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Re: SLR Property I, LP's Preliminary Input on Proposed Rule Changes – for Post Oak Savannah GCD's September 10, 2024 Board Meeting

Dear Mr. Westbrook:

We appreciate this opportunity to provide input to the Post Oak Savannah Groundwater Conservation District ("District") on behalf of our client SLR Property I, LP ("SLR"). First and foremost, and as explained in detail below, we believe the District's notice of the September 10 hearing is inadequate because the proposed rules now up for consideration have not been available for the minimum 20 days after public notice. SLR nevertheless submits a few preliminary comments on the rules themselves, while reserving the right to submit final comments once the District finalizes its proposed rules and properly notices the same for hearing.

Timing: Chapter 36 Precludes a September 10, 2024 Rulemaking Hearing

As a threshold matter, the District has not provided the statutorily mandated notice for its rulemaking hearing set for September 10, 2024.

Chapter 36 requires that, "not later than the 20th day before the rulemaking hearing," the General Manager must post notice, which, critically, includes "mak[ing] available a copy of ***all*** proposed rules."[1] The District first gave notice of the September 10 hearing on August 13 (and provided an initial draft of the proposed rules shortly thereafter), and that notice was timely for that rule set. But, the District has twice revised the proposed rules in significant and substantive ways, first on August 30, and again on September 3. Thus, the complete proposed rule package has only been available for 11 days and 7 days—that fails the statutory requirement that the District provide 20 days' notice of a hearing on proposed rules. Because the District's rules are so intertwined and must be read together, revisions to one rule necessarily impact the District's rules overall. Accordingly, we believe that none of the District's proposed rule changes—not even those that were published and available in mid-August—can properly be acted upon at the noticed September 10, 2024 rulemaking hearing.

[1] Tex. Water Code § 36.101(d), (d)(5) (emphasis added).

When a statute establishes procedural prerequisites to a valid rulemaking, including the "contents of notice," these procedures ***must*** be followed to a T "to assure *adequate* notice."[2] Violating procedural protections deprives the public of a "meaningful opportunity to comment," and renders rule adoption invalid.[3] Under Chapter 36, the consequences for non-compliance is severe: a groundwater conservation district ("GCD") "[does] not have the authority to implement [any] regulation without a rule adopted after public notice and public hearing."[4] A proper notice must be substantively complete, properly posted, **and timely**. Because of last minute rule revisions proposed by the District, the District has failed the timeliness requirement for proper public notice of rulemaking under Chapter 36. A GCD purporting to manage groundwater without following Chapter 36 acts ultra vires.[5]

If the District properly notices these or other proposed rule revisions for a future rulemaking hearing, SLR looks forward to providing a more robust set of comments at the appropriate time.

Preliminary Input on August 30 and September 3, 2024 Proposed Rules

A. The proposed revision to the definition of "historic use permit" in Rule 1.1 should clarify that "purpose of the use" is no narrower than the beneficial use categories listed in the Texas Water Code and District Rules.

As noted, we have reviewed the work-in-progress rule revisions published by the District and have preliminary thoughts to share with you. They are set forth below.

The definition of "historic use permit," if revised at all, should include additional clarification that "purpose of the use" is equal in scope to the beneficial uses listed in the Texas Water Code. Tex. Water Code § 36.001(9) (defining "use for a beneficial purpose"); District Rule 1.1 (definition of beneficial use). In other words, while a historic use permit for a listed beneficial use is limited to that beneficial use ***category***, the historic use permit is not limited to a specific end-use, or end-user, within that category. Take, as an example, a historic use permit that authorizes a certain amount of groundwater for "commercial" use. Assume that the permit holder historically supplied this water to support a convenience store (a commercial use). Now the permittee wants to also supply a newly constructed retail shop (a different user, but still a commercial use) under the same authorization. The precise end use or specific end user has changed, but the category of beneficial use did not. Thus, the present-day commercial use remains authorized under the historic use permit.

To confirm this application of the law, SLR suggests that the District revise the proposed definition in Rule 1.1 as follows:

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[2] *Unified Loans, Inc. v. Pettijohn*, 955 S.W.2d 649, 651 (Tex. App.—Austin, 1997) (emphasis in original).
[3] *Id.*; *Abbott v. Doe*, 691 S.W.3d 55, 83-84 (Tex. App.—Austin, 2024).
[4] *S. Plains Lamesa R.R. Ltd. v. High Plains Underground Water Conservation Dist. No. 1.*, 52 S.W.3d 770, 781 (Tex. App.—Amarillo, 2001, no pet) (emphasis added).
[5] *S. Plains Lamesa*, 52 S.W.3d at 779.

