SLR Property I, LP
P.O. Box 1491
Rockdale, TX 76567

Alan Gardenhire
alang@sandowlakesranch.com
(512)-810-3584

SANDOW LAKES
TEXAS

November 10, 2026

VIA E-MAIL (Gwestbrook@posgcd.org)

Mr. Gary Westbrook
General Manager, Post Oak Savannah Groundwater Conservation District
P.O. Box 92
Milano, Texas 76556

Re: Comments for POSGCD Public Hearing on 2027 Budget and Fees

SLR Property I, LP ("SLR") offers these comments on the Post Oak Savannah Groundwater Conservation District's (the "District's" or "POSGCD's") proposed 2027 Budget, Production Fees, Transport Fees and Fee Schedule for the November 10, 2026 public hearing.

In Milam and Lee Counties where SLR owns over 28,000 acres of property, SLR holds groundwater permits from both POSGCD and the neighboring Lost Pines Groundwater Conservation District ("Lost Pines GCD") that allow SLR to produce its privately-owned groundwater from the vast and prolific Carrizo-Wilcox aquifer. Like other groundwater permittees, SLR pays significant fees to the District for these permits. SLR urges the District to use its budget wisely and to mitigate wells, ideally as part of a regional mitigation program. But the District should not spend roughly half its annual expenditures subsidizing some landowners by buying up production rights in order to frustrate future groundwater development. This runs counter to the private-property nature of groundwater in Texas.

While SLR is not presently a party, the September 2026 federal lawsuit filed by Blue Water 130 Project, L.P. correctly points out many of the deficiencies in the existing POSGCD fee schedule, including the District's practice of charging ever-increasing fees on groundwater production and transport, then paying these collected funds to other landowners through POSGCD's "aquifer conservancy program" or "ACP." **Indeed, the District's current budget worksheet shows that, through October 5, 2026, nearly half (about 49%) of the District's expenditures this year have gone to ACP beneficiaries.** Many of the issues identified in Blue Water's complaint (Attachment A) also apply to the District's 2027 proposed fees and budget.

In addition to the points raised by Blue Water, SLR offers the following comments on how fees paid by permit holders like SLR could, and should, more appropriately fund regional mitigation rather than the District's buyout of privately-owned groundwater rights through the ACP.

A. POSGCD has the Budget to Mitigate Wells but Chooses Not To

POSGCD does not have a budget problem or a groundwater-production problem; it has a priority problem. The District has the money to mitigate wells impacted by groundwater production, including wells located in Lost Pines GCD; it simply chooses not to spend it that way.

Sitting atop a $12M annual budget, POSGCD collects both production and transport fees on permitted—not produced—groundwater volumes.[1] That practice is highly questionable. But because of it, POSGCD has the money to mitigate wells impacted by regional groundwater production or to set this money aside for future mitigation needs. Instead, POSGCD has chosen to allocate substantial portions of its budget—obtained from permit holders—to other groundwater rights holders, via the ACP. The District created the ACP in 2019, and it is viewed by the District as "one of the ways that [the District] can break up larger blocks of contiguous acreage and hopefully make it more difficult for larger projects to lease up larger amounts of land, to acquire larger permits."[2] ACP beneficiaries cannot aggregate their groundwater with others' to support regional groundwater-development projects. At the same time as the District charges fees on permitted volumes, POSGCD requires SLR to conduct well mitigation as part of its permits; other permit-holders have mitigation obligations set by contract.

In the meantime, the District has raised fees in recent years—in some cases, significantly—while taking an increasingly aggressive stance toward groundwater permit curtailments, both through adopted rules and, most recently, in proffered desired future condition ("DFC") model runs. Table 1 shows the POSGCD fee increases over recent years:

Table 1: POSGCD Production and Transport Fees ($/1000 gal)

	2021	2022	2023	2024	2025	2026
Production	$0.013	$0.013	$0.013	$0.018	$0.030	$0.045
Transport	$0.10	$0.10	$0.10	$0.12	$0.20	$0.206

Given these fee increases, POSGCD's budget has grown. But the District has chosen not to apply its budget to its in-District mitigation program (the "Groundwater Well Assistance Program" or "GWAP"). The District also refuses to provide mitigation funds to Lost Pines GCD and has made minimal effort to explore, and no effort to invest in, regional mitigation options. Instead, POSGCD has prioritized the ACP. Table 2 shows the District's adopted budget, its recommended next-year budget, and its actual expenditures for the GWAP and ACP, as taken from POSGCD's budget worksheets and audited annual financial reports.

[1] This practice is discussed at length in the Blue Water complaint. Unlike POSGCD, the vast majority of Texas groundwater conservation districts charge fees based on produced, not permitted, volumes.
[2] Deposition of Gary Westbrook, SOAH Docket Nos. 965-23-21218 & 965-23-21219, at 123:5-12 (Feb. 29, 2024).

