

**MINUTES OF THE JULY 9, 2019
BOARD OF DIRECTORS MEETING OF
NORTH PLAINS GROUNDWATER CONSERVATION DISTRICT**

The Board of Directors of North Plains Groundwater Conservation District met in regular session July 9, 2019, at 9:00 a.m. in the Conference Room of the Hampton Inn & Suites, 2010 South Dumas Avenue, Dumas, Texas 79029. The following persons were present:

Members Present at 9:03 a.m.:

Daniel L. Krienke, President;
Bob B. Zimmer, Vice-President;
Mark Howard, Secretary;
Gene Born, Director;
Harold Grall, Director;
Justin Crownover, Director; and
Zac Yoder, Director.

Staff Present during part or all of the meeting:

Steve Walthour, General Manager;
Dale Hallmark, Assistant General Manager — Hydrologist/Production Services;
Kirk Welch, Assistant General Manager — Outreach;
Kristen Blackwell, Executive Assistant;
Casey Tice, Compliance Coordinator;
Odell Ward, Program Coordinator — GIS/Monitor Wells; and,
Julia Stanford, Conservation Outreach Specialist.

Others present during part or all of the meeting:

Marvin W. Jones, Esq.
Kelli Johnson, Prestage Farms of Oklahoma, LLC;
Greg Stephens, Prestage Farms of Oklahoma, LLC;
Sabrina Levin, RNA;
Nicole Spencer, RNA;
Nicholas Kenny;
F. Keith Good, Attorney; and,
Ellen Orr, Paralegal.

President, Daniel L. Krienke, declared a quorum present and called the meeting to order at 9:03 a.m. Vice-President, Bob B. Zimmer, gave the invocation and President Krienke led the pledge.

Executive Session - Section 551.071 of the Texas Government Code.

At 9:05 a.m., Vice-President Bob B. Zimmer moved to go into Executive Session in compliance with the Texas Open Meetings Act, Chapter 551 of the Texas Government Code, §551.071, to obtain legal advice on matters in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas conflict with Chapter 551. Harold Grall seconded the motion and it was unanimously approved by the Board.

Executive Session: At 9:05 a.m., the Board went into Executive Session. At 9:15 a.m., Director Zac Yoder moved that the Board reconvene into regular session. Mark Howard seconded the motion and it was unanimously approved by the Board.

In public open session, Gene Born moved that the Board reconvene into regular session. Bob Zimmer seconded the motion and it was unanimously approved by the Board. The Board reconvened into regular session at 9:17 a.m.

President Krienke recessed the regular Board Meeting at 9:17 a.m. to conduct the public hearing concerning the Application for Exception to District Rules 3.4; 3.7; 5.1.1.; 5.1.4.A.; and 5.1.5, filed by Marvin W. Jones, Esq., on behalf of Prestage Farms of Oklahoma, LLC.

President Krienke closed the public hearing at 10:36 a.m.

President Krienke reconvened the regular Board meeting at 10:36 a.m. and recessed the regular Board meeting at 10:37 a.m.

President Krienke reconvened the regular Board meeting at 10:46 a.m.

1 – Public Comment

No Public Comment was made to the Board.

2 – Consent Agenda

The Consent Agenda was discussed by the Board and consisted of: the review and approval of the Minutes of the regularly scheduled June 11, 2019 Board of Directors Meeting; the review and approval of the Minutes of the Agriculture Committee Meeting held June 28, 2019; the review and approval of the Minutes of the Property Committee Meeting held on June 28, 2019; the review and approval of the Minutes of the Finance Committee Meeting held on June 28, 2019; the review and approval of un-audited District expenditures for June 1, 2019 through June 30, 2019, including the General Manager's expense and activity report; the review and approval of payment to Lemon, Shearer, Phillips & Good, P.C. for professional services and out-of-pocket expenses from June 1, 2019 through June 30, 2019, in the amount of \$9,011.38; the ratification of the Moore County Tax Collection Contract for 2019-2020; the review and consideration of the Texas Municipal League rerate notice for employee health insurance; and consideration of the Hansford County Tax Sale.

Zac Yoder moved to approve the Consent Agenda. Harold Grall seconded the motion and it was approved by the majority vote of the Board, with Gene Born being absent from the room.

Action Agenda 3.a. - Consider action concerning the Prestage Farms of Oklahoma, LLC. application for exception to District Rules 3.4; 3.7; 5.1.1.; 5.1.4.A.; and 5.1.5.

Executive Session - Section 551.071 of the Texas Government Code.

At 10:48 a.m., Vice-President Bob B. Zimmer moved to go into Executive Session in compliance with the Texas Open Meetings Act, Chapter 551 of the Texas Government Code, §551.071, to obtain legal advice on matters in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas conflict with Chapter 551. Justin Crownover seconded the motion and it was unanimously approved by the Board.

Executive Session: At 10:48 a.m., the Board went into Executive Session. At 11:06 a.m., Director Harold Grall moved that the Board reconvene into regular session. Gene Born seconded the motion and it was unanimously approved by the Board.

In public open session, Harold Grall moved that the Board reconvene into regular session. Mark Howard seconded the motion and it was unanimously approved by the Board. The Board reconvened into regular session at 11:07 a.m.

Mark Howard moved to grant Prestage Farms of Oklahoma, LLC an exception to District Rule 3.4 and for the District's general counsel to prepare a draft of an Order for presentation to the Board. Harold Grall seconded the motion and it was unanimously approved by the Board.

Action Agenda 3.b. - Consider action recommended by Amarillo National Bank to change third-party administration of the District's 457 John Hancock Retirement Plan.

The General Manager stated that the Board selected Amarillo National Bank ("ANB") to manage the District's 457 Retirement Plan account in 2005. The District was contacted in January by Amarillo National Bank recommending that the District change its third-party administrator from CRI and John Hancock, to Empower Retirement for the District's 457 retirement plan. Currently the District's plan is with CRI & John Hancock. John Hancock holds the investments and CRI handles compliance. Empower is a bundled provider so it will replace both CRI and John Hancock. This item does not affect the District's overall budget and is offered as an employee benefit for those employees who wish to save additional pretax funds for retirement.

ANB has reported that Empower's Retirements platform works well with ANB's investment services, provides a more user-friendly interface for investing, and will result in lower investment and financial fees for District personnel.

The Finance Committee proposed that the Board authorize the change of the District's third-party administrator from CRI and John Hancock to Empower Retirement for the District's 457 retirement plan.

Harold Grall moved that the Board authorized the change of the District's third-party administrator from CRI and John Hancock to Empower Retirement for the District's 457 retirement plan. Zac Yoder seconded the motion and it was unanimously approved by the Board.

Action Agenda 3c - Consider final compliance approval of Water Well Permits as active and complete wells.

The General Manager reported that District Rule 2.13 provides, after the site inspection is complete, and it is determined that the Well (and all Wells within the Groundwater Production Unit) are in compliance with the Rules of the District, and the Well Permit application, the General Manager shall submit the Well Permit to the Board for final compliance approval.

The General Manager reported that the District staff had processed 27 Water Well Permits which are ready for Board consideration and approval. These permits, listed in the table below, represent completed Wells that have been inspected and are in compliance with District Rules. The inspections verify that the Wells were completed as required by the respective Permits, including proper Well location, Well classification, maximum yield, and proper installations of check valves and flow meters. Copies of the individual permits were presented to the Board.

WELL	CLASS	SEC	BLK	SUR	NS	EW
DA-9491	C	SE/4	2	7	CSS	189 S
DA-10396	C	SE/4	38	5	CSS	38 S
DA-10414	C	NW/4	26	1	BS&F	132 N
DA-10619	C	NE/4	52	4	CSS	407 N
HA-10014	B	NE/4	12	5	GH&H	12 N
HA-10379	C	SE/4	29	11	CSS	82 S
HA-10401	C	NE/4	13	11	CSS	359 N
HA-10406	C	SE/4	1	11	CSS	437 S
HA-10407	C	NW/4	26	11	CSS	450 N
HA-10426	C	NW/4	5	A-2	PSL	127 N
HN-10356	C	NE/4	7	P	H&GN	128 N
HN-10409	D	SE/4	28	1	CIF	305 S
MO-10171	C	SE/4	430	44	H&TC	538 S
SH-10382	C	SE/4	66	3-T	T&NO	314 S
SH-10388	C	SW/4	39	1-C	GH&H	518 S
DA-10442	B	NW/4	45	4	CSS	351 N
DA-10463	B	NE/4	12	48	H&TC	422 N
HA-9848	B	SE/4	5	5	GH&H	114 S
HA-10280	B	NE/4	60	2	B&B	37 N
HA-10507	C	SW/4	14	11	CSS	833 S
HN-10506	C	NW/4	64	4-T	T&NO	784 N
MO-10447	B	SE/4	13	Q	H&GN	357 S
MO-10502	C	NE/4	386	44	H&TC	84 N
SH-5326	B	SE/4	183	1-C	GH&H	104 S
SH-10096	B	NE/4	175	1-T	T&NO	512 N
SH-10456	C	NW/4	1	2	PSL	856 N
SH-10459	C	NE/4	146	1-T	T&NO	870 N

Mark Howard moved to approve the Well Permits on the Well Permit Schedule, noting that the Wells are properly equipped and otherwise comply with District Rules. Zac Yoder seconded the motion and it was unanimously approved by the Board.

Action Agenda 3.d. - Receive preliminary report regarding the North Plains GCD tax valuations for the purposes of developing a budget.

The General Manager reported to the Board that the District had received information regarding potential tax income that should provide the Board some guidance related to potential tax income in developing a budget for 2019-2020.

The eight county appraisers have provided the District preliminary values for 2019 tax valuations across the District. Unless there is a major error in numbers received from an appraisal district, these preliminary valuations will be very close to the certified numbers later this year.

If the District elects to adopt its current tax rate of 0.33136 per \$100 of valuation, income from taxes would be \$2,132,046, or approximately \$136,326 less than anticipated for the 2018-2019 year. If the District elects to adopt the effective tax rate, the tax rate would climb to approximately 0.035156762/\$100 valuation. The table below shows tax values from 2013 through the estimated 2019 values.

PRELIMINARY VALUES								
County	2013	2014	2015	2016	2017	2018	2019	2019 compared to 2018
Dallam	705,324,465	736,674,045	803,102,856	854,627,537	892,889,155	898,572,736	911,377,196	1.42%
Hansford	598,011,802	629,065,320	657,620,582	552,556,961	521,523,254	543,520,467	478,298,011	-12.00%
Hartley	594,833,715	588,456,108	609,979,400	607,891,134	677,107,188	722,720,265	701,655,699	-2.91%
Hutchison	233,750,810	206,343,400	186,668,380	121,890,140	112,744,190	120,874,840	120,497,180	-0.31%
Lipscomb	1,217,513,558	1,219,888,949	910,776,732	564,658,748	622,855,165	631,672,875	622,792,127	-1.41%
Moore	2,288,939,037	2,245,567,863	2,149,580,872	1,888,090,299	1,933,338,389	1,989,268,573	1,982,011,024	-0.36%
Ochiltree	1,730,153,898	1,976,158,575	2,159,858,960	1,485,046,565	1,430,482,148	1,488,422,874	1,180,439,483	-20.69%
Sherman	625,571,890	665,431,950	626,051,650	515,290,433	503,931,340	506,939,140	490,119,801	-3.32%
Total	7,994,099,175	8,267,586,210	8,103,639,432	6,590,051,817	6,694,870,829	6,901,991,770	6,487,190,521	-6.01%

Action Agenda 3.e. - Receive a report regarding the Agriculture Committee recommendations for the 2019-2020 Budget

Zac Yoder and the General Manager reported that the Agriculture Committee met on Friday, June 28, 2019 in District offices to develop its recommendations for the 2019-2020 budget year. The committee recommended the following:

Use of ICI Funds for Master Irrigators

The District received funds from the TWDB in 2017 for the purchase of irrigation efficiency equipment. While 29 growers in the District qualified to use the funds, very few have approached the District for reimbursement. Cameron Turner with the TWDB has suggested that the District could make use of the funds to support equipment purchases for current and future Master Irrigator graduates, as a way to realize conservation benefits from the money as soon as possible. The contracts with TWDB do allow for the funds to be used in this manner.

By consensus, the Agriculture Committee recommended that the Board make ICI funds available to other conservation programs subject to Board approval after October 1, 2019.

Discontinue Irrigation Dashboard Project

In August of 2016 the District entered into an agreement with Texas A&M AgriLife and the TWDB to develop an integrated system to assimilate the data from multiple sources and generate water use recommendations based on the data. The District applied to the TWDB and received approval for \$15,000 in funding to offset programming and promotion costs associated with the project. Former Texas A&M AgriLife engineer, Charles Hillyer ("Hillyer"), was the project lead on the initiative titled "Efficient Irrigation Management via a Fully Integrated System." While Hillyer made progress on the system programming, the project was ultimately reliant on the main technology providers agreeing on, and creating, a standard format for information delivery called the Precision Ag Irrigation Language (PAIL) format. This part of the project caused significant delays. In the meantime, Hillyer left Texas A&M. To date, the District has not spent any of the funds. The minimal expenses submitted by Hillyer were rejected for reimbursement by Texas A&M because it was related to an out-of-state meeting. In the intervening years, it also appears that similar, proprietary solutions have been developed by individual vendors, but the universal data standard is still in development. Considering these circumstances, the General Manager recommended that the District end the project including its claim to the \$15,000 in TWDB funds associated with this project.

By consensus, the Agricultural Committee agreed to recommend to the Board, that the District discontinue the Irrigation Dashboard Project.

The Agriculture Committee recommended the following budget for agricultural conservation programs for the 2019-2020 fiscal year:

Master Irrigator	40,000
Subcontracted Services	129,000
<i>(Kenny 65k, Spain 26k, Bell 24k, New 14k)</i>	
Tech/Computer	60,000
TWDB Meter Grant	150,000
ICI to Other Conservation Programs	200,000
Ag Water Update (radio)	45,000
Cover crop demonstration	<u>15,000</u>

Conservation Demo Project \$639,000

The Agriculture Committee also requested that pass-through money from grants be broken out separately from money received though taxpayer dollars to be more transparent with District finances. The Agriculture Committee agreed with Chairman Yoder and by consensus agreed to recommend that the Board approve conservation demonstration funding at the levels listed above, as amended.

Harold Grall moved that the Board make ICI funds available to other conservation programs subject to Board approval after October 1, 2019; that the District discontinue the Irrigation Dashboard project, including the District's claim to the \$15,000 in TWDB fund; and to direct the General Manager to prepare a budget that shows pass-through money from grants being broken out separately from money received though taxpayer dollars to be more transparent with District finances. Gene Born seconded the motion and it was unanimously approved by the Board.

Action Agenda 3.f. - Receive a report regarding the Property Committee recommendations for the 2019-2020 budget.

The General Manager reported that the Property Committee met on Friday, June 28, 2019 in the District offices to develop its recommendations for the 2019-2020 budget year. Potential construction is listed in the table below with the first column ranked by the Committee as to what it proposes as a priority.

Ranking	Item	Notes	Estimated Costs	Construction Year	Priority
1	Convert WCC Lab	Improve WCC Lab into a year-round meeting space with	?		High
6	Improve WCC Barn	Update and repair building	?		Medium
5	Old Building Removal	Put out for bid, and removal by buyer remove building and slab.	?		Pending 1 st Place Construction
7	Office Parking	10 lots, south side of office	?		Low
8	Office Xeriscaping	Xeriscape east end of main	30,000		Low
3	1st Place New Building	Develop clean storage facility.	?		High
4	1st Place Lot utilities	Lighting, sewer, water	20,000		Pending 1 st Place Building Design
2	Upgrade WCC Septic System	Anticipate that the septic system is insufficient to hold regular large meetings.	?		Pending Conversion of WCC Lab.

\$200,000 for construction expenses has been placed in the draft budget; however, the Property Committee proposed that the Board direct the General Manager to seek an "Opinion of Cost" for potential construction at the Water Conservation Center and the property located on 1st Place Street from a qualified Architectural/Engineering firm before the District contemplates further construction on these projects.

Mark Howard moved that the Board direct the General Manager to seek an "Opinion of Cost" for potential construction at the Water Conservation Center and the property located on 1st Place Street from a qualified Architectural/Engineering firm. Gene Born seconded the motion and it was unanimously approved by the Board.

Action Agenda 3.g.- Consider Finance Committee recommendation to propose the District budget for 2019- 2020.

The General Manager stated that as a taxing entity, the District must propose a budget to determine its fiscal needs before setting a tax rate. The General Manager has analyzed the District’s fund balance reserves and developed a preliminary 2019-2020 budget for the purposes of developing and estimating a tax rate and providing a starting point for the Board to finally adopt a budget.

The District began the 2018-2019 budget year with \$2,031,616.26 funds in reserves. As of June 26, 2019, the District’s cash and certificates of deposit has grown to \$2,660,977.21. By the end of this fiscal year (EOY) the General Manager estimated that the funds will be reduced by \$447,642.09 leaving \$2,213,335.12 in reserves to start the 2019-2020 budget year. If the District elects to collect the same taxes for 2019-2020 as the previous year, and adopts the income and expense budget shown below, the District would further decrease its fund balance reserves by \$300,268.48 to \$1,913,066.64. Normally, the District does not spend all of the expense budget.

The draft income budget is as follows:

Description	2018-2019 Budget	2018-2019 EOY	Preliminary 2019-2020 Budget	Explanation
Taxes	2,240,722.52	2,270,066.83	2,240,722.52	
Penalties and Interest	12,850.00	19,679.68	12,850.00	
Delinquent Taxes	14,800.00	4,199.73	14,800.00	
North Plains Water CC	30,000.00	42,000.00	42,000.00	
Refunds	5,000.00	6,518.93	5,000.00	
Sale of Assets	5,000.00	0.00	0.00	
Fees for District Services	110,000.00	128,900.00	130,000.00	
Other Income	30,000.00	24,175.68	25,000.00	
TWDB Grant - Dashboard	15,000.00	0.00	0.00	Close
TWDB 3-4-5 Demonstration Grant	30,000.00	0.00	0.00	Close
TWDB Meter/ Equipment Grants	200,000.00	147,411.92	150,000.00	Meter Grant
TWDB ICI Grants	200,000.00	22,216.32	200,000.00	Convert to other programs approved by Board
USDA/NRCS Grant	30,000.00	0.00	40,000.00	Grant Application
TWDB AGRI Loan Program	0.00	0.00	1,000,000.00	Agriculture Equipment Loan Program
Investment Income	9,548.17	19,051.64	20,000.00	Estimated Current EOY
Dallam Co. PGMA fees	70,000.00	84,021.70	70,000.00	Estimate revised based on EOY
Export Fees	40,000.00	43,547.76	40,000.00	Collection of Export Fees
Total Income	3,042,920.69	2,811,790.19	3,990,372.52	

The income budget contemplates receiving the funds for the District to make irrigation equipment loans to producers, a pending USDA Grant application, and additional funds available from the ICI program that can be converted to Board-approved programs, such as the Master Irrigator incentives.

The draft expense budget is as follows:

Description	2018-2019 Budget	2018-2019 EOY	Preliminary 2019-2020 Budget	Explanation
Director's Expense	70,000.00	50,374.92	65,000.00	
Personnel	1,210,939.00	1,131,259.21	1,205,732.00	
Administrative	148,500.00	113,521.42	148,500.00	
Contracted Services	107,000.00	87,056.20	126,000.00	CAD and GMA-1 Costs
Professional Fees	198,000.00	144,450.23	183,000.00	Interim Legislative Year
Tech., Comm., & Utilities	140,000.00	121,789.61	140,000.00	
Vehicle; Bldg.; Field; Supplies	91,000.00	78,303.18	91,000.00	Vehicle and Building Maint. and Repair, fuel
Capital Outlay	240,000.00	227,685.00	270,000.00	Construction fund, equipment vehicle
Aquifer Science	120,000.00	111,572.52	250,000.00	USGS/field data costs/observation wells
Conservation Outreach	515,000.00	245,887.61	495,000.00	Radio, Meters, and other conservation programs
Conservation Demo Project	220,000.00	216,229.01	244,000.00	
North Plains WCC	15,068.00	7,569.28	10,000.00	Small equipment and repair
Transfer Out	62,409.00	62,409.00	62,409.00	WWC Irrigation Equipment
TWDB AGRI Loan Program	0	0.00	1,000,000.00	New Loan for Irrigation Conservation
Total Expenses	3,075,507.00	2,535,698.19	4,290,641.00	
Total Net Income/Expenses	-32,586.31	276,092.00	-300,268.48	

The expense budget includes additional costs for the county appraisal districts, the GMA-1 joint planning, a construction fund, replacing a vehicle, additional funds to drill replacement observation wells and increased funds in the Conservation Outreach for the radio conservation segments, and Master Irrigator Incentives. The Conservation Demonstration Project was increased to cover the Cotton & Conservation Project, and various irrigation conservation subcontracting services. The expense budget assumes that all of the Irrigation loan funds will be loaned in its first year.

The Finance Committee proposed the above budget as amended, as the Proposed Board Budget for fiscal year 2019-2020.

Bob B. Zimmer moved that the Board propose the budget, as amended, recommended by the Finance Committee for the District's 2019-2020 fiscal year. Harold Grall seconded the motion and it was unanimously approved by the Board.

Action Agenda 3.h.- Consider General Manager's request to amend the District's 2018-2019 Budget.

The General Manager stated that the District's information technology contractor has recommended that the District upgrade its computers because the current computers struggle to run the Windows 10 operating system, the GIS applications and the media applications used by the District. The General Manager has reviewed the District's 2018-2019 budget to cover possible costs under specific budget items. The General Manager requested that the Board amend the District's 2018-2019 budget as follows:

Budget Item description	Current Budget Amount	Increase or (Decrease)	Proposed Budget Amount	Explanation
Conservation Outreach	515,000.00	-20,000.00	495,000.00	Reduced to pay for needed computer replacements
Personnel	1,210,939.00	-10,000.00	1,200,989.00	Reduced to pay for needed computer replacements
Capital	240,000.00	30,000.00	270,000.00	Increased to pay for needed computer replacements
Total overall 2017-2018 budget change		0.00		No change in overall budget

The General Manager reported that the proposed budget amendments will make no change in the District's overall budget for fiscal year 2018-2019.

Gene Born moved that the Board amend the 2018-2019 budget as follows:

- Decrease conservation outreach budget from \$515,000.00 to \$495,000.00;
- Decrease personnel budget from 1,210,939.00 to 1,200,989.00; and,
- Increase capital expenses budget from \$240,000.00 to \$270,000.00.

Zac Yoder seconded the motion and it was unanimously approved by the Board.

Action Agenda 3.i.- Receive Quarterly Investment Report ending March 31, 2019.

The General Manager stated that as the District's finance officer, the General Manager had completed the quarterly investment report ending March 31, 2019. Mr. Walthour presented the report to the Board. The report reflected the District's investment transactions for all District funds subject to the District's Public Funds Investment Policy.

The report described in detail the District's investment position as of March 31, 2019; stated the maturity date of each separately invested asset that has a maturity date; and stated the compliance of the investment portfolio of the District with the investment strategy expressed in the District's Investment Policy; and relevant provisions of the Public Funds Investment Act, Chapter 2256, Texas Government Code (the "Act").

The Board directed that public funds investments shall be made with judgment and care, under prevailing circumstances, that a person of prudence, discretion, and intelligence would exercise in the management of the person's own affairs, not for speculation, but for investment, considering the probable safety of capital and the probable income to be derived. The order of investment priorities are as follows:

1. Preservation and safety of principal;
2. Liquidity;
3. Yield.

In determining whether an investment officer has exercised prudence with respect to an investment decision, the determination shall be made taking into consideration the investment of all funds, or funds under the District's control, over which the officer had responsibility rather than a consideration as to the prudence of a single investment; and whether the investment decision was consistent with the District's written Investment Policy.

The District may invest in obligations of, or guaranteed by, governmental entities as provided in Section 2256.009(a) of the Act.

The General Manager recommended that the Board accept the Quarterly Investment Report as presented, for the period ending March 31, 2019.

Harold Grall moved that the Board accept the Quarterly Investment Report presented by the General Manager for the period ending March 31, 2019. Bob B. Zimmer seconded the motion and it was unanimously approved by the Board.

Action Agenda 3.j.- Receive report and consider action regarding Groundwater Management Area - 1 Joint Planning Committee and Panhandle Water Planning Group.

The General Manager stated that Groundwater Management Area district managers have been negotiating a contract with Intera. Since the negotiation process has begun and the 86th Legislative Session has been completed, the Texas Water Development Board staff has indicated that the GMAs can use the previous model runs from the last round of Joint Planning. As a result of this information, Intera proposed a new scope of work. The scope of work would include the non-modeling items in joint planning with the modeling portions broken out if Groundwater Availability Model runs are needed. At this point the four districts would equally share in the estimated \$118,000 cost and potentially modeling items would be split among the districts that needed the work. The table showing the estimated costs are as follows:

Estimated Cost by Fiscal Year (beginning October 1)				
Scope Category	Cost Estimate	2019	2020	2021
Joint Planning Assistance (all non-modeling scope items)	\$118,000	10%	50%	40%

Estimated Cost by Fiscal Year (beginning October 1)				
(Modeling Items Below Require Additional Authorization Prior to Proceeding)				
Scope Category	Cost Estimate	2019	2020	2021
Update GAM Pumping to 2018 Conditions	\$17,500		100%	
First DFC Model Run	\$10,000		100%	
Each Subsequent DFC Model Run	\$6,000		50%	50%

The pumping captured in the groundwater availability model (GAM) is through 2012. The General Manager recommended that the District may want to update its GAM Pumping to 2018 conditions because the additional information will make the model more accurate and ensure that the District does not get any surprises during joint planning beginning in 2024.

Panhandle Water Planning Group.

On June 26th, the Agriculture Committee of the Panhandle Water Planning Group (PWPG) met to develop reasonable socio-economic estimates regarding future groundwater demand and need (shortages). A problem with the method in determining demand is that the TWDB estimate of water use does not reflect the information for those producers that do not participate in federal programs. A subcommittee has been established to make recommendations regarding how to develop better data sets that would include crop and a more detailed location for groundwater pumping. Daniel L. Krienke, Steve Walthour, Ben Weinheimer, and Brent Auvermann are voting members on the subcommittee that will be led by Steve Amosson.

Action Agenda 3.k.- Consider Agriculture Committee request to extend Nicholas Kenny contract.

The General Manager reported that for the 2018-19 budget, Nicholas Kenny's ("Kenny") contract was increased by \$10,000 from \$36,000 to \$46,000 to allow for funds to compensate Mr. Kenny through the 2018-2019 budget year. The District entered into a contract with Kenny for agricultural engineering services in July of 2018. That contract will expire on July 15, 2019. Since initiating the contract, Kenny has, at the District's

request, assumed additional responsibilities including presenting at a 2019 Master Irrigator session, and assisting with public outreach through newsletter articles and the development of an ongoing educational radio segment. In addition, he has made three trips to the Panhandle from his hometown in Mesa, Arizona to coordinate the conservation demonstrations at the Water Conservation Center and will begin providing technical assistance to past Master Irrigator graduates on his next visit. Two more visits are already tentatively scheduled for July. In addition, Kenny is coordinating with Dr. Jourdan Bell on the AgriLife cover crop demonstration and on the District's cotton Water Efficiency Trials (WET) that are using the same fields as Bell's Replicated Agronomic Cotton Evaluation (RACE) trials. The District is supplying equipment and funds for the WET demonstration and Kenny will analyze and present the data. Kenny's role has expanded from technical consultant to District ag conservationist.

The General Manager recommended that the Board authorize the preparation of the 2019-2020 contract with Nicholas Kenny at the new level of \$65,000.

Zac Yoder moved that the Board direct that the General Manager prepare an amended contract for Nicholas Kenny for \$65,000 beginning on July 15, 2019. Harold Grall seconded the motion and it was unanimously approved by the Board.

Action Agenda 3.l.- Receive report and consider proposed agriculture conservation loan agreement with Texas Water Development Board.

The General Manager reported that the Texas Water Development Board is scheduled to consider the District's application for a \$1,000,000 loan for pivot irrigation systems at their board meeting on August 15th. The General Manager will attend the meeting to provide any additional information the TWDB board may require. The District will ask that the closing date for funding be after October 1, 2019 to be counted as income for the District's 2019-2020 fiscal year.

If the application is approved, District staff will begin advertising for a loan reviewer position. Once the reviewer is hired, District staff will begin publicizing the availability of the loan funds using traditional means and social media. District administration will process the loan applications and the loans that are recommended by the loan reviewer and approved by the District's Board.

Action Agenda 3.m.- Receive report and consider action as needed regarding District agriculture irrigation demonstration conservation programs and other water conservation education initiatives.

The General Manager and the Assistant General Manager — Outreach, Kirk Welch, presented the following reports to the Board:

WCC Demonstrations

Drip and Pivots all started watering on the week of June 24-28th. Fertilizer recommendations have been provided by David Reinart. East Pivot yield goals of 235 and 250 bushels/acre. Fertilizer will be applied in the 70# range prior to tassel, beginning with the next application. The prototype Ferti-trac injection pump is not functional yet and is not available for review at the WCC. The District will need to make a manual rate change on the East pivot for the fertility review. This is an incremental step toward evaluating a true VRI/VRFert pivot in practical form.

Curtis Schwertner has installed the gypsum blocks across the farm. This includes the blocks for Jourdan Bell, the cover crop study, and the WCC work in cotton and corn. Nicholas Kenny has built a spreadsheet to track Curtis Schwertner's weekly readings and they are currently up to date.

AquaSpys have been installed and all are in the upper green range. Cotton drip is slightly saturated. Our water applications with fertilizer will be basically fertilizer passes. Adam Ford crop evaluations/reports are excellent and very helpful including, growth staging weekly and pest control recommendations. Stan Spain has been sharing the information with Nicholas Kenny.

Stan Spain and Nicholas Kenny took an hour during the week of June 17th and updated all of the field operations for the WCC. Mr. Kenny reported that this is the backbone for the reporting and year-end evaluations.

Upcoming activity includes cotton stand counts over the week of July 8th, 2016 Master Irrigator interview/survey during week of July 8th. Steve Amosson is working on the questionnaire with input from Nicholas Kenny. Steve Walthour and Nicholas Kenny will conduct personal interviews.

