

**APPLICATION OF LOWER COLORADO  
RIVER AUTHORITY FOR OPERATING  
AND TRANSPORT PERMITS FOR  
EIGHT WELLS IN BASTROP COUNTY,  
TEXAS**

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**BEFORE THE LOST PINES  
GROUNDWATER  
CONSERVATION DISTRICT**

**Explanation of the Board of Director’s Final Decision and differences with the State Office of Administrative Hearings’ Proposal for Decision.**

UNIVERSAL: Many of the edits were necessary to change the document from a proposed decision to a final decision. References to decisions by the Administrative Law Judges were identified as such and in the proper tense. The grammar was corrected throughout the document as well. Specific edits made by the Board of Directors are listed below.

**SECTION I.**

One paragraph was added stating the Board’s final decision.

**SECTION II.**

A sentence reciting the Board’s action to refer the matter to SOAH for a preliminary hearing and possible contested case hearing was added. This section was edited to focus on the final, revised draft permits and note that the revised draft permits made moot the question of delivering groundwater downstream from the well field.

**SECTION IV.**

In Subsection 4, “The Modeling Does Not Show Unreasonable Effects,” added a new subsection stating the Board’s conclusion that limiting the production permit to 8,000 acre-feet for the initial five-year permit term also provides real-world information to help decide any future permit amendment applications.

In Subsection C, “Well Drawdown and Interference,” added a new subsection stating the Board’s conclusion that the Final Operating Permit allows the GM to restrict the rate of withdrawal and will also require LCRA to file amendment applications to increase the authorized withdrawal amount.

In Subsection D, “Management of Total Groundwater Production on a Long-Term Basis to Achieve Desired Future Condition,” under the ALJ’s analysis, added a reference to amendments the Legislature adopted in 2015 to Water Code §36.1132 to change the MAG from a permit cap to a production limit.

In Subsection G. “Phasing,” added a statement that the arguments related to phased-in production are moot under the Final Operating Permits, which do not include any phasing requirements or options. LCRA will have to file permit amendment applications if it desires to increase production at any point in the future. Should any amendment applications be filed, the parties here or any future protestants will have the opportunity to contest whether the groundwater will be put to any beneficial use and if the additional production will cause unreasonable local impacts. In addition, the entire discussion related to “binding contracts,” the “phasing formula,” and “concerns about local impact and input” to the decisions to advance to the next phase are deleted as irrelevant to the Final Operating Permits.

In Subsection H, “Monitoring Well Agreement,” added a paragraph to the section discussing the ALJs’ conclusions stating the Board’s decision that while a permittee may agree to a special condition to negotiate a future contract as part of a settlement agreement, the District may not impose such a condition. Further, because the Final Operating Permit does not include the proposed phasing provisions, there is no need to condition such phasing on following the Monitoring Well Agreement.

In Subsection K, “Place and Type of Use.” added the statement that the Board approved Final Operating Permits that allow all beneficial uses authorized by Water Code § 36.001(9)(A)-(B).

#### SECTION V.

Added a paragraph stating that the Board concluded that the second factor relating to the projected effect of the proposed transfer on aquifer conditions, depletion, subsidence, or effects on existing permit holders or other groundwater users within the District was analyzed for the Operating Permit, and that analysis applies here. For the third factor related to the approved regional water plan and approved District management plan, the Board reviewed the evidence presented through the Region K and Region G Water Plans and the District’s management plan. The Final Transport Permits meet all the requirements of Water Code § 36.122(f) and District Rule 6.3

Because the applications were amended to change the proposed Place of Use to points upstream of the well field, the special provision prohibiting discharge of the groundwater into a surface water course was removed from the Final Transport Permit. The entire discussion of the Transport Permit special provision and the issue of whether discharge to a surface water course is waste as defined in the District Rules and Chapter 36 of the Water Code was deleted from the Final Decision. Consequently, there are no Findings of Fact or Conclusions of Law related to that issue in the Final Decision.

#### SECTION VI

This section was edited to reflect the conclusions reached by the Board in the Final Decision. Findings of Fact that are not relevant to the permits as issued were deleted.

#### SECTION VII

Added a conclusion that the District issued Operating Permits for a term of five years and a separate conclusion that Transport Permits are three years unless the permittee has either already begun construction of a conveyance system or begins construction of a conveyance system before the expiration of the 3-year permit term, in which case the permit term is extended to 30 years.

Conclusions related to the definition of “waste” were removed as irrelevant to the permits as issued.