



May 18, 2017

Via email to comments@lostpineswater.org and District Representatives

Mike Talbot, Lost Pines GCD Board President and Members
James Totten, Lost Pines GCD GMA-12 Representative
Nathan Ausley, Post Oak Savannah GCD GMA-12 Representative
David Bailey, Mid-East Texas GCD GMA-12 Representative
David Van Dresar, Fayette County GCD GMA-12 Representative
Alan Day, Brazos Valley GCD GMA-12 Representative
Gary Westbrook, GMA-12 Secretary

RE: Desired Future Conditions (DFCs) Explanatory Report for GMA-12

Dear President Talbot, Board Members, and GMA-12 Representatives,

Environmental Stewardship (ES) commends the GMA-12 representatives, their Boards, and their consultants for conducting the second round of Desired Future Conditions review in a very professional and transparent manner. As a landowner who participated in most of the meetings and provided comments, ES supports adoption of the proposed DFC being considered at the May 25, 2017 meeting.

ES respectfully provides its comments on the Explanatory Report in the attached document and has been requested to advise you that three additional community organizations, Simsboro Aquifer Water Defense Fund, League of Independent Voters of Texas and Neighbors for Neighbors (Organizations) support ES' comments. ES and the Organizations respectfully ask that this cover letter and the attached comments be included into the official record of the District's July 20, 2016 hearing on Desired Future Conditions and GMA-12's official record of the May 25, 2017 meeting.

Our comments on the Explanatory Report provide Environmental Stewardship's concerns regarding the conclusions of the report and how our comments provided during the 2012-2016 joint planning process have, or have not, been dealt with during the DFC review and adoption process and in the report.

The following highlights our comments and requests:

- 1) ES and the Organizations urge GMA-12 to adopt the Proposed DFCs.
- 2) ES, as a landowner, provided extensive written comments and requests to the GMA Districts on 13 separate occasions on the nine factors considered by the GMA-12 between July 25, 2013 and March 24, 2016 that were substantive and relevant to the nine factors (ES Comments to GMA-12 proposed DFCs: <http://environmental-stewardship.org/es-comments-gma-12-proposed-dfcs/>). ES' reading of 36.108(d-3)(5) does not distinguish the comments received during the entire review period from those received during the 90-day comment period and thereby leads to the expectation that these comments should have been, and continue to be, under the same standards of review. ES included these comments by reference in the comments provided to Lost Pines GCD during the final comment period and expects that they should have been included in the response to ES (Appendix R, pages 603-633).

Section 36.108(d-3) states: *The report must ... (5) discuss reasons why recommendations made by advisory committees and relevant public comments received by the districts were or were not incorporated into the desired future conditions.*

ES Request 1: ES requests that the comments, recommendations and requests

provided during the review period be treated with the same standard of review as those received during the 90-day comment period, and that responses be provided to these comments, recommendations, and requests. (Footnote 5).

3) ES acknowledges that the inconsistencies in the GAM along with the fact that the GMA is being improved to address many of these inconsistencies is a major justification for adopting the proposed DFCs. (Footnote 7).

4) ES asserts that it is not only "*reasonable and prudent* ... to understand the ramifications", but that it is *essential* that good science be fully applied in considering the nine factors before the GMA can make policy decisions and adopt DFCs that truly balance conservation and development. (Footnote 8).

5) ES notes that the statement in the report does not identify that much, if not most, of the "development projects" for "municipal purposes" are for projects outside the GMA-12 Districts and are Export projects. Though ES understands that the districts are obligated not to discriminate between in-District and Export uses, we do believe it is the purpose of this report to make clear the manner in which water is being used in order to explain, in plain terms, how and where the groundwater produced is being used. This situation becomes even more problematic in Section 5.2 of this report.

ES Request 4: ES requests that the report quantify the volumes in GMA Run PS-10 that is exported outside the districts. (Footnote 10).

6) ES notes that the statement is not fully inclusive of all significant users of water from the Simsboro but rather limits this statement to "throughout the GMA".

ES Request 5: ES Requests that a statement be added that "... list names ... are significant permitted user of water from the Simboro where the water is exported outside the districts". (Footnote 11).

7) ES notes that this Section 5.2 does not include a discussion of the demands/needs for water from counties that are not within the territorial boundaries of the GMA-12, and that are receiving, or projected to receive, groundwater from GMA-12 counties/districts. For the sake of transparency and full disclosure and explanation of the demands on the GMA-12 Districts and counties, the report should identify and discuss the water needs from the 2012 Texas Water Plan that are from Regional Water Planning Groups and their constituent counties that are outside GMA-12.

ES Request 6: ES requests that a paragraph and table (if needed) be added to this section in order to be fully transparent by disclosing and explaining the groundwater demands/needs that are projected to come from GMA-12 districts and counties. (Footnote 12).

8) ES notes that it is not clear what data were presented and used during the development of the proposed DFCS in 2015 and 2016. The "existing permits" for Lost Pines GCD (61,710 ac-ft) does not appear to include Forestar and End Op permits (ES estimate is 134,800 ac-ft including these permits).

ES Request 7: ES requests clarification regarding 1) whether or not Forestar and End Op permitted pumping was included, 2) an explanation of why they were not included, and 3) if appropriate, a correction to the Table 5-9. (Footnote 13).

9) ES would like to better understand how the Simsboro acts as a readily identifiable divider.