Ag Water minute radio spots are going forward with Bill Bob Thrash (KXDJ). Nicholas Kenny will do a longer form interview during his next trip to Texas to discuss the status of the cotton crop and discuss some irrigation management strategies. The format allows for the District to provide a few bullet points and then permit Mr. Kenney to volley questions. In the next interview session, the District will also assemble a one-minute loop that details all of the locations where NPGCD information can be found.

Details about field days and any other technology transfer activities need to be determined. In the last meeting, the direction was that a mid-crop meeting was not a priority. Pioneer Crop Production Clinics will serve as the first delivery of results.

Cotton and Conservation Video Series

As a result of the District's first Cotton Program Advisory Committee meeting last August, the District and Texas A&M AgriLife Extension began a collaborative educational program. The program, known as the cotton Water Efficiency Trials, or WET, was created to help growers in the District be more successful growing cotton and more water efficient while growing the same. Dr. Jourdan Bell and County Extension Agents (CEA's) across the District provide the content and District Outreach staff produce weekly videos explaining current conditions from cotton fields. Originally, the locations were to include six sites that were already part of Dr. Bell's Replicated Agronomic Cotton Evaluations (RACE) Trials, as well as a large plot located at the North Plains WCC. However, due to unfavorable conditions at the beginning of the season, all but three of the cotton crops have been terminated. Those left in the WET project include the WCC, Sherman and Dallam Counties. Since early June, the District and Texas A&M have completed 10 videos. The video series can be found on the District's website at northplainsgcd.org/cotton. Below, are the numbers of views for each segment in the Cotton and Conservation Series.

Video Title	You Tube Views	Facebook Views
Introduction	92	76
06-04-19 NPWCC	32	35
06-05-19 Sherman County	21	46
06-11-19 Dallam County	18	40
06-12-19 Moore County Dryland	14	20
06-19-19 Sherman County	23	23
06-25-19 NPWCC	53	24
06-26-19 Moore County Dryland	15	Uploaded 7/1/19
06-26-19 Dallam County	15	24
How to do Stand Counts	24	Uploaded 7/1/19

Social Media

As over 70% of content on the District's social media platforms is related to agriculture, the exposure of social media posts on Facebook, Twitter, and Instagram are an important, measurable metric of the District's agricultural conservation outreach strategy. The chart below shows performance for those three social networks in the month of June, and the top 5 posts for each platform were presented to the Board.

North Plains GCD Social Media Performance, May 31-June 28, 2019					
Platform	Followers	Likes	Shares	Comments	Impressions*
Facebook	507	137	24	12	1,601
Instagram	223	N/A	N/A	N/A	N/A
Twitter	905	85	29	5	22,200
*Impressions is the number of times that content appeared in feeds.					

The District has entered into a \$40,000 cooperative agreement with NRCS to be used for outreach related to agricultural conservation.

Action Agenda 3.n.- Receive report regarding groundwater production reporting for 2018 and its relationship to Desired Future Conditions.

The General Manager reported that the District has received all 2018 production reports. In all counties, the average groundwater production reported compared to the number of acres in Groundwater Production Units (GPUs) was less than 1 acre-foot per acre groundwater pumped per acre of groundwater rights. The table below shows the reporting results by county in acres and acre-feet.

County Name	2018 Production (Acre-Feet)	2018 Groundwater Right Acres
DALLAM	349,900	452,400
HARTLEY	422,600	460,500
MOORE	200,600	230,100
SHERMAN	312,000	354,900
HANSFORD	190,800	233,400
HUTCHINSON	75,500	100,700
LIPSCOMB	44,200	75,100

OCHILTREE	95,500	141,400
WEST	1,285,100	1,497,900
EAST	406,000	550,600
Total	1,691,100	2,048,400

Groundwater production across the district was slightly higher than the average production from 2014 through 2018 but substantially lower than 2014. The table below shows 2014 through 2018 groundwater production in acre-feet and the five -year average across the District.

County	2014	2015	2016	2017	2018	Average
Dallam	393,700	297,000	339,200	312,300	349,900	338,420
Hartley	442,100	332,700	391,600	376,000	422,600	393,000
Moore	210,000	156,700	185,700	173,100	200,600	185,220
Sherman	361,400	251,700	285,300	265,100	312,000	295,100
Hansford	211,700	148,800	170,400	146,700	190,800	173,680
Hutchinson	74,000	57,700	67,700	63,600	75,500	67,700
Lipscomb	48,800	39,400	42,300	44,200	44,200	43,780
Ochiltree	106,300	77,400	81,400	77,300	95,500	87,580
West	1,407,200	1,038,100	1,201,800	1,126,600	1,285,100	1,241,400
East	440,800	323,300	361,700	331,900	406,000	374,080
Total	1,848,000	1,361,400	1,563,500	1,458,500	1,691,100	1,615,480

Groundwater production within the District for 2018 is below the 2020 Managed Available Groundwater (MAG). Hartley and Hutchinson Counties exceeded the 2020 MAG; however, the total groundwater production in the East and West Groundwater Management Zones are below the District's targeted 2020 MAG. The table shows the 2020 MAG compared to 2018 Production in acre-feet by county and by management zone.

County	2020 MAG	2018 Production
Dallam	401,663	349,900
Hartley	409,187	422,600
Moore	219,654	200,600
Sherman	398,183	312,000
Hansford	275,016	190,800
Hutchinson	62,803	75,500
Lipscomb	266,809	44,200
Ochiltree	243,778	95,500
West	1,428,687	1,285,100
East	848,406	406,000
Total	2,277,093	1,691,100

The General Manager stated that 2018 Annual Production does not exceed the 2020 MAG. Therefore, no conditions exist that would trigger District Rule 8.4 and District Rule 8.5 to reduce Allowable Annual Reduction.

Action Agenda 3.o.- Receive Hydrology and Groundwater Resources Report 2018-2019.

The Assistant General Manager — Hydrologist/Production Services, Dale Hallmark, and Program Coordinator — GIS/Monitor Wells, Odell Ward, presented the District's Hydrology

and Groundwater Resources 2018-2019 Report to the Board. A summary of groundwater production by county in acre-feet was presented as follows:

County	2014	2015	2016	2017	2018	Average
Dallam	393,700	297,000	339,200	312,300	349,900	338,420
Hartley	442,100	332,700	391,600	376,000	422,600	393,000
Moore	210,000	156,700	185,700	173,100	200,600	185,220
Sherman	361,400	251,700	285,300	265,100	312,000	295,100
Hansford	211,700	148,800	170,400	146,700	190,800	173,680
Hutchinson	74,000	57,700	67,700	63,600	75,500	67,700
Lipscomb	48,800	39,400	42,300	44,200	44,200	43,780
Ochiltree	106,300	77,400	81,400	77,300	95,500	87,580
West	1,407,200	1,038,100	1,201,800	1,126,600	1,285,100	1,241,400
East	440,800	323,300	361,700	331,900	406,000	374,080
Total	1,848,000	1,361,400	1,563,500	1,458,500	1,691,100	1,615,480

Action Agenda 3.p.- Receive Report regarding 86th Legislative Session.

The General Manager presented a report to the Board of the Bills affecting groundwater that passed and failed during the 86th Legislative Session.

Action Agenda 3.q.- Consider General Manager's request to modify the District's pay periods.

The General Manager stated that District employees are paid bi-weekly over 26 pay periods a year. Before the development of automatic payroll deposits, employees would turn in their timesheets in the morning on the last day of the pay period (Friday) and the District would do payroll that day. Employees currently expect to be, and have historically been paid, on the last day they work during a pay period. If an employee was absent the last day of the pay period and had not turned in their timesheet, the District would estimate non-exempt (hourly) employees' hours and pay accordingly. Since the District began doing automatic deposits to employees' paychecks in May 2007, the District has needed to submit its payroll data on Wednesday so funds could be deposited in employees' accounts by Friday. The General Manager has required employees to turn in their time sheets by noon on Wednesday of the pay period and estimate their hours, annual leave, and sick leave for the remaining period through Friday. The following week, District administration has adjusted payroll accounting to reflect any changes than what was estimated by the employee and his/her supervisor. District Administration adjusts payroll accounting, almost every pay period. Currently, if a holiday falls on the Wednesday or Friday at the end of the pay period, employees must turn in their time sheets earlier than Wednesday.

The following question was posed in regard to pay period modification: "Though there are some challenges in the way the District handles payroll accounting now, why change?" If the District can modify the timing of the end of the pay period and the payroll date to accurately account for all work time and absences before the District makes the payroll distribution, the District would decrease time and costs to the District for payroll accounting.

The General Manager's proposed change is to move the payroll reporting period to one week earlier than it is now and require employees to turn in time sheets the following week on Monday after the pay period. Payroll will be funded by Friday of that week. By moving the pay period back one week the District would keep the current paydays. To not adversely affect employees in the pay period transition, funding would be at the same level as currently expected by employees on payday. There is an initial accounting cost to the District of one week's wages. However, the employee will not see a change in his or her paycheck.

The General Manager recommended that the Board direct the General Manager to change the District's pay period and payroll distribution cycle so that the transition does not adversely affect employees' pay as described above.

Gene Born moved that the Board direct the General Manager to change the District's pay period and payroll distribution cycle so that the transition does not adversely affect employee pay as described above. Justin Crownover seconded the motion and it was unanimously approved by the Board.

Action Agenda 3.r.- Receive report and consider action regarding compliance and contested matters before the District.

The General Manager stated that presently there were no compliance or contested matters before the District.

Discussion Agenda 5.- Discuss Items for Future Board Meeting Agendas and Set Next Meeting Date and Time.

By consensus, the Board set its next regular meeting for August 27, 2019 at 9:00 a.m.

The Board recessed at 12:18 p.m. for lunch and reconvened at 12:45 p.m.

Discussion Agenda 4 a. - District Director Reports regarding meetings and/or seminars attended, weather conditions and economic development in each director's precinct.

No reports were received.

Discussion Agenda 4 b. - Committee Reports.

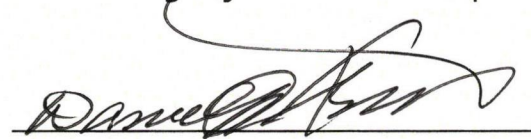
No Committee reports were presented, except as reported above.

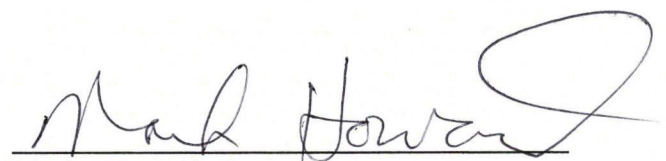
Discussion Agenda 4 c. - General Manager's Report.

No General Manager's report was presented.

Agenda 6 - Adjournment.

There being no further business to come before the meeting, President Krienke declared the meeting adjourned at 12:45 p.m.


Daniel L. Krienke, President


Mark Howard, Secretary

PUBLIC HEARING - July 09, 2019

BEFORE THE NORTH PLAINS GROUNDWATER

CONSERVATION DISTRICT

IN THE MATTER OF)	
PRESTAGE FARMS OF OKLAHOMA, LLC.,)	
)	
APPLICATION FOR EXCEPTION)	NPGCD BOARD ORDER
TO DISTRICT RULES 3.4, ;3.7;)	NO. 019-001
5.1.1.; 5.1.4.A.; and 5.1.5)	

PUBLIC HEARING

JULY 9, 2019

On the 9th day of July, 2019, the following Show Cause Hearing came on to be held before the North Plains Groundwater Conservation District Board at the Hampton Inn & Suites Conference Room, 2010 South Dumas Avenue, Dumas, Moore County, Texas.

Proceedings reported by computerized stenotype machine in accordance with Chapter 36.1071 of the Texas Water Code.

PUBLIC HEARING - July 09, 2019**APPEARANCES****DIRECTORS:**

Mr. Daniel Krienke Grall - President

Mr. Harold Grall

Mr. Bob Zimmer

Mr. Gene Born

Mr. Mark Howard

Mr. Justin Crownover

Mr. Zachary Yoder

Mr. Steve Walthour, General Manager

Mr. Good, General Counsel

Ms. Ellen Orr

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ATTACHMENTS

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PROCEEDINGS

(On record 9:00 a.m.)

MR. KRIENKE: At this time we'll recess the Open Meeting and proceed with the public hearing.

This public hearing is to provide Prestage Farms of Oklahoma, LLC, Prestage and other interested members of the public the opportunity to appear and provide comments on the Application for Exception to District Rule 3.4, 3.7, 5.1.1, 5.1.4.A, 5.1.5 filed by Prestage.

The Board is not required to make a decision today in regard to the Application for Exception filed by Prestage. Pursuant to District Rule 11.2.5, the Board is allowed 35 days after the date of this hearing to render its decision.

Cell phones are very distracting. As a courtesy to all parties present at this hearing, please do as I have done and turn your cell phones off. If you must make a phone call during the hearing, please leave the room so that you do not distract from the hearing process.

This formal hearing is being recorded by court reporter Dana Moreland; therefore, if you speak or ask a question, first, please say your name. Also, please refrain from talking over another speaker.

The Board may ask questions, but the Board

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1 will not respond to any questions during the hearing.

2 Every person attending this hearing must
3 conform to ethical standards of conduct and exhibit
4 courtesy and respect for all other participants and
5 observers.

6 No person may engage in any activity during
7 the hearing that interferes with the orderly conduct of
8 District Business. If in my judgment as presiding officer
9 a person is acting in violation of this provision, I will
10 first warn the person from engaging in such conduct. Upon
11 further violation by the same person, as the presiding
12 officer, I may exclude a that person from the proceedings.

13 At this time, the representatives of
14 Prestage will present its contention and arguments in
15 support of its Request for Exceptions to District
16 Rule 3.4, 3.7, 5.1.1, 5.1.4.A and 5.1.5.

17 Following Prestage's presentation,
18 Mr. Walthour, the General Manager of North Plains
19 Groundwater Conservation District will present the
20 applicable District Rules and the District's perception of
21 the relevant facts in the matter.

22 I would ask you that the court reporter
23 swear all the witnesses after she completes this, then I
24 will call Prestage Farms as their first witness.

25 So at this point, are there any witnesses

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1 that need to be sworn in as witnesses in this matter?

2 MR. JONES: Marty Jones on behalf of
3 Prestage Farms. Kelli Johnson will be a witness.

4 MR. WALTHOUR: Stephen Walthour, General
5 Manager for North Plains Groundwater Conservation
6 District.

7 (Witnesses duly sworn.)

8 MR. KRIENKE: Thank you. At this time
9 we'll call Prestage Farms' representative. I guess we
10 have two here, so in whatever order you want to speak,
11 Marty, you have the floor.

12 MR. JONES: Thank you. Where would you
13 like the witness?

14 (Sotto voce discussion off the
15 record.)

16 MR. JONES: May I proceed?

17 MR. KRIENKE: Yes, sir. I just want to
18 make a note for the record. I did receive your letter
19 dated May 20, and I would hope that that would be part of
20 the record that that would be part of your information
21 that you're going to enter into the record.

22 MR. JONES: All right, sir.

23 (Prestage Exhibit No. 1
24 marked for identification.)

25

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1 KELLI JOHNSON,
2 having been previously sworn, testified as follows:

3 EXAMINATION

4 BY MARTY JONES:

5 Q. Thank you plant, Mrs. Johnson, would you state
6 your name for the record.

7 A. Kelli Johnson.

8 Q. And how are you employed?

9 A. I'm employed for Prestage Farms; I'm the
10 environmental manager.

11 Q. All right. You live in Texhoma?

12 A. I live in Goodwell.

13 Q. Goodwell, Oklahoma?

14 A. Yes, sir.

15 Q. Which is not Texas?

16 A. No, sir.

17 Q. It's excusable. I have handed you -- let me
18 hand you what's marked as Exhibit 1 to this hearing. Is
19 that a copy of the letter that I wrote on your behalf,
20 dated May 20, 2019?

21 A. Yes, sir.

22 Q. Did that letter have attachments to it, as you
23 recall? For example, the TCEQ General Permit to
24 Discharge --

25 A. Yes, sir.

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1 Q. -- that's applicable to the property in question
2 here?

3 A. Yes.

4 Q. All right. Do part of your duties include --
5 and let me just offer Exhibit 1.

6 (Prestage Exhibit 1 offered into
7 evidence.)

8 MR. ZIMMER: Be sure she speaks loud enough
9 that I can hear. Since she's looking off that way, I
10 don't hear well.

11 MR. JONES: I understand that really well,
12 actually.

13 Q. (By Mr. Jones) So speak up, if you will
14 Mrs. Johnson.

15 A. Yes.

16 Q. Do your duties include interfacing with this
17 Board of North Plains Groundwater Conservation District?

18 A. Yes, they do.

19 Q. Prestage has filed an Application for Exception
20 to certain of the rules of the Groundwater District. Have
21 you been involved in that process?

22 A. Yes, I have.

23 Q. Do you have personal knowledge of the facts that
24 are leading up to this Application for An Exception?

25 A. Yes, I do.

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1 Q. All right. And here's what I'd like for you to
2 do. Just tell this Board why it is that Prestage Farms is
3 asking for an exception to certain of its rules.

4 A. Okay. Prestage Farms, for anyone who's not
5 familiar with us, we're a hog production company. We have
6 a facility -- every one of our facilities have two wells
7 on it, a primary and a secondary well, that are tied into
8 a closed system.

9 At Finisher 17, we lost one of our wells.
10 We were not able to do a replacement well, because of the
11 setback that TCEQ requires, as well as where the well, the
12 original well, was. I mean, it sat right about -- pretty
13 much right on the property line, right up by our
14 facilities, and so we had to move out into some acreage
15 further away from our well than we had wanted to, to do a
16 replacement well.

17 Q. Now, is there a lagoon on that particular piece
18 of property?

19 A. Yes.

20 Q. Does TCEQ require you to have your wells a
21 certain distance from that lagoon?

22 A. Yes. We have to be 150 feet off the lagoon.

23 Q. Is your understanding that that's an
24 environmental issue for them?

25 A. Yes.

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1 Q. The well that failed, was it closer than the
2 required distance from that lagoon?

3 A. For today, yes. When it was originally put in,
4 those laws were not in place with TCEQ, so it had been
5 grandfathered in, but then you couldn't go back in and
6 put -- with TCEQ, you couldn't go back in and put a well
7 right in that area.

8 Q. All right. So this well that was serving the
9 facility, it was one of two wells?

10 A. Yes.

11 Q. They were in a closed system?

12 A. Yes.

13 Q. Metered where?

14 A. Metered at our pressure tank.

15 Q. Does TCEQ require you to meter the water?

16 A. No. We're not required to meter it, but we're
17 required to monitor water usage, because it has a direct
18 effect on our lagoon levels.

19 Q. So do you monitor the water levels at each of
20 your facilities?

21 A. Yes, we do.

22 Q. With a meter?

23 A. Yes.

24 Q. And the meter is at a collection point?

25 A. Yes.

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1 Q. Both wells hook to that?

2 A. Yes.

3 Q. And it's a closed system?

4 A. Yes.

5 Q. Now, with respect to the well that failed, did
6 you apply for a permit to make -- to do a replacement well
7 under the District's Rules?

8 A. We did apply for a permit. First, we -- I
9 believe we did try to do a replacement well at first, but
10 then realized we couldn't meet within -- stay within the
11 guidelines for a replacement well, and that's when we had
12 to redo our pooling, and -- well, we still consider it a
13 replacement well, because we lost the other well, but it
14 no longer qualifies as one.

15 Q. For District Rules purposes, you couldn't put it
16 within 50 yards of the old well?

17 A. Yes.

18 Q. And you couldn't put it within 50 yards of the
19 old well, because of TCEQ requirements that it be a
20 certain distance from your gathering pond or lagoon;
21 correct?

22 A. Yes.

23 Q. All right. So after discovering that issue, did
24 you have to re-pool some of the acreages?

25 A. We did.

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1 Q. And did Mr. -- I think Mr. Freeman owns the --
2 George Freeman owns the circle in that section?

3 A. Yes.

4 Q. Did he agree to that pooling issue?

5 A. Yes.

6 Q. All right. And then, subsequently, you drill
7 this new well. And we can't call it a replacement well,
8 apparently.

9 We drill the new well, and I believe the
10 District then asked you to put a meter on that well?

11 A. Yes.

12 Q. So tell the Board, if you would, why it is --
13 why Prestage Farms is asking for an exception to the
14 metering rule.

15 A. We're asking for exception to the metering rule,
16 because that well that we've put in is tied into our
17 existing water system that is already metered when it
18 leaves the pressure tank, so we feel like it would be
19 another meter that is just overkill. It's not needed to
20 measure how much water we're using, because we're already
21 doing that at our pressure tank.

22 Q. Now, would it be difficult to go back into that
23 specific well, at this point in time, and put a meter on
24 it?

25 A. It -- I mean, it wouldn't be easy, but it

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1 wouldn't be impossible, either.

2 Q. I understand. You have another area where a
3 well has recently failed?

4 A. Yes.

5 Q. And you're putting in another well?

6 A. We have applied for a permit to do a test hole.

7 Q. So let me ask this question. If the well is
8 drilled in this new location, are you willing to put a
9 meter on that well, as you're constructing the well
10 itself?

11 A. If we have to, but it's going to be the same
12 situation.

13 Q. It will be redundant?

14 A. Absolutely.

15 Q. And when we say this is a "closed system," is
16 there any way that production from one of these two wells
17 would go anywhere other than to the collection tank and
18 through the meter that you have?

19 A. Not that we're aware of.

20 Q. All right. And so, to be real specific, what
21 you're asking for in this instance is for that well that's
22 been drilled to be classified as a replacement well for
23 the other one; correct?

24 A. Yes.

25 Q. And, secondly, you would ask for an exception to

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1 the rule requiring this new well to be metered?

2 A. Yes.

3 Q. Because the well is already metered?

4 A. Yes.

5 Q. In a closed system?

6 A. Yes.

7 Q. All right.

8 MR. JONES: I have no other questions.

9 Does any member of the Board have questions?

10 MR. GRALL: I have a question, Marty. This
11 is all on one section there?

12 MR. KRIENKE: State your name for the court
13 reporter.

14 MR. GRALL: My name is Harold Grall, Board
15 Director, More County.

16 All of this is on one section of land?

17 A. Yes, sir.

18 MR. GRALL: Okay.

19 Q. (By Mr. Jones) Yes. To be specific, Mr. Freeman
20 owns a circle that's a half a mile in radius?

21 A. Yes. He owns the center of the section, the
22 center pivot, and farms that, and we own the four corners
23 of that section.

24 Q. And you're using the four conners for confined
25 animal feeding operations?

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1 A. Yes.

2 MR. GRALL: Okay.

3 Q. Including the corner where this replacement well
4 had to be drilled?

5 A. Yes.

6 MR. GRALL: So when you pooled, you pooled
7 all four corners; correct?

8 A. We pooled all four corners with Mr. Freeman's
9 farmland, as well.

10 MR. GRALL: Farmland, okay.

11 MR. WALTHOUR: Steve Walthour, General
12 Manager.

13 Did you pool that with the north half of
14 Section 124, also?

15 A. It seems like we did.

16 MR. JONES: I believe the District records
17 reflect that it was pooled -- I think it's a 900-acre
18 pool.

19 MR. WALTHOUR: Okay.

20 MR. JONES: Is that correct?

21 MR. ZIMMER: This closed system, are all
22 four corners connected to the same water system, or is
23 each corner on a separate water system?

24 A. Each corner has its own water system.

25 MR. ZIMMER: Individually?

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1 A. Uh-huh.

2 MR. ZIMMER: Okay.

3 MR. KRIENKE: Danny Krienke Board Member
4 from Ochiltree County.

5 So, routinely, you have two wells at each
6 of the four corners location. Routinely, are both wells
7 needed, or is one well maybe considered emergency backup
8 because, you know, your hogs need water?

9 A. Yes. We run a primary and a secondary system on
10 our wells, so we have pressure switches on each well. And
11 when the pressure tank drops to a certain level, that
12 would kick on your secondary well. Otherwise, we just run
13 one well at a time.

14 MR. KRIENKE: Okay.

15 MR. CROWNOVER: Justin Crownover, Sherman
16 County.

17 So is what you're asking for just about the
18 meter, or is it also about the other, the replacement
19 well? I just want to make sure I'm clear.

20 A. Well, two things. We want this well that we've
21 drilled to be considered -- to be able to be considered a
22 replacement well.

23 MR. CROWNOVER: Okay.

24 A. And we don't want to have to meter that well,
25 because we're already metering.

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1 We're not saying we're not going to meter.
2 We already have a metering system in place that that new
3 well is tied into. We just don't want to have to put one
4 right at that well.

5 MR. CROWNOVER: Okay.

6 MR. BORN: Gene Born, Lipscomb County.

7 So you have four meters at the four corners
8 so they're not all connected?

9 A. Yes. They are not all connected.

10 So at every facility we have two wells that
11 tie into a pressure tank that has one meter on it.

12 Q. (By Mr. Jones) And just to be specific, each of
13 these wells is a Class A well, under 100 gallons a minute?

14 A. Yes, sir.

15 MR. JONES: Anyone else have questions?

16 MR. GRALL: So my question is, why do you
17 want to call that a replacement well when really it's --
18 you just drilled a well that's -- it's not 50 yards from
19 the other one. And I know -- I understand the restriction
20 from TCEQ, but why don't you just call it a well? Is that
21 to get around putting a meter on it? Or I guess I'm not
22 understanding what we're trying to do there, Marty.

23 MR. JONES: I think it's partly my thought
24 process.

25 Prestage Farms really wants an exemption

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1 from the metering requirement --

2 MR. GRALL: Right.

3 MR. JONES: -- on this specific well. In
4 looking at the Rules, it seemed to me that if we are using
5 this as a replacement well, it ought to be classified as a
6 replacement well. But frankly, in looking at the Rules, I
7 couldn't find a real specific advantage to doing that, but
8 it also seemed to me that, in the future, as they, for
9 example, now have another well that's failed, again, in
10 order to meet TCEQ requirements, it may be necessary to
11 locate it away from an area 50 yards from the old well.

12 MR. GRALL: Right.

13 MR. JONES: And so, you know, as we go
14 forward, that would be a consideration.

15 I'm not sure it's important at all here,
16 because we've already re-pooled to meet density
17 requirements and that sort of thing. This well is in
18 compliance with all of that. And now we're just down to,
19 I think, the requirement to put a separate meter on, which
20 would be redundant to the meter that's there.

21 MR. CROWNOVER: I've got a question then.
22 So what would be the difference between like if you had a
23 quarter mile pivot with two wells going to it, and you had
24 a meter at the pivot, and so we replace one of those
25 wells, and then the Rules state that we have to put meters

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1 on both of our wells. Is that a closed system? Would
2 that be considered closed, or is it different than what
3 they are doing?

4 MR. JONES: I think you would consider it a
5 closed system? I think.

6 MR. CROWNOVER: Yeah.

7 MR. JONES: I know this one is.

8 MR. ZIMMER: And I didn't give my name
9 awhile ago, Bob Zimmer in Hansford and Hutchinson County.
10 Have you considered or thought about tying
11 the corners together with an underground line so you
12 didn't have to have so many wells?

13 A. That's always an option.

14 MR. ZIMMER: But you hadn't looked at it,
15 up until now?

16 A. No.

17 MR. WALTHOUR: Steve Walthour, North
18 Plains.

19 Are those four corners touching?

20 A. I don't know for sure, Steve. I would say no.
21 I think the boundary of your circle on four sides is going
22 to touch the edge of the property line, but I don't know
23 for sure.

24 MR. JONES: And that's a fine question. It
25 seems to me it's one that on a going forward basis might

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1 be considered differently. We might want to work out some
2 deal with Mr. Freeman on conveying -- I mean, obviously
3 these corners touch, but do they touch in such away as to
4 satisfy District requirements?

5 MR. KRIENKE: Danny Krienke.

6 Are there any roads around this property,
7 county roads?

8 A. There's county roads all the way around.

9 MR. KRIENKE: All the way around it?

10 A. No. I'm sorry. There's a highway on the north
11 side, and county roads on the west and the south side --
12 or the east and the south side. I'm sorry.

13 MR. KRIENKE: So on three sides?

14 A. Yes.

15 MR. KRIENKE: Three out of the four sides?

16 A. Yes.

17 MR. KRIENKE: Okay.

18 MR. JONES: Which is a good point, the
19 circle irrigation system, obviously, is not going to
20 approach the boundary, is it?

21 MR. KRIENKE: One other question. These
22 wells were drilled around '97; is that correct?

23 A. Uh-huh.

24 MR. KRIENKE: Is there -- I'm just curious.
25 That is some time ago, but, routinely, we have wells that

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1 last longer than that. Is there any -- in your opinion,
2 why are these wells failing?

3 A. The aquifer is getting lower. These are little
4 wells. These aren't irrigation size wells.

5 MR. KRIENKE: So were they not drilled to
6 the Red Bed?

7 A. They would have been -- yeah, they would have
8 been, like, domestic size wells, but not -- they are not
9 the depth of, say, our irrigation wells in that area.

10 MR. KRIENKE: So they are not drilled to
11 Red Bed?

12 A. I guess not.

13 MR. KRIENKE: Okay.

14 MR. GOOD: Keith Good, General Counsel for
15 the District.

16 One question. Has the failed well, has it
17 been plugged?

18 A. Yes, sir.

19 MR. ZIMMER: Are you drilling the new wells
20 to Red Bed?

21 A. You know, we leave that up to the drillers on
22 the -- they drill until they tell us we've got enough
23 water for what we need.

24 MR. ZIMMER: Okay.

25 MR. CROWNOVER: Justin Crownover.

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1 Is the question on the new well? Does the
2 new well have the meeter on it, or is the old well the one
3 you are needing to retrofit? I wanted to make sure I
4 understood that.

5 A. The new well is the one they are wanting us to
6 put a new one on.

7 MR. CROWNOVER: You don't have one there
8 now?

9 A. Not today.

10 MR. CROWNOVER: Is it plugged in --

11 A. It's tied into our system --

12 MR. CROWNOVER: It is tied in?

13 A. -- that has a meter on it, but it doesn't have
14 its own meter today.

15 MR. CROWNOVER: Okay.

16 MR. ZIMMER: So in our Rules, then, when
17 you make a change like that, you not only have to meter
18 the new well, you have to meter all the wells in the
19 production unit at the well. Are you asking not to meter
20 the other well, as well?