> "Historic use permit" means a permit required by the District for the operation of any existing well or well system that was operational prior to the Effective Date, as defined herein, and shall be limited to the ~~purpose of the use~~ **authorized category(ies) of beneficial use(s)**, location of use, and maximum amount produced in any single year for such use during the historic period as included in any documents associated with the application(s) for the issuance of the permit.

Consistent with the general discussion of operating permits in Section D, below, the District should also clarify that "location of use" is the statutory distinction, recognized by the Texas Supreme Court, between the in-district and out-of-district use of groundwater authorized by a historic use permit.[6]

B. Proposed Rule 5.5 is unclear, targets individual permittees, and should be withdrawn.

Given the repeated changes to the District's proposed rules, SLR is not certain what the District is proposing under Proposed Rule 5.5. SLR remains concerned that the District has proposed a rule targeted specifically at SLR and its redevelopment of the former Alcoa property. As this District is aware, the Texas Legislature approved creation of the Sandow Municipal Utility District No. 1 during the 2023 legislative session. This local water utility will serve the water needs of its service area, in accordance with law. However, the District's Proposed Rule 5.5—at least one of its iterations—appears intended to disadvantage this MUD and its future operations.

Other local water utilities that have taken advantage of the District's Rule 5.5 since January 1, 2010, could also be impacted by Proposed Rule 5.5. These entities may include Clay WSC, Southwest Milam WSC, Cooks Point WSC, Clara Hills WSC, and Beaver Creek WCID#1, and potentially others.

SLR respectfully requests that the District withdraw Proposed Rule 5.5.

C. Proposed Rule 7.1.9 should be withdrawn, as it violates the statute of frauds, Chapter 36, is inconsistent with existing District Rules, and promotes taking of private property.

The District's proposed revisions to Rule 7.1.9 violate the statute of frauds and Texas Water Code, create internal inconsistencies within the District's Rules, and if applied, would result in a prohibited taking, in contravention of both the Texas and United States Constitutions.

Groundwater rights are real property rights subject to all of the same Texas laws and rules as all other real property—rules like the statute of frauds.[7] The District's proposed revision to

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[6] *Guitar Holding Co., L.P. v. Hudspeth County Underground Water Conservation Dist. No. 1*, 263 S.W.3d 910, 918 (in the context of historic use permits, holding "[o]nce the groundwater allocated for existing irrigation use is transferred outside the district, however, the protected existing use ends, as does the justification for protecting that use").

[7] *See* Tex. Bus. & Comm. Code §26.01(b).

Rule 7.1.9 allows **unwritten** "specific situations and agreements" to undermine real property interests of landowners. As a threshold matter, that is not legal.

Chapter 36 of the Texas Water Code sets the parameters within which GCDs may operate. GCDs only possess the limited authority "clearly granted" to them by the Texas Legislature.[8] Because the proposed revision to Rule 7.1.9 directly contradicts the statute's plain language, the District may not legally adopt or enforce it.

The Texas Water Code makes clear,[9] and the State Office of Administrative Hearings[10] and the General Manager of this District[11] agree: historic use permits are operating permits. And, under the Texas Water Code, a district "shall" grant an application to renew an operating permit, automatically and without hearing, if the permit holder meets certain basic criteria set by statute. The Legislature has determined that, so long as the applicant timely submits the renewal application, is not requesting a change that requires a permit amendment, is not delinquent on any fees, is not subject to a pending enforcement action, and has not failed to comply with a civil penalty or other violation order, a GCD ***must*** renew an operating permit. Tex. Water Code § 36.1145. The District's own Rules mirror this legislative language. Rule 7.16. A GCD may not regulate outside the boundaries of the statutory mandates that restrict its activities. Instead, it must operate within the parameters set by the Legislature.

