

LOST PINES GROUNDWATER CONSERVATION DISTRICT
Desired Future Conditions Comments Received
Summary of Comments

The Lost Pines Groundwater Conservation District (LPGCD) is required under Section 36.108(d-2) of the Texas Water Code to submit to Groundwater Management Area 12 (GMA 12) a summary of the comments it received during the public comment period for the proposed desired future conditions (DFCs) that are relevant to the LPGCD. The LPGCD's public comment period was open from April 23, 2021 to August 18, 2021, after proper notice was posted and published pursuant to Sections 36.063 and 36.108(d-2) of the Texas Water Code. During the public comment period, the LPGCD received verbal and written comments about the DFCs proposed for the major and minor aquifers in the LPGCD's two counties of Lee and Bastrop. The comments received were primarily directed to GMA 12 as a water planning entity and can be categorized under the eight general topics listed below. A summary of the relevant comments received is provided under each general topic.

1. Critically Impacting Landowners and Domestic/Livestock Well Owners

Comments addressing this issue were received from:

- a) Kermit Heaton
- b) Michael MacLeod
- c) Melanie Pavlas speaking on behalf of the Pines & Prairies Land Trust
- d) Travis and Lisa Olson
- e) Frieda Gress
- f) POSGCD

These commenters generally opposed the proposed DFCs because of their potential impacts to local landowners and existing wells.

- g) Andy Weir on behalf of the Simsboro Aquifer Water Defense Fund
- h) Michele Ganges on behalf of the Simsboro Aquifer Water Defense Fund

These commenters called for the LPGCD to reject and revise the proposed DFCs. They urged the LPGCD to consider DFCs that balance groundwater production, groundwater and surface water health, and the rights of landowners in Bastrop and Lee Counties. Ms. Ganges specifically raised concerns regarding impacts to domestic and livestock wells in the Carrizo Aquifer in Lee County and noted that the impacts were caused by production by a neighboring district's permitting action, the Vista Ridge Permits out of POSGCD.

- i) Environmental Stewardship and Simsboro Aquifer Water Defense Fund Joint Comment

These commenters called for the districts in GMA 12 to reject and revise the Carrizo Wilcox Aquifer DFC proposed by GMA 12. They urged the districts to explore pumping scenarios that (1) sustainable management of the aquifers consistent with the District's Management Plan so that resources are available for future generations, (2) preservation

of the resilience of the Colorado and Brazos Rivers to drought condition by maintaining a gaining relationship with the aquifers, and (3) protection of exempt landowner and livestock wells.

2. Surface Water Flow Adversely Impacted by Groundwater Pumping

Comments addressing this issue were received from:

- a) Kermit Heaton
- b) Melanie Pavlas speaking on behalf of the Pines & Prairies Land Trust
- c) Miriam Vaughn
- d) Environmental Stewardship
- e) Eric Allmon (Perales, Allmon & Ice, P.C.)
- f) Travis and Lisa Olson
- g) Frieda Gress
- h) Nancy McKee

These commenters expressed concerns about environmental stream flow along a segment of the Colorado River from Bastrop, Texas southward. Environmental Stewardship asked GMA 12 to adopt and use the same pumping files used during the last round of planning in the updated GAM model. Concerns about the adverse impact of groundwater pumping on stream flow in the Colorado River was the common theme.

3. Sustainable Pumping DFCs Should be Adopted

Comments addressing this issue were received from:

- a) Kermit Heaton
- b) Melanie Pavlas speaking on behalf of the Pines & Prairies Land Trust
- c) Miriam Vaughn
- d) Environmental Stewardship
- e) Eric Allmon (Perales, Allmon & Ice, P.C.)

These commenters put forth the idea that GMA 12 should develop DFCs that based on sustainable pumping. GCDs are legally mandated to consider the statutory factors listed in Section 36.108(d) of the Texas Water Code and:

....provide a balance between the highest practicable level of groundwater production and the conservation, preservation, protection, recharging, and prevention of waste of groundwater and control of subsidence in the management area.

- f) Ernie Harkins

This commenter recommended that the LPGCD match the pumping rate with the recharge rate and use that as a basis for determining the DFCs.

4. The Statutory Factors Not Properly Considered

Comments addressing this issue were received from:

- a) Michele Anderson
- b) Kermit Heaton
- c) Melanie Pavlas speaking for the Pines & Prairies Land Trust
- d) Judith McGeary
- e) Linda Curtis
- f) Environmental Stewardship and Simsboro Aquifer Water Defense Fund
- g) Andy Weir on behalf of the Simsboro Aquifer Water Defense Fund

These commenters generally expressed concern that the nine factors were not properly considered. There was a focus on socioeconomic impacts and private property rights. ES and SAWDF would also like to see more consideration given to hydrological conditions and aquifer uses and conditions. Ms. McGeary provided additional input on the merits of a potential takings claim based on adoption of the proposed DFCs.