Table 2: Select[3] POSGCD Budget Expenses (in millions)

		2020	2021	2022	2023	2024	2025	2026
Adopted Budget	Total Expenses	$4.926	$5.184	$6.388	$7.944	$8.782	$10.979	$12.110
	GWAP	$0.153	$0.231	$0.250	$0.529	$0.494	$0.900	$1.040
	ACP	$0.657	$1.106	$1.287	$1.499	$1.499	$2.528	$3.205
Actual Expenditures (audited)	Total Expenses	$2.833	$2.905	$3.633	$4.853	$5.310	$7.651	$6.533†
	GWAP	$0.118	not reported	$0.461	$0.356	$0.352	$0.188	$0.174†
	ACP	$0.080	not reported	$0.782	$0.962	$0.358	$3.236	$3.180†

† Values for 2026 are unaudited, run only through 10/5/2026, and come from POSGCD's 2027 Draft Budget Worksheet. Adopted figures for 2020, 2024, and 2025 are the original adopted budgets reported in the District's audited Budgetary Comparison Schedules; 2022 figures include encumbrances carried forward from 2021. The 2021 audit does not separately report GWAP or ACP expenditures.

POSGCD's adopted budget has grown from about $5.2 million to $12.1 million—nearly 2.5 times its size—from 2021 to 2026. During those five years, the District has more than tripled its production fee and roughly doubled its transport fee. ACP payments have grown even faster: from about $0.8 million in 2022 to nearly $3.2 million through October 5, 2026. Meanwhile, GWAP spending has fallen from roughly 12.7% of actual District spending in 2022 to about 2.7% so far in 2026—and the excess GWAP budget has not been dedicated to future mitigation. The District's recommended 2027 budget continues these trends: a total budget of $12.275M, a GWAP mitigation budget of $1M, and an ACP budget more than four times greater that its mitigation budget—$4.175M—that makes up over a third of District's projected spending.

A preliminary mitigation-cost evaluation SLR recently shared with GMA 12 (Attachment B) illustrates the point: if POSGCD redirected to well mitigation the more than $3 million per year it now pays landowners through the ACP, virtually all exempt Simsboro wells in both the Post Oak Savannah ***and Lost Pines GCDs*** could be mitigated in five to six years. POSGCD has the funds today. It chooses not to spend, or set aside, that money for current or future mitigation.

B. <u>To Support its ACP, POSGCD Increases Fees and Sets Budgets Too High</u>

The District consistently budgets far more than it spends. According to its own audited financial statements, the District spent only roughly 55% to 70% of its adopted budget in every

[3] In addition to the GWAP and ACP, POSGCD also budgets millions of dollars each year for general "Conservation Program" grants. But, through October 5, 2026, for instance, POSGCD had spent only $1.1 million of the $3.6 million allocated to conservation programs this year. Rather than reallocating these funds to mitigation or reducing (or, at least, not increasing) fees on permit-holders, the District proposes to carry forward $2.36 million into its 2027 budget.

year from 2020 through 2025, and ended 2023, 2024, and 2025 with actual expenditures that were $3.1 million, $3.2 million, and $4.0 million ***below its final budgets***, respectively. The final expenditures for 2026 look to continue this trend: even though the District adopted a $12.1 million budget for 2026, it had spent only $6.5 million by October 5, putting it on pace for roughly $8.5 million this year. The District's decision not to spend its budget is most apparent in the well-mitigation context, though it is also apparent in others; POSGCD has consistently over-budgeted but underspent its GWAP while maximizing its ACP spending.

Now, POSGCD proposes a 2027 budget of over $12 million that increases the ACP allocation to nearly $4.2 million. Yet through October 5, the District had spent less than 17% of its 2026 GWAP allocation, while ACP payments—over $3 million—had all but exhausted the ACP budget. For every dollar paid out through the ACP this year, the District has spent about five cents toward mitigation. Past years tell a similar story, as shown in Table 3:

Table 3: WAP and ACP (2023-2026) Relative to Total Budget

Year	Total Adopted Budget	WAP payments	WAP % of budget	ACP payments	ACP % of budget
2022	$6,387,923	$460,978	7.22%	$781,889	12.24%
2023	$7,944,397	$356,180	4.48%	$962,343	12.11%
2024	$8,781,734	$351,854	4.01%	$358,437	4.08%
2025	$10,978,504	$187,532	1.71%	$3,236,233	29.48%
2026 (through 10/5)	$12,109,996	$173,582	1.43%	$3,179,654	26.26%

The District's past behavior reveals two things about the proposed 2027 budget: first, the District is budgeting far too high; and second, the District prioritizes ACP buyouts over mitigation. By underspending on mitigation and carrying those funds forward year after year, the District is effectively using its budget increases to expand the ACP. Meanwhile, POSGCD continues charging fees on permitted—not produced or exported—volumes and, in fact, proposes to increase them. Put differently, the District would rather buy up rights to "hopefully" obstruct future permits for larger groundwater supply projects than set aside money that could be used, now or in the future, to mitigate the effects of groundwater pumping on existing wells. Its 2025 and 2026 spending shows it—under 2% of the budget on mitigation versus more than 25% on ACP payouts—and so does its proposed 2027 budget: after a 3% increase in transport fees, ***over a third of the District's $12 million 2027 budget is earmarked for ACP payments***, while about 8% is budgeted for mitigation.

C. Fees should Support Mitigation, not ACP Payouts

SLR asks that POSGCD use the substantial fees it collects to mitigate wells impacted by groundwater production. The ACP does not accomplish this purpose. It is the quintessential story

of robbing Peter to pay Paul: permit holders (who are not necessarily pumping or exporting water) pay the District ever-increasing fees, and the District transfers those fees to other landowners—in 2025, ACP payments equaled about 41% of the District's production and transport fee revenue. These money-transfers do not correct for lost or diminished access to groundwater. Rather, they are designed to discourage, and ultimately prevent, landowners' participation in large groundwater projects. At the same time, the District warns permit holders that their permits may be denied or curtailed because of impacts their production might have on others' wells. All the while, the District says nothing about spending less than 2% of its annual budget on well mitigation.

Over the last several years, several trends have emerged that belie any need for POSGCD to increase its charged fees, plan on curtailments to address impacts, or continue to shirk mitigation responsibilities in neighboring groundwater districts. The data speaks for itself. Against an adopted budget that has grown from $4.9M in 2020 to over $12M in 2026, the ACP now accounts for nearly half of what the District actually spends. In 2025 and 2026, POSGCD spent essentially its entire ACP budget, while spending only about 21% of its 2025 GWAP budget and only 17% of its 2026 GWAP budget through October 5.

The District's approach unfairly subsidizes groundwater owners who do not wish to produce groundwater over those, like SLR, who pump their groundwater to support beneficial uses that underpin the economic development of their properties and the region. POSGCD's preference for non-production penalizes permit holders by charging fees on permitted (not produced or transported) volumes, redistributing that money to landowners who do not lease their groundwater, and then charging permittees again to mitigate nearby wells, instead of using District funds.

D. POSGCD Should Prioritize, and Fund, Mitigation Now and in the Future

POSGCD ignores the socioeconomic benefits of groundwater production—whether for municipal, agricultural, or industrial activities—in favor of its chosen policy objective of nonproduction within this District. And that objective does not even protect the aquifer. Groundwater is not static: water left in place beneath ACP properties will migrate and be produced elsewhere, likely by landowners outside the District. The result is high fees on POSGCD permit holders, large cash payments to some in-District landowners, and water that will still be produced—just not necessarily for the benefit of this District or its landowners.

In addition to its budget and fee structures, POSGCD embeds its bias against groundwater production in rulemaking and, critically, its contemplated DFCs. As proposed, POSGCD's DFCs embed significant curtailments of existing, permitted pumping in order to achieve the District's selected, numeric goals. This again devalues the socioeconomic benefits of groundwater production, notwithstanding the legal charge to balance the "highest practicable level of groundwater production" against other statutory factors.

There is an alternative. Instead of paying landowners not to produce, POSGCD could use that money to mitigate wells impacted by regional groundwater pumping—adequately funding its District-wide mitigation program and expanding it into a regional one. Even if mitigation were not essential today, mitigation dollars could be placed into a dedicated mitigation fund, for future use, and protected from the District's general use for non-mitigation activities.

A preliminary, illustrative evaluation (Attachment B) estimates that it would cost roughly $19 million to mitigate every exempt Simsboro well in POSGCD and Lost Pines GCD that could be impacted through 2080. If, for roughly five years, POSGCD spent or dedicated the $3–4 million per year it now devotes to ACP payouts on mitigation, the District could mitigate nearly all those wells across two GCDs—permanently. The Legislature empowered POSGCD to share funds with its neighboring Lost Pines GCD to address mitigation. POSGCD has not.[4]

The District's coffers are full. Existing funds—including $800,000 in unspent GWAP funds the District proposes to carry into 2027—should be earmarked and protected for mitigation, not left to be redirected to the ACP. SLR urges the District to place permit holders' fees into a dedicated, interest-bearing mitigation fund that is reserved for lowering pumps and redrilling or replacing impacted wells, and to apply those moneys to address any impacts created by regional production of a regional aquifer for regional benefit.

Conclusion

SLR appreciates the opportunity to provide feedback on the District's budget and fee proposal before the November 10 public hearing. SLR respectfully requests that the District (1) adopt a reduced 2027 budget that reflects its actual spending history; (2) decline to increase ACP funding, or production fees, or transport fees; and (3) dedicate permit-holder fees, including carried-forward GWAP funds or conservation grant funds, to an interest-bearing, regional, mitigation fund.

We look forward to additional discussions.

Respectfully,

Alan Gardenhire
Sr. Vice President of Operations
SLR Property I, LP

CC: Elvis Hernandez, Lost Pines GCD

[4] If POSGCD did share funds with its neighboring district, perhaps Lost Pines GCD would not need to propose charging permittees $3,500 to change a well's ownership, as it currently proposes. LPGCD Proposed Rules, Attachment A - District Fee Schedule (filed Oct. 19, 2026), https://www.lostpineswater.org/AgendaCenter/ViewFile/Agenda/_11182026-355?utm_campaign=Proposed%20Rules%20Amendments%20Hearing%20Scheduled%20for%20November%2018&utm_medium=email&utm_source=newsletter