21 A. Uh-huh.

22 MR. ZIMMER: Because I hadn't heard that
23 said yet.

24 MR. JONES: I will say that Mr. Freeman has
25 gone ahead and put separate meters on his well in the

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1 circle. There's not a separate meter at this time on
2 the --

3 A. The domestic wells.

4 MR. JONES: -- old existing well.

5 MR. ZIMMER: But you're not expecting to
6 put a meter at every well in every corner, because they
7 are not tied together?

8 A. No, we have --

9 MR. ZIMMER: -- only the corner that's in
10 question at this time?

11 A. They are metered. Yeah, we are --

12 MR. ZIMMER: Well, they are not metered at
13 the well.

14 A. No.

15 MR. ZIMMER: And that's or rule is, once
16 you start to make a change, every well gets a meter at the
17 well production point. So are you asking to get out of
18 metering every well in every corner or every corner that's
19 not in question at this time, only the corners that you're
20 talking about?

21 Do you understand what I'm saying, Steve?

22 MR. WALTHOUR: Right now, it's just about
23 the southeast corner of --

24 MR. ZIMMER: Only the southeast corner?

25 MR. WALTHOUR: There's some other issues,

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1 depending on how you are going to come up with the answer,
2 then it would effect some other corners.

3 MR. ZIMMER: So for now we're just talking
4 about, really, two wells asking for an exception to being
5 metered, not just one?

6 A. Uh-huh.

7 MR. ZIMMER: Okay.

8 MR. JONES: That would be true.

9 MR. ZIMMER: Okay.

10 MR. CROWNOVER: So the other three corners
11 have production wells on them for each of the hog sites,
12 and they are already metered at the well?

13 A. No, they are metered at the pressure tank.

14 MR. CROWNOVER: So would you just --

15 MR. ZIMMER: They are separate GPUs.

16 MR. CROWNOVER: Oh, they are different
17 production?

18 MR. ZIMMER: Because they're not
19 contiguous.

20 MR. CROWNOVER: Okay. Different pools for
21 this one?

22 MR. ZIMMER: No, they are not pooled.

23 A. Yes.

24 MR. CROWNOVER: Okay.

25 MR. JONES: Yeah, they are pooled. Today,

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1 they are all pooled.

2 MR. KRIENKE: Zac or Mark, any other
3 questions?

4 MR. YODER: No.

5 MR. KRIENKE: If there are not any further
6 questions, then I'll excuse the witness and call Steve
7 Walthour, General Manager of North Plains Groundwater
8 District.

9 MR. JONES: Before you do that, let me do
10 one other thing. This is a notebook that contains the
11 materials that Steve provided to the Board. There's nine
12 tabs. The first tab is Steve's, Mr. Walthour's summary.

13 The second tab is the Sprouse Shrader Smith
14 Exception Request.

15 The third tab is the TCEQ General Permit
16 applicable to this CAFO.

17 The fourth is the Board Order on the Rules
18 Exception Hearing.

19 The fifth is Notice of Exception Hearing.

20 The sixth is a timeline relating to the
21 Prestage Farms wells.

22 The seventh is maps and pooling information
23 about this section, and I think the section west of it,
24 half section west of it.

25 The eighth tab is the well logs from the

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1 Prestage wells.

2 And the ninth is warranty deeds applicable
3 to the matter.

4 And I'd like to just mark the whole
5 notebook as Exhibit 2.

6 (Exhibit No. 2 offered into
7 evidence.)

8 MR. KRIENKE: I guess I have one other
9 question I just thought of.

10 So this well is a legal well now, because
11 of the pooling?

12 A. Yes, sir.

13 MR. JONES: Correct.

14 MR. KRIENKE: And if the Board granted the
15 exception to be able to call this a replacement well, then
16 there would be no reason to pool. You would go back to
17 like you were previous to this or you just stay pooled
18 like you are? I mean, that's just an opinion, I guess.
19 You could do either one.

20 A. I would have to talk to Mr. Freeman and see what
21 he wanted to do, since he was willing to help us out.

22 MR. KRIENKE: But you could go back like
23 you were?

24 MR. JONES: That would be an option at that
25 point, yes, sir.

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1 MR. KRIENKE: Thank you.

2 STEVE WALTHOUR,
3 having been previously sworn, testified as follows:

4 STATEMENT BY STEVE WALTHOUR:

5 A. Steve Walthour. I appreciate Marty turning in
6 all of my exhibits. That makes this a lot simpler. What
7 I'm handing to you, you had a copy of this in your Board
8 packet or in your hearing notes that I sent to everyone,
9 including Mr. Jones.

10 This is the summary that I turned in, and
11 I'm going to go over that with you briefly, and then I'll
12 give you some other information along with it. Okay.
13 This is part of Exhibit 2, I believe.

14 I prepared this summary and description of
15 the circumstances and provide additional information
16 related to Prestage Farms, LLC, Request for Exceptions to
17 the District Rules.

18 I believe that Prestage Farms, LLC, owns
19 and operates a CAFO located in the four, approximately,
20 40-acre corners of Section 117, Block 1-C, GH&H Survey,
21 Sherman County, Texas. The operation originally had eight
22 wells, two wells supplying each corner of Section 117.
23 Seven wells were drilled in 1997 through '98, and the
24 eighth well was drilled in 2002. All wells are permitted
25 as class A, 100-gallon a minute maximum.

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1 I've got the -- I have the wells logs for
2 those that I will give to you at the end of this. All of
3 them appear to be small wells. They're not -- none of
4 them, I think, are pushing 100 gallons a minute, actually.

5 The original pooling documents show that
6 the four corners of section --

7

8 MR. WALTHOUR: Would you pull up my map?

9 UNIDENTIFIED SPEAKER: This one right here?

10 MR. WALTHOUR: If that's what Casey gave to
11 you, yes.

12 MR. TICE: You want the whole thing? The
13 old one?

14 MR. WALTHOUR: I want the old one.

15 MR. TICE: (Inaudible).

16 A. (By Mr. Walthour) Okay. The original pooling
17 document. And you can see it at the bottom of your sheet.
18 This is pulled up. It doesn't really come out well on the
19 edges, but you can see the four corners on Section 17
20 is -- 117 is to the right.

21 Those four corners were originally pooled
22 individually by Prestage Farms of their between 40 and
23 46 acres. You can tell up in the northwest corner that
24 Prestage Farms picked up about 3 acres to cover the two
25 wells that were drilled over on Section 124.

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1 Freeman and Prestage Farms, I think, pooled
2 everything together in the center, initially. Mr. Freeman
3 owns some wells that they just owned the well; they didn't
4 really own the land. So when I talk about ownership in
5 this, I'm talking about the joint ownership in the GPU,
6 ownership by contract. So Prestage and Mr. Freeman put
7 those together jointly, I believe.

8 You see the map of the original. It's hand
9 drawn. One of the questions we had was I wasn't sure if
10 they were actually touching, if those four corners are
11 contiguous or touching.

12 The Exceptions to the Rules Request.
13 Prestage asked for Rule 3.4 Replacement Well Spacing. For
14 a replacement well, in order to be considered as such,
15 must be drilled within 50 yards of the well being replaced
16 and not elsewhere. It must not be located toward any
17 other owner's well or authorized well site and that it
18 causes it to violate the maximum spacing rules of the
19 district. And that is, primarily, the rub, I believe, in
20 this process.

21 District Rule 3.7. They filed a Request of
22 Maximum Permitted Well Density. The maximum permitted
23 well density of a groundwater production unit, as you
24 recall, we -- the Board has changed that to 64 acres.
25 When all this got pooled together, and that became a

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1 new -- well, that became a new well or a well that wasn't
2 a replacement well, then we go through the process and
3 look to see: Okay, do you have enough acres?

4 Well, the two wells that were drilled in
5 '97, or '97-'98 period, down in the southeast corner of
6 the property, were drilled before any of our density
7 rules, any of the spacing rules from the property line,
8 and we had no density rule at the time.

9 So when they drilled the new well, and it
10 wasn't conforming to Rule 3.4, then the District is
11 required -- you know, was required -- we required them to
12 pool it so that, in fact, there would be enough acres
13 across the property to accommodate the 64 acres per
14 permit.

15 District Rule 5.1. Water Well Flow Meters
16 on Alternative Measuring Methods Required. I have the
17 rules stated there as far as: All owners of wells in
18 existence prior to October 14, 2003, which are reworked to
19 increase production, and all wells drilled after
20 October 14, 2003, shall install a water meter to measure
21 the groundwater production from the well and report annual
22 production from the well and other wells in the GPU. That
23 was District Rule 5.1.1.

24 5.1.4.A, except as provided in Rule 5.1.B.
25 The owner must install meters at the pump on all wells in

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1 the GPU within 365 days after the date the permit or
2 amended permit was approved.

3 I included 5.1.4.B in this, though it was
4 not an exception, but it's important for consideration of
5 5.1.4.A. Rule 5.1.B directs that the GPUs that are 640
6 acres or less and are not contiguous with the owner's
7 other GPUs, the owner shall install a meter on the new
8 well, and may continue to utilize or may install a meter
9 at a central collection point to measure water produced
10 from the GPU.

11 And essentially what this means is, when we
12 required them to pool everything -- or pool a bigger unit
13 to get into 64 acres, because they didn't meet the three
14 point -- Rule 3.4 Replacement Well Rule, that
15 automatically, when they pooled this larger than
16 640 acres, that rule would not be applicable at this time.

17 MR. GRALL: Okay.

18 A. Because they made it bigger than 640 acres.

19 And then on 5.1.5, Mr. Jones listed that in
20 the front of the Request for Hearing, I believe, but I
21 didn't really see any kind of discussion there. I'm not
22 sure what part of that is, but that's just you have to
23 have a metering system on the, you know, on the well or
24 remain on the well, which is -- we've interpreted it as,
25 you've got to have a metering system working, and if it's

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1 not working, then you've got to figure out a way to get
2 the meter fixed, and what do you do while the meter is not
3 working? What's the alternative? That's really what
4 5.1.5 says.

5 Prestage Farms provided a couple of General
6 Permit to Discharge Waste TXG920000, issued July 9, 2009.
7 That's the recording documentation for the rule
8 exceptions. That has been included as part of Exhibit 2.

9 A copy of the General Permits I had
10 attached to this item and sent out to everyone, under part
11 3, Pollution Prevention Plan Requirements or PPP
12 Requirements, on page 25 of that permit, the General
13 Permit requires that a permittee must not operate or
14 control Retention Control Structures, RCS, holding pens or
15 Land Management Units within the following buffer zones,
16 except in accordance with paragraph 2 of the section.

17 Public water supply, you have to be
18 500 feet away.

19 Wells used exclusively for private water
20 supply, 150 feet away, which is my interpretation of what
21 this is.

22 And wells exclusive use for agriculture
23 irrigation, 100 feet away.

24 I interpreted this rule meaning that the
25 new well for the CAFO would be classified as a used

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1 exclusively for private water supply, and could not be
2 located within 50 yards, 150 feet, from an RCS or an LMU.

3 By the way, RCS is the waste pond. That's
4 what -- that's what an RCS is.

5 I met with TCEQ regarding Prestage Farms,
6 LLC, General Permit on June 12, 2019. I happened to
7 actually be in Austin at the time. TCEQ confirmed the
8 need to move away from the waste pit.

9 The staff indicated that there was a
10 procedure for asking for an exception to the TCEQ rules
11 that takes approximately 30 days, if all of the
12 information needed to decide is available.

13 TCEQ staff was resistive to approving an
14 exception to this particular rule. I can understand why.
15 There is no apparent TCEQ enforcement actions pending
16 against Prestage Farms in the area, and, therefore, I
17 assume all the facilities comply with TCEQ rules at this
18 time.

19 My staff performed on-site investigation,
20 reviewed deeds, drillers' logs, other legal documents, the
21 TCEQ permit, and the North Plains Groundwater Conservation
22 District rules regarding this matter.

23 A timeline has also been included in the
24 Exhibit 2. It was attached to this report. That would
25 give you an opportunity to look through the progression of

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1 how things came down on this project.

2 I prepared the following summary based on
3 my findings: In July 2017, Prestage successfully sought a
4 permit to drill a replacement well on 10180. This is on
5 the southwest side of the property. And there was no
6 problem, apparently, putting in that well because of its
7 location.

8 The replacement well SH-1918 was plugged.
9 This had been out in the southwest corner.

10 Since the SH-10180 is a replacement well,
11 District Rules require it to be -- a meter to be installed
12 at the replacement well, and that the owner can continue
13 to meter at a central collection point to measure all the
14 water produced on the GPU, providing it stays within
15 640 acres.

16 Prestage has not yet installed a meter on
17 SH-10180, I don't believe.

18 Wells SH-2009 and SH-1919 in the southeast
19 corner was the focus of today's hearing. They were
20 drilled according to district rules in 1997. At that time
21 there were no pooling rules, and well density was
22 determined by a maximum of 5 gallons per minute per acre.
23 A 40 acre parcel would allow for 200 gallons per minute.
24 In development of the well density rules associated with
25 the groundwater production units, any existing well on the

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1 GPU can continue to produce, regardless of a well density.

2 For example, you passed the rule that you
3 can only have a certain density amongst wells. The wells
4 that were already drilled were -- I use the word
5 "grandfather." It's the longest four letter word I know.
6 But it actually applies to this. They were able to
7 continue to use their wells.

8 A replacement well is allowed for any
9 existing well. However, if a new well is drilled that is
10 not a replacement well, the GPU must be pooled according
11 to District Rule 3.7.

12 Later in 2017, Prestage sought a
13 replacement well for SH-2009. In my opinion, there was no
14 viable location for a replacement well within 50 yards of
15 the existing well site, based on the TCEQ General Permit
16 and the location of other structures on the property. I
17 did not issue a permit for a replacement well for the
18 location proposed by Prestage. Though, the proposed well
19 was not located toward any other owners' well or
20 authorized well site that causes it to violate spacing
21 rules of the District, it is the well could not be
22 reasonably located within 50 yards of the District Rules.

23 In November of 2017, Prestage Farms and
24 Freeman pooled the entire Section 117 and the north half
25 of Section 124, over 640 acres, to facilitate drilling of

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1 SH-10285 to meet NPGCD well density rule requirements,
2 since SH-10285 could not be classified as a replacement
3 well, according to the district rules.

4 Accordingly, all wells on the GPU are now
5 required to metered because it's over 640 acres. The
6 Freeman's original three wells were metered at the well,
7 and all existing wells, Prestage Farms finishing
8 facilities that currently use a central collection point,
9 including wells SH-10280 and SH-10285, are now required to
10 be individually metered according to our rules. Well
11 SH-2009 in the corner has since been plugged.

12 I've got lots of documents to hand out.
13 They are copies of exhibits. The TCEQ document, I only
14 have a couple of copies of that. If someone wants to see
15 a copy of that, I would be happy to provide it, but it's
16 already a part of Exhibit 2.

17 And if you care to see a set of District
18 Rules, I have a copy of them, too.

19 Prestage timeline that I mentioned, and
20 that has already been entered as an exhibit, this timeline
21 is simply from, really, cradle to where we are now on the
22 site. It shows all of the people who owned it originally
23 and who now own it now. We think we have that correct.

24 Maps and Poolings. Here's a section of the
25 map that's up there today, and I'll go over the maps and

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1 pooling a little bit more after this.

2 A question about the wells earlier, here is
3 a set of well logs that are part of the Prestage Farms
4 wells. You can look when they were drilled and what the
5 driller thought they would produce at the time.

6 MR. KRIENKE: Danny Krienke. I have a
7 question.

8 Steve, could you ascertain, you have the
9 documentation here. Can, you or your staff ascertain were
10 these original wells in fact drilled to Red Bed?

11 A. We have not done that, but looking through this,
12 it looks like several of these were, in fact. If you
13 start with, in the form itself, the first well SH-1904
14 goes to 520 foot and hit clay. I would think that was
15 drilled to Red Bed.

16 SH-1918 looks like it went to red sand and
17 stone, red clay 530 feet. Almost all of these are at
18 least 500 to 540 feet deep. I would anticipate that, in
19 the location of this, is that, if they weren't to Red Bed,
20 they were pretty close.

21 I think, simply -- even after being drilled
22 that deep, if you look down to -- on all of these, the
23 pump discharge, I think the driller filled out around
24 65 gallons per minute, is the amount of water being pumped
25 at a level of 390 feet after it had been pumped.

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1 MR. KRIENKE: So the well that has
2 subsequently failed and has been plugged, how deep was it?

3 A. Let me find it, if I haven't already passed it.
4 2009, it went to 530 feet, and it says tight sand and red
5 at the bottom. So it was 530 feet deep. It had a pump
6 discharge of 65 gallons a minute, and the pumping level
7 was at 390 feet. So at the time these were drilled in
8 1997, it had about 140 feet of water, saturated.

9 MR. KRIENKE: What can you comment as far
10 as the new well in relationship to this well, the log for
11 it?

12 A. Okay. 10285, which is toward the back of the
13 package, is drilled to bottom depth around 520 feet. You
14 can look at the well log that's attached. It apparently
15 was drilled to red clay and rock strips at 520. I would
16 assume that's probably very close to Red Bed, if that's
17 not, in fact, Red Bed. It's the last permit in there.

18 MR. KRIENKE: And the anticipated
19 production out of that well?

20 A. The anticipated production on this pump. It
21 says the pump yield would be 100 gallons a minute with
22 55 feet of drawdown after one hour. I'm not sure what
23 size pump they actually installed in the well. That was a
24 pumping test. That's the new well.

25 MR. GRALL: Steve, I have a question or

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1 maybe for Kelli. Do you know what the drawdown is in this
2 area? Because a lot of these wells seem at the same
3 depth, so I'm not sure. Are you for certain that you ran
4 out of water, or was it just plugged for preservation, or
5 has anybody given you any advice, sent any cameras down
6 the hole?

7 MS. JOHNSON: We haven't.

8 MR. GRALL: Okay.

9 MS. JOHNSON: We haven't done any of that.
10 The advice that we've been given on that is that, on these
11 small wells, that the cost of doing those things, you just
12 as well drill -- plug that one and start a new one.

13 MR. GRALL: Okay. Well, I'm not familiar.
14 I just look at these, and it looks like everything was
15 drilled in the Red Bed or close to.

16 A. Uh-huh.

17 MR. ZIMMER: What is static water level?

18 MS. JOHNSON: I couldn't tell you, without
19 looking it up.

20 A. I don't have a static water level on any of
21 these. The water level on this well that was drilled in
22 2018, which is 10285, the water level in it is 380 feet
23 below land surface.

24 MR. ZIMMER: Do we have any observation
25 wells in the area?

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1 A. I can't recall if we have one that would be
2 specific to this site.

3 MR. ZIMMER: Thank you.

4 A. The last thing I was going to hand out is
5 warranty deeds. This is the documents when we were trying
6 to figure out if -- you know, how the properties were
7 situated and who owns what. This was also in the papers.

8 So I'll finish up.

9 We showed you this picture up here, a map
10 of when it was originally pooled.

11 Pull up the one that's all yellow. No, the
12 other one. I'm sorry. The other all yellow one.

13 This is how the -- the all yellow property,
14 how it's been pooled today. You can see where the circles
15 of Mr. Freeman's circles are.

16 If you notice over on Section 124, up in
17 the center you'll see a well that was drilled there. It's
18 pretty classic. That is the -- the land itself under the
19 property, I believe, is actually owned by Prestage Farms,
20 but the well-owner owns the little piece of land around
21 the well site itself, so they had to pool those together
22 for Mr. Freeman to use those circles, I believe, before
23 any of this -- any of the problems that they had.

24 And that's also true for -- there is a
25 right-of-way for a well -- two of Mr. Freeman's wells that

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1 are located over into the corners and not in the circle
2 itself on the east side.

3 So this is -- this is something that you
4 see pretty typically when you deal with some of these
5 older sites where you have hog barns set up in the corner,
6 and someone is trying to do that, and somebody else is
7 trying to do the circle. And it appears that Mr. Freeman
8 and Prestage Farms have worked pretty closely together to
9 stay in compliance with the district rules, and I think
10 that at this point, other than the well meter situation,
11 they are in compliance with our rules.

12 Are there any questions?

13 MR. CROWNOVER: Are they eligible for,
14 like, the grants and stuff to help cost share on the
15 meters?

16 MR. WALTHOUR: No. Mr. Freeman would have
17 a been on his irrigation. Our grants are only for
18 irrigation wells and not for anything else, other than
19 irrigation wells.

20 The way it is pooled right now is that you
21 would have to put a meter at every well on the property,
22 and then there's a question, okay: You have a well at the
23 pressure at the central collection points. Is there a
24 problem with having a well that's metered and then a well
25 at a central collection point?

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1 We do that all the time. That's in your
2 rules for irrigation wells. If you look at the rule for
3 5.1.4.B, it says that you would meter the new well and
4 then put -- and then you could use the central collection
5 points for the other wells.

6 In this case, what happens is that you've
7 got, like in the southeast corner, you have a well -- a
8 central collection point for the well that is to the east
9 of the central collection point of about -- I think it's
10 less than 50 yards, their central collection point to that
11 one well that would include all of the water on the
12 property.

13 And then you have the other well that's
14 located out to the east -- or out to the west toward the
15 circle.

16 MR. CROWNOVER: So to be clear?

17 MR. WALTHOUR: Oh, I'm sorry, I probably
18 made it --

19 MR. CROWNOVER: I got confused. Did you
20 say the rule states -- so let's talk farm so I understand.

21 So I've got a well that's old, and I drill
22 a new well. You're saying if there's a meter at the
23 pivot, I only have to meter the new well?

24 MR. WALTHOUR: According to
25 Section 5.1.4.B, if that section stands alone and is not

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1 contiguous, meaning touching any other section that you
2 have a GPU in, you know, anything that is contiguous then
3 you can use the 5.1.4.B Rule to have a central collection
4 point at the -- whatever, at the meter, at the pivot, or
5 if you've got 4 pivots, I guess you could have one at each
6 of the pivots, but then you would have to put a new meter
7 at the well, the new well.

8 MR. CROWNOVER: Yep.

9 MR. WALTHOUR: That's the scenario. The
10 problem -- the reason that the touching thing becomes
11 important for us, is when you look at the corners, if, for
12 example, if the Board decides to make this a -- say yes,
13 grant exception, make it a replacement well, trying to
14 figure out, if those do in fact touch, then they would be
15 less than the four corners and the little 3 acres over in
16 the jointly-owned stuff, over on the east side.

17 Go back to my other -- the first map I
18 showed.

19 If you look at their four corners in that
20 little 3 acres over in 124, all of those added together is
21 less than 200 acres. And I can't see that there are any
22 other properties solely owned. When I say property, GPU
23 solely owned by Prestage Farms that are contiguous with
24 those four portions. If they're all four touching each
25 other, you could pool them all together and have one

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1 pooling that would fit under the 640 acre rule. If they
2 are not touching, then they could pool them so that they
3 each stand by themselves.

4 MR. ZIMMER: Okay. Bob Zimmer. To be sure
5 I'm clear. You were reading that awhile ago and said "All
6 wells would have to be metered". Are we talking about two
7 wells or all wells on all corners?

8 MR. WALTHOUR: All wells on the property.
9 When the whole thing -- when they put the whole thing
10 together -- and that's a new well. Even if it had been a
11 replacement well, because it's more than 640 acres, then
12 all the wells, according to our rules, would need to be
13 metered.

14 MR. ZIMMER: Is everything in the yellow,
15 other than the circles, a one GPU?

16 MR. CROWNOVER: Everything is a GPU, is
17 what I understood.

18 MR. WALTHOUR: They originally started --

19 MR. ZIMMER: One Prestage GPU, I should
20 say.

21 MR. WALTHOUR: They had four individual
22 GPUs for each corner.

23 MR. ZIMMER: Okay.

24 MR. WALTHOUR: They had one for each corner
25 a GPU.

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1 MR. ZIMMER: Okay. I do not mean to be
2 redundant.

3 MR. WALTHOUR: No, it's okay.

4 MR. ZIMMER: But are we talking about all
5 meters on four GPUs or all meters in one GPU, and which
6 GPU is it?

7 MR. WALTHOUR: The GPU -- you see all the
8 yellow up there?

9 MR. ZIMMER: Yes.

10 MR. WALTHOUR: Since they are jointly
11 together, everything in that has to be metered at the
12 well.

13 MR. ZIMMER: Okay. So that all yellow is
14 considered one GPU?

15 MR. WALTHOUR: Yes.

16 MR. ZIMMER: Okay. That's what I --

17 MR. CROWNOVER: Is it more than 640?

18 MR. WALTHOUR: Yes.

19 MR. CROWNOVER: Okay.

20 MR. WALTHOUR: But if that -- you know,
21 like I said, if those -- if you decide to go with a
22 replacement, you know, on 3.4 and call that a replacement
23 well, one of the ways that the farm could avoid having to
24 place a meter on every -- not the farm, but the barns have
25 to place a meter on every well, would be to simply pool

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1 those four corners together, if they're touching, and it
2 would be less than 640 acres, and then they would be
3 eligible for 5.1.4.B.

4 MR. ZIMMER: I have a question for her.
5 How many --

6 MR. KRIENKE: We'll get to that. We are
7 concerned with the witness right now, Steve.

8 MR. CROWNOVER: So the two options are, if
9 you pooled that -- put it back together and just had their
10 property they own pooled together, and it's less than 640,
11 they would fall under that rule. You can put one meter on
12 the new well, everything else could be metered at their
13 collection points?

14 MR. WALTHOUR: Providing that you provided
15 an exception to Rule 3.4 on the replacement well rule.
16 Because the way the replacement well would work is that
17 you're simply moving an existing well location, an
18 existing well location to a new location.

19 MR. CROWNOVER: Right.

20 MR. WALTHOUR: So you're not creating an
21 additional well that would require you to have 64 acres
22 per well now. We're just moving that location.

23 MR. CROWNOVER: So the replacement well
24 status lets them get by without -- gets past the 64-acre
25 rule?

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1 MR. WALTHOUR: Gets past the density rule,
2 yes.

3 MR. CROWNOVER: The density rule. Okay.

4 MR. GRALL: I didn't have any more
5 questions for Steve. I have a question for Kelli.

6 MR. KRIENKE: Any other questions for
7 Steve? Yes.

8 MR. YODER: Zac Yoder, Dallam County. So
9 you said this is a common situation.

10 MR. WALTHOUR: When I say common situation,
11 we have areas across the district that use the corners for
12 hog barn facilities. In some facilities, they're
13 configured different. There are some that have several
14 wells that go to all four corners. There are some
15 facilities, for example, even on this one down in the
16 southwest corner of this property, Prestage was able to
17 drill the replacement well within our rules because they
18 could locate it within 50 yards of the existing well, and
19 it didn't -- it was not on top of the wastewater pit.

20 So we'll see corners -- we have corners
21 like this throughout the district. That's what I mean by
22 common.

23 MR. YODER: Yeah. And so if we grant an
24 exception to this one, they've already said they need
25 another one that they need an exception to, as well;

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1 correct? There is another --

2 MR. WALTHOUR: I don't -- the exception --
3 if the exception is just on the meter, that would be one
4 thing. I'm not sure that the other well -- they are
5 drilling test holes now. They haven't called it a
6 replacement well or a new well at this point; they are
7 drilling test holes.

8 MR. YODER: I was just remembering back to
9 when we were doing our rules this last time. Texas Cattle
10 Feeders had proposed that we adopt some kind of auxillary
11 well rule.

12 MR. WALTHOUR: We have one. There is an
13 auxillary well rule.

14 MR. YODER: Can this be --

15 MR. WALTHOUR: Well, the auxillary well
16 rule allows you to drill two wells closer together than
17 the spacing, if you own them.

18 In this case, the auxillary well -- and you
19 add those together to -- you add the production, maximum
20 production, of those two together to decide what
21 classification that would be.

22 In this case, if you added two 100-gallon
23 minute wells together, it would move from an A to a B
24 well, I believe, and that would require -- you know, that
25 would be a -- you know, further spacing rule. There are

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1 other things that would come into effect. I don't think
2 the auxillary well rule fixes their problem.

3 MR. YODER: Okay. If it did fix their
4 problem, was that one meter, or was that a meter on each
5 well?

6 MR. WALTHOUR: It would be a meter on each
7 well. The auxillary well rule just allowed you to move
8 closer than the spacing required.

9 MR. YODER: Okay.

10 MR. WALTHOUR: And back to where you have
11 to put the meters on there. The rules state that you've
12 got this rule that allows you to use a central collection
13 point on a GPU that's 640 acres or less in size and not
14 contiguous with any other GPU that Prestage owns.

15 MR. KRIENKE: Any other questions for
16 Steve? Hearing none, we'll excuse Steve.

17 We've had some comments from Board members
18 they would like to ask additional questions of Prestage.
19 If you would come forward.

20 EXAMINATION OF KELLI JOHNSON CONTINUED

21 MR. KRIENKE: I actually have a couple of
22 questions myself. Do y'all recycle any water?

23 A. We do. Not on every one of our facilities, but
24 on some of them we do, yes.

25 MR. KRIENKE: On this particular facility?

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1 A. It just depends on lagoon levels.

2 MR. KRIENKE: Okay.

3 A. You're required to maintain a certain lagoon
4 level, and so if we get -- if water is starting to drop
5 off, we'll go to strictly fresh water.

6 MR. KRIENKE: So is there a rule of thumb
7 that y'all -- what I'm trying to get at is what is the
8 gallon per minute per well that's acceptable, that
9 provides enough water, routinely, for that group of hog
10 barns? And so is there something that -- so much water
11 per animal --

12 A. There is.

13 MR. KRIENKE: -- that kind of dictates
14 that?

15 A. Yeah. It depends -- it obviously depends on the
16 size of animals that we have there, but I would say, on
17 average, 2 1/2 gallons a head a day.

18 MR. KRIENKE: And at this location, that
19 would be -- okay. What would be the acceptable GPM, then,
20 for the well that you -- Steve mentioned you're doing test
21 holes. So what would be the acceptable GPM, then, to
22 provide that water?

23 A. You know, we even have wells as small as -- we
24 try to not ever drill anything smaller than, like, 25
25 gallons a minute, but we do have wells that are that

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1 small.