- f) Eric Allmon (Perales, Allmon & Ice, P.C.)

This commenter provided a legal analysis on consideration of the statutory factors when determining the DFCs, and an analysis of a potential takings claim based on adoption of the proposed DFCs and how such a claim would not be ripe.

- g) Lee County Commissioners Court
- h) Bastrop County Commissioners Court

The Commissioners Courts asked the LPGCD and GMA-12 to reject the proposed DFCs and maintain the current DFCs. They found that the DFCs proposed by GMA 12 for the Carrizo-Wilcox, Sparta, and Queen City Aquifers are not adequately supported by documentation showing that the statutory factors were considered. The Commissioners Courts found that the proposed DFCs will increase the allowable drawdowns in the Carrizo-Wilcox, Sparta, and Queen City Aquifers within LPGCD. There were also concerns that increased drawdowns would impact surface water by reducing groundwater inflows, and the Bastrop County Commissioners Court was specifically concerned about inflows to the Colorado River and the Colorado River Alluvium Aquifer.

5. Monitoring Well System Should be Established for the Colorado River Alluvium

Comments addressing this issue were received from:

- a) Environmental Stewardship

The comment received from Environmental Stewardship asks GMA 12 representatives to develop and implement a monitoring well system for the Colorado River Alluvium.

6. Conservation

Comments addressing this issue were received from:

- a) Environmental Stewardship and Simsboro Aquifer Water Defense Fund
- b) Michele Ganges on behalf of the Simsboro Aquifer Water Defense Fund

These commenters provide preliminary studies on a conservation standard GAM run for the LPGCD and GMA-12 to consider conservation standards in developing the DFCs. Michele Ganges adopted comments on this issue submitted by Environmental Stewardship on August 18, 2021.

- b) Kelton McMillan
- c) Terry Johnson

These commenters generally opposed the proposed DFCs. They raised concerns about the impact of the proposed DFCs on water conservation and sustainable management of groundwater.

7. Inclusion of Local Management and Production Amounts

Comments addressing this issue were received from:

- a) Blue Water Vista Ridge, LLC

This commenter urged the five district representatives in GMA 12 to reject POSGCD's approach to the Carrizo Aquifer DFCs. They claimed that POSGCD does not include Blue Water's permitted and ongoing pumpage from existing Vista Ridge Wells. Blue Water indicated that excluding this pumpage sets the Carrizo DFC drawdown to a low value which does not reflect current and actual production. Blue Water acknowledged that the other districts in the GMA recognized known and actual pumpage in consideration of the proposed DFCs and such a practice was consistent with the statutory requirement to consider the feasibility of achieving the DFC when setting the DFCs.

- b) Brazos Valley Groundwater Conservation District (BVGCD)

This commenter reminded POSGCD Board of Directors that the districts in the GMA must include in its planning numbers the groundwater permits issued by each groundwater district that are in effect. Including known and permitted groundwater production is critical to joint planning. BVGCD cites 4 statutory factors which require the districts to include all permitted production in the planning numbers. BVGCD added that any adjustments to numbers used in the GAM runs can be done on a local district-by-district basis using its statutory permitting authority under the Texas Water Code.

- c) Post Oak Savannah Groundwater Conservation District (POSGCD)

This commenter addresses the issue of providing known pumpage from the Vista Ridge Permit in the GAM runs. POSGCD does not find that including these numbers is

appropriate. The district does not consider known pumpage a statutory factor to be considered when setting the DFCs.

8. Other Comments Received

Comments addressing this issue were received from:

a) Lower Colorado River Authority

This commenter raised concerns regarding the proposed DFC Zones within Bastrop and Lee Counties¹ instead of adopting a district-wide DFC. Without more information from LPGCD on these zones, LCRA suggested that they are premature. LCRA also discouraged the Board from keeping the DFCs the same despite the proposed DFCs being based on the new, updated GAM which is the best available science.

LCRA urged the Board to look closely at claims that the proposed DFCs will dewater the Colorado River. They suggested that these claims are based on oversimplified analyses and failed to consider how the river will be managed in the future.

b) Nancy McKee

This commenter supported the idea of DFC Zones in LPGCD as the proposed DFCs apply to an entire region and do not address specific problem areas.

The comments received during the comment period are appreciated and will be considered as the District continues to participate in the GMA 12 planning efforts.

¹ District Note: These zones have been discussed by District Staff, but have not been proposed by GMA 12.