Both the Texas Water Code and the District's Rules confirm that the District lacks discretion to deny operating permit renewals except as expressly stated in Chapter 36. The law thus precludes the District from promulgating a rule that either forbids the renewal of an operating permit or allows non-renewal on alternate grounds. There is no way to reconcile the Legislature's directive that a GCD "shall" renew every operating permit, upon timely application, with the District's proposed rule stating that certain operating permits "may not be renewed." The District has no statutory authority to adopt or enforce Proposed Rule 7.1.9.

Moreover, the Proposed Rule 7.1.9 revision, if adopted, runs afoul of the takings clauses of both the Texas and United States Constitutions.[12] Groundwater rights are private property rights in Texas and receive constitutional protection.[13] All holders of historic use permits have a recognized vested interest in their right to produce groundwater. Notwithstanding Proposed Rule 7.1.9, that vested interest includes a groundwater owner's ability to seek—and be granted—a renewal to ensure continued access to the owner's private property. In fact, the Texas Private Real Property Rights Preservation Act ("Property Rights Act") expressly includes "groundwater . . . right[s] of any kind" as the sort of "private real property" which cannot be taken by any

[8] *S. Plains Lamesa*, 52 S.W.3d at 779; Tex. Water Code § 36.0015(b).
[9] Tex. Water Code § 36.116(b) (authorizing GCDs to issue historic use permits consistent with § 36.113, for operating permits).
[10] SOAH Docket Nos. 965-23-21218.POSGCD and 965-23-21219.POSGCD; *Application by SLR Property I, LP*, Proposal for Decision (Aug. 26, 2024) at 28-29.
[11] *Id.*, Transcript Day 2, Apr. 11, 2024, (Cross Testimony of Gary Westbrook), SOAH Docket Nos. 965-23-21218.POSGCD and 965-23-21219.POSGCD, at 135:20 – 137:16.
[12] U.S. Const. amend. V; Tex. Const. art I, Sec. 17.
[13] Tex. Water Code § 36.002; *Edwards Aquifer Auth. v. Day*, 369 S.W.3d 814, 833 (Tex. 2012).

government action, including through "the adoption of [a] rule." Tex. Gov't Code §§ 2007.002(4), .003(a)(1).[14] Consistent with the recognition that, in Texas, groundwater is the landowner's private property, the Property Rights Act essentially precludes adoption of Proposed Rule 7.1.9.[15]

The Proposed Rule 7.1.9 not only threatens to take historic use permit holders' real property, it does so in a discriminatory and unpredictable manner. Proposed Rule 7.1.9 plainly targets only certain historic use permits as nonrenewable, but the reader is left to guess which historic use permits, and when. The District's vaguely worded rule claiming that "Historic use permits are ***generally*** issued for an indefinite term" and the undefined reference to "[s]pecific situations or agreements" trigger the high likelihood of discriminatory treatment and arbitrary, unlawful agency action. Thus, Proposed Rule 7.1.9 also violates the Texas Water Code's mandatory directive that GCD rules be "fair and impartial." Tex. Water Code § 36.101(a)(2).

Proposed Rule 7.1.9 further begs two questions: what "specific situations" does the District have in mind, and which historic use permits does the District believe should not be renewed? There are only a few historic use permits in this District that authorize production of significant volumes of water. SLR is concerned that the District is attempting, by proposed rule, to exert unlawful authority over SLR's Historic Use Permit ("HUP") 0330. While HUP 0330 bears a term, SLR fully intends to renew that permit in accordance with Chapter 36. SLR has stated this intent repeatedly and explicitly, in writing, since at least April 2022, when the General Manager asked SLR not to state its intent to seek such a renewal in SLR's application for a new operating permit to be used in conjunction with HUP 0330. But nothing precludes SLR from seeking renewal of HUP 0330 tomorrow, or at any time, in accordance with law. Nothing in the law allows the District to modify a historic use permit through individually-targeted rulemaking.

Because the Proposed Rule 7.1.9 violates the Texas statute of frauds, directly contradicts the clear statutory language of the Texas Water Code and promotes taking the private property owned by SLR (and perhaps others), adoption of Proposed Rule 7.1.9, now or after proper notice and rulemaking hearing, would be improper. The District would obviously be legally vulnerable in a lawsuit challenging the validity of the rule. Tex. Water Code § 36.251(a). SLR respectfully asks that the District avoid the needless risk and expense of litigation, and the attendant uncertainty for historic use permit holders, and withdraw Proposed Rule 7.1.9.

