection, recharging, and prevention of waste of groundwater, and of groundwater reservoirs or their subdivisions, and to control subsidence caused by withdrawal of water from those groundwater reservoirs or their subdivisions, consistent with the objectives of Section 59, Article XVI, Texas Constitution, groundwater conservation districts may be created as provided by this chapter. Groundwater conservation districts created as provided by this chapter are the state's preferred method of groundwater management in order to protect property rights, balance the conservation and development of groundwater to meet the needs of this state, and use the best available science in the conservation and development of groundwater through rules developed, adopted, and promulgated by a district in accordance with the provisions of this chapter.

Sec. 36.158. GRANTS. A district may make or accept grants, gratuities, advances, or loans in any form to or from any source approved by the board, including any governmental entity, and may enter into contracts, agreements, and covenants in connection with grants, gratuities, advances, or loans that the board considers appropriate.

Sec. 36.207. USE OF FEES. A district may use funds obtained from administrative, production, or export fees collected under a special law governing the district or this chapter for any purpose consistent with the district's approved management plan, including, without limitation, making grants, loans, or contractual payments to achieve, facilitate, or expedite reductions in groundwater pumping or the development or distribution of alternative water supplies.

C. Program

The Aquifer Conservancy Program is a voluntary method of conservation which allows landowner(s) to conserve their groundwater by agreeing for a set period of time to set aside all or a portion of their property and not sell or grant their groundwater property rights to anyone and in exchange for such agreement, such landowner(s) shall be paid an agreed upon sum of money each year by Post Oak Savannah Groundwater Conservation District. Such program does not prohibit use of all other property rights granted by law.

D. Establishment of Fund

1. Post Oak Savannah Groundwater Conservation District has established and set aside a portion of its current revenues from fees on production and transport to establish the grants to be given to participants in the Aquifer Conservancy Program.

2. Participants in the program shall be granted an amount that is tied to the time committed to be a participant in the Aquifer Conservancy Program.

3. Landowners who commit their property by signing up during 2019, will receive additional compensation of fifty dollars per acre committed as an incentive which shall be payable within sixty (60) days of successful commitment. Amounts of compensation may be increased from time to time by action of the Board.

4. Regular annual payments based on the term selected shall occur at the end of the year for each year a participant agrees to in an agreement.

E. Program Year

~~1.~~ The ACP has a year-round enrollment period for qualifying properties. ~~initial year for the Aquifer Conservancy Program shall begin January 1, 2020.~~

~~2. The initial year's enrollment period shall be for ninety (90) days preceding the Program Year. This has been amended to year round.~~

~~3.~~1. ~~The initial year's enrollment period shall begin June 1, 2019 and continue through August 31, 2019. This has been amended to year round.~~

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F. Eligibility

Post Oak Savannah Groundwater Conservation District has determined the following eligibility requirements for participation:

1. Applicant(s) must be landowner(s) within the POSGCD.

2. Spouses or co-owners must all agree and sign the agreement. If a landowner is married but owns property as his/her sole and separate property, proof of ownership is required and the spouse will need to affirm that ownership is held in such manner.

2. Applicant must own both the land and the unencumbered groundwater rights.

3. The land owned and that is desired to be placed in the Aquifer Conservancy Program must be above the Carrizo-Wilcox Aquifers

4. The landowner(s) must agree to not sell, partition, assign, transfer or permit uses of the committed resource during the term agreed upon.

G. Land Ownership

Ownership of any land and the groundwater rights attached thereto that is placed in the Aquifer Conservancy Program remains with the individual(s) who placed it there. At no time shall the Post Oak Savannah Groundwater Conservation District have any ownership interest in the property or the groundwater or have the ability to control any interest in the property or groundwater. Ownership of the groundwater, as stated in Section 36.002, Texas Water Code, is not disturbed. The Aquifer Conservancy Program is a voluntary program under which a landowner decides NOT to produce or lease to anyone their groundwater for non-exempt purposes during the time committed to in the agreement.

H. Agreement

Upon deciding to voluntarily enter in the Aquifer Conservancy Program, the landowner(s) shall be required to sign an agreement which spells out the amount of acreage desired to be placed into the Program (by unique property description), the term of years committed to, the amount to be paid at the end of each year, as well as the terms of the Program. Such agreement shall be recorded in the county property records of the county in which the property is located.