2 MR. KRIENKE: And what I'm trying to get to
3 with this line of questioning is, were you out of water
4 that it fell below the 25-gallon per minute? It seems,
5 according to the log, that even though you moved further
6 than 50 yards away for replacement well, you got into the
7 same sort of depth to Red Bed and maybe even the saturated
8 thickness of the sand. So what I'm trying to ascertain
9 here, then, was this maybe more of originally the well
10 wasn't drilled with anticipation of the lowering of the
11 water table that it couldn't provide the 25 gallons per
12 minute? And why is this new well any better than the old
13 well? This is your opinion.

14 A. The well that we replaced, we had lost that
15 well, and I don't know --

16 MR. KRIENKE: What do you mean lost?

17 A. No more water was coming out of that well. So
18 we had either collapsed it, or we had lowered our pump as
19 low as we could, and we were not getting water.

20 MR. KRIENKE: Okay. Because, going back to
21 the rules, when we were doing the rules, for my
22 perspective, the replacement well rule is kind of directed
23 at a location that's out of compliance with the new rules,
24 the location, so it's sort of a grandfathering of that
25 location and that well, that there's still water there,

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1 and you just move over a little bit. If the well
2 collapsed, or whatever, you just move over a little bit
3 and drill another well, because there's still water there,
4 but for some-odd reason the well failed. So what you're
5 telling me is that you probably could have moved over a
6 little bit and drilled a new well that would have fit the
7 replacement well, but TCEQ would not allow that; is that
8 what I'm hearing?

9 A. Yes, you are you --

10 MR. KRIENKE: You're not out of water at
11 that spot; there's something that made the well fail?

12 A. Something did make that particular well fail,
13 but at the same time, we did go out and have Howard
14 Drilling do seismographing to look for water, and it did
15 not show favorable right back in that area, either.

16 MR. KRIENKE: You found better water
17 elsewhere?

18 A. Yes.

19 MR. KRIENKE: Bob, you had questions?

20 MR. ZIMMER: Yes. How many hogs are fed on
21 each corner?

22 A. 5400 head.

23 MR. ZIMMER: At each corner?

24 A. Yes, sir.

25 MR. ZIMMER: 5400 head, and you said 2 1/2

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1 gallons?

2 A. Yes.

3 MR. ZIMMER: So That's 10,000 or so. Okay.
4 15,000.

5 (Sotto voce discussion off the
6 record.)

7 MR. ZIMMER: I was counting what size well
8 it took to actually just maintain. So 13,500 gallons a
9 day will do each corner. So okay. Thank you.

10 A. You're welcome.

11 MR. GRALL: I have a question. Harold
12 Grall, Moore County, Director.

13 Kelli, would you -- and this is just a
14 question, not necessarily a suggestion. Would you see any
15 advantage of putting a meter at each one of your wells so
16 that you would know, more as a management tool and not a
17 reporting tool, when you have one going down or starting
18 to fail?

19 A. No. Generally -- no. Not year around. But at
20 times of higher usage, say we're cleaning out a barn, so
21 we're washing everything, that's -- if we have a weak
22 well, it's going to show up then. We'll start not having
23 enough pressure. So then we'll go in and investigate, and
24 that's when we'll find that we need to lower a pump or,
25 you know, something is going on.

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1 Because of the way we run or systems with
2 the pressure switches, you know, we have some places that
3 a secondary or a backup well very rarely runs, so a meter
4 is really not going to tell us a lot.

5 MR. GRALL: So how do you make that
6 determination now when you have a well failing? Because
7 it goes into the pressure tank right now, just like a --

8 A. Yes, sir.

9 MR. HOWARD: And so you're metering coming
10 out of the pressure tank, so in the case of a sprinkler in
11 the central point, we could just do the math. If we lose
12 a well, we can go to that central point and see what the
13 flow is and know that there is --

14 A. They have a well down.

15 MR. GRALL: -- something going wrong. But
16 in your case, how do you make that determination?

17 A. On whether it's time to replace a well?

18 MR. GRALL: Yeah. Or that one is failing
19 on you.

20 A. Okay. We don't make that determination until
21 the farm calls and says, hey, we've got poor water
22 pressure. So then we go out and we'll run wells and try
23 to figure out is one not -- are the pressure switches bad,
24 or is one of the wells not producing enough when it is
25 kicked on, and from there we'll investigate further.

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1 MR. GRALL: Okay.

2 MR. WALTHOUR: I don't have a question. I
3 have a statement. This is Steve Walthour.

4 We went back and checked the production
5 reporting records for these four corners, and there was
6 none of these corners that pumped more than 30-acre feet
7 of water in any one year during the period, so they were
8 well under whatever the production limit was at the time,
9 and, you know, that -- I think that's an issue I wanted to
10 be sure and point out, that these wells are pretty small
11 wells, to begin with. The rest of them were in the teens
12 as far as the number of acre feet pumped.

13 MR. ZIMMER: Bob Zimmer.

14 Any of these wells used for drinking water,
15 other than for the livestock?

16 A. We have employees at the farm, so.

17 MR. ZIMMER: Okay.

18 MR. CROWNOVER: Justin Crownover.

19 So your main goal with classing this
20 replacement well would be to where you could pool your
21 property together and just put one meter on, and then you
22 would do that, and then the exception you're asking for is
23 to not have to put a meter on that well; is that correct?

24 A. Uh-huh.

25 MR. JONES: You need to answer out loud.

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1 A. Yes, sir, that's correct.

2 MR. KRIENKE: Any other questions?

3 MR. CROWNOVER: Is there any extraordinary
4 circumstances to being able to put the meter on that well?

5 A. To not being able to put a meter on the well?
6 No, there's no reason we can't go out there and put a
7 meter on the well, other than it's redundant. We already
8 have metering systems in place.

9 MR. CROWNOVER: Yeah, I feel that way, too,
10 but I get to do it.

11 A. And your wells are way bigger than ours.

12 MR. CROWNOVER: Do what now?

13 A. Your wells are way bigger than ours.

14 MR. CROWNOVER: I understand. And it costs
15 more probably to do that, and then ultimately whenever I
16 set up a new well, I'm always like, well, that's just part
17 of the process. You know, whenever you've got to put a
18 check valve in, it almost just seems -- and I'm not trying
19 to be argumentative, but I'm just trying to see where --
20 how you're different, and that's why. And so is it the
21 size of the well that you're saying is different, because
22 ultimately at the same time the cost of the meter is going
23 to be less on your side than it would be on a larger well,
24 and so I'm just wanting to understand where the difference
25 is.

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1 A. The other cost that we have is we're going to
2 have to have a manhole.

3 MR. CROWNOVER: You don't have a manhole
4 today?

5 A. Not at the, well we don't.

6 MR. CROWNOVER: But because --

7 A. But to put a meter in on that well -- you know,
8 your irrigation wells are different than ours, everything
9 of yours is up above ground. That well sits there. And
10 we're going to have to dig a manhole and tie into the line
11 coming off of that well that runs to our pressure tank.

12 MR. CROWNOVER: Because you -- I assume
13 it's probably just like a normal domestic well?

14 A. It is just like a little domestic well at your
15 house.

16 MR. CROWNOVER: Yeah, I understand. So
17 your additional cost is what you're concerned about?

18 A. The additional cost is a concern. I always
19 think we use way less water at our facilities, as opposed
20 to farming.

21 MR. CROWNOVER: I understand. Okay. I
22 just wanted to understand.

23 MR. HOWARD: Mark Howard, Hartley County.

24 Have you come up with a cost estimate of
25 what it could take to put one in as you are describing?

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1 A. I would assume it would cost around 5,000, by
2 the time you pay for a meter and a manhole and the labor.

3 MR. HOWARD: Thank you.

4 MR. YODER: Is that per well?

5 A. Uh-huh.

6 MR. ZIMMER: It doesn't -- as far as this
7 District is concerned, it doesn't matter if you pump 1
8 gallon or 5,000 gallons, every drop counts, and we are
9 responsible -- and I know even further, because I'm on the
10 GMA -- to figure out every bit of water produced to fit
11 within the MAG; because, yes, you pump less water, but if
12 we ever get to the point that we start exceeding the MAG,
13 it's going to affect everybody, and it's going to cut
14 everybody back. So, anyways, so it is important to meter
15 the water and make it get accounted for, because that
16 affects our groundwater availability model now and in the
17 future.

18 A. And we are doing that.

19 MR. ZIMMER: So I take offense from anybody
20 who says, well, I'm just a little pumper; I don't really
21 matter.

22 A. I don't feel like we don't matter, but we are a
23 small pumper.

24 MR. ZIMMER: I understand, but every drop
25 counts --

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1 A. And we read our meters every week.

2 MR. ZIMMER: -- and every drop is coming
3 out of the aquifer. Whether it's a small deal like yours
4 or a large irrigation production unit, every drop is
5 coming out of the aquifer, and that's why we try to
6 account for it.

7 A. Yes.

8 MR. ZIMMER: Okay.

9 MR. KRIENKE: Danny Krienke again. I guess
10 I thought I was through with questions.

11 But, I believe, in our rules for cattle,
12 for feed lots, we have an alternative method of reporting
13 that's based on number of head and an accepted amount of
14 water per head, per day, to arrive at a calculation.
15 That's acceptable as an alternative method. Currently our
16 rules do not allow, the way I understand, except for the
17 exception that Steve mentioned, an alternative method.

18 So I guess -- I don't know if this is a
19 comment or a question. Would it at some time in the
20 future, if we wanted to look at maybe tweaking the rules,
21 that might be something that we could look at.

22 In your case here, it probably wouldn't
23 help, unless the well could be classified as a replacement
24 well, because then the 5.1.4.B. would not apply. So just
25 as a statement, I would guess I would be open to some sort

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1 of a discussion and some thought about if the alternative
2 method was available, we do allow that for CAPOs in the
3 cattle feeding business, but I guess do we -- do we make
4 that distinction with other CAFOs, other animals?

5 MR. WALTHOUR: Okay. This is Steve, and
6 I'll answer a couple of those.

7 First of all, our rules are set up that you
8 can use an alternative measuring method up until the point
9 you drill a new well or a well. And whether it's a
10 replacement well or whether it's a completely new well
11 somewhere, at that point that CAFO is required to report
12 using meters. The alternative method is something that
13 ends on that. Even on replacement wells, you're
14 required -- we require -- or at least our interpretation
15 is that a replacement well requires a meter.

16 MR. KRIENKE: Thank you. Any other
17 questions? Hearing none, we will close testimony for the
18 hearing.

19 MR. GOOD: You need to receive all of the
20 evidence into the record.

21 MR. KRIENKE: If you have any further
22 evidence that needs to be entered into the record, we need
23 to receive that, also.

24 MR. JONES: We do not. I might just note
25 that Mrs. Johnson had a comment a moment ago that

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1 shouldn't be missed, and that is that they're reading
2 their meters weekly and are reporting monthly to TCEQ
3 what's being produced out there. So it's not a situation
4 where they are resistant to figuring out what their
5 production is and knowing exactly what their production
6 is. They know exactly what their production is probably
7 as well as anyone.

8 MR. WALTHOUR: Steve Walthour.

9 I have something to add to this, is that in
10 this process Prestage Farms has tried to play by our
11 rules. They really have. They have come in, and they
12 have attempted to do their operation according to district
13 rules, And it's been my experience -- not in this district
14 but in other places -- sometimes exceptions are asked for
15 really a convenience matter as opposed to following our
16 rules if there's a problem.

17 MR. KRIENKE: So I guess the point Keith
18 was making is, before we close the hearing, we admit any
19 evidence that was presented at the hearing into the
20 record. That includes verbal plus written.

21 (Prestage 1 and Prestage 2
22 admitted.)

23 MR. WALTHOUR: Mr. Jones entered in all of
24 the stuff I was going to enter.

25 MRS. ORR: Prestage 1 and Prestage 2.

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1 MR. KRIENKE: Do you have anything else?

2 MR. WALTHOUR: That's it.

3 MR. KRIENKE: So at this time, we will
4 close the Rule Exception Hearing and convene into regular
5 session. Thank you.

6 (Hearing Closed.)
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PUBLIC HEARING - July 09, 2019BEFORE THE NORTH PLAINS GROUNDWATER
CONSERVATION DISTRICT

IN THE MATTER OF)
PRESTAGE FARMS OF OKLAHOMA, LLC.,)
)
APPLICATION FOR EXCEPTION) NPGCD BOARD ORDER
TO DISTRICT RULES 3.4, ;3.7;) NO. 019-001
5.1.1.; 5.1.4.A.; and 5.1.5)

APPLICATION FOR EXCEPTION HEARING

JULY 9, 2019

REPORTER'S CERTIFICATION

I, Dana Foster Moreland, Certified Shorthand Reporter
and Court in and for the State of Texas, do hereby certify
that the above and foregoing contains a true and correct
transcription of the Show Cause Hearings for the North
Plains Groundwater Conservation District held on July 9,
2019 and all exhibits entered into evidence.

Certified to by me on this 30th day of
July, 2019.



DANA FOSTER MORELAND, CSR
Texas CSR 2341
Amarillo Court Reporting, Inc.
P.O. Box 19628
Houston, Texas 79114
Telephone: 806.374.4091
Expiration: 12/31/19



SPROUSE SHRADER SMITH PLLC
ATTORNEYS AT LAW

MARVIN W. JONES
(806) 468-3344

May 20, 2019

Via Email: swalthour@northplainsgcd.org
Steve Walthour
North Plains Groundwater Conservation District
603 East 1st Street
Dumas, Texas 79029

RE: Prestage Farms

Dear Steve:

This firm represents Prestage Farms of Oklahoma, LLC ("Prestage Farms"). Please consider this letter an application for an exception to the Rules of the North Plains Groundwater Conservation District ("NPGCD") pursuant to District Rule 11.2. In that regard, I have in hand your letter to Prestage Farms dated September 23, 2018.

A. Prestage Farms requests an exception to the District's replacement well spacing rules, the District's well density rules, and/or the District's metering rules requiring the installation of flow meters on each of the non-exempt wells on a groundwater production unit ("GPU"), and specifically requests an exception from these rules as they pertain to a new well it drilled in January 2018 on Property No. 7586, Section 117, Block 1-C, GH&H Survey, Sherman County, Texas, pursuant to Permit No. SH-10285.

B. The District Rules from which Prestage Farms seeks exception are:

- a. Rule 3.4;
- b. Rule 3.7;
- c. Rule 5.1.1.;
- d. Rule 5.1.4.A.; and
- e. Rule 5.1.5.

C. The justifications for granting the requested exception are as follows:

a. Prestage Farms drilled a well on the property identified above to replace a well that had become inoperable. Prestage Farms operates a Confined Animal Feeding Operation ("CAFO") on the property, subject to the jurisdiction of the Texas Commission on Environmental Quality, and specifically pursuant to TPDES General Permit No. TXG920000 ("General Permit"), a copy of which is attached.

b. Pursuant to Part III.A.4.(c) of the General Permit, Prestage Farms was not able to drill a "replacement well" within the meaning of the District Rules because the TCEQ rules required more distance between any new well and the



CAFO than Prestage Farms had available. Put differently, Prestage Farms could not comply with TCEQ well rules relating to distances from CAFO facilities because it only owns the "corners" of Section 117.

c. To address the TCEQ rules, Prestage Farms therefore had to put its replacement well further from the existing well than District Rules would allow and still be regarded as a "replacement well" under District Rule 3.4. Because Prestage Farms only had 40 contiguous acres in this location, it could not comply with the rules regarding the number of wells that can be placed on a parcel of property under District Rule 3.7. Prestage Farms therefore secured the agreement of the owner of the center of Section 117 to allow the Prestage Farms unit to be pooled with that of the neighbor, giving Prestage Farms sufficient acreage to meet District Rules. The District now says that Prestage Farms must separately meter its new well in order to comply with District Rule 5.1.

d. Prestage Farms now seeks an exception to District Rule 3.4. PF could not comply with District Rule 3.4 by drilling a replacement well within 50 yards of the well being replaced because of the TCEQ requirement that such well be placed further from its CAFO facilities. But for those requirements, the new well could have been placed within 50 yards of the well it was replacing. An exception from District Rule 3.4 is warranted under the circumstances because the new well will be spaced in such a way that the protection of the aquifer will be enhanced by complying with the TCEQ spacing requirement. Production will not increase as compared to the production allocated to the failed well, and the adjoining owner (the owner of the "center" of Section 117) has no objection to the placement of the new well, as evidenced by the agreement to pool this small tract with the center of the section. If an exception had been granted at the time the well was drilled, there would have been no necessity to pool this tract with the balance of Section 117, and the metering requirements would not be implicated.

e. In the alternative, Prestage Farms seeks an exception from the application of District Rule 3.7. The new well does not change the actual well density on the property at issue—it merely changes the location to comply with the more specific regulatory requirements of TCEQ. As noted above, but for those requirements, the new well could have been placed within 50 yards of the well it was replacing, and the requirements of District Rule 3.7 would not have been implicated.

f. In the further alternative, Prestage Farms seeks an exception from the application of District Rule 5.1. TCEQ rules require that wells supplying a CAFO must be connected to a closed system. In the case of the new well drilled by Prestage Farms, the system complies with TCEQ mandates and is metered. Production from the system is reported to Prestage weekly and monitored closely to stay in compliance with TCEQ lagoon freeboard levels. Thus, one of the principal purposes of the District Rules—to monitor water production from various wells—is being met by Prestage Farms' compliance with the TCEQ rules.

g. The owner of the "center" of Section 117 has 3 wells currently connected to a central gathering system and serving a center pivot. Those 3 wells are not and cannot be connected to the Prestage Farms wells. We understand that George Freeman has now placed individual meters on those wells. Moreover, falsifying,

tampering with, or knowingly rendering inaccurate any monitoring device (meter) required to be maintained under a TCEQ permit could subject Prestage Farms to administrative, civil and criminal penalties. Therefore, there are substantial disincentives for Prestage Farms to attempt to divert water to or from any other well or well system.

h. The District's mission to protect the aquifer from pollutants is being met through TCEQ's regulation and oversight. The General Permit conditions concerning inspection of water lines ensure that the system remains intact and that pollution will not occur. Moreover, the TCEQ groundwater monitoring plan is far more stringent than the District's own monitoring of groundwater quality.

i. Prestage Farms' production is well within the production limitations set forth in the District's Rules.

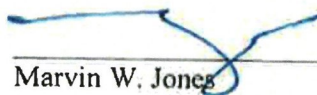
j. If an exception to the requirements of District Rule 3.4 had been granted in the first instance, there would be no issue regarding how this new well is connected to the CAFO water system and no issue regarding placing a meter on this well. The CAFO facility belonging to Prestage Farms is heavily regulated by TCEQ. Therefore, the District's requirement that a meter be placed on individual wells in the CAFO system should be waived, and Prestage Farms should receive an exception to the enumerated Rules.

D. To summarize, Prestage Farms only needed to drill a new well because an existing well failed. The only reason Prestage Farms could not comply with District Rule 3.4 was its obligation to comply with the terms of the General Permit from TCEQ. The TCEQ requirements are more stringent than those of the District's Rules, and the mission of the District is preserved through compliance with the TCEQ requirements. If an exception to District Rule 3.4 had been granted in the first instance, there would be no need to comply with Districts Rules 3.7 or 5.1 as they relate to the new well. The neighbor, George Freeman, obviously does not object to and is not harmed by the location of the new well.

Because the adjoining owner does not object, and because the purposes of the District's Rules are accomplished through compliance with the TCEQ General Permit, Prestage Farms respectfully requests that the District grant this application for an exception to Rule 3.4, or alternatively, to Rules 3.7 and 5.1.

We are enclosing a check in the amount of \$1,500.00 as a deposit toward costs of the exception proceeding, as per your email of today's date.

Sincerely,



Marvin W. Jones

Enclosures

BEFORE THE NORTH PLAINS GROUNDWATER
CONSERVATION DISTRICT

IN THE MATTER OF
PRESTAGE FARMS OF OKLAHOMA, LLC

APPLICATION FOR EXCEPTIONS
TO THE DISTRICT RULES 3.4; 3.7; 5.1.1
5.1.4.A; and 5.1.5

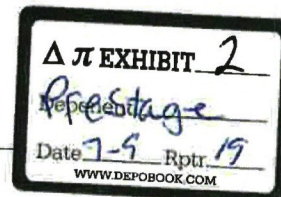
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NPGCD BOARD ORDER NO.
019-001

**HEARING re PRESTAGE FARMS OF
OKLAHOMA, LLC'S REQUEST FOR
EXCEPTION TO THE DISTRICT
RULES HEARING**

TUESDAY, JULY 9, 2019 AT 9:00 A.M.

MARVIN W. JONES
SPOUSE SHRADER SMITH PLLC
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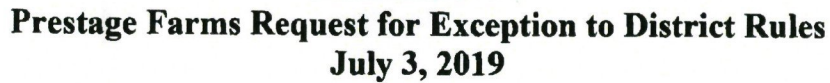
BEFORE THE NORTH PLAINS GROUNDWATER
CONSERVATION DISTRICT

IN THE MATTER OF §
PRESTAGE FARMS OF OKLAHOMA, LLC §
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NPGCD BOARD ORDER NO.
019-001

NOTEBOOK INDEX

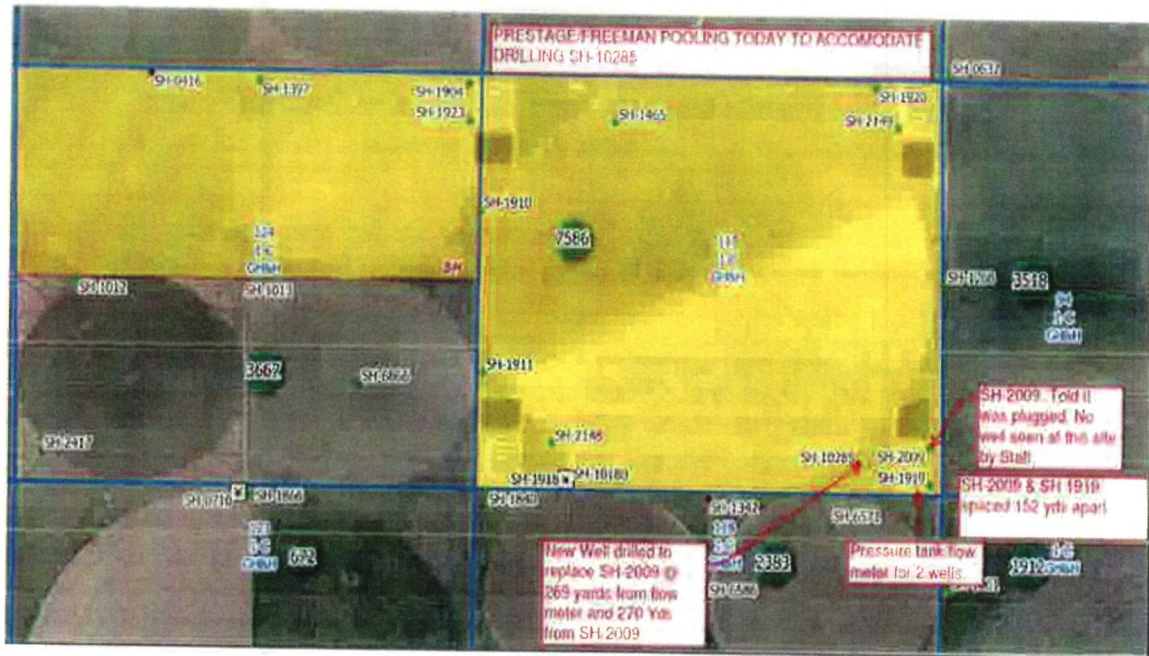
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1.	Prestage Summary
2.	Sprouse Exception Request
3.	TCEQ General Permit
4.	Board Order – Rules Exception Hearing
5.	Notice of Exception Hearing
6.	Prestage Timeline
7.	Maps & Poolings
8.	Prestage Well Logs
9.	Warranty Deeds



Prestage Farms LLC owns and operates a CAFO located in the four approximately 40-acre corners of Section 117, Block 1-C, GH&H Survey, Sherman County Texas. The operation originally had eight wells (two wells supplying each corner) of Section 117. Seven wells were drilled in 1997 through 1998 and the eighth well was drilled in 2002. All wells are permitted as Class A (100 gpm maximum). The original pooling documents show that the four corners of Section 117 were pooled separately. The northwest corner pooled with three additional acres in the northeast corner of Section 124 to encompass all wells in that operation. The four GPUs were collectively less than 200 acres. After review of the various deeds associated with this section, staff could not ascertain that the four corner GPUs were contiguous or "touching". If the corner GPUs are touching, they could simply be pooled together in to one GPU that would be less than 640 acres. There are no other GPUs contiguous to these GPUs solely owned by Prestage Farms. The remainder of Section 117 and the north half of section 124 (except for the 3 acres in its northeast corner) were collectively pooled as GPU owned by both Prestage and Freeman.

[illegible]

A map of the current GPU 7586 is shown below.



Exceptions to Rules Request.

On May 20, 2019, Marvin W. Jones of Sprouse Shrader Smith PLLC representing Prestage Farms LLC, applied for multiple exceptions to District Rules (request attached) as follows:

District Rule 3.4 – Replacement Well Spacing - A replacement Well, in order to be considered as such, must be drilled within fifty (50) yards of the Well being replaced and not elsewhere. It must not be located toward any other Owner's Well or Authorized Well Site that causes it to violate spacing Rules of the District

District Rule 3.7 – Maximum Permitted Well Density – The maximum permitted Well density of a Groundwater Production Unit, including Capped Wells, shall be:

1. Applied to the GPU acreage basis on a Section or part of a section within the GPU.
2. One Well for GPUs of acreages less than 64 acres.
3. One Well per each 64 acres of Groundwater Production Units of acreages greater than 64 acres. For GPUs comprised of acreages not evenly divisible by 64, the total maximum permitted Well density, including Capped Wells, shall be equal to the number of acres divided by 64 and the result rounded up to the next whole number.

District Rule 5.1 – Water Well Flow Meters or Alternative Measuring Method Required:

1. All Owners of Wells in existence prior to October 14, 2003 which are reworked to increase production, and all Wells drilled after October 14, 2003 shall; A. Install a water meter to measure the Groundwater production from the Well; and Report

Annual Production from the new Well and other Wells on the GPU in accordance with these Rules.

- 4A. Except as provided in Rule 5.1.4 B., the Owner must install Meters at the pump on all Wells in the GPU within 365 days after the date the permit or amended permit was approved. Rule 5.1.4 B is important for consideration of 5.1.4A. Rule 5.1.4 B. directs that for GPUs that are 640 acres or less and are not Contiguous with the Owner's other GPUs, the Owner shall install a Meter on the new Well and may continue to utilize, or may install, a Meter at a Central Collection Point to measure all Water produced from the GPU.
5. The metering System shall remain on the Well and be in proper condition at all times when Groundwater is being produced. If the Metering System ceases to operate correctly and/or it becomes necessary to remove the Metering System to make repairs and the Well is in operation, the Owner, or the Owner's legal representative shall within 30 days:
 - A. Inform the District of the date the Metering System ceased to operate, the date the Metering System will be removed, and the total reading of the meter or the calculated Groundwater usage at the time the Metering System is removed;
 - B. Inform the District of the date the Metering System was replaced and the Totalizer reading of the Meter at the time the Meter was replaced, if the Metering System utilizes an hour Meter, the number of hours on the Meter at the time of the replacement; and
 - C. Make a determination of the amount of Groundwater, which was produced during the time the Metering System was not in operation. The General Manager shall work with the well Owner to select the determination method.

Prestige Farms provided a copy of a General Permit to Discharge Wastes No. TXG920000, issued on July 9, 2009 as supporting documentation for the rule exceptions. A copy of the General Permit is attached to this item. Under Part III. Pollution Prevention Plan (PPP) Requirements on page 25, the General Permit requires that the permittee must not locate or operate retention control structures (RCSs), holding pens, or land management units (LMUs) within the following buffer zones except in accordance with paragraph (2) in this section:

- (i) public water supply wells - 500 feet;
- (ii) wells used exclusively for private water supply – 150 feet; or
- (iii) wells used exclusively for agriculture irrigation – 100 feet.

I interpret this rule as meaning that a new well for the CAFO would be classified as used exclusively for private water supply and cannot be located within 50 yards (150 feet) from an RCS or LMU. The waste pond (RCS) to the north is less than 50 yards away from the original well to be replaced.

I met with TCEQ regarding Prestige Farm LLC General Permit June 12, 2019. TCEQ confirmed the need to move away from the waste pit. The staff indicated that there was a procedure for asking for an exception to TCEQ Rules that takes approximately 30 days if all

information needed to decide is available. TCEQ staff was resistive to approving an exception. There are no apparent TCEQ enforcement actions pending against Prestage Farms. Therefore, I assume that all facilities comply with TCEQ rules.

My staff performed on-site investigations, reviewed deeds, drillers logs, other legal documents, the TCEQ permit and the North Plains Groundwater Conservation District's rules regarding this matter. A timeline is attached regarding the GPU owners and district investigations. I prepared the following summary based on my findings.

In July 2017, Prestage successfully sought a permit and drilled a replacement well (SH-10180) on the southwest corner (GPU 2808) of Section 117. The replaced well (SH-1918) was plugged. Since the SH-10180 is a replacement well, District rules require it to a meter installed at the replacement well and the owner can continue to meter at a central collection point to measure all water produced on the GPU. Prestage had not yet installed the meter on SH-10180.

Wells SH-2009 and SH-1919, in the southeast corner of the operation were drilled according to district rules in 1997. At that time there were no pooling rules and well density was determined by a maximum of 5 gpm per acre. A forty-acre parcel would allow for 200 gallons per minute. In development of the well density rules associated with groundwater production units, any existing well on a GPU can continue to produce regardless of well density. A replacement well is allowed for any existing well. However, if a new well is drilled that is not a replacement well, the GPU must be pooled according to District Rule 3.7.

Later in 2017, Prestage sought a replacement well for SH-2009. In my opinion, there was no viable location for a replacement well within 50 yards of the existing well site based on the TCEQ General Permit and the location of other structures on the property. I did not issue a permit for a replacement well for the location proposed by Prestage. Though the proposed well was not located toward any other Owner's Well or Authorized Well Site that causes it to violate spacing Rules of the District, it is the well could not be reasonably be located within 50 yards of the SH-2009 site.