ES Request 8: ES requests an explanation of how the Simsboro Aquifer acts as a readily identifiable divider between the Calvert Bluff and Hooper aquifers and an

explanation of the implications regarding groundwater management of these hydrologically communicating aquifers be included in the report. (Footnote 14).

10) ES notes that the report does not provide a quantitative or qualitative explanation regarding the predicted impacts of developers installing large-volume well fields in GMA-13.

ES Request 9: ES requests that the report provide an explanation of how this was quantitatively considered and how this well field in the Carrizo aquifer will impact GMA-12 and the Colorado River. (Footnote 15).

11) In response to the statement "The dam releases and active monitoring by the river authorities as part of this program will prevent groundwater pumping from ever reducing river flows enough to cause a risk to the health of the river aquatic system", ES herein provides evidence that the Lower Colorado River Authority (LCRA) has demonstrated that, during periods of drought or extreme drought it will not protect the interests of interruptible users of river water, including instream river flows and freshwater flows into bays and estuaries (environmental flows), but will rather seek TCEQ Emergency Orders to suspend the release of such flows. Therefore it is an error to believe that "this program will prevent groundwater pumping from ever reducing river flows enough to cause a risk to the health of the river aquatic system". LCRA Emergency Order issued by the TCEQ dated June 17, 2015, provides evidence that this is not a valid conclusion for GMA-12 to rely on. The order reviews LCRA's requests and actions regarding the suspension of interruptible flows during the most recent drought. The emergency order does not clearly state that suspending "interruptible flows" to "interruptible customers" also suspends environmental flows for the Colorado River and Matagorda Bay (see paragraphs 5 and 73). Link to LCRA Emergency Order: <https://www.tceq.texas.gov/assets/public/agency/lcra/LCRA-EO-061715.pdf> . (Footnote 20).

12) ES attended 15 of the joint planning meetings and provided thirteen (13) separate sets of written comments about our concerns regarding this and other issues discussed throughout the 2012-2016 joint-planning period.

ES Request 10: ES requests that the report acknowledges our contributions in, but not limited to:

- Table 7.1 Summary of all comments received by GMA-12 on the proposed DFCs: It would be more accurate to acknowledge that ES provided comments to both LPGCD and GMA-12 over the entire period of the DFC review, proposal and adoption process,
- Summary (page 60) - The explanatory report does not include "all" comments by stakeholders in the GMA. (Footnotes 23 & 24).

13) **ES request 11: ES requests that the Report acknowledge** (page 62, paragraph 4) that ES was responsible for funding--\$60,000--through our request to the Colorado-Lavaca Basin and Bay Area Stakeholder Committee, of improvements to the GMA-12 GAM to enable it to better model local-level groundwater-surface water interactions between the Colorado River and the aquifers in the Bastrop-Fayette segment of the river. The report should further acknowledge that LCRA and BRA contributed \$20,000 each to the development of the groundwater-surface water interaction improvements. (Footnote 26).

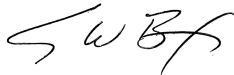
14) ES is pleased that GMA-12 recognized that our comments urging use of the best available science supports GMA-12's decision to be conservative toward changing the DFCs during this development cycle (page 62). (Footnote 27).

15) ES cannot support GMA-12's contention that the existing DFCs already represent a reasonable balance between groundwater production as opposed to conservation, preservation, and protection of groundwater based simply on the fact that the previous DFCs were petitioned by two groups (one of which was ES) with opposing views. This is insufficient. Until all nine required factors are fully considered using sound science--which GMA 12 was not able to do during this planning cycle due to the deficiencies in the current GAM--we cannot be confident that the existing DFCs represent a reasonable balance between groundwater production and conservation. (Footnote 28).

16) ES cannot support GMA-12's final test of reasonableness of the existing DFC's based on the anticipated water supply needs of Texas resulting from the 2012 State Water Plan. A review of the history of the initially adopted DFCs (existing DFCs) will reveal that the supply side of the DFCs were based on the 2012 water demands. As such, it is no surprise that supply by the DFCs meets the demands of the water needs of Texas. (Footnote 29).

ES acknowledges that a great deal was accomplished during this second round of DFC review and we applaud the much more open and transparent process. We also wish to acknowledge the very professional and thorough work of the Consultants in providing scientific and technical information to the Districts to inform their policy decisions. It is evident from the Explanatory Report that a full and adequate consideration of several items was not possible because the tools, information, and time were not available to complete these tasks in compliance with Section 36.108(d). As such, we look forward to participating in review and calibration of the GAM improvements, and then the opportunity to use the science resulting to inform policy and technical decisions during consideration of the nine factors during the next round of review.

Respectfully submitted,



Steve Box
Executive Director
Environmental Stewardship

cc:	Senator Kirk Watson, District 14	Judge Paul Pape, Bastrop County
	Senator Louis Kolkhorst, District 16	Judge Paul Fischer, Lee County
	Representative John Cyrier, District 17	GMA-12 Districts and Representatives
	Eric Allmon, Attorney for ES	Consultants to Districts

Attachment: Annotated Response by Environmental Stewardship to DESIRED FUTURE CONDITION EXPLANATORY REPORT FOR GROUNDWATER MANAGEMENT AREA 12 (DRAFT)

Environmental Stewardship is a charitable nonprofit organization whose purposes are to meet current and future needs of the environment and its inhabitants by protecting and enhancing the earth's natural resources; to restore and sustain ecological services using scientific information; and to encourage public stewardship through environmental education and outreach. We are a Texas nonprofit 501(c) (3) charitable organization. For more information visit our website at <http://www.envirostewardship.org/>.