I. **Adding, Modifying or Terminating Provisions or Acreage**

Once a landowner has signed the agreement with Post Oak Savannah Groundwater Conservation District to become a part of the Aquifer Conservancy Program, that agreement may not be terminated prior to the end of the term, except as follows:

1. Death of the landowner. If solely owned, it shall be terminated upon notification by the heirs. If jointly owned, it may be terminated by the remaining landowner if desired.

2. Sale of the property that is the subject of the Aquifer Conservancy Program agreement. The landowner(s) shall be required to notify the Post Oak Savannah Groundwater Conservation District of the sale of all or any portion of the property that is under an Aquifer Conservancy Program agreement. If all of the property is sold, the agreement shall be terminated upon such notification. If only a portion of the property is sold, the agreement shall be adjusted for the duration of the time previously agreed to.

3. Transfer to heir(s). If one or more heir(s) of the landowner(s) become joint owners of the property that is under an Aquifer Conservancy Program agreement and agree to remain a part of the Program, the agreement shall be adjusted and re-signed by all the landowners for the duration of the time previously agreed to. If all or a portion of the property that is under an Aquifer Conservancy Program agreement is transferred to the landowner(s)' heirs, the heirs shall be given an opportunity to allow such property transferred to continue to be a part of the Aquifer Conservancy Program and enter into their own agreement, or terminate such agreement, with any remainder of such property not transferred adjusted under the agreement for the duration of the time previously agreed to.

J. Exempt Wells

A landowner(s) who commits property to the Aquifer Conservancy Program is still allowed to drill an exempt well. An exempt well is defined as one that is for domestic or livestock purposes and incapable of producing 25,000 gallons per day (approximately 17.36 gallons per minute). Water wells used to supply water used for drilling oil and gas are also exempt **(this does not include allowance for water used for fracking.)**

K. Other Post Oak Savannah Groundwater Conservation District Programs

Post Oak Savannah Groundwater Conservation District has several other programs that it offers to assist landowners within its District. The Aquifer Conservancy Program does not impede any landowner(s) from participating in such programs, including but not limited to, Rainwater Harvesting, Abandoned Well Plugging Grants and Groundwater Well Assistance Program.

L. Program Administration

Post Oak Savannah Groundwater Conservation District shall administer all aspects of the program. All administrative fees shall be taken out of the fund established for such Aquifer Conservancy Program. The full services to be provided shall be established by the Board of Directors and oversight shall be under the General Manager.

M. Ambassador Program

Post Oak Savannah Groundwater Conservation District encourages all landowners with property within the District's boundaries, whether they are able to participate in the Aquifer Conservancy Program or not, and who feel strongly about supporting conservation of the groundwater resources to show such support by participating in the Aquifer Conservancy Ambassador Program. Those landowners who are willing to participate in an orientation program as well as promote and speak about and in support of the Aquifer Conservancy Program to others in the District may request to become its Ambassadors. All Ambassadors shall be provided signage that demonstrates their commitment to the Aquifer Conservancy Program as well as literature that can be provided to those they speak with. No monetary support for such participation will be given.

N. Referral Incentive Program

Post Oak Savannah Groundwater Conservation District shall reward those individuals who successfully refer qualified landowners into the ACP. Any person who refers landowners with qualified property to the District, and which results in the successful enrollment of acreage shall be compensated by the District with a referral incentive as follows: $5 per acre successfully enrolled in the ACP with a maximum of $1000 per landowner brought into the program regardless of total number of parcels. Members of the District Staff and Board are not be eligible to be rewarded this incentive.

O. Terms and Considerations

The Aquifer Conservancy Program currently offers five term and consideration options. Below are the Terms and Considerations for the Aquifer Conservancy Program:

Enrollment term of five (5) years - $5 per acre, per year
Enrollment term of ten (10) years - $8 per acre, per year
Enrollment term of twenty (20) years - $10 per acre, per year
Enrollment term of thirty (30) years - $15 per acre, per year
Enrollment term of fifty (50) years - $25 per acre, per year

As of January 1, 2025, Terms and Considerations for the Aquifer Conservancy Program will upgrade to:

Enrollment term of five (5) years - $10 per acre, per year
Enrollment term of ten (10) years - $16 per acre, per year
Enrollment of twenty (20) years - $20 per acre, per year
Enrollment of thirty (30) years - $30 per acre, per year
Enrollment of fifty (50) years - $50 per acre, per year

Jay Wilder, President

Becky Goetsch, Secretary-Treasurer

Amended: November 12, 2024

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