In November 2017, Prestage Farms and Freeman pooled the entire Section 117 and N/2 of Section 124, (over 640 acres) to facilitate drilling of SH-10285 to meet NPGCD well density rule requirements since SH-10285 could not be classified as a replacement well according to district rules. Accordingly, all wells on the GPU are now required to be metered. Freeman's original three wells are metered at the well and all existing wells Prestage Farms finishing facilities that currently use a central collection point, including Wells Sh-10280 and SH-10285, are now required to be individually metered. Well SH-2009 has since been plugged.

Section 117 Southeast Corner Map



The documents I and my staff reviewed are attached to this correspondence and are as follows:

1. Sprouse Shrader Smith PLLC Exception Request
2. TCEQ General Permit
3. Board Order – Rule Exception Hearing
4. Notice of Exception Hearing _ Prestage
5. Prestage Timeline
6. Maps and Poolings
7. Prestage Well Logs
8. Warranty deeds

Conclusion

I reserve my recommendation(s) regarding this specific matter until, I hear any additional testimony that may be provided as part of the hearing.

Sincerely,

Steven D. Walthour, PG
General Manager



SPROUSE SHRADER SMITH PLLC
ATTORNEYS AT LAW

MARVIN W. JONES
(806) 468-3344

May 20, 2019

Via Email: swalthour@northplainsgcd.org

Steve Walthour

North Plains Groundwater Conservation District

603 East 1st Street

Dumas, Texas 79029

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B. The District Rules from which Prestage Farms seeks exception are:

- a. Rule 3.4;
- b. Rule 3.7;
- c. Rule 5.1.1.;
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C. The justifications for granting the requested exception are as follows:

a. Prestage Farms drilled a well on the property identified above to replace a well that had become inoperable. Prestage Farms operates a Confined Animal Feeding Operation ("CAFO") on the property, subject to the jurisdiction of the Texas Commission on Environmental Quality, and specifically pursuant to TPDES General Permit No. TXG920000 ("General Permit"), a copy of which is attached.

b. Pursuant to Part III.A.4.(c) of the General Permit, Prestage Farms was not able to drill a "replacement well" within the meaning of the District Rules because the TCEQ rules required more distance between any new well and the

CAFO than Prestage Farms had available. Put differently, Prestage Farms could not comply with TCEQ well rules relating to distances from CAFO facilities because it only owns the "corners" of Section 117.

c. To address the TCEQ rules, Prestage Farms therefore had to put its replacement well further from the existing well than District Rules would allow and still be regarded as a "replacement well" under District Rule 3.4. Because Prestage Farms only had 40 contiguous acres in this location, it could not comply with the rules regarding the number of wells that can be placed on a parcel of property under District Rule 3.7. Prestage Farms therefore secured the agreement of the owner of the center of Section 117 to allow the Prestage Farms unit to be pooled with that of the neighbor, giving Prestage Farms sufficient acreage to meet District Rules. The District now says that Prestage Farms must separately meter its new well in order to comply with District Rule 5.1.

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f. In the further alternative, Prestage Farms seeks an exception from the application of District Rule 5.1. TCEQ rules require that wells supplying a CAFO must be connected to a closed system. In the case of the new well drilled by Prestage Farms, the system complies with TCEQ mandates and is metered. Production from the system is reported to Prestage weekly and monitored closely to stay in compliance with TCEQ lagoon freeboard levels. Thus, one of the principal purposes of the District Rules—to monitor water production from various wells—is being met by Prestage Farms' compliance with the TCEQ rules.

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h. The District's mission to protect the aquifer from pollutants is being met through TCEQ's regulation and oversight. The General Permit conditions concerning inspection of water lines ensure that the system remains intact and that pollution will not occur. Moreover, the TCEQ groundwater monitoring plan is far more stringent than the District's own monitoring of groundwater quality.

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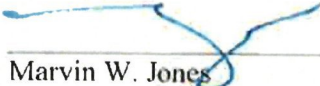
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D. To summarize, Prestage Farms only needed to drill a new well because an existing well failed. The only reason Prestage Farms could not comply with District Rule 3.4 was its obligation to comply with the terms of the General Permit from TCEQ. The TCEQ requirements are more stringent than those of the District's Rules, and the mission of the District is preserved through compliance with the TCEQ requirements. If an exception to District Rule 3.4 had been granted in the first instance, there would be no need to comply with Districts Rules 3.7 or 5.1 as they relate to the new well. The neighbor, George Freeman, obviously does not object to and is not harmed by the location of the new well.

Because the adjoining owner does not object, and because the purposes of the District's Rules are accomplished through compliance with the TCEQ General Permit, Prestage Farms respectfully requests that the District grant this application for an exception to Rule 3.4, or alternatively, to Rules 3.7 and 5.1.

We are enclosing a check in the amount of \$1,500.00 as a deposit toward costs of the exception proceeding, as per your email of today's date.

Sincerely,



Marvin W. Jones

Enclosures

TCEQ DOCUMENT

GENERAL PERMIT TO DISCHARGE WASTE

EFFECTIVE DATE JULY 20, 2014.

Texas Commission on Environmental Quality

P.O. Box 13087 Austin, TX 78711-3087



GENERAL PERMIT TO DISCHARGE WASTES

under provisions of Section 402 of the Clean Water Act,
Chapter 26 of the Texas Water Code and
30 Texas administrative Code Chapter 205
This permit supersedes and replaces

TPDES General Permit No. TXG920000, issued on July 09, 2009.

Concentrated animal feeding operations (CAFOs) located in the state of Texas, may discharge into or adjacent to surface water in the state only according to limitations, monitoring requirements and other conditions set forth in this general permit, as well as the rules of the Texas Commission on Environmental Quality (TCEQ), the laws of the State of Texas, and other orders of the Commission of the TCEQ (Commission). This general permit meets the Clean Water Act and the Texas Water Code requirements for the protection of water quality. This general permit is applicable both to Texas Pollutant Discharge Elimination System (TPDES) and State-only CAFOs. The issuance of this general permit does not grant to the permittee the right to use private or public property for the conveyance of manure, sludge, or wastewater. This includes property belonging to, but not limited to any individual, partnership, corporation, or other entity. Neither does this general permit authorize any invasion of personal rights nor any violation of federal, state, or local laws and regulations. It is the responsibility of the permittee to acquire any property rights that may be necessary for the conveyance of manure, sludge, or wastewater.

This general permit and the authorization contained herein shall expire at midnight on July 20, 2019.

EFFECTIVE DATE: July 20, 2014

ISSUED DATE: JUL 10 2014

A handwritten signature in black ink that reads "Bryan W. Shaw".

For the Commission

GENERAL PERMIT No. TXG920000

GENERAL PERMIT NUMBER TXG920000
RELATING TO THE DISCHARGE OF MANURE, SLUDGE AND WASTEWATER
FROM CAFO FACILITIES

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GENERAL PERMIT No. TXG920000

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Part I. Definitions

All definitions in Chapter 26 of the Texas Water Code (TWC) and 30 Texas Administrative Code (TAC) Chapter 205, 305 and 321 Subchapter B shall apply to this permit and are incorporated by reference. Some specific definitions of words or phrases used in this permit are as follows:

Agronomic rates - The land application of animal manure, sludge, or wastewater at rates of application in accordance with a plan for nutrient management which will enhance soil productivity and provide the crop or forage growth with needed nutrients for optimum health and growth based upon a realistic yield goal.

Animal feeding operation (AFO) - A lot or facility (other than an aquatic animal production facility) where animals have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and the animal confinement areas do not sustain crops, vegetation, forage growth, or post-harvest residues in the normal growing season. Two or more AFOs under common ownership are a single AFO if they adjoin each other, or if they use a common area or system for the beneficial use of manure, sludge, or wastewater. A land management unit is not part of an AFO.

Annual(ly) - Once per calendar year with required events not more than 18 months apart, unless approved in writing by the Executive Director on a case by case basis.

Aquifer - A saturated permeable geologic unit that can transmit, store, and yield to a well, the quality and quantities of groundwater sufficient to provide for a beneficial use. An aquifer can be composed of unconsolidated sands and gravels, permeable sedimentary rocks such as sandstones and limestones, and/or heavily fractured volcanic and crystalline rocks. Groundwater within an aquifer can be confined, unconfined, or perched.

Beneficial use - Application of manure, sludge, or wastewater to land in a manner which does not exceed the agronomic need or rate for a harvested or cover crop. Application of manure, sludge, or wastewater on the land at a rate below or equal to the optimal agronomic rate is considered a beneficial use.

Best management practices (BMPs) - The schedules of activities, prohibitions of practices, maintenance procedures, and other management and conservation practices to prevent or reduce the pollution of waters in the state. BMPs also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge, land application, or drainage from raw material storage.

Bypass - The intentional diversion of waste streams from any portion of a treatment facility.

Catastrophic conditions - conditions which cause structural or mechanical damage to an AFO from natural events including high winds, tornadoes, hurricanes, earthquakes, or other natural disasters, other than rainfall events.

Certified Nutrient Management Specialist (CNMS) - An organization in Texas or an individual who is currently certified as a nutrient management specialist through a United States Department of Agriculture (USDA)-Natural Resources

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Conservation Service (NRCS), Texas Certified Crop Advisor's Board or Texas AgriLife Extension Service recognized certification program.

Chronic or catastrophic rainfall event - A series of rainfall events that do not provide an opportunity for dewatering a retention control structure and that are equivalent to or greater than the design rainfall event or any single rainfall event that is equivalent to or greater than the design rainfall event.

Concentrated animal feeding operation (CAFO) - A lot or facility (other than an aquatic animal production facility) where animals have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and the animal confinement areas do not sustain crops, vegetation, forage growth, or post-harvest residues in the normal growing season and are defined as follows:

- (a) **Large CAFO** - any AFO which stables and confines and feeds or maintains for a total of 45 days or more in any 12-month period equal to or more than the numbers of animals specified in any of the following categories:
 - (1) 1,000 cattle other than mature dairy cattle or veal calves. Cattle includes but is not limited to heifers, steers, bulls and cow/calf pairs;
 - (2) 1,000 veal calves;
 - (3) 700 mature dairy cattle (whether milkers or dry cows);
 - (4) 2,500 swine, each weighing 55 pounds or more;
 - (5) 10,000 swine, each weighing less than 55 pounds;
 - (6) 500 horses;
 - (7) 10,000 sheep or lambs;
 - (8) 55,000 turkeys;
 - (9) 125,000 chickens (other than laying hens if the operation does not use a liquid manure handling system);
 - (10) 30,000 laying hens or broilers (if the operation uses a liquid manure handling system);
 - (11) 82,000 laying hens (if the operation does not use a liquid manure handling system);
 - (12) 5,000 ducks (if the operation uses a liquid manure handling system); or
 - (13) 30,000 ducks (if the operation does not use a liquid manure handling system).
- (b) **Medium CAFO** - Any animal feeding operation that discharges pollutants into water in the state either through a man-made ditch, flushing system, or other similar man-made device, or directly into water in the state with the following number of animals:
 - (1) 300 to 999 cattle other than mature dairy cattle or veal calves. Cattle includes but is not limited to heifers, steers, bulls and cow/calf pairs;

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- (2) 200 to 699 mature dairy cattle (whether milking or dry cows);
 - (3) 300 to 999 veal calves;
 - (4) 750 to 2,499 swine, each weighing 55 pounds or more;
 - (5) 3,000 to 9,999 swine, each weighing less than 55 pounds;
 - (6) 150 to 499 horses;
 - (7) 3,000 to 9,999 sheep or lambs;
 - (8) 16,500 to 54,999 turkeys;
 - (9) 37,500 to 124,999 chickens (other than laying hens if the operation does not use a liquid manure handling system);
 - (10) 9,000 to 29,999 laying hens or broilers (if the operation uses liquid manure handling system);
 - (11) 25,000 to 81,999 laying hens (if the operation does not use a liquid manure handling system);
 - (12) 1,500 to 4,999 ducks (if the operation uses a liquid manure handling system); or
 - (13) 10,000 to 29,999 ducks (if the operation does not use a liquid manure handling system)
- (c) **Small CAFO** - Any animal feeding operation that is designated by the Executive Director as a CAFO because it is a significant contributor of pollutants into water in the state and is not a large or medium CAFO.
- (d) **State-only CAFO** - An AFO that falls within the range of animals in subparagraph (b) of this paragraph and that is located in the dairy outreach program areas; or an AFO designated by the Executive Director as a CAFO because it is a significant contributor of pollutants into or adjacent to water in the state. A state-only CAFO is authorized under state law.

Control facility - Any system used for the collection and retention of manure, sludge, or wastewater at the permitted facility until ultimate use or disposal. This includes all collection ditches, conduits, and swales for the collection of manure, sludge, or wastewater, and all retention control structures.

Cooling pond - A shallow man-made structure filled with water for the specific purpose to keep animals cool and promote animal comfort.

Crop removal - The amount of nutrients contained in and removed by harvest of the proposed crop.

Crop requirement - The amount of nutrients that must be present in the soil in order to insure that the crop nutrient needs are met, while accounting for nutrients that may become unavailable to the crop due to adsorption to soil particles or other natural causes.

Dairy outreach program areas (DOPA) - The area including all of the following counties: Bosque, Comanche, Erath, Hamilton, Hopkins, Johnson, Rains and Wood.

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Design rainfall event- A design parameter corresponding to precipitation frequency values for a given rainfall duration and return period based on United States Department of Commerce, Weather Bureau, Technical Paper 40 or 49, May 1961.

Dry litter poultry operation- A poultry animal feeding operation that does not use a liquid manure handling system.

Edwards Aquifer - As defined in 30 TAC Chapter 213.3 (relating to Definitions).

Edwards Aquifer recharge zone - As defined in 30 TAC Chapter 213.3 (relating to Definitions).

Groundwater - Subsurface water that occurs below the water table in soils and geologic formations that are saturated, other than underflow of a stream or an underground stream.

Hydrologic connection - The connection and exchange between surface water and groundwater.

Initial authorization- The Notice of Intent (NOI) that was approved for the site when the facility was first authorized under TXG920000.

Land application - The act of applying manure, sludge, or wastewater associated with the AFO including distribution to, or incorporation into, the soil mantle primarily for beneficial use purposes.

Land management unit (LMU) - An area of land owned, operated, controlled, rented or leased by a CAFO permittee to which manure, sludge, or wastewater from the CAFO is or may be applied. This includes land associated with a single center pivot system or a tract of land on which similar soil characteristics exist and similar management practices are being used. Land management units include historical waste, application fields. The term "land management unit" does not apply to any lands not owned, operated, controlled, rented or leased by the CAFO permittee for the purpose of off-site land application of manure, sludge, or wastewater wherein the manure, sludge or wastewater is given or sold to others for land application.

Liner - Any barrier in the form of a layer, membrane or blanket, either naturally existing, constructed or installed, to prevent a significant hydrologic connection between wastewater contained in retention control structures and water in the state.

Liquid manure handling system - A system in which freshwater or wastewater is used for transporting and land applying manure.

Major sole-source impairment zone - A watershed that contains a reservoir:

- (a) that is used by a municipality as a sole source of drinking water supply for a population, inside and outside of its municipal boundaries, of more than 140,000; and
- (b) at least half of the water flowing into which is from a source that, on September 1, 2001, is on the list of impaired state waters adopted by the Commission as required by 33 United States Code §1313(d):
 - (1) at least in part because of concerns regarding pathogens and phosphorus; and

- (2) for which the Commission, at some time, has prepared and submitted a total maximum daily load standard.

Manure - Feces and/or urine excreted by livestock and poultry. Manure includes litter, bedding, compost, feed, and other raw materials commingled with feces and/or urine.

Multi-year phosphorus application – A practice that allows manure application in a single year at rates in excess of the phosphorus requirements of the crops. In subsequent years, phosphorus may not be applied until the amount applied in the single year has been removed through plant uptake and harvest.

Natural Resources Conservation Service (NRCS) - An agency of the USDA which provides assistance to agricultural producers for planning and installation of conservation practices through conservation programs and technical programs.

New source - New source as defined in 30 TAC Chapter 305.2 (relating to Definitions) and that meet the criteria in 30 TAC Chapter 305.534(b).

Notice of change (NOC) - A written submission to the Executive Director from a permittee authorized under a general permit, providing information on changes to information previously provided to the Commission, or any changes with respect to the nature or operations of the regulated entity or the characteristics of the discharge.

Notice of intent (NOI) - A written submission to the Executive Director from an applicant requesting coverage under the terms of a general permit.

Notice of termination (NOT) - A written submission to the Executive Director from a permittee authorized under a general permit requesting termination of coverage under the general permit.

Nuisance - Any discharge of air contaminant(s), including but not limited to odors, of sufficient concentration and duration that are or may tend to be injurious to or which adversely affects human health or welfare, animal life, vegetation, or property, or which interferes with the normal use and enjoyment of animal life, vegetation, or property.

Nutrient Management Plan (NMP) – A plan based on the NRCS Practice Standard Nutrient Management Code 590, to address the amount (rate), source, placement (method of application), and timing of the application of plant nutrients and soil amendments.

Nutrient Utilization Plan (NUP) - A NMP to evaluate and address site specific characteristics of a LMU to ensure that the beneficial use of manure, sludge, or wastewater is conducted in a manner to prevent adverse impacts on water quality.

100-year flood plain - Any land area which is subject to a 1.0% or greater chance of flooding in any given year from any source.

Open lot - Pens or similar confinement areas with dirt, concrete, or other paved or hard surfaces wherein livestock or poultry are substantially or entirely exposed to the outside environment except for small portions of the total confinement area affording protection by windbreaks or small shed-type shade areas and that do not sustain crops, vegetation, forage growth, or postharvest residues in the normal growing

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season. The term open lot is synonymous with the terms dirt lot, or dry lot, for livestock or poultry, as these terms are commonly used in the agricultural industry.

Operational - The facility is constructed to a point at which animals may be stabled, confined, fed, and maintained in accordance with this general permit. The facility does not have to be operating at the maximum number of animals authorized for the site.

Operator - The person responsible for the overall operation of a facility or part of a facility.

Permittee - Any person issued an individual permit or order or covered by a general permit.

Pesticide - A substance or mixture of substances intended to prevent, destroy, repel, or mitigate any pest, or any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant. Pesticide includes insecticides, nematocides, rodenticides, fungicides, and herbicides.

Playa - A flat-floored, clayey bottom of an undrained basin that is located in an arid or semi-arid part of the State, is naturally dry most of the year, and collects runoff from rain but is subject to rapid evaporation.

Process generated wastewater - Any water directly or indirectly used in the operation of an animal feeding operation (such as spillage or overflow from animal or poultry watering systems which comes in contact with manure; washing, cleaning, or flushing pens, barns, manure/slurry pits; direct contact swimming, washing, or spray cooling of animals; and dust control), including water used in or resulting from the production of animals or poultry or direct products (e.g., milk, meat, or eggs).

Production area - That part of a CAFO that includes, but is not limited to, the animal confinement area, the manure storage area, the raw materials storage area, and the control facilities.

Professional Geoscientist (PG) - A geoscientist who maintains a current license through the Texas Board of Professional Geoscientists in accordance with the requirements for professional practice.

Protection zone - The area within the watershed of a sole-source surface drinking water supply that is:

- (a) within two miles of the normal pool elevation, as shown on a United States Geological Survey (USGS) 7 1/2-minute quadrangle topographic map, of a sole-source drinking water supply reservoir;
- (b) within two miles of that part of a perennial stream that is:
 - (1) a tributary of a sole-source drinking water supply; and
 - (2) within three linear miles upstream of the normal pool elevation, as shown on a USGS 7 1/2-minute quadrangle topographic map, of a sole-source drinking water supply reservoir; or
- (c) within two miles of a sole-source surface drinking water supply river, extending three linear miles upstream from the sole-source water supply intake point.

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Recharge feature - Those natural or artificial features either on or beneath the ground surface at the site under evaluation that provide or create a significant hydrologic connection between the ground surface and the underlying groundwater within an aquifer. Significant artificial features include, but are not limited to, wells and excavation or material pits. Significant natural hydrologic connection include, but are not limited to: faults; fractures; sinkholes or other macro pores that allow direct surface infiltration; a permeable or a shallow soil material that overlies an aquifer; exposed geologic formations that are identified as an aquifer; or a water course bisecting an aquifer.

Retention control structure (RCS) - Any basin, pond, pit, tank, conveyance, or lagoon used to store and/or treat manure, wastewater, and sludge. The term RCS does not include conveyance systems such as irrigation piping or ditches that are designed and maintained to convey but not store any manure or wastewater, nor does it include cooling ponds located in the production area.

Significant Expansion - Any change to the CAFO that increases the manure production at the CAFO by more than 50%, above the maximum operating capacity stated in the initial authorization for the facility under TXG920000.

Sludge - Solid, semi-solid, or slurry manure generated during the treatment of or storage of any manure or wastewater. The term includes material resulting from treatment, coagulation, or sedimentation of manure in a RCS. 30 TAC Chapter 312 rules covering sludge do not apply to this permit.

Soil Plant Air and Water (SPA) Field Pond Hydrology - SPAW is a USDA water budgeting tool for farm fields, ponds, and inundated wetlands. The SPAW model may be used to perform daily hydrologic water budgeting using the NRCS Runoff Curve Number method.

Sole-source surface drinking water supply - A body of surface water that is identified as a public water supply in 30 TAC Chapter 307.10, Appendix A and is the sole source of supply of a public water supply system, exclusive of emergency water connections.

Substantial change -

- (a) Changing animal type or increasing authorized head count that increases the manure production at the CAFO by less than 50% of the maximum operating capacity stated in the initial authorization for the facility under TXG920000;
- (b) Adding land management units or increasing application acreage; and
- (c) Using a crop or yield goal to determine maximum application rates for manure or wastewater not included in the CAFOs authorization.

Texas State Soil and Water Conservation Board (TSSWCB) - The state agency charged with the overall responsibility for administering and coordinating the state's soil and water conservation program with the state's soil and water conservation districts. The TSSWCB is the lead agency for the planning, management and abatement of agricultural and silvicultural nonpoint source pollution.

25-year, 24-hour rainfall event - The maximum rainfall event with a probable recurrence interval of once in 25 years, with a duration of 24 hours, as defined by the

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National Weather Service in Technical Paper Number 40, "Rainfall Frequency Atlas of the United States," May 1961, or equivalent regional or state rainfall information.

Upset - An exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

Wastewater - Any water, including process generated wastewater and precipitation, which comes into contact with any manure, sludge, bedding, or any raw material or intermediate or final material or product used in or resulting from the production of livestock or poultry or direct products (e.g., milk, meat, or eggs).

Water in the state - Groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, wetlands, marshes, inlets, canals, the Gulf of Mexico inside the territorial limits of the state, and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or nonnavigable, and including the beds and banks of all watercourses and bodies of surface water, that are wholly or partially inside or bordering the state or inside the jurisdiction of the state.

Well - Any artificial excavation into and/or below the surface of the earth whether in use, unused, abandoned, capped, or plugged that may be further described as one or more of the following:

- (a) an excavation designed to explore for, produce, capture, recharge, or recover water, any mineral, compound, gas, or oil from beneath the land surface;
- (b) an excavation designed for the purpose of monitoring any of the physical or chemical properties of water, minerals, geology, or geothermal properties that exist or may exist below the land surface;
- (c) an excavation designed to inject or place any liquid, solid, gas, vapor, or any combination of liquid, solid, gas, or vapor into any soil or geologic formation below the land surface; or
- (d) an excavation designed to lower a water or liquid surface below the land surface either temporarily or permanently for any reason.

Part II. Permit Applicability and Coverage

A. Discharges Eligible for Authorization

This general permit provides authorization for facilities defined or designated as CAFOs to discharge manure, sludge, and wastewater associated with the operation of a CAFO into or adjacent to water in the state. The Executive Director may designate any AFO as a CAFO upon determining that it is a significant contributor of pollutants to water in the state. Discharges to water in the state may occur from a CAFO designed, constructed, and properly operated and maintained under the provisions of this general permit. Manure, sludge, and wastewater generated by a CAFO

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shall be retained and used in an appropriate and beneficial manner as provided in this general permit.

B. Limitations on Coverage

1. Limitations Based on Facility Location

Discharges from the following CAFOs are not eligible for coverage under this general permit and must be authorized under an individual permit:

- (a) Except for an existing CAFO which was authorized by the Commission prior to January 10, 1997, any CAFO located within one mile of Coastal Natural Resource Areas as defined by Texas Natural Resources Code §33.203.
- (b) Any dairy CAFO located in a major sole-source impairment zone.
- (c) Any CAFO where any part of the production area of the CAFO is located or proposed to be located within the protection zone of a sole-source surface drinking water supply. This paragraph does not apply to a poultry operation that does not use a liquid manure handling system, commonly referred to as a dry litter poultry operation.
- (d) Any CAFO where any part of a production area or LMU is located in a watershed of a segment listed on the current Environmental Protection Agency (EPA) approved 303(d) list of impaired waters as required by 33 United States Code (USC) §1313(d) where a Total Maximum Daily Load (TMDL) implementation plan has been adopted by the Commission that establishes additional water quality protection measures for CAFOs that are not required by the CAFO general permit.
- (e) Any CAFO that has a site or customer classification that is "unsatisfactory performer" under 30 TAC Chapter 60.3 (relating to Use of Compliance History).
- (f) Any CAFO required to operate under an individual permit by the Executive Director.

2. Other Limitations

Discharges are not eligible for authorization under this general permit where prohibited by:

- (a) 30 TAC Chapter 311 (relating to Watershed Protection);
- (b) 30 TAC Chapter 213 (relating to the Edwards Aquifer); or
- (c) any other applicable rules or laws.

3. Denial of Authorization

- (a) The Executive Director may deny an application for authorization under this general permit, and may require that the applicant

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apply for an individual permit, if the Executive Director determines that the discharge will not meet water quality standards defined in 30 TAC Chapter 307.

- (b) The Executive Director may deny a notice of intent (NOI) or revoke authorization under this general permit if the applicant submits a false affidavit relating to public notice or public meeting as required by 30 TAC.
- (c) The Executive Director may deny, cancel, revoke, or suspend authorization to discharge under this general permit based on a finding of historical and significant noncompliance. An applicant who owns or operates a facility classified as an "unsatisfactory performer" is entitled to a hearing before the Commission prior to having its coverage denied or suspended, in accordance with Texas Water Code § 26.040(h).
- (d) Denial of authorization to discharge under this general permit or suspension of a permittee's authorization under this general permit shall be in accordance with 30 TAC Chapter 205 (relating to General Permits for Waste Discharges).

C. Obtaining Authorization

1. Application for Water Quality Authorization

- (a) Submission of a NOI, and for Large CAFOs, a NMP, certified by a Certified Nutrient Management Specialist, is an acknowledgment that the conditions of this general permit are applicable to the proposed discharge, and that the applicant agrees to comply with the conditions of this general permit.
- (b) The NOI must contain all information as prescribed on forms provided by the Executive Director.
- (c) For renewal under this general permit, provisional authorization to discharge under the terms and conditions of this general permit begins 48 hours after a completed NOI is postmarked for delivery to the TCEQ. If the NOI is submitted electronically, provisional authorization to discharge under the terms and conditions of this general permit begins immediately following confirmation of receipt of the NOI by the TCEQ.

For a new CAFO or an existing CAFO that is proposing a significant expansion or substantial change to the facility, authorization under the terms and conditions of this general permit begins when the applicant is issued written approval of the NOI by the ED.

- (d) Following review of the NOI, the Executive Director shall either confirm coverage by providing a notification and an authorization

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number to the applicant or notify the applicant that coverage under this general permit is denied.

- (e) A copy of the NOI, along with any correspondence from the Executive Director confirming permit coverage, shall be retained at the site and kept with the pollution prevention plan (PPP).
- (f) The owner of a facility must be the applicant identified on the NOI for authorization. If the facility is owned by one person and operated by another, the operator may be a co-applicant.

2. Application for new or significant expansion

An applicant for a new CAFO operation or significant expansion of an existing CAFO must adhere to the following procedures:

- (a) The applicant must submit the NOI, a complete technical application, and a NMP (NMP is not applicable to State only CAFOs) to the Executive Director.
- (b) After the applicant receives written instructions from the TCEQ's Office of Chief Clerk, the applicant must publish notice of the Executive Director's preliminary determination of the NOI, technical application, and the NMP.
- (c) The notice must include:
 - (1) the legal name of the CAFO applicant;
 - (2) the address of the applicant;
 - (3) a brief summary of the information included in the NOI, such as the general location of the CAFO and LMUs utilized by the CAFO, the proposed maximum number of animals for the CAFO, and a description of the receiving water and discharge route for any discharge;
 - (4) the location and mailing address where the public may provide comments to the Executive Director;
 - (5) the public location where copies of the NOI, Executive Director's technical summary, NMP and CAFO general permit may be reviewed; and
 - (6) if required by the Executive Director, the date, time and location of the public meeting.
- (d) The public notice must be published at least once in a newspaper of general circulation in the county where the CAFO is located or proposed to be located. This notice shall provide opportunity for the public to submit comments on the NOI, NMP, and Executive Director's technical summary. In addition, the notice shall allow the public the opportunity to request a public meeting. The Executive Director will hold a public meeting if it is determined there is significant public interest.
- (e) The public comment period begins on the first date the notice is published and ends 30 days later unless a public meeting is held.

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The public may submit written comments to the TCEQ Office of Chief Clerk during the comment period detailing how the NOI or NMP for the CAFO fails to meet the technical requirements or conditions of this general permit.