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[14] While exceptions exist for governmental action taken under "statutory authority" to "prevent waste or protect rights of owners of interest in groundwater," that does not apply here. Tex. Gov't Code § 2007.003(11)(C). Proposed Rule 7.1.9 *contravenes* the District's statutory authority and *eliminates*, rather than protects, the rights of owners of interests in groundwater.

[15] Texas Attorney General Office, *Texas Private Real Property Rights Preservation Act Guidelines*, https://www.texasattorneygeneral.gov/sites/default/files/files/divisions/general-oag/TexasPropertyRightsPreservationActGuidelines.pdf ("The purpose of the act is to ensure that certain governmental entities make a careful evaluation of their actions regarding private property rights, and that those entities act according to the letter and spirit of the Property Rights Act").

D. References to "location" in Proposed Rules 7.4 and 7.6.1 should be clarified or removed as counter to the Texas Water Code.

The "location" of use of groundwater is only relevant to distinguish between in-District and out-of-District uses.[16] The Texas Water Code does not authorize GCDs to require any more specific location information in applications to authorize landowners to produce and beneficially use their privately owned groundwater. The law allows groundwater permit holders to "maintain the flexibility to use the full authorized amount of water for any of the beneficial uses listed" and anywhere within the location listed in the permit.[17]

GCDs have no authority to limit specific amounts of water to identified end-users at specific addresses or at any "location" more granular than the county or District level.[18] Requiring more heightened specificity runs afoul of a GCD's purpose: to "balance the conservation and development of groundwater to meet the needs of the state." Tex. Water Code § 36.0015(b). More pointedly, the "location" requirements now proposed by this District would severely inhibit permit holders' property rights. *Id.* Landowners secure permits to develop their groundwater rights ***first***. Other property development necessarily follows. Customers and businesses rely on secure water supplies and need certainty in that basic service before locating their operations in this District.

GCDs were not created to be land-use regulators, zoning boards, or development police.[19] This District cannot attempt to preferentially encourage or discourage certain types of development by selectively promoting flexibility or rigidity on permits to produce privately-owned groundwater rights. GCDs have no authority to prevent a landowner from developing its private rights in groundwater by demanding that a landowner provide more specificity the Texas Water Code allows in end-use, end-user, or location of water use.

For these reasons, SLR asks that the District remove each proposed added reference to "location" in Proposed Rules 7.4 and 7.6.1.[20] In the alternative, SLR asks that the District modify its proposed rules, as follows, to clarify that the only specificity needed with respect to location is a statement of whether the groundwater use will take place in-district or out-of-district:

> 7.4.c: a statement of the location **(i.e., in-district or out-of-district)**, nature and purpose of the proposed use and the amount of groundwater to be used for each **in-**

[16] With regard to location, Chapter 36 only distinguishes between in- and out-of-District uses, nothing more granular. While Section 36.113 establishes general permit and permit application requirements, Section 36.122's heightened requirements only apply if the proposed location of use is "outside of a district's boundaries."
[17] SOAH Docket Nos. 965-23-21218.POSGCD and 965-23-21219.POSGCD; *Application by SLR Property I, LP*, Proposal for Decision at 23.
[18] *See* Tex. Water Code §§ 36.113, 36.122.
[19] *See cf.* Tex. Loc. Gov't Code Ch. 211 (authority of municipalities), Ch. 231 (authority of counties).
[20] The proposed references to "location" are also redundant of current Rule 7.4.4(j) (an application must state "the location of the use of the groundwater from the well"). Rule 7.4.4(j) is satisfied by a statement that the location is in-District. Nothing further is required. SOAH Docket Nos. 965-23-21218.POSGCD and 965-23-21219.POSGCD; *Application by SLR Property I, LP*, Proposal for Decision at Finding of Fact 24 and Conclusion of Law 5 (finding SLR's groundwater permit applications, which listed Milam and Burleson County as the location of use, satisfied the requirements of the Texas Water Code and District Rule 7.4.4).

> **District and each out-of-district** purpose, ~~at each location noted,~~ including, as applicable, any proposed conjunctive use
>
> 7.6.1.d. whether the permit will result in a beneficial use ~~at the location(s)~~ **in-district or out-of-district** and not cause or contribute to waste;

E. Proposed Rule 7.6.4 violates the Texas Water Code and should be withdrawn.

Proposed Rule 7.6.4 violates the Texas Water Code by purporting to circumvent the authority the Legislature placed solely with the State Office of Administrative Hearings ("SOAH") when that agency is called upon to hear evidence and find facts related to groundwater permit applications. Under that circumstance, the GCD Board's role is limited by law. Proposed Rule 7.6.4 purports to give the District Board the authority to conduct a "technical review" ***after*** a hearing on the merits has already taken place before SOAH. As stated above, the District only has the authority "clearly granted" to it under Chapter 36. Any District action or exercise of purported authority beyond the confines of the Texas Water Code is unlawful.[21]

The Texas Water Code empowers a groundwater permit applicant, or other party, to obtain a hearing before SOAH instead of a GCD board or its appointed hearing examiner. A GCD "shall" send a contested application to SOAH, upon request. Tex. Water Code § 36.416(b). That is what happened in the case of SLR's currently pending applications. Throughout the SOAH hearing, and even today, it appears that referral was much to the District's chagrin. Regardless, the process from that point forward is dictated by established law:

- Once SOAH takes jurisdiction, the end result is a proposal for decision authored by one or more administrative law judges. Tex. Water Code § 36.410.
- The District Board must then "consider the proposal for decision at a final hearing." Tex. Water Code § 36.410(f). *Id.*
- The District Board ***must*** adopt the proposal for decision, as written, unless it finds:

> (1) that the administrative law judge did not properly apply or interpret applicable law, district rules, written policies provided under Section 36.416(e), or prior administrative decisions;
>
> (2) that a prior administrative decision on which the administrative law judge relied is incorrect or should be changed; or
>
> (3) that a technical error in a finding of fact should be changed.

Tex. Water Code § 36.4165(b). That's it. The law does not grant the District's General Manager or Board authority to conduct an independent "technical review" or other fact-finding exercise

[21] *S. Plains Lamesa*, 52 S.W.3d at 779.

after the SOAH hearing. The law does not give the District authority for a "do-over" under this state of play, and the District can't, by rule, extend its authority to conduct actions it is not authorized to carry out as a matter of law.[22]

Because Proposed Rule 7.6.4 exceeds the District's statutory authority, SLR respectfully asks that the District withdraw it in its entirety.

F. Proposed Rule 7.10.1(a)(iv) should be revised to apply only to new wells and to provide reasonable options for new rig supply wells after use.

First, Proposed Rule 7.10.1(a)(iv) should be revised to apply only to new wells. An existing well cannot be plugged within ninety days after completion, as the rule supposedly contemplates. It is also unclear how the District would hold a public hearing regarding an existing rig supply well that is already, or was previously, in operation. Instead, District rules should continue to exempt from hearing existing rig supply wells, as the currently adopted rules contemplate.

Second, even for new rig supply wells, it is inappropriate for the District to mandate that a well be plugged or turned over to the District as monitoring well. Consider, for instance, a rig supply well located mere feet from a production well that is already being monitored by the District. Instead of mandating that this well be converted to a monitoring well for the District, the District should give the owner or operator of a new rig supply well the option of leaving the well idle (but non-producing), so that the well can be used at a future time. That would promote the conservation of the landowner's groundwater resource—the landowner's private property—as well as the financial resources involved in drilling and completing a new well. Thus, SLR asks that the District revise Proposed Rule 7.10.1(a)(iv) as follows:

> A new ~~or existing~~ well which is used for the drilling and production of a rig supply well to supply water solely for a rig or equipment that is actively engaged in drilling a well to produce water, shall meet the following requirements to be exempt from public hearings; (i) meets all applicable spacing requirements as noted in District Rule 4.1; (ii) the rig supply well is located on the property on which the drilling rig is located, or within the contiguous boundaries of the property in which the drilling rig is located; (iii) the rig supply well is used with a rig that is actively engaged in drilling production well; (iv) the water is produced solely for the purpose of providing water that is necessary for the actual drilling of the production well; **and, at the well owner or operator's option, either** (~~v~~**A**) **the rig supply well is** plugged within ninety (90) days after the completion of the well; or (~~vi~~**B**) **the owner or operator removes the pump and leaves the well idle and non-producing; or (C) the rig supply well is** converted into a District monitoring well.

[22] *See, e.g., Tex. Comm'n on Envtl. Quality v. Tex. Farm Bureau*, 460 S.W.3d 264, 273 (Tex. App.—Corpus Christi–Edinburg 2015, pet. denied) (noting, in a surface water context, "[w]hile we recognize TCEQ's authority to manage and regulate the state's scarce water resources, such authority must not exceed its express legislative mandate").

G. Proposed Rule 16.5 should be further revised to ensure any production curtailment is applied proportionately and on an aquifer-wide basis.

SLR supports the removal of the reference to adjusting permitted production based on "a management area/zone." However, this revision is moot if the language is not further revised. Proposed Rule 16.5 should be amended to require that any reductions in authorized production imposed on permit holders be consistently and proportionately applied to *all* non-historic-use permit holders within the District, regardless of geographic location or District-created "management area/zone."

Chapter 36 directs GCDs to "issue permits up to the point that the total volume of exempt and permitted groundwater production will achieve an applicable desired future condition." Tex. Water Code § 36.1132(a). The Legislature granted GCDs a limited set of tools to regulate groundwater production in relation to these DFCs. GCDs manage groundwater production and permitting with reference to a DFC. *Id.* While a GCD may regulate "the production of groundwater by . . . managed depletion," Tex. Water Code § 36.116(a)(2), to help achieve a DFC, it must do so using "a method that is appropriate based on the hydrological conditions of the aquifer." Tex. Water Code § 36.116(e)(1).

As written, the Proposed Rule 16.5 and its 5-year review would allow the District to target landowners like SLR and curtail production in only a portion of the aquifer, or, more arbitrarily, within one of the few District-defined management areas or zones. Nowhere does Chapter 36 authorize such discriminatory curtailment. Moreover, targeted or sectional curtailment is not "appropriate based on the hydrogeological conditions of the aquifer." Tex. Water Code § 36.116(e)(1). Production anywhere within the aquifer (whether in- or out-of-District) affects the achievement of the DFC. As admitted by the District's hydrologist, management zones are simply areas where the District has more information or data about the aquifer.[23] Accordingly, curtailing production in certain areas, and not others, is not only hydrologically suspect, but violates Chapter 36's directive that GCD rulemaking be "fair and impartial." Tex. Water Code § 36.101(a)(2).

Thus, SLR asks that the District revise Proposed Rule 16.5 as follows:

> Pursuant to Rule 7.1.~~9~~**10**[24], all operating permits shall be reviewed beginning January 1, 2025, and every five (5) years thereafter. The purpose of the 5-year review ("Review") is to determine whether the District is meeting the management objectives described in Rule 16.1 and the District's Management Plan. The Reviews may result in reductions**, if any,** in the maximum production allowed under a permit**, only if any such reductions are applied proportionately to every non-historic use operating permit held within the District** ~~consistent with Rules 16.6 and 16.7~~. . .

[23] SOAH Docket Nos. 965-23-21218.POSGCD & 965-23-21219.POSGCD; *Application by SLR Property I, LP*, Transcript Day 2 (Redirect Testimony of Steve Young) at 177:17 – 178:17.
[24] This revision fixes a stray cross-reference. As currently written, what was Rule 7.1.9 is renumbered 7.1.10.

H. The stated purpose of Section 18 demonstrates why its proposal is premature.

The District has not articulated a rational basis for expediting adoption of Section 18 rules. Instead, proposed Rule 18.1 admits that the Texas Commission on Environmental Quality ("TCEQ") is in the process of adopting related rules—anticipated to be finalized in November 2024—and that the "District's provisions set out below are intended to ***work with but not override any Rules adopted by TCEQ***." SLR can think of no legitimate reason this District cannot wait two months to determine what TCEQ's final rules look like before passing its own new rule section designed to "work with" TCEQ's rules.

SLR urges the District to let TCEQ finalize its rules later this fall, then, within the bounds of the law and the District's jurisdiction, propose sensible Section 18 rules at that time, allowing the public opportunity to evaluate and comment.

* * * * *

We hope these initial thoughts will assist the District in revising the proposed rule changes for future public notice, comment, and consideration. SLR urges the District to more closely align its proposed rules with the Texas Water Code, reduce its rules' internal inconsistency, and confirm the District's statutory mandate to "protect property rights" as it balances conservation with the "development of groundwater to meet the needs of this state."

SLR looks forward to attending a properly noticed District rulemaking hearing in the future.

Respectfully,

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