LCRA
ENERGY • WATER • COMMUNITY SERVICES

April 1, 2015

Groundwater Management Area 12
c/o Post Oak Savannah Groundwater Conservation District
P.O. Box 92
310 East Avenue C
Milano, Texas 76556

Re: GMA 12 request for comments on March 6, 2015 Preliminary Groundwater Modeling Results for DFC and MAG revisions

Dear members of Groundwater Management Area 12:

As a landowner, and owner of groundwater permits and development rights within the Lost Pines Groundwater Conservation district, the Lower Colorado River Authority (LCRA) is an interested and an affected party in the ongoing efforts of Groundwater Management Area (GMA)12 to review and possibly revise the Desired Future Conditions (DFCs) within the GMA.

In response to a request for review and comment from Mr. Westbrook on March 4, 2015, LCRA has reviewed the information contained in the presentation, "*Update of Preliminary Groundwater Modeling Results*" dated February 25, 2015, and offers the following observations for your thoughtful consideration.

It is not clear from the information provided by the DFC whether (or how) the GMA, or individual districts, have already identified the goals they are trying to achieve and how they are balancing all of the various factors which must be considered in the development of DFCs.

The last two slides suggest that the GMA will adopt a new standard that balances the goal of allowing the highest practicable level of groundwater production while also considering the needs of districts to address conservation, preservation, protection, recharging, and prevention of waste of groundwater, as well as, control of subsidence, consistent with state law.

LCRA believes the current DFCs, which differ by political boundary, should be revised to better meet this standard. LCRA is concerned that the scenarios represented in the slides appear only to consider existing authorized permits in each of the separate groundwater conservation districts (GCDs) within GMA 12 without any consideration of new permits that might be issued. These modeling scenarios all indicate that pumping under existing permits alone will cause the existing DFCs to be exceeded. This suggests that the existing DFCs are unrealistic and, if retained, could be misinterpreted as providing a basis for GCDs to refuse new permits and deny property owners their right to access groundwater.

LCRA believes that the better approach to establishing a DFC is to examine the actual aquifer characteristics across the entire GMA and to adopt a uniform DFC for the entire GMA unless there is a compelling scientific basis for distinguishing between separate groundwater conservation districts. The existing approach of comparing existing permits to the previously adopted DFCs could lead to an inherent bias that results in GCDs with a higher level of existing permitting or actual pumping being allocated proportionately more of the modeled available groundwater, even if the DFC differences bear little relationship to where projected growth and increased water demand may arise in the future and regardless of any similarities or distinctions between aquifer behavior across the GMA. In other words, the DFCs should not unduly limit groundwater development in areas that have historically permitted lower volumes of groundwater pumping. Use of a year 2000 baseline condition for drawdown comparisons also favors GCDs with higher pumping in that specific year, whereas LCRA believes the use of pre-development conditions for comparing drawdown effects may be more appropriate.

Development of DFCs based only on an evaluation of impacts from existing permits seems to ignore several overarching principles that were highlighted by the Texas Supreme Court in its decision in *Edwards Aquifer Authority v. Day & McDaniel*. While LCRA acknowledges that differences in groundwater uses between individual districts can be considered in developing DFCs, this is not the only factor that the districts need to consider. Consistent with the *Day* case, DFCs – which ultimately will affect permitting decisions – should take into account not only historic use but also future needs, and should be set at levels that afford each owner of groundwater in a common reservoir a fair share, whether or not they already have permits from the applicable groundwater conservation districts.

LCRA believes the best way to give due consideration to future needs is to consider scenarios that look at the physical characteristics of the aquifer and its ability to produce groundwater, regardless of the political boundaries of each district unless those district boundaries also represent discernible, substantial differences in uses or aquifer conditions within the GMA. LCRA does not believe that there are any such discernible or substantial differences between the GCDs in GMA-12 that justify significantly different DFCs between districts.

LCRA suggests that depletion in storage of a specific aquifer under the GMA may be a more appropriate metric by which to set the DFC (for example, a goal of 10% depletion over 50 years). This approach removes the influence of existing permits and pumping in adjacent districts. Further, it would give appropriate consideration of the actual physical characteristics and capabilities of the aquifer and increase the chance that all landowners have a fair opportunity to access groundwater underneath their land. Using a drawdown metric that compares impacts to 2000 pumping also presents problems as it entirely masks the effect of pumpage by groundwater producers prior to the year 2000, which is significant in some parts of the GMA. Again, a pre-development baseline would be more appropriate.

LCRA looks forward to further engagement on these issues as the GMA12 members continue their work to establish new DFCs.

Respectfully,

David C. Wheelock, PE
Manager, Water Supply & Conservation

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