- (f) If significant public interest exists, the Executive Director will direct the applicant to publish a notice of the public meeting. The applicant must publish notice of a public meeting at least 30 days before the meeting and hold the public meeting in the county where the facility is located or proposed to be located. TCEQ staff will facilitate the meeting. If a public meeting is held, the comment period will end at the conclusion of the public meeting.
 - (g) At the public meeting, the applicant shall describe the proposed operations and provide maps and other facility data. The applicant shall provide a sign in sheet for attendees to register their names and addresses and furnish the sheet to the Executive Director. The public meeting held under this general permit is not an evidentiary proceeding.
 - (h) The applicant must publish public notice and if required, notice of the public meeting in accordance with Part II.C.2(c) at least once in a newspaper of general circulation in the county where the CAFO is located or proposed to be located.
 - (i) The applicant must file with the TCEQ's Office of the Chief Clerk a copy and an affidavit of the publication of notice(s) within 60 days of receiving the written instructions from the Office of Chief Clerk.
 - (j) The Executive Director, after considering public comment, shall approve or deny the NOI based on whether the NOI and technical application meet the requirements of this general permit.
 - (k) Persons whose names and addresses appear legibly on the sign in sheet from the public meeting and persons who submitted written comments to the TCEQ will be notified by the TCEQ's Office of Chief Clerk of the Executive Director's decision to issue or deny the authorization and provided the final technical summary the Executive Director considered when making the determination.
3. Application for Substantial change
- An applicant for a CAFO operation requesting a substantial change to the terms of the nutrient management plan shall adhere to the following procedures:
- (a) The applicant must submit the notice of change (NOC) and those portions of the technical packet that are applicable to the change to the Executive Director.
 - (b) The TCEQ's Office of the Chief Clerk shall issue and post the notice of the Executive Director's preliminary determination of

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the NOC and the revised terms of the NMP on the TCEQ website at <http://www.tceq.texas.gov>. The notice shall include:

- (1) the legal name of the CAFO applicant;
 - (2) the address of the applicant;
 - (3) a brief summary of the information included in the NOC, such as the general location of the CAFO, proposed change to the terms of the NMP and a description of the receiving water;
 - (4) the location and mailing address where the public may provide comments to the Executive Director;
 - (5) the public location where copies of the NOC, Executive Director's technical summary, NMP, and CAFO general permit may be reviewed; and
 - (6) if required by the Executive Director, the date, time, and location of the public meeting.
- (c) The public comment period begins on the first date the notice is posted and ends 30 days later unless a public meeting is held. The public may submit comments to the TCEQ Office of Chief Clerk during the comment period detailing how the NMP for the CAFO fails to meet the technical requirements or conditions of this general permit.
- (d) The Executive Director will hold a public meeting if it is determined there is significant public interest. The Executive Director will post a notice of the public meeting on the TCEQ internet site at: <http://www.tceq.texas.gov>. The notice of a public meeting will be posted at least 30 days before the meeting and will be held in the county where the facility is located. TCEQ staff will facilitate the meeting and provide a sign in sheet for attendees to register their names and addresses. The public meeting held under this general permit is not an evidentiary proceeding. If a public meeting is held, the comment period will end at the conclusion of the public meeting.
- (e) The Executive Director, after considering public comment, shall incorporate the revised terms of the NMP into the permit. Once the revised terms of the NMP have been incorporated into the permit, the Executive Director will include the revised terms of the NMP into the permit record and notify the permittee and the public of the revised terms and conditions of the permit.
4. Contents of the NOI
- Applicants seeking authorization to discharge under this general permit must submit a completed NOI on a form approved by the Executive Director. Large CAFOs, must also submit a NMP that satisfies the minimum requirements specified in Part III.A.12 of this permit. The NOI shall, at a minimum, include:

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- (a) the legal name and address of the applicant;
 - (b) the facility name and address;
 - (c) the location of the CAFO;
 - (d) the latitude and longitude of the production area;
 - (e) a description and the size of the CAFO facility;
 - (f) the number and type of animals and their housing situation;
 - (g) the type of containment and storage;
 - (h) each retention control structure capacity;
 - (i) the estimated amount of manure and wastewater generated per year;
 - (j) the estimated amount of manure and wastewater transferred off-site per year;
 - (k) a description of each LMU including:
 - (1) total acreage of each LMU available for land application of manure or wastewater;
 - (2) the estimated land application rate; and
 - (l) a topographic map or other diagram as specified in the instructions to the NOI.
- 5. **Pollution Prevention Plan (PPP)**

A PPP must be developed according to the requirements of this permit prior to submittal of a NOI. The plan must be developed according to the requirements of Part III of this general permit and be signed according to requirements of Part V.J of this general permit.
- 6. **Fees**
 - (a) **Application Fees**
 - (1) An application fee must be submitted with the NOI:
 - (i) \$75 for renewal or change of ownership or co-permittee submitted by online e-permitting;
 - (ii) \$100 for renewal or change of ownership or co-permittee submitted by paper;
 - (iii) \$350 for a new or significant expansion.
 - (2) A fee is not required for submission of a Notice of Change (NOC) or Notice of Termination (NOT).
 - (b) **Annual Water Quality Fee**

CAFOs authorized under this general permit must pay an annual water quality fee of \$800 except for dry litter poultry CAFOs which must pay an annual water quality fee of \$300. The annual water quality fee will be assessed on any CAFO that has an active authorization under this general permit on September 1st of each calendar year. To terminate coverage under this general permit

and avoid the annual water quality fee, a NOT must be received by TCEQ prior to September 1st.

7. Revocation of Individual Permit

For facilities authorized under an individual permit and eligible for coverage under this general permit, the submittal of a NOI and NMP where required constitutes the applicant's intent to be authorized under this general permit and also serves as a request to voluntarily revoke coverage under an individual permit. The individual permit will be revoked following issuance of the authorization providing coverage under the general permit.

8. Change of Ownership or Operational Control

Authorization under this general permit is not transferable. If the permittee, of the regulated entity changes, the present permittee must submit an NOT and the new owner or operator, if identified as a co-permittee, must submit an NOI. The NOT and NOI must be submitted not later than 10 days prior to the change in owner or operator status. The NOT and NOI will not be processed until the Executive Director is notified, in writing, that the change in owner or operator status has occurred. Any change in a permittee's Charter Number, as registered with the Texas Secretary of State, is considered a change in ownership of the company and would require the new owner or operator to apply for permit coverage as stated above. If the NOT and NOI are submitted as required under this provision; there will be no lapse in authorization for the facility.

9. Notice of Change

All permittees that are proposing changes to their authorization must submit such changes on a form prescribed by the Executive Director. The following changes to an existing CAFO shall be processed through a NOC:

(a) Large CAFOs

- (1) A NOC form must be submitted with supplemental or corrected information within 14 days following:
 - (i) the time when the permittee becomes aware that it failed to submit any relevant facts or submitted incorrect information in the NOI or NOI attachments; or
 - (ii) the time when relevant facts in the NOI or NOI attachments change, including but not limited to: permittee address, permittee phone number, construction or modification of a RCS, or any change to the site map.

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- (2) Changes to the terms of the NMP
 - (i) Substantial change to the terms of the NMP. Those changes that constitute a "substantial change" are defined in Part I, relating to definitions; or
 - (ii) Non-substantial changes include but are not limited to, changes to the site-specific LMU information on Table 1 of Appendix I – Phosphorus Index Worksheet of this general permit; changes to the maximum application rates, lbs/ac of nitrogen or phosphorus as P_2O_5 to be land applied; or changes in the phosphorus index rating.
- (3) Substantial and Non-Substantial Changes to the NMP
 - (i) When changes are made to the CAFO's NMP previously submitted to the Executive Director, the permittee must provide the Executive Director with a NOC form containing the terms of the most current version of the revised NMP and identify changes from the previous version, with the exception of annual recalculations of application rates for manure and wastewater, which are not required to be submitted to the Executive Director.
 - (ii) When changes to a NMP are submitted, the Executive Director will review the changes to ensure that they meet the requirements of this permit. If the Executive Director determines that the changes to the NMP necessitate revision to the terms of the NMP incorporated into the permit issued to the CAFO, the Executive Director will determine whether such changes are substantial.
 - (iii) If the Executive Director determines that the changes to the terms of the NMP are not substantial, the Executive Director will include the revised terms of the NMP in the permit record, revise the terms of the permit based on the site specific NMP, and notify the permittee and the public of any changes to the terms of the permit based on revisions to the NMP.

After permit issuance, the Executive Director will notify the public of the revised terms of the NMP by posting on the TCEQ internet site at: <http://www.tceq.texas.gov> for 2 weeks for public notification.
 - (iv) If the Executive Director determines that the changes to the terms of the NMP are substantial, the application shall be processed in accordance with Part II.C.3 of this general permit.

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(b) State Only CAFOs

A NOC form must be submitted with supplemental or corrected information within 14 days following:

- (1) the time when the permittee becomes aware that it failed to submit any relevant facts or submitted incorrect information in the NOI or NOI attachments; or
- (2) the time when relevant facts in the NOI or NOI attachments change, including but not limited to: permittee address, permittee phone number, any increase in waste production other than those defined as a significant expansion, LMU acreage or boundaries, construction or modification of a RCS, or any change to the site map.

10. Air Quality Authorization

Air quality authorization under the Texas Clean Air Act, Texas Health and Safety Code §382.051, is required for all CAFOs, regardless of their size. Depending on its specific characteristics, a CAFO may obtain air quality authorization in one of three ways:

- (a) by meeting the requirements of a permit-by-rule under 30 TAC Chapter 106, Subchapter F (relating to Animal Confinement);
- (b) by obtaining an individual permit under 30 TAC Chapter 116 (relating to Control of Air Pollution by Permits for New Construction or Modification); or
- (c) by meeting the requirements of the air standard permit outlined in 30 TAC Chapter 321.43 (relating to Air Standard Permit Authorization for Concentrated Animal Feeding Operations).

D. Termination of Coverage

1. A permittee shall terminate coverage under this general permit through the submittal of a NOT when the owner or operator, if identified as a co-permittee, of the facility changes, the discharge becomes authorized under an individual permit, or the use of the property changes and is no longer subject to regulation under this general permit. If the facility is no longer subject to this general permit, the permittee must close the facility in accordance with Part III.D of this general permit prior to terminating coverage and filing the NOT. A NOT must be received by the TCEQ prior to September 1st to avoid assessment of the annual water quality fee.
2. One of the following must be submitted within 24 hours of submitting a NOT:
 - (a) a NOI when the permittee or co-permittee of the facility changes,
 - (b) an individual permit application,
 - (c) certification by a licensed Texas Professional Engineer that closure has been completed, as required by Part III.D(3), or

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- (d) a statement from the permittee that the facility will be operated as an AFO not defined or designated as a CAFO.
- 3. The authorization will not be terminated until:
 - (a) final action is taken on the NOI or individual permit application,
 - (b) receipt of certification by a licensed Texas Professional Engineer that closure is complete, or
 - (c) receipt of a statement from the permittee that the facility will be operated as an AFO not defined or designated as a CAFO.
- 4. This section does not prohibit the Executive Director from denying, cancelling, revoking, or suspending authorization to operate under this general permit, as allowed by Part II.B.3 of this permit and 30 TAC Chapter 205.4 (relating to Authorizations and Notices of Intent).

E. Authorization Under an Individual Permit

1. Individual Permit Alternative

Discharges eligible for authorization by this general permit may alternatively be authorized by an individual permit according to 30 TAC Chapters 281 and 305 (relating to consolidated permits).

2. Transfer of Authorization to an Individual Permit

When an individual permit is issued for a discharge that is currently authorized under this general permit, the permittee shall terminate coverage under this general permit and shall submit a NOT to the Executive Director. The authorization under this general permit will be terminated when the Executive Director takes final action on the individual permit and receives the NOT. A facility cannot be authorized under both a general permit and an individual permit.

F. Permit Expiration

1. Permit Term

This general permit is issued for a term not to exceed five (5) years. All active authorizations expire on the date provided on page one (1) of this general permit. Authorizations for discharge under the provisions of this general permit may be issued until the expiration date of the permit. This general permit may be amended, revoked, or cancelled by the Commission after notice and comment as provided by 30 TAC §§205.3 and 205.5.

2. Permit Renewal

If before the expiration of this permit, the Commission has made a determination to renew this general permit, the general permit shall remain in effect after the expiration date for those existing CAFOs covered by the general permit and shall remain in effect for these CAFOs until the date the Commission takes final action on the proposal to reissue the general permit. No new NOIs can be accepted

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or new authorizations issued under this general permit after the expiration date.

3. Application following Renewal

Upon issuance of this general permit, all facilities that wish to continue authorization, must submit a NOI, and the Terms of the NMP on forms provided by the Executive Director in accordance with the requirements of this general permit, within 180 days after the effective date. Failure to submit a NOI, and the Terms of the NMP by the deadline will result in expiration of the existing authorization to operate under the expired general permit.

Facilities that do not wish to continue authorization under the renewed general permit must submit a NOT prior to September 1st to avoid the assessment of an annual water quality fee. Any facility still authorized up to 180 days after the general permit is renewed will be billed.

4. Expiration without Renewal

According to 30 TAC §205.5(d) (relating to Permit Duration, Amendment, and Renewal), if the Commission has made a determination that the general permit will not be renewed at least 90 days before the expiration date of this general permit, permittees authorized under this general permit shall submit an application for an individual permit before the general permit expires. If an application for an individual permit is submitted before the general permit expires, authorization under the expired general permit remains in effect until either the issuance or denial of an individual permit.

G. Construction and Operational Deadline

Any CAFO that obtains authorization under this general permit must be operational within 18 months of the date of the CAFOs authorization or must terminate coverage under this general permit by submitting a NOT. Upon written request to the TCEQ Water Quality Division, the Executive Director may grant a one-time extension up to an additional 18 months, to allow the CAFO additional time to become operational. If an extension is granted and the CAFO is not operational at the expiration of the extension period, the CAFO must submit a NOT terminating coverage under this general permit. The facility does not have to be operating at the maximum number of animals authorized to be considered operational.

Part III. Pollution Prevention Plan (PPP) Requirements

A. Technical Requirements

1. Pollution Prevention Plan General Requirements:

- (a) A PPP shall be developed prior to NOI and NMP submittal for each CAFO covered under this general permit. Pollution prevention plans shall:

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- (1) be prepared in accordance with good engineering practices;
- (2) include control measures necessary to limit the discharge of pollutants to surface water in the state;
- (3) describe and ensure the implementation of practices that are to be used to assure compliance with the limitations and conditions of this permit;
- (4) include all information listed in Part III.A; and
- (5) identify specific individual(s) who is/are responsible for development, implementation, operation, maintenance, inspections, recordkeeping, and revision of the PPP.

(b) Amending the PPP

The permittee shall revise the PPP:

- (1) before any change in the acreage or boundaries of LMUs;
- (2) before any increase in the maximum number of animals;
- (3) after any new construction or modification of control facilities;
- (4) before any change which has a significant effect on the potential for the discharge of pollutants to water in the state;
- (5) if the PPP is not effective in achieving the general objectives of controlling pollutants in discharges from the production area or LMUs; or
- (6) within 90 days following written notification from the Executive Director that the plan does not meet one or more of the minimum requirements of this general permit.

(c) Equivalent PPP Standards

Where design, planning, construction, operation, and maintenance or other documentation equivalent to PPP requirements are contained in site specific plans prepared and certified by the NRCS, Texas State Soil and Water Conservation Board, or their designee, that documentation may be used to document BMPs or applicable portions of the PPP requirements in this general permit. Where provisions in the certified plan are substituted for applicable BMPs or portions of the PPP, the PPP must refer to the appropriate section of the certified plan. If the PPP contains reference to a certified plan, a copy of the certified plan must be kept with the PPP.

2. Maps

The permittee shall maintain and update the following maps as part of the PPP:

(a) Site Map

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The map shall show the production area and include, at a minimum, pens and open lots, barns, berms, permanent manure storage areas, composting areas, control facilities including RCSs, water wells (abandoned, plugged and in use), surface water in the state, and dead animal burial sites.

(b) Land Management Unit Map

The map shall include, at a minimum, the following information: the boundary and acreage of each LMU; all buffer zones required by this permit; the location of the production area; water wells, abandoned, plugged and in use, which are on-site or within 500 feet of the facility boundary; all surface water in the state located on-site and within one mile of the property boundary; and the facility boundary.

(c) Combined Maps

Because of the unique nature of some sites it is acceptable to combine the elements of the Land Management Unit Map with the Site Map as long as map features can be clearly determined.

3. Recharge Feature Certification

(a) The permittee shall have a recharge feature certification developed in accordance with the Executive Director's guidance, RG-433 "Guidelines for Identifying and Protecting Aquifer Recharge Features." Use of the forms provided in RG-433 is optional. The certification must be signed and sealed by a licensed Texas Professional Engineer, or a licensed Texas Professional Geoscientist, documenting the absence or presence of any natural or artificial recharge features identified on any tracts of land owned, operated, controlled, rented, or leased by the permittee and to be used as a part of a CAFO or LMU.

(b) If the recharge feature certification identifies the presence of recharge features, the applicant shall have protective measures developed, signed and sealed by a licensed Texas Professional Engineer, or licensed Texas Professional Geoscientist, as appropriate and in conformance with the Texas Engineering Practices Act and the Texas Geoscience Practice Act and the licensing and registration boards under these acts. The protective measures must prevent impacts to an aquifer from any recharge features present. The protective measures must include at least one of the following:

- (1) measures to protect each located recharge feature, such as impervious cover, berms, buffer zones, or other equivalent protective measures; or
- (2) a detailed groundwater monitoring plan, in accordance with Part III.A.16(b); or

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- (3) provisions for any other similar method or approach demonstrated by the applicant to be protective of any associated recharge feature and approved by the Executive Director.
 - (c) The permittee must implement the protective measures.
- 4. Potential Pollutant Sources/Site Evaluation
 - (a) Potential Pollutant Sources

Potential pollutant sources include any activity or material of sufficient quantity that may reasonably be expected to add pollutants to surface water in the state from the facility. The permittee shall conduct a thorough site inspection of the facility to identify all potential pollutant sources. The inspection shall encompass all land that is part of the production area and LMUs. An evaluation of potential pollutant sources shall identify the types of pollutant sources, provide a description of the pollutant sources, and indicate all measures that will be used to prevent contamination from the pollutant sources. The type of pollutant sources found at any particular site varies depending upon a number of factors, including, but not limited to: site location, historical land use, proposed facility type, and land application practices. Potential pollutant sources include, but are not limited to, the following: manure, sludge, wastewater, dust, silage stockpiles, fuel storage tanks, pesticides and inorganic fertilizers, lubricants, dead animals, feed and bedding waste, bulk cleaning chemicals, and compost.
 - (b) Soil Erosion

The permittee shall identify areas that, due to topography, activities, or other factors, have a high potential for significant soil erosion. If these areas have the potential to contribute pollutants to surface water in the state, the permittee shall identify in the PPP measures used to limit erosion and pollutant runoff.
 - (c) Well Protection Requirements
 - (1) The permittee must not locate or operate RCSs, holding pens, or LMUs within the following buffer zones except in accordance with paragraph (2) in this section:
 - (i) public water supply wells - 500 feet;
 - (ii) wells used exclusively for private water supply - 150 feet; or
 - (iii) wells used exclusively for agriculture irrigation - 100 feet.
 - (2) The permittee may continue the operation and use of any existing holding pens, LMUs and RCSs located within the required well buffer zones provided they are protected in

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accordance with the recharge feature evaluation and certification required in Part III.A.3. For new wells drilled after July 20, 2004, documentation supporting variances of the buffer zones that were previously authorized must be kept on-site and made available to TCEQ personnel upon request.

- (3) Construction of any new water well must be done in accordance with the requirements of this general permit and 16 TAC Chapter 76, relating to Water Well Drillers and Water Well Pump Installers.
- (4) All abandoned and unuseable wells shall be plugged according to 16 TAC Chapter 76.
- (5) The permittee shall not locate new LMUs within the required well buffer zones unless additional wellhead protective measures are implemented that will prevent pollutants from entering the well and contaminating groundwater. An exception to the full well buffer zone for a private drinking water well or a water well used exclusively for agricultural irrigation may be approved by the Executive Director if a licensed Texas Professional Engineer or licensed Texas Professional Geoscientist provides accurate documentation showing that additional wellhead protective measures will be or have been implemented that will prevent pollutants from entering the well and contaminating the groundwater. Additional protective measures may include a sanitary seal, annular seal, a steel sleeve, or surface slab.
- (6) Irrigation of wastewater directly over a well head will require a structure protective of the wellhead that will prevent contact from irrigated wastewater.

(d) Control Facilities

The PPP shall include the location and a description of control facilities. The appropriateness of any control facilities shall reflect the identified sources of pollutants at the CAFO.

(e) 100-year Floodplain

A site evaluation shall show that all control facilities are located outside of the 100-year floodplain or protected from inundation and damage that may occur during the 100-year flood event. Manure, sludge, or wastewater may only be applied to the areas in the 100-year floodplain at agronomic rates not to exceed the hydrologic needs of the crop.

5. Discharge Restrictions, Numeric Effluent Limitations, and Monitoring Requirements

(a) Discharge Restrictions

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- (1) The permittee must comply with all applicable reporting, sampling, and analysis requirements associated with a discharge, in accordance with this general permit.
 - (2) In accordance with Part II.A. of this general permit, a discharge to surface water in the state may occur from a CAFO properly designed (25-year frequency 24-hour duration or no discharge for new source swine, veal or poultry), constructed, operated and maintained under the provisions of this general permit. Manure, sludge, and wastewater generated by a CAFO shall be retained and used in an appropriate and beneficial manner as provided in this general permit.
 - (3) Unless otherwise limited, manure, sludge, or wastewater may be discharged from a LMU or a RCS into or adjacent to water in the state from a CAFO authorized under this general permit resulting from any of the following conditions:
 - (i) a discharge of manure, sludge, or wastewater that the permittee cannot reasonably prevent or control resulting from a catastrophic condition other than a rainfall event;
 - (ii) overflow of manure, sludge, or wastewater from a RCS resulting from a chronic/catastrophic rainfall event; or
 - (iii) a chronic/catastrophic rainfall discharge from a LMU that occurs because the permittee takes measures to dewater the RCS in accordance with Part III.A.10(b), relating to imminent overflow.
 - (4) There shall be no discharge of wastewater from the production area into surface water in the state from new source poultry, swine, or veal CAFOs. Wastewater must be contained in RCSs properly, designed, constructed, operated, and maintained according to the provisions of this general permit.
- (b) **Numeric Effluent Limitations for Duck CAFOs**
- No discharge from a duck CAFO shall exceed the following numeric effluent limitations for any discharge to surface water in the state.

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Parameter	Daily Maximum Limitation ¹	Monthly Average Limitation ¹	Daily Maximum Limitation ²	Monthly Average Limitation ²	Sample Type ⁵	Sample Frequency ³
BOD ₅	3.66	2.0	1.66	0.91	Grab	1/day
Fecal Coliform	(4)	(4)	(4)	(4)	Grab	1/day

¹Pounds per 1000 Ducks. ²Kilograms per 1000 Ducks.

³Sample shall be taken within the first 30 minutes following the initial discharge from a storm event and then once per day while discharging.

⁴Not to exceed MPN of 400 per 100 ml.

⁵a sample which is taken from a waste stream on a one-time basis without consideration of the flow rate of the waste stream and without consideration of time.

(c) Monitoring Requirements for all CAFOs

The permittee shall sample all discharges to surface water in the state from RCSs and LMUs. The effluent shall be analyzed by a National Environmental Laboratory Accreditation Conference (NELAC) accredited lab and National Environmental Laboratory Accreditation Program (NELAP) (30 TAC Chapter 25) for the following parameters:

Parameter	Sample Type	Sample Frequency ¹
BOD ₅	Grab	1/event
<i>Escherichia Coli</i> (<i>E. coli</i>)	Grab	1/event
Total Dissolved Solids (TDS)	Grab	1/event
Total Suspended Solids (TSS)	Grab	1/event
Nitrate (N)	Grab	1/event
Ammonia Nitrogen	Grab	1/event
Total Phosphorus	Grab	1/event
Pesticides ²	Grab	1/event

¹Sample shall be taken within the first 30 minutes following the initial discharge

²Any pesticide which the permittee has reason to believe could be present in the wastewater

- (d) Analytical results from the numeric effluent limitations or monitoring requirements must be summarized, documented in the PPP, and reported according to Part IV.B.5 and 6. If the permittee is unable to collect samples due to climatic conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms), the permittee must document why discharge samples could not be collected. Once dangerous conditions have passed, the permittee shall conduct the sampling and analyses required by Part

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III.A.5(c). In the event that a discharge occurs outside of the normal business hours of the testing laboratory, which causes the maximum hold time to lapse, the permittee shall collect a secondary sample from the RCS, and have it analyzed on the first business day for each parameter where the maximum hold time is exceeded.

6. Retention Control Structure (RCS) Design and Construction

(a) Certification

- (1) The permittee constructing a new or modifying an existing RCS shall ensure that all design and completed construction is certified by a licensed Texas Professional Engineer prior to use. The certification shall be signed and sealed in accordance with Texas Board of Professional Engineers requirements.
- (2) Documentation of liner and capacity certifications by a licensed Texas Professional Engineer must be completed for each RCS prior to use and must be kept in the PPP.

(b) Design and Construction Standards

Each RCS, at a minimum, shall be designed and constructed in accordance with the technical standards developed by the NRCS, American Society of Agricultural and Biological Engineers, American Society of Civil Engineers, or American Society of Testing Materials, or other technical standards approved by the Executive Director, that are in effect at the time of construction. Where site-specific variations are warranted, a licensed Texas Professional Engineer shall document these variations and their appropriateness to the design.

(c) RCS Drainage Area

- (1) The drainage area shall be designed and maintained to minimize entry of uncontaminated runoff into RCSs. Uncontaminated runoff not diverted must be included in the RCS design calculations.
- (2) Stormwater runoff must be diverted from contact with feedlots and holding pens, and manure or process wastewater storage systems. In cases where it is not feasible to divert stormwater runoff from the production area, the retention structures shall include adequate storage capacity for the additional stormwater runoff. Stormwater runoff includes rain falling on the roofs of facilities where the animals are contained within the production area, runoff from adjacent land, or other sources.
- (3) The drainage area shall be designed and maintained to minimize ponding or puddling of water outside the RCS.

(d) RCS Sizing

The operator of the CAFO shall design, construct, operate, and maintain RCSs to contain all volumes required by this section including the runoff and direct precipitation from the design rainfall event for the location of the facility. The RCS design plan must document the sources of information, assumptions and calculations used in determining the appropriate volume capacity of the RCSs. For all new construction and for all structural modifications of existing RCSs, each RCS shall be designed for the authorized number of animals and include the storage for the volumes listed below:

(1) Design Rainfall Event Runoff

- (i) New source swine, veal, or poultry CAFOs subject to the new source performance standards in §321.38(e)(7)(A)(i) must have a RCS designed and constructed such that no discharge occurs in accordance with the following:

- (A) An evaluation of the adequacy of the designed RCS using the most recent version of the Soil Plant Air Water (SPAW) Hydrology Tool or other tool approved by the Executive Director. The evaluation must include all inputs to SPAW including, but not limited to, daily precipitation, temperature, and evaporation data for the previous 100 years, user-specified soil profiles representative of the LMUs, planned crop rotations consistent with the NMP, and the final modeled result of no discharges from the designed RCS. For those CAFOs where 100 years of local weather data is not available, a simulation with a confidence interval analysis conducted over a period of 100 years may be used.

- (B) Provisions for upset/bypass, as defined in Section I of this general permit apply to a new source subject to this provision.

Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, operating logs, or other relevant evidence that:

- a. An upset occurred and that the permittee can identify the cause(s) of the upset; and
- b. The permitted facility was at the time being properly operated.

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- (ii) All other CAFOs shall have a RCS designed and constructed to meet or exceed the capacity required to contain the runoff and direct precipitation from the 25-year, 24-hour rainfall event.
 - (iii) For all CAFOs the design rainfall event volume shall include the runoff volume from all open lot surfaces, the runoff volume from all areas between open lot surfaces that is directed into the RCSs, the volume of rainfall from any roofed area that is directed into the RCSs, and the volume of direct rainfall on the surface of the RCS.
- (2) **Manure and Process Generated Wastewater**

The RCS shall be designed to contain all manure entering the RCS and process generated wastewater produced during a 21-day, or greater, period and, if applicable, wastewater from any cooling pond located within the drainage area of the RCS.
- (3) **Sludge**

The RCS shall be designed to contain the estimated storage volume for a minimum one year of sludge accumulation.
- (4) **Wastewater Treatment**

For CAFOs authorized under the air standard permit in 30 TAC Chapter 321.43 (relating to Air Standard Permit for Animal Feeding Operations (AFOs)), the RCS shall be designed to contain any additional volume required for the design and treatment specifications or other options available related to the Air Standard Permit for Animal Feeding Operations.
- (5) **Hydrologic Needs Analysis (Water Balance) for Systems Using Irrigation**

The RCS shall be designed for the authorized number of animals to include any storage volume required by a water balance that documents that the typical irrigation demands of the proposed crop and irrigated land area will not be exceeded. Precipitation inputs to the water balance shall be the average monthly precipitation taken from a National Weather Service current publication. The consumptive use requirements of the cropping system shall be developed on a monthly basis, and shall be calculated as a part of the water balance. The maximum required storage value calculated by the water balance shall not be maintained in the required storage volume for the design rainfall event. Wastewater application rates used in the water balance shall not induce uncontrolled runoff or create tailwater that causes a

discharge. All relevant volumes accumulated during the storage period shall be considered in determining the water balance, including all of the following:

- (i) the volumes identified in Part III.A.6(d)(1) through (4);
- (ii) the storage volume required to contain all wastewater and runoff during periods of low crop demand;
- (iii) the evaporation volume from RCS surfaces;
- (iv) the volume applied to crops in response to crop demand; and
- (v) any additional storage volume required as a safety measure as determined by the system designer.

(6) Evaporation Systems

Evaporation systems shall be designed:

- (i) to withstand a ten-year (consecutive) period of maximum recorded monthly rainfall (other than catastrophic). In any month that a catastrophic event occurs, the analysis shall replace such an event with not less than the long-term average rainfall for that month, as determined by a hydrologic needs analysis (water balance), and
- (ii) to maintain sufficient volume to contain the volume of rainfall and rainfall runoff from the design rainfall event without overflow. The depth for this volume must be at least one vertical foot allocated within the RCS above the volume required in item (i) above.

(e) Irrigation Equipment Design

The permittee shall ensure that the irrigation system design is capable of removing wastewater from the RCS(s). RCS(s) shall be equipped with irrigation, or wastewater removal systems capable of dewatering the RCS(s) whenever needed to restore the operating capacity. Dewatering equipment shall be maintained in proper working order.

(f) Embankment Design and Construction

For RCSs where the depth of water impounded against the embankment at the spillway elevation is three feet or more, the RCSs are considered to be designed with an embankment. The PPP shall include a description of the design specifications for the RCS embankments. The following design specifications are required for all new construction and/or the modified portions of existing RCSs.

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(1) Soil Requirements

Soils used in the embankment shall be free of foreign material such as rocks larger than 4 inches, trash, brush, and fallen trees.

(2) Embankment Lifts

The embankment shall be constructed in lifts or layers no more than eight inches compacted to six inches thick at a minimum compaction effort of 95% Standard Proctor Density (ASTM D698) at -1% to +3% of optimum moisture content.

(3) Stabilize Embankment Walls

All embankment walls shall be stabilized to prevent erosion or deterioration.

(4) Compaction Testing

Embankment construction must be accompanied by certified compaction tests including in place density and moisture in accordance with ASTM D 1556, D 2167 or D 2937 for density and D 2216, D 4643, D 4944 or D 4959 for moisture, and D 2922 or D 6938 for moisture and density, or equivalent testing standards.

(5) Spillway or Equivalent Protection

Additional protection for new or modified portions of existing RCSs that are constructed with embankments designed to contain runoff from a drainage area shall be constructed with a spillway or other outflow device properly sized according to NRCS design and specifications to protect the integrity of the embankments.

(6) Embankment Protection

For all new construction or the modified portions of existing RCSs, each RCS must have a minimum of 2 vertical feet of freeboard constructed with materials equivalent to those used at the time of design and construction between the top of the embankment and the structure's spillway. RCSs without spillways must have a minimum of 2 vertical feet of freeboard between the top of the embankment and the required storage capacity.

(g) Liner Requirements

For all new construction and for all structural modifications of existing RCSs, each RCS must meet the requirements for lack of hydrologic connection or have a liner consistent with paragraph (2), (3), or (4) below.

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(1) Lack of Hydrologic Connection

- (i) Documentation must show that there will be no significant leakage from the RCS(s); or that any leakage from the RCS(s) will not migrate to water in the state. The lack of hydrologic connection documentation shall be certified by a licensed Texas Professional Engineer or licensed Texas Professional Geoscientist and must include information on the hydraulic conductivity and thickness of the natural materials underlying and forming the walls of the containment structure up to the wetted perimeter.
- (ii) If it is claimed that no significant leakage would result from the use of in-situ materials, documentation must be provided that leakage will not migrate to waters in the state. The permittee must, at a minimum, include maps showing groundwater flow paths, or that the leakage enters a confined environment. The permittee shall also include a written determination by an NRCS engineer, licensed Texas Professional Engineer, or licensed Texas Professional Geoscientist that a liner is not needed to prevent a significant hydrologic connection between the contained wastewater and water in the state.

(2) RCS Liner using In-situ Material

In-situ material is undisturbed, in-place, native soil material. In-situ materials must at least meet the minimum criteria for hydraulic conductivity and thickness as described in Part III.A.6(g)(3). Samples shall be collected and analyzed in accordance with Part III.A.6(g)(5). The calculated specific discharge through the in-situ material must meet the requirements of Part III.A.6(g)(3). This documentation must be certified by a licensed Texas Professional Engineer or licensed Texas Professional Geoscientist.

(3) Constructed or Installed Earthen Liner

- (i) Constructed or installed liners must be designed by a licensed Texas Professional Engineer. The liner must be constructed in accordance with the design and certified as such by a licensed Texas Professional Engineer. Compaction tests and post construction sampling and analyses, conducted in accordance with Part III.A.6(g)(5), will provide support for the liner certification.
- (ii) Liners shall be designed and constructed to have hydraulic conductivities no greater than 1×10^{-7}

centimeters per second (cm/sec), with a thickness of 18 inches or its equivalency in other materials, and not to exceed a specific discharge through the liner of 1.1×10^{-6} cm/sec calculated using Darcy's Law with a water level at spillway depth.

- (iii) Constructed or installed liners must be designed and constructed to meet the soil requirements, lift requirements, and compaction testing requirements as listed in Part III.A.6(f)(1), (2), and (4).

(4) Geosynthetic liners

Geosynthetic liners that meet the specific discharge standard in Part III.A.6(g)(3) are acceptable if certified by a licensed Texas Professional Engineer. Documentation must be presented to the Executive Director for review and approval before putting into service. Installation of the liner shall be certified by a licensed Texas Professional Engineer that the liner and subgrade were completed according to the manufacturer's recommendations and current standards. Seams shall be completed in accordance with the manufacturer's requirement. When wedge weld seams are used, non-destructive seam testing shall be conducted on the complete length of the wedge weld by standard air pressure testing. The certification must document compliance with all of the following standards: ASTM D 5888 Storage and Handling of Geosynthetic Clay liners, ASTM D 5889 Quality Control of Geosynthetic Clay Liners, and ASTM D 6102 Guide for Installation of Geosynthetic Clay Liners.

(5) Liner Sampling and Analyses of In-Situ Material or Earthen Liners

- (i) The licensed Texas Professional Engineer or licensed Texas Professional Geoscientist shall use best professional practices to ensure that corings or other liner samples will be appropriately plugged with material that also meets liner requirements of this subsection.
- (ii) Samples shall be collected in accordance with ASTM D 1587 or other method approved by the Executive Director. For each RCS, a minimum of two core samples shall be collected from the bottom of the RCS and a minimum of one core sample shall be collected from each sidewall. Additional samples may be necessary based on the best professional judgment of the licensed Professional Engineer. Distribution of the samples shall be representative of liner characteristics, and proportional to the surface area of the sidewalls and

floor. Documentation shall be provided identifying the sample locations with respect to the RCS liner.

- (iii) For earthen liners, undisturbed samples shall be analyzed for hydraulic conductivity in accordance with ASTM D 5084, whole pond seepage analysis as described in ASABE Paper Number 034130, Double Ring Infiltrometer (stand pipe), or other method approved by the Executive Director.

(6) Leak Detection System

If notified by the Executive Director that significant potential exists for the adverse impact of water in the state or drinking water from leakage of the RCS, the permittee shall install a leak detection system or monitoring well(s) in accordance with that notice. Documentation of compliance with the notification must be kept with the PPP, as well as copies of all sampling data.

7. Cooling Pond

For the purposes of this permit, cooling ponds are not RCSs. The requirements of this paragraph are not applicable to cooling ponds located outside the production area. The cooling ponds located within the drainage area of a RCS and cooling pond wastewater must be directed to and contained in a RCS or land applied in accordance with the NMP. The RCS must be designed with additional capacity to contain the cooling pond wastewater.

- (a) Cooling pond located within the production area of a CAFO shall be designed and maintained as follows:
 - (1) The bottom, entry way and exit ramps shall be constructed of concrete.
 - (2) Water removed from the cooling pond is wastewater and must be managed accordingly.
- (b) Once per calendar year, the operator shall inspect the concrete floor in the cooling pond for cracks and leaks. Cracks and leaks must be repaired prior to refilling and use.

8. Special Considerations for Existing RCSs

(a) Proper Construction

Any existing RCS that has been properly maintained without any modifications and shows no sign of structural problems or leakage is considered to be properly designed and constructed with respect to the RCS sizing, embankment design and construction, and liner requirements of this permit, provided that any required documentation was completed in accordance with the requirements at the time of construction. If no documentation

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exists, the RCS must be certified by a licensed Texas Professional Engineer as providing protection equivalent to the requirements of this permit.

(b) Playas

A playa that is in use as a RCS, as allowed by Texas Water Code §26.048, and that shows no signs of leakage, is considered to satisfy all applicable design and construction requirements. Playas that meet this requirement are not subject to the five year liner maintenance review required by Part III.A.9(g).

(c) NRCS Plans

Any RCS built in accordance with site-specific NRCS plans and specifications are considered to be in compliance with the design and capacity requirements of this permit provided: 1) the site-specific conditions are the same as those used by the NRCS to develop the plan (numbers of animals, runoff area, wastes generated, etc.) and 2) the RCS has been operated and maintained in accordance with the NRCS requirements.

9. Manure and Sludge Storage

(a) Manure and sludge storage capacity requirements shall be based on manure and sludge production, land availability, and NRCS or equivalent standards.

(b) Manure or sludge stored for more than 30 days must be stored within the drainage area of a RCS or stored in a manner (i.e. storage shed, bermed area, tarp covered area, etc.) that otherwise prevents contaminated storm water runoff from the storage area. All storage sites and structures located outside the drainage area shall be designated on the LMU map. Storage for more than 30 days is prohibited in the 100-year floodplain.

(c) Temporary storage of manure or sludge shall not exceed 30 days and is allowed only in LMUs or a RCS drainage area. Temporary storage of manure and sludge in the 100-year flood plain, near water courses or near recharge features is prohibited unless protected from inundation and damage that may occur during the 100-year flood event. Contaminated runoff from manure or sludge storage piles must be retained on site.

10. RCS Operation and Maintenance

(a) Wastewater Levels

The following requirements must be met for dewatering the RCS, unless the system is designed as an evaporation system in accordance with Part III.A.6(d)(6):

(1) The permittee shall ensure that the required capacity in the RCS is available to contain rainfall and rainfall runoff from

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the design rainfall event. The permittee shall restore such capacity after each rainfall event or accumulation of manure or process generated wastewater that reduces such capacity, when conditions are favorable for irrigation. Favorable conditions shall be when the soil moisture level decreases and irrigation will not cause runoff.

- (2) The normal operating wastewater level in the RCS shall be maintained in accordance with the design of the RCS. If the water level in the RCS encroaches into the storage volume reserved for the design rainfall event (25-year, 24-hour or no discharge for new source swine, veal or poultry) the pollution prevention plan must document the conditions that resulted in this occurrence. As soon as irrigation is allowed, the permittee shall irrigate until the water level is at or below the design rainfall level.

(b) Imminent Overflow

If a RCS is in danger of imminent overflow from chronic or catastrophic rainfall or catastrophic conditions, the permittee shall take reasonable steps to irrigate wastewaters to LMUs only to the extent necessary to prevent overflow from the RCS. If irrigation results in a discharge from the LMU, the permittee shall collect samples from the drainage pathway at the point of discharge from the LMU and analyze the samples in accordance with Part III.A.5.(c), and provide the appropriate notifications in Part IV.B.

(c) Permanent Pond Marker

The permittee shall install and maintain a permanent pond marker in the RCS, visible from the top of the embankment that identifies, either physically or by documentation in the PPP, the volume required for the design rainfall event and minimum treatment volume, if necessary.

(d) Rain Gauge

A rain gauge capable of measuring the design rainfall event shall be kept on site and properly maintained.

(e) Sludge Removal

Sludge shall be removed from the RCS in accordance with the design schedule for cleanout to prevent the accumulation of sludge from encroaching on the volumes reserved for minimum treatment, if necessary, and the design rainfall event.

(f) Liner Protection and Maintenance

- (1) The permittee shall maintain the liner to inhibit infiltration of wastewaters.

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- (2) Liners must be protected from animals by fences or other protective devices.
- (3) No tree shall be allowed to grow such that the root zone would intrude or compromise the structure of the liner or embankment.
- (4) Any mechanical or structural damage to the liner shall be evaluated by a licensed Texas Professional Engineer within 30 days following discovery of the damage.
- (5) For re-certification of an earthen liner following mechanical or structural damage, a minimum of one sample shall be collected and analyzed to document that the liner meets the requirements of the liner certification for that RCS prior to the damage.

(g) Documentation of Liner Maintenance

The permittee shall have a licensed Texas Professional Engineer review the liner documentation and do a site evaluation every five years.

11. General Operating Requirements

(a) Flush/Scrape Systems

CAFOs designed with flush/scrape systems shall be flushed/scraped in accordance with design criteria.

(b) Pen Maintenance

Earthen pens shall be designed and maintained to ensure good drainage and minimize ponding.

(c) Carcass Disposal

Carcasses shall be collected within 24 hours of death and properly disposed of within three (3) days of death in accordance with the Texas Water Code Chapter 26, Texas Health and Safety Code Chapter 361, and 30 TAC Chapter 335 (relating to Industrial Solid Waste and Municipal Hazardous Waste) unless otherwise provided for by the Commission. Animals must not be disposed of in any liquid manure or process wastewater system. Disposal of diseased animals shall also be conducted in a manner that prevents a public health hazard in accordance with Texas Agriculture Code, §161.004 and 4 TAC §§31.3 and 58.31(b) and §59.12. The collection area for carcasses shall be addressed in the potential pollutant sources section of the PPP with management practices to prevent contamination of surface or groundwater; control access; and minimize odors.

12. Land Application

(a) Nutrient Management Plan (NMP) Required

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A permittee authorized as a Large CAFO must develop and implement a NMP, certified by an individual or employee of an entity identified in Part III.A.14(b), in accordance with the Texas NRCS Practice Standard Code 590 upon authorization under this general permit. The NMP shall be updated annually to incorporate the most recent manure, sludge, wastewater, and soil analyses.

(b) Terms of the Nutrient Management Plan

The terms of the NMP include the following:

- (1) Animal type and authorized head count;
- (2) Land management unit (LMU) and application acreage for each LMU;
- (3) Crops (including alternative crops) identified in the NMP with their yield goals for each LMU;
- (4) The maximum application rates for Nitrogen (N) and phosphorus (P) for each crop in each LMU; and
- (5) The methodology in Appendix I of this permit (including formulas, sources of data, protocols for making determination, etc.) and actual data that will be used to account for:
 - (i) the results of soil tests required by Parts III.A.13.(c) and(d);
 - (ii) credits for all nitrogen in the field that will be plant-available;
 - (iii) the amount of nitrogen and phosphorus in the manure and wastewater to be applied;
 - (iv) consideration of multi-year phosphorus application (for any field where nutrients are applied at a rate based on the crop phosphorus requirement, the methodology must account for single-year nutrient applications that supply more than the crop's annual phosphorus requirement);
 - (v) all other additions of plant available nitrogen and phosphorus to the field (i.e., from sources other than manure or wastewater or credits for residual nitrogen);
 - (vi) the timing and method of land application;
 - (vii) volatilization of nitrogen and mineralization of organic nitrogen;
 - (viii) The nitrogen and phosphorus recommendations from the S-Crops Table as contained in the Texas NRCS 590 Software Tool, site-specific historic CAFO yield data, or other sources as approved by the ED for each

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- crop identified for each field, including any alternative crops identified; and
- (ix) The outcome of the field-specific assessment of the potential for nitrogen and phosphorus transport from each field;

- (6) Any other factors necessary to determine the amounts of nitrogen and phosphorus to be applied in accordance with the Narrative Rate Approach.

(c) Land Application Requirements

All permittees must manage LMUs according to the following requirements.

- (1) Discharge of manure, sludge, or wastewater is prohibited from a LMU and shall not cause or contribute to a violation of surface water quality standards, contaminate groundwater, or create a nuisance condition.
- (2) Land application shall not occur when the ground is frozen or saturated or during rainfall events unless in accordance with Part III.A.10(b) of this permit.
- (3) Any land application of manure, sludge, or wastewater shall not exceed the planned crop requirements. Land application rates of manure, sludge or wastewaters shall be based on the total nutrient concentration, on a dry weight basis, where applicable.
- (4) The land application of manure, sludge, and wastewater at agronomic rates and hydrologic needs shall not be considered surface disposal and is not prohibited.
- (5) Where manure, sludge, or wastewater is applied in accordance with a site-specific NMP that complies with Part III.A.12(a), precipitation-related runoff from LMUs is authorized as a pollutant discharge if the source is land associated with a CAFO in a major sole-source impairment zone; or an agricultural storm water discharge for all other sources as defined in 33 U.S.C. §1362 (14).
- (6) Irrigation practices shall be managed so as to minimize ponding or puddling of wastewater on the site, prevent tailwater discharges to waters in the state, and prevent the occurrence of nuisance conditions.
- (7) A permittee introducing wastewater or chemicals to water well heads for the purpose of irrigation shall install backflow prevention devices in accordance with requirements contained in 16 TAC Chapter 76 (relating to Water Well Drillers and Water Well Pump Installers) and 30 TAC

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Chapter 290 (relating to Public Drinking Water), as appropriate.

- (8) Land application at night shall only be allowed if there is no occupied residence(s) within 0.25 mile from the outer boundary of the actual area receiving manure, sludge, or wastewater application. In areas with an occupied residence within 0.25 mile from the outer boundary of the actual area receiving manure, sludge, or wastewater application, application shall only be allowed from one hour after sunrise until one hour before sunset, unless the current resident owner or lessee of such residences have, agreed in writing to specified nighttime applications.

(d) Critical Phosphorus Level

A permittee shall not land apply any manure, sludge, or wastewater to the LMU except in accordance with Part III.A.14 when results of the annual soil analysis for extractable phosphorus indicate:

- (1) a level greater than 200 ppm of extractable phosphorus (reported as P) in Zone 1 for a particular LMU; or
- (2) a level greater than 350 ppm of extractable phosphorus (reported as P) in Zone 1 (zero to six-inch depth) for an LMU where the average annual rainfall is 25 inches or less and erosion control is adequate to keep erosion at the soil loss tolerance (T) or less and the closest edge of the field is more than one mile from a named stream; or
- (3) if ordered by the Executive Director to do so in order to protect the quality of waters in the state.

(e) Land Application without a NMP applicable to State Only CAFOs

Permittees that are authorized as a State only CAFO under this general permit shall comply with the following land application requirements. Documentation for each LMU must include:

- (1) The location, description, and limitations contained in the USDA Soil Survey of the predominant soil series within the identified LMUs, and a plan to address the soil limitations;
- (2) The crop types, realistic yield goals, and rotations to be implemented on an annual basis based on the major soil series within the identified LMUs;
- (3) The procedures for calculating the application rates;
- (4) The results of the annual manure, sludge, wastewater, and soil analyses used in determining application rates;
- (5) Projected rates of application of the manure, sludge, and wastewater in accordance with the crop requirement, as well

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as all data indicating the nutrients that will be applied to the LMUs; and

- (6) A description of the type of equipment and method of application to be used in applying the manure, sludge, or wastewater.
- (f) Buffer Requirements
 - (1) Surface Water in the State

Vegetative buffer strips shall be maintained in accordance with NRCS Practice Standard Code 393. The minimum buffer shall be no less than 100 feet of vegetation to be maintained between all manure, sludge, and wastewater application areas and all surface water in the state. A buffer is not required for wastewater irrigation when applied by low-pressure, low-profile center pivot irrigation systems in areas of the state where the annual average rainfall is less than 25 inches per year. Land application of manure, sludge, and wastewater into surface water in the state is an unauthorized discharge and is prohibited.
 - (2) Sink Holes

Manure, sludge, and wastewater may not be applied closer than 100 feet to any sinkhole. Alternatively, the permittee may substitute a 35-foot wide vegetative buffer where alternative conservation practices or field specific conditions will provide pollutant reductions equivalent or better than the reductions that would be achieved by the 100-foot buffer.
 - (3) Impaired Water Bodies

For LMUs located within 200 feet of a main stem of an impaired segment listed on the current EPA approved §303(d) list of impaired water bodies, for bacteria, nutrients or pathogens, the permittee must, comply with the following requirements:

 - (i) Land application must be consistent with a NMP certified in accordance with NRCS Practice Standard Code 590 using the phosphorus index rating for impaired waters. The phosphorus index rating must be calculated using the NRCS Phosphorus Assessment Tool for Texas, Agronomy Technical Note Number 15.
 - (ii) The permittee shall install and maintain one of the following buffers between the land application area and the main stem of the impaired segment:
 - (A) a 200-foot vegetative buffer; or

- (B) a 100 foot vegetative buffer and a filter strip or vegetative barrier, as defined by NRCS Practice Standard Codes 393 or 601.

13. Sampling and Testing

(a) Initial Sampling

Before commencing application of manure, sludge or wastewater on LMUs, the permittee shall:

- (1) collect and analyze at least one representative sample of manure, sludge (if applicable), and wastewater for total nitrogen, total phosphorus, and total potassium; and
- (2) collect and analyze at least one representative soil sample from each LMU according to the procedures in this subsection. For LMUs that have not received manure, sludge, or wastewater within the previous year, initial sampling must be completed before restarting land application to the LMU.

(b) Annual Sampling

- (1) A permittee shall collect soil samples and have them analyzed for each LMU where manure, sludge, or wastewater was applied during the preceding year according to the procedures in this subsection. For LMUs where manure, sludge, or wastewater was not applied during the preceding year, a permittee is not required to collect and analyze soil samples. However, the annual reporting requirement in Part IV.B.1. of this general permit must be met.
- (2) At least one representative sample of manure, sludge, and wastewater shall be collected and analyzed annually for total nitrogen, total phosphorus, and total potassium.

(c) Soil Sampling Procedures

Sampling procedures shall employ the following accepted techniques of soil science for obtaining representative samples and analytical results.

- (1) Samples shall be collected using approved methods described in the TCEQ's guidance RG-408 entitled "Soil Sampling for Concentrated Animal Feeding Operations."
- (2) Samples shall be collected by the permittee or their designee and analyzed by a soil testing laboratory annually, except when crop rotations or inclement weather require a change in the sampling time. The PPP shall contain documentation to explain the reasons for adjusting the sampling timeframe.

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- (3) Obtain one composite sample for each LMU and per uniform soil type (soils with the same characteristics and texture) within the LMU.
 - (4) Composite samples shall be comprised of 10 - 15 randomly sampled cores at a depth of zero to six (0 - 6) inches.
- (d) Soil Analysis
- The permittee shall have a laboratory analysis of the soil samples performed for physical and chemical parameters to include:
- (1) nitrate reported as nitrogen in ppm;
 - (2) phosphorus (extractable, ppm) - (Mehlich III extractant and inductively coupled plasma (ICP) analysis);
 - (3) potassium (extractable, ppm);
 - (4) sodium (extractable, ppm);
 - (5) magnesium (extractable, ppm);
 - (6) calcium (extractable, ppm);
 - (7) soluble salts (ppm) /electrical conductivity (dS/m) - determined from extract of 2:1 (v/v) water/soil mixture; and
 - (8) soil water pH (soil:water, 1:2 ratio).

14. Nutrient Utilization Plan (NUP) applicable to State only CAFOs

A NMP, based on crop removal, certified in accordance with the NRCS Practice Standard Code 590 complies with the requirements for an effective NUP.

- (a) A permittee shall not land apply any manure, sludge, or wastewater to the LMU except in accordance with a detailed NUP when results of the annual soil analysis for extractable phosphorus indicate:
 - (1) a level greater than 200 ppm of extractable phosphorus (reported as P) at a depth of zero to six (0 - 6) inches for a particular LMU; or
 - (2) a level greater than 350 ppm of extractable phosphorus (reported as P) at a depth of zero to six (0 - 6) inches for an LMU where the average annual rainfall is 25 inches or less and erosion control is adequate to keep erosion at the soil loss tolerance (T) or less and the closest edge of the field is more than one mile from a named stream; or
 - (3) if ordered by the Executive Director to do so in order to protect the quality of waters in the state.
- (b) The NUP must be developed and certified by one of the following individuals or employees of the following entities:
 - (1) the NRCS;
 - (2) a certified Nutrient Management Specialist;
 - (3) the Texas State Soil and Water Conservation Board;

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- (4) the Texas AgriLife Extension Service;
 - (5) an agronomist or soil scientist on full-time staff at an accredited university located in the State of Texas; or
 - (6) if the Executive Director determines that one of the entities listed in (1) - (5) cannot develop the plan in a timely manner, a Certified Professional Agronomist certified through the certification program of the American Society of Agronomy, a Certified Professional Soil Scientist certified through the certification program of the Soil Science Society of America, or a Texas licensed Geoscientist-Soil Scientist in Texas may develop the NUP with Executive Director approval.
- (c) The NUP must be submitted to and approved by the Executive Director prior to land application of manure, sludge, or wastewater to the affected LMU.
 - (d) Land application under the terms of the NUP may resume 30 days after the plan is filed with the Executive Director, unless before that time the Executive Director has returned the plan for failure to comply with the requirements of this general permit.
 - (e) Land application under an approved NUP shall not cause or contribute to a violation of water quality standards or create a nuisance.
 - (f) The permittee shall ensure that the NUP, at a minimum, evaluates and addresses the following factors to assure that the beneficial use of manure, sludge, or wastewater is conducted in a manner that prevents phosphorus impacts to water quality:
 - (1) slope of the LMU (as a percentage) and distance of the land management unit from surface water in the state;
 - (2) average rainfall for the area for each month;
 - (3) the permeability of the most restrictive layer in the upper 24 inches of each LMU profile, and the available water holding capacity of the upper 24 inches of the predominant soil in each LMU;
 - (4) chemical characteristics of the waste, including total nitrogen and total phosphorus;
 - (5) recommended rates, methods, and schedules of application of manure, sludge, and wastewater for all LMUs;
 - (6) crop types, annual crop removal rate, and expected realistic yield for each crop; and
 - (7) BMPs to be used to prevent phosphorus impacts to water quality, including any physical structures and vegetative filter strips.

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15. Preventative Maintenance Program

(a) Facility Inspections

(1) General Requirements

(i) The permittee shall conduct weekly inspections of the control facility and land application equipment to determine preventative maintenance or repairs that are needed. Permittees that do not use a RCS are required to conduct inspections for applicable portions of their operation according to the outlined schedule.

(ii) Inspections shall include visual inspections and equipment testing to uncover conditions that could cause breakdowns or failures resulting in discharge of pollutants into or adjacent to water in the state or the creation of a nuisance condition.

(iii) The PPP shall document the inspections and that appropriate action has been taken in response to deficiencies identified during the inspection. The record documenting significant observations and the date of the observation shall be made available during inspections and shall be retained in the PPP. A permittee that does not correct all the deficiencies within 30 days must submit to the Executive Director an explanation of the factors that prevented the correction of the deficiencies.

(2) Daily inspections must be conducted on all water lines that are located within the drainage area of the RCS. These daily inspections should be recorded in the PPP either daily or in the weekly report.

(3) Weekly inspections must be conducted on:

(i) all control facilities and wastewater levels in the RCS; and

(ii) equipment used for land application of manure, sludge, and/or wastewater.

(4) Monthly inspections must be conducted on:

(i) mortality management systems, including containers, burial sites, composting facilities, incinerators; and

(ii) location of chemical storage and disposal, including pesticide containers.

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(5) Annual Site Inspection

- (i) A complete site inspection of the CAFO and LMUs shall be conducted and documentation of the findings of the inspection made at least once per year.
- (ii) The inspection shall include:
 - (A) a review of the list of potential pollutant sources to ensure it is current;
 - (B) the inspection of all controls and operations outlined in the PPP to reduce the potential for pollutants to be transported off the CAFO; and
 - (C) updating the PPP to reflect current conditions.

(b) Five Year Evaluation of the RCS(s)

Once every five years, any permittee who uses an RCS shall have a licensed Texas Professional Engineer review the existing engineering documentation, complete a site evaluation of the structural controls, and review existing liner documentation. The engineer shall complete and certify a report of their findings that must be kept with the PPP.

16. Management Documentation

The following documentation shall be retained by the permittee as part of the PPP and must be submitted to the Executive Director within five business days of a written request.

(a) Spill Prevention and Recovery

The permittee shall take appropriate measures necessary to prevent spills and to clean up spills of any toxic pollutant. Where potential spills can occur; materials, handling procedures, and storage shall be specified. The permittee shall identify the procedures for cleaning up spills and shall make available the necessary equipment to personnel to implement a clean up. The permittee shall store, use, and dispose of all pesticides in accordance with label instructions. There shall be no disposal of pesticides, solvents or heavy metals, or of spills or residues from storage or application equipment or containers, into RCSs. Incidental amounts of such substances entering an RCS as a result of stormwater transport of properly applied chemicals is not a violation of this general permit.

(b) Groundwater Monitoring Plan

- (1) A groundwater monitoring plan shall be implemented by a permittee if:
 - (i) a playa is used as a RCS, as required by Texas Water Code §26.048, or
 - (ii) if required by the Executive Director.

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- (2) The groundwater monitoring plan shall specify procedures for:
 - (i) annually collecting a groundwater sample from each well that provides water for the facility;
 - (ii) having each sample analyzed for nitrate as nitrogen and chloride where a groundwater monitoring plan is required by (b)(1)(i), and for nitrate as nitrogen, total dissolved solids, and chloride, where a groundwater monitoring plan is required by (b)(1)(ii), and
 - (iii) comparing the analytical results to the baseline data.
- (3) Data from any required groundwater monitoring must be submitted to the Executive Director annually and kept on site for five years with the PPP. The first year's sampling shall be considered the baseline data and must be retained on site for the life of the facility unless otherwise provided by the Executive Director.
- (4) A groundwater monitoring plan shall be developed and certified by a licensed Texas Professional Engineer or licensed Texas Professional Geoscientist.
- (c) The permittee shall maintain a copy of the following documents in this section of the PPP, or if stored in other locations including binders, files, and electronic records, make them readily available during the course of an inspection or at the request of the Executive Director:
 - (1) the recharge feature certification;
 - (2) the NMP or NUP, as applicable;
 - (3) the liner certifications or lack of hydrologic connection certification;
 - (4) any written agreement with a landowner which documents the allowance of nighttime application of manure, sludge, or wastewater, as required by Part III.A.11.(b)(8);
 - (5) the odor control plan, if required by the Air Standard Permit;
 - (6) all employee training documentation, including dates when training occurred and, for DOPA required training, verification of the date, time of attendance, and completion of training;
 - (7) the administratively complete and technically complete notice of intent and applicable attachments;
 - (8) the written authorization issued by the Commission or Executive Director;
 - (9) all NOCs submitted to the Executive Director;
 - (10) all closure plans and post-closure documentation; and
 - (11) this general permit.

B. General Requirements

1. For any new or expanding CAFO, the permittee shall not construct any component of the production area in any stream, river, lake, wetland, or playa (except as defined by and in accordance with the Texas Water Code §26.048 - Prohibition of Discharge to a Playa from a CAFO).
2. Animals confined on the CAFO shall be restricted from coming into direct contact with surface water in the state through the use of fences or other controls.
3. The permittee shall prevent the discharge of pesticide contaminated waters into surface water in the state. All wastes from dipping vats, pest and parasite control units, vehicle wash, disinfection stations and other facilities used for the application of potentially hazardous or toxic chemicals shall be handled and disposed of in a manner that prevents any significant pollutants from entering water in the state or creating a nuisance condition. All pesticides shall be stored, used, and disposed of in accordance with label instructions. There shall be no disposal of pesticides, solvents or heavy metals, or of spills or residues from storage or application equipment or containers, into RCSs. Incidental amounts of such substances entering a RCS as a result of stormwater transport of properly applied chemicals is not a violation of this general permit.
4. Composting on-site at a CAFO shall be performed in accordance with 30 TAC Chapter 332. CAFOs may compost manure and dead animals generated on-site. Pursuant to 30 TAC Chapter 332, the permittee may add agricultural products to provide an additional carbon source or bulking agent to aid in the composting process. If the compost areas are not roofed or covered with impermeable material, protected from external rainfall, or bermed to protect from runoff in the case of the design rainfall event, the compost areas must be located within the drainage of the RCS and must be shown on the site map and accounted for in the RCS design calculations.
5. CAFOs that maintain animals in pastures, must maintain crops, vegetation, forage growth, or post-harvest residues in the normal growing season, excluding the feed or water trough areas.
6. CAFOs shall be operated in such a manner as to prevent nuisance conditions of air pollution as mandated by Texas Health and Safety Code, Chapters 341 and 382.
7. The permittee shall take reasonable steps necessary to prevent adverse effects to human health or safety, or to the environment.
8. The permittee shall maintain control of the RCSs, required LMUs, and control facilities identified on the site map submitted with the NOI. In the event the permittee loses ownership or possession of any of these areas, the permittee shall notify the Executive Director within 5 business days and file a NOC.

C. Training

1. Employee Training

- (a) CAFO employees who are responsible for work activities relating to compliance with provisions of this general permit must be regularly trained or informed of any information pertinent to the proper operation and maintenance of the facility and land application of manure, sludge, or wastewater.
- (b) Employee training shall address all levels of responsibility of the general components and goals of the PPP. Training shall include topics as appropriate such as land application of manure, sludge, or wastewater, proper operation and maintenance of the facility, good housekeeping, material management practices, recordkeeping requirements, and spill response and clean up.
- (c) Permittees are responsible for determining the appropriate training frequency for different levels of personnel, and the PPP shall identify dates for such training.

2. Operator Training

Dairy CAFO operators shall attend and complete training developed by the Executive Director and the Texas AgriLife Extension if any portion of the production area of the CAFO is located in the following counties: Bosque, Comanche, Erath, Hamilton, Hopkins, Johnson, Rains, or Wood. The training shall consist of the following:

- (a) an eight-hour course or its equivalent on animal waste management within 12 months of receiving initial authorization for a new CAFO operation; and
- (b) at least eight additional hours of continuing animal waste management education or its equivalent for each two-year period after completing the requirements for subsection (2)(a) of this section.

D. Closure Requirements

- 1. The permittee shall submit a closure plan to the CAFO Permits Team, Water Quality Division, TCEQ, P. O. Box 13087, Austin, Texas 78711-3087 and the appropriate TCEQ regional office within 90 days of permanently ceasing operations.
- 2. The closure plan shall be developed and certified by a licensed Texas Professional Engineer to meet the standards contained in the NRCS Practice Standard 360 (Closures of Waste Impoundments), and use the guidelines contained in the Texas AgriLife Extension/NRCS publication #B-6122 (Closure of Lagoons and Earthen Manure Storage Structures).
- 3. The RCS or CAFO shall be properly closed within one year of TCEQ receipt of the closure plan. The RCS or CAFO is considered properly

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closed upon certification by a licensed Texas Professional Engineer that closure is complete according to the closure plan.

4. The permittee shall maintain or renew its existing authorization and maintain compliance with the requirements of this general permit until the RCS or CAFO is properly closed.

Part IV. Recordkeeping, Reporting, and Notification Requirements

A. Recordkeeping

The permittee shall keep records on-site for a minimum of five years from the date the record was created. Upon written request, any of the records maintained to comply with this permit shall be submitted to the Executive Director within five business days of the permittee receiving the request. The permittee shall include the following in their recordkeeping:

1. Records must be updated daily to include:
 - (a) all measurable rainfall events; and
 - (b) the wastewater levels in the RCS, as shown on the depth marker, shall be recorded whenever the daily rainfall exceeds 1.0 inch.
2. Records must be updated weekly to include:
 - (a) the wastewater levels in the RCS shown on the depth marker; and
 - (b) records of all manure, sludge, and wastewater beneficially used by the CAFO that shows the dates, times, and location of land application or removal from the CAFO.
 - (1) For a CAFO where manure, sludge, or wastewater is applied on LMUs, such records must include the following information:
 - (i) date of manure, sludge, or wastewater application to each field;
 - (ii) location of the specific LMU and the volume or amount applied during each application event;
 - (iii) acreage of each individual crop where manure, sludge, or wastewater is applied;
 - (iv) assumptions for calculating the total amount of nitrogen and phosphorus applied per acre to each field, including the sources of nutrients other than manure, sludge, or wastewater on a dry weight basis, and the percent moisture content of the manure and sludge;
 - (v) the actual annual yield of each harvested crop, and
 - (vi) weather conditions during the land application and 24 hours before and after the land application.

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- (2) If manure, sludge, or wastewater is sold or given to other persons for off-site land application or disposal, such records must include the following information (A single pick-up truck load need not be recorded):
 - (i) date of removal from the CAFO;
 - (ii) name and address of the recipient; and
 - (iii) approximate amount, in wet tons, dry tons, or cubic yards, of manure or sludge or gallons of wastewater or slurry removed from the CAFO.
 - (3) The permittee must make the most recent nutrient analysis of the manure, sludge, and wastewater available to any hauler.
 - (4) If manure, sludge, or wastewater is being removed by a custom hauler or commercial composter then the records can be updated monthly in accordance with a normal billing cycle.
3. The permittee shall maintain a written description of mortality management practices.
4. Records of weekly inspections of all control facilities and equipment used for land application of manure, sludge, and wastewater shall be updated weekly and include the date of the inspection and a description of the findings.
5. Records pertaining to land application activities must be updated annually to include:
 - (a) annual nutrient analysis for at least one representative sample of irrigation wastewater, if applicable, and one representative sample of manure and sludge for total nitrogen, total phosphorus, and total potassium;
 - (b) the annual soil analysis report; and
 - (c) the inspection report required by Part III.A.15(a)(5).
6. The inspection report as required by Part III.A.15(b), Five Year Evaluation, must be updated every five years.
7. The following records shall also be kept on-site:
 - (a) a list of any significant spills at the CAFO;
 - (b) documentation of liner maintenance as required in Part III.A.9.(f);
 - (c) groundwater monitoring records, if required by Part III.A.16(b);
 - (d) RCS design and construction certification as required in Part III.A.6(a);

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- (e) embankment certification as required in Part III.A.6(f);
- (f) liner certification as required in Part III.A.6(g); and
- (g) a copy of current and amended site plans.

B. Reporting and Notification

1. **Annual Reporting Requirement.** Large CAFOs must submit an annual report with all information required in this section to the appropriate TCEQ regional office and the TCEQ's Office of Compliance and Enforcement, Enforcement Division (MC 224, P.O. Box 13087, Austin, Texas 78711) by March 31 of each year for the 12-month reporting period identified by the permittee. If the CAFO was covered under the previous CAFO general permit and selects a reporting period different from January 1 to December 31, the first annual report due on March 31, 2015 shall include the required information from January 1, 2014 to the beginning of the selected reporting cycle (for example, September 1 to August 31 selected as the reporting period, March 31, 2015 annual report would include the information from January 1, 2014 to August 31, 2014). Subsequent annual reports would be for 12 months (for example, year 2, from September 1, 2014 to August 31, 2015 due March 31, 2016). State-only CAFOs must submit items (h), (i) and (o) of this section by same deadline. The report shall be on forms prescribed by the Executive Director to include, but not limited to:
 - (a) number and type of animals, whether in open confinement or housed under roof;
 - (b) estimated amount of total manure, sludge, and wastewater generated during the previous 12 months by the CAFO facility;
 - (c) estimated amount of total manure, sludge, and wastewater land applied to each LMU during the previous 12 months on-site at the CAFO facility;
 - (d) estimated amount of total manure, sludge, and wastewater transferred to other persons from the CAFO facility during the previous 12 months;
 - (e) total number of acres for land application covered by the NMP approved by the Executive Director for the CAFO and total number of those acres used in the previous 12 months for land application;
 - (f) summary of discharges of manure, sludge, or wastewater from the production area that occurred during the previous 12 months including dates, times, and approximate volume;
 - (g) a statement that the NMP, under which the CAFO is operating, was developed and certified by a certified nutrient management specialist;
 - (h) groundwater monitoring results, if required by Part III.A.16.(b);

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- (i) the annual soil analysis of each sample collected from the LMUs; as required by this general permit. The analysis shall be accompanied by the reporting forms prescribed by the Executive Director;
 - (j) the actual crop(s) planted and yield(s) for each LMU;
 - (k) the actual nitrogen and phosphorus content of manure, sludge or process wastewater that was land applied;
 - (l) the results of data used in calculations and the results of calculations conducted in accordance with Appendix I;
 - (m) the results of any soil testing for nitrogen and phosphorus conducted during the previous 12 months;
 - (n) the amount of any supplemental fertilizer applied during the previous 12 months; and
 - (o) any other relevant information deemed necessary by the Executive Director.
2. The permittee shall notify the appropriate TCEQ regional office at least 48 hours prior to:
- (a) putting into operation any new or replacement RCS. For purposes of this general permit, "putting into operation" means the RCS commences the receipt of manure, sludge, or wastewater; and
 - (b) any new construction or modification of control facilities.
3. The permittee shall provide written notice to the appropriate TCEQ regional office as soon as the RCS cleaning is scheduled, but not less than ten business days prior to cleaning. The permittee shall also provide written verification of completion to the regional office within five business days after the cleaning is complete. This paragraph does not apply to cleaning of solid separators or settling basins. Removal of sludge shall be conducted during favorable wind conditions that carry odors away from nearby receptors. Any increase in odors associated with a properly managed cleanout under this subsection will be taken into consideration by the Executive Director when determining compliance with the provisions of this general permit.
4. Permittees that are not required to submit an annual report shall furnish to the appropriate TCEQ regional office and the TCEQ's Office of Compliance and Enforcement, Enforcement Division (MC 224, P.O. Box 13087, Austin, Texas 78711) on or before March 31 of each year, soil testing analysis of all soil samples collected in accordance with the requirements of this general permit. The analysis shall be accompanied by reporting forms prescribed by the Executive Director.
5. If, for any reason there is a discharge to water in the state, the permittee shall notify the Executive Director and appropriate regional

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office orally within 24 hours of becoming aware of the discharge or by the next business day and in writing within 14 business days of the discharge from the RCS or any component of the manure handling or land application system to the Office of Compliance and Enforcement Division (MC 224, P.O. Box 13087, Austin, Texas 78711). In addition, the permittee shall document the following information to the PPP and submit that information to the appropriate regional office within 14 business days of becoming aware of such discharge:

- (a) A description and cause of the discharge, including a description of the flow path to the receiving water body and an estimation of the volume discharged.
 - (b) The period of discharge, including exact dates and times, and, if not corrected the anticipated time the discharge is expected to continue, and steps being taken to reduce, eliminate, and prevent recurrence of the discharge.
 - (c) If caused by a precipitation event, the date of the event and the rainfall amount recorded from an on-site rain gauge.
 - (d) Results of analysis as required by Part III.A.5(c).
 - (e) Any upset which exceeds any effluent limitation in the permit.
6. The permittee shall report any noncompliance, other than B.5 above, that may endanger human health or safety, or the environment to the TCEQ. Report of such information shall be provided orally or by facsimile transmission (FAX) to the appropriate TCEQ regional office within 24 hours of becoming aware of the noncompliance. A written submission of such information shall also be provided by the permittee to the appropriate TCEQ regional office and the TCEQ's Enforcement Division (MC 224, P.O. Box 13087, Austin, Texas 78711) within five (5) business days of becoming aware of the noncompliance. The written submission shall contain a description of the noncompliance and its cause; the potential danger to human health or safety, or the environment; the period of noncompliance, including exact dates and times. If the noncompliance has not been corrected, the anticipated time it is expected to continue, and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance and to mitigate its adverse effects.

Part V. Standard Permit Conditions

- A. Authorization to discharge must be obtained prior to the construction of any new CAFO facility as stated in 30 TAC §§321.33(d) and (e). This authorization may be obtained through either this general permit or an individual permit.
- B. The permittee has a duty to comply with all conditions in this general permit and 30 TAC Chapter 321; Subchapter B. Failure to comply with any condition is a violation of the general permit and the statutes under which

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the general permit was issued. Any violation may be grounds for enforcement action, for terminating coverage under this general permit, or for requiring a permittee to apply for and obtain an individual permit.

- C. It is not a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted discharge to maintain compliance with the permit conditions.
- D. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) installed or used by the permittee to achieve compliance with the permit conditions. Proper operation and maintenance also includes adequate laboratory and process controls, and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the permit conditions.
- E. All records, reports, drawings, and other documentation required by this general permit must be maintained for a minimum period of five years from the date of the record and either be kept on-site or made readily available for review by an authorized representative of the Commission upon request. This period may be extended at the request of the Executive Director.
- F. The permittee shall furnish any information, at the written request of the Executive Director, that is necessary to determine whether cause exists for revoking, suspending, or terminating authorization under this permit. The requested information must be provided within a reasonable time frame and in no case later than 30 days from the postmarked date of the request.
- G. The permittee shall give notice to the Executive Director before physical alterations or additions to the permitted facility if such changes would result in a violation of permit requirements.
- H. Inspection and entry shall be allowed under TWC, Chapters 26 through 28 and Texas Health and Safety Code §§361.032-361.033 and 361.037 and 40 Code of Federal Regulations §122.41(i). The statement in TWC §26.014 that Commission entry of a regulated entity shall occur in accordance with an establishment's rules and regulations concerning safety, internal security, and fire protection is not grounds for denial or restriction of entry to any part of the regulated entity, but merely describes the Commission's duty to observe appropriate rules and regulations during an inspection.
- I. Standard monitoring requirements
 - 1. Samples required by this permit shall be collected and measurements taken at times and in a manner such that they are representative of the monitored discharge or activity. Samples shall be delivered to the laboratory immediately upon collection, in accordance with any applicable analytical method and required maximum holding times. Unless otherwise specified in this permit, all laboratory tests submitted to demonstrate compliance with this permit must meet the requirements of 30 TAC Chapter 25, Environmental Testing

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Laboratory Accreditation and Certification. Measurements, tests, and calculations shall be accurately accomplished in a representative manner.

2. Records of Monitoring activities must include:
 - (a) the date, time, and place of sample or measurement;
 - (b) the identity of any individual who collected the sample or made the measurement;
 - (c) the chain-of-custody procedures used to maintain sample integrity from sample collection to laboratory delivery;
 - (d) the date and time of laboratory analysis;
 - (e) the identity of the individual and laboratory who performed the analysis;
 - (f) the technique or method of analysis; and
 - (g) the results of the analysis or measurement and for wastewater the quality assurance/quality control records.
 3. Chain of custody documents shall be maintained by the permittee or the person that collected the samples on behalf of the permittee and must be made available to the Executive Director upon written request within 30 days of the postmarked date of the request.
 4. The permittee shall ensure that properly trained and authorized personnel monitor and sample the soil or wastewater related to any permitted activity.
- J. NOIs, NOTs, NOCs, and NMPs shall be signed in accordance with the requirements of 30 TAC §305.44(a) (relating to Signatories to Applications). Pollution prevention plans, reports, and other information requested or required by the Executive Director shall be signed in accordance with the requirements of 30 TAC Chapter 305.128 (relating to Signatories to Reports).
- K. Authorization under this permit may be suspended or revoked for the reasons stated in 30 TAC Chapter 205.4 (relating to Authorizations and Notices of Intent). Notifying the TCEQ of planned changes or an anticipated noncompliance, does not stay any permit condition.
- L. This permit does not convey any property rights of any sort or any exclusive privilege.
- M. If the permittee becomes aware that he/she failed to submit any relevant facts in an NOI, or submitted incorrect information in an NOI or in any report to the Executive Director, the permittee shall promptly submit such facts or information.
- N. The permittee is subject to administrative, civil, and criminal penalties, as applicable, under Chapter 7 of the Texas Water Code for violations including but not limited to the following:
1. violating the TWC Chapter 26 or applicable rules of the Commission or terms of this general permit;

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2. falsifying, tampering with, or knowingly rendering inaccurate any monitoring device or method required to be maintained under a permit; and
3. knowingly making any false statement, representation, or certification in any record or other document submitted or required to be maintained under a permit, including monitoring reports or reports of compliance or noncompliance.

APPENDIX I
METHODOLOGY FOR CALCULATING MAXIMUM APPLICATION RATES AND
ANNUAL RECALCULATION OF APPLICATION RATES

1. Identify the Soil Test Phosphorus (P) Level (Extremely Low, Very Low- Low, Medium, High, Very High) on the soil test analysis.

Soil Test P Rating	Soil Test P Levels (ppm*)
Extremely Low	Less than 5
Very Low - Low	5 to less than 20
Medium	20 to less than 50
High	50 to less than 100
Very High	Greater than or equal to 100

*ppm is equivalent to mg/kg of solids.

2. Update the Applicable Table 1 to Appendix I:
 - a. Populate the Sub Total column with the point value that corresponds to the Site Characteristic for each.
 - b. Calculate the Total Index Points
 - c. Select the P Runoff Potential from the total sum of the Index Points of the Site Characteristics using the Phosphorus Index Classification Table.
3. Determine which of the tables (TABLE 1 or TABLE 2) of Table 2 to Appendix I on the following page is appropriate to use. Each table describes the criteria for its use.
4. Determine which application rate column is appropriate using the following criteria:
 - a. Use the Maximum TMDL Annual P Rate if this LMU is located in a segment with an approved TMDL and TMDL Implementation Plan (TMDL I-Plan).
 - b. Use Maximum Annual P Application if this LMU is not located in a segment with an approved TMDL and TMDL I-Plan, and you wish to apply annually.
 - c. Use Maximum Biennial Application Rate if this LMU is not located in a segment with an approved TMDL and TMDL I-Plan, and you wish to apply biennially.
5. Determine the Maximum Application Rate using the table identified in Step 3, the column identified in Step 4, and the P Runoff Potential identified in Step 2.c.
6. Using one of the approved crops and yield goals approved for each LMU, determine the maximum application rate (in lbs/ac) for that crop and yield goal and the Maximum Application Rate identified in Step 5 from the S-Crop Table, site-specific historic yield data, or other sources as approved by the Executive Director.
 - a. Example 1: If the Maximum Application Rate in Step 5 is "1.5 Times Annual Crop P Requirement," find the number identified on the S-Crop Table under the column "Crop P₂O₅ requirement" for your crop/yield goal, then multiply that number by 1.5 to determine your maximum application rate (in lbs/ac P₂O₅).
 - b. Example 2: If the Maximum Application Rate in Step 5 is "0.5 Times Annual Crop P Removal," find the number identified on the S-Crop Table under the column "Crop P₂O₅ Removal Rate" for your crop/yield goal, then multiply that number by 0.5 to determine your maximum application rate (in lbs/ac P₂O₅).

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Table 1 to Appendix I: Phosphorus Index Worksheet for East Texas from NRCS Practice Standard 590

Client Name:			Field(s):			Date:	
Planner:			Location:			Crop:	
Impaired Watershed			Runoff Curve No.:			% Slope:	
(Y or N):							
Site Characteristic (Weighting Factor)	[Weighting Factor Times the Column Factor]						Sub Total
	0	1	2	4	8		
Soil Test P Rating (1.00)	N/A	Very Low - Low	Moderate	High	Very High		
	[0]	[1.0]	[2.0]	[4.0]	[8.0]		
Fertilizer Phosphorus (P ₂ O ₅) Application Rate (0.75)	None Applied	1-40 lbs/ac P ₂ O ₅	41-90 lbs/ac P ₂ O ₅	91-150 lbs/ac P ₂ O ₅	>150 lbs/ac P ₂ O ₅		
	[0]	[0.75]	[1.5]	[3.0]	[6.0]		
Organic Phosphorus (P ₂ O ₅) Application Rate (0.75)	None Applied	1-40 lbs/ac P ₂ O ₅	41-90 lbs/ac P ₂ O ₅	91-150 lbs/ac P ₂ O ₅	>150 lbs/ac P ₂ O ₅		
	[0]	[0.75]	[1.5]	[3.0]	[6.0]		
Phosphorus Fertilizer Application Method and Timing (0.50)	None Applied	Placed deeper than 2 in. or broadcast and incorporated within 48 hours	Surface applied 12/1 - 2/15	Surface applied 2/16 - 4/15 or 6/6 - 11/30	Surface applied 4/16 - 6/15		
	[0]	[0.50]	[1.0]	[2.0]	[4.0]		
Organic Phosphorus Source Application Method and Timing (0.50)	None Applied	Placed deeper than 2 in. or broadcast and incorporated within 48 hours	Surface applied 12/1 - 2/15	Surface applied 2/16 - 4/15 or 6/6 - 11/30	Surface applied 4/16 - 6/15		
	[0]	[0.50]	[1.0]	[2.0]	[4.0]		
Proximity of nearest field edge to named stream or lake (1.25)	> 2000 feet	1000 - 1999 feet	500 - 999 feet	100 - 499 feet	< 100 feet		
	[0]	[1.25]	[2.5]	[5.0]	[10.0]		
Runoff Class (Runoff Class Table 3) (1.00)	Negligible	Low	Moderate	High	Very High		
	[0]	[1.0]	[2.0]	[4.0]	[8.0]		
Soil Erosion (All Sources) (1.50)	Very Low <1 t/ac	Low 1-3 t/ac	Medium 3-5 t/ac	High 5-10 t/ac	Very High >10 t/ac		
	[0]	[1.5]	[3.0]	[6.0]	[12.0]		
Total Index Points:							

Phosphorus Index Classification – East Texas

Index Points	P Runoff Potential	Non-Impaired Critical P Level (ppm)	Impaired Critical P Level (ppm)
< 12	Very Low - Low	500	300
12 - 22.75	Medium	400	250
23 - 32	High	300	200
> 32	Very High	200	200

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Table 1 to Appendix I: Phosphorus Index Worksheet for West Texas from NRCS
Practice Standard 590

Client Name:			Field(s):			Date:	
Planner:			Location:			Crop:	
Impaired Watershed (Y or N):			Runoff Curve No.:			% Slope:	
Site Characteristic (Weighting Factor)	[Weighting Factor Times the Column Factor]					Sub Total	
	0	1	2	4	8		
Soil Test P Rating (1.00)	N/A [0]	Very Low - Low [1.0]	Moderate [2.0]	High [4.0]	Very High [8.0]		
Fertilizer Phosphorus (P_2O_5) Application Rate (0.75)	None Applied [0]	1-40 lbs/ac P_2O_5 [0.75]	41-90 lbs/ac P_2O_5 [1.5]	91-150 lbs/ac P_2O_5 [3.0]	>150 lbs/ac P_2O_5 [6.0]		
Organic Phosphorus (P_2O_5) Application Rate (0.75)	None Applied [0]	1-40 lbs/ac P_2O_5 [0.75]	41-90 lbs/ac P_2O_5 [1.5]	91-150 lbs/ac P_2O_5 [3.0]	>150 lbs/ac P_2O_5 [6.0]		
Phosphorus Fertilizer Application Method and Timing (0.50)	None Applied [0]	Placed deeper than 2 in. or broadcast and incorporated within 48 hours [0.50]	Incorporated immediately before planting [1.0]	Incorporated >4 months before planting, or surface applied <4 months before planting [2.0]	Surface applied >4 months before planting [4.0]		
Organic Phosphorus Source Application Method and Timing (0.50)	None Applied [0]	Placed deeper than 2 in. or broadcast and incorporated within 48 hours [0.50]	Incorporated immediately before planting [1.0]	Incorporated >4 months before planting, or surface applied <4 months before planting [2.0]	Surface applied >4 months before planting [4.0]		
Proximity of nearest field edge to named stream or lake (1.25)	> 2000 feet [0]	1000 - 1999 feet [1.25]	500 - 999 feet [2.5]	100 - 499 feet [5.0]	< 100 feet [10.0]		
Runoff Class (Runoff Class Table 3) (1.00)	Negligible [0]	Low [1.0]	Moderate [2.0]	High [4.0]	Very High [8.0]		
Soil Erosion (All Sources) (1.50)	Very Low <1 t/ac [0]	Low 1-3 t/ac [1.5]	Medium 3-5 t/ac [3.0]	High 5-10 t/ac [6.0]	Very High >10 t/ac [12.0]		
Total Index Points:							

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Phosphorus Index Classification – West Texas

Index Points	P Runoff Potential	Non-Impaired Critical P Level (ppm)	Impaired Critical P Level (ppm)
< 15	Very Low - Low	500	300
15 – 24.75	Medium	400	250
25 - 35	High	300	200
> 35	Very High	200	200

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Table 2 to Appendix I: Application Rates from NRCS Practice Standard 590

Commercial fertilizers must be applied in accordance with SWFTL recommendations. Application of all organic soil amendments must not exceed the values in Table 1 or 2.

TABLE 1: A Nutrient Management Plan (NMP)¹ is required where any organic soil amendments are applied where Soil Test P Level is less than 200 ppm statewide or, less than 350 ppm in arid areas² with distance to a named stream greater than one mile.

P – Index Rating	Maximum TMDL Annual P Application Rate	Maximum Annual P Application Rate	Maximum Biennial Application Rate
Very Low, Low	Annual Crop Nitrogen (N) Requirement	1.0 Times Annual Crop N Requirement	2.0 Times Annual Crop N Requirement
Medium	2.0 Times Annual Crop P Requirement ³	2.0 Times Annual Crop P Requirement ³	2.0 Times Annual Crop N Requirement
High	1.5 Times Annual Crop P Requirement ³	1.5 Times Annual Crop P Requirement	Double the Maximum Annual P Application Not to Exceed 2 Times the Annual Crop N Requirement
Very High	1.0 Times Annual Crop P Requirement ³	1.0 Times Annual Crop P Requirement ³	Double the Maximum Annual P Application Not to Exceed 2 Times the Annual Crop N Requirement

TABLE 2: A Nutrient Utilization Plan (NUP)¹ is required where Soil Test P Level is: equal to or greater than 200 ppm in nonarid areas², or equal to or greater than 350 ppm in arid areas² with distance to a named stream greater than one mile and erosion control is adequate to keep erosion at the soil loss tolerance (T) or less, or equal to or greater than 200 ppm in arid areas² with distance to a named stream less than one mile.

P – Index Rating	Maximum TMDL Annual P Application Rate	Maximum Annual P Application Rate	Maximum Biennial Application Rate
Very Low, Low	1.0 Times Annual Crop P Removal ⁴	Annual Crop N Removal	2.0 Times Crop N Removal
Medium	1.0 Times Annual Crop P Removal ⁴	1.5 Times Annual Crop P Removal ⁴	Double the Maximum Annual P Application Not to Exceed 2 Times the Annual Crop N Removal
High	1.0 Times Annual Crop P Removal ⁴	1.0 Times Annual Crop P Removal ⁴	Double the Maximum Annual P Application Not to Exceed 2 Times the Annual Crop N Removal
Very High	0.5 Times Annual Crop P Removal ⁴	0.5 Times Annual Crop P Removal ⁴	Double the Maximum Annual P Application Not to Exceed 2 Times the Annual Crop N Removal

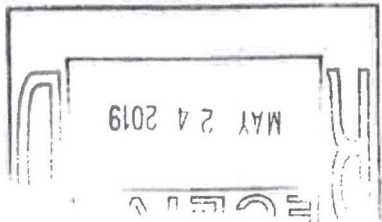
Footnotes Applicable to both Tables

¹ NMP and NUP designations are consistent with 30 TAC §321.40.

² All counties must use the 200 ppm P level limit to determine whether to use Table 1 or Table 2. However, in counties receiving less than 25 inches of annual rainfall, the 350 ppm P level limit applies if the field application area is greater than 1 mile from a named stream or lake. See map in current Texas Agronomy Technical Note 15, Phosphorus Assessment Tool for Texas for county rainfall designations.

³ Not to exceed the annual nitrogen requirement rate.

⁴ Not to exceed the annual nitrogen removal rate.



**BEFORE THE NORTH PLAINS GROUNDWATER
CONSERVATION DISTRICT**

**IN THE MATTER OF
PRESTAGE FARMS OF OKLAHOMA, LLC**

§
§
§
§
§
§

**APPLICATION FOR EXCEPTION
TO DISTRICT RULES 3.4; 3.7; 5.1.1.;
5.1.4.A.; and 5.1.5**

**NPGCD BOARD ORDER NO.
019-001**

On June 11, 2019, at its regularly scheduled meeting, the North Plains Groundwater Conservation District (District) Board of Directors (Board) reviewed the Application for Exception to District Rules 3.4; 3.7; 5.1.1.; 5.1.4.A.; and 5.1.5, filed by Marvin W. Jones, Esq., on behalf of Prestage Farms of Oklahoma, LLC ("Prestage").

FINDINGS

On or about May 20, 2019, Marvin W. Jones, Esq., filed an Application for Exception to District Rules 3.4; 3.7; 5.1.1.; 5.1.4.A.; and 5.1.5 on behalf of Prestage Farms of Oklahoma, LLC.

District Rule 11.2.3 requires that all Applications for Exception shall be heard and considered by the Board at a Board meeting within sixty (60) days after submittal. At least ten (10) days prior to the hearing, the General Manager shall:

- A. post the notice in a place readily accessible to the public in the principal office of the District;
- B. provide the notice to the county clerk of each county in the District for public posting in each respective courthouse;
- C. publish one notice to the public in a newspaper in general circulation within the District; and
- D. provide the notice by regular mail to:
 - (1) the Applicant; and,

- (2) known interested Persons, including, without limitation, those Persons defined by TWC, § 36.119(b), whose rights may be affected by the exception requested, including all governmental agencies having concurrent jurisdiction.

ORDER SETTING HEARING AND ORDERING NOTICE

IT IS THEREFORE ORDERED that an exception hearing shall be held on July 9, 2019 at 9:00 a.m., Daylight Saving Time, at the Hampton Inn & Suites Conference Room, 2010 South Dumas Avenue, Dumas, Texas 79029, to consider the Application for Exception filed on behalf of Prestage.

IT IS FURTHER ORDERED that the General Manager provide notice of the exception hearing as required by District Rule 11.2.3 set forth above.

EXECUTED on this 11th day of June, 2019.

**NORTH PLAINS GROUNDWATER
CONSERVATION DISTRICT:**



DANIEL L. KRIENKE, PRESIDENT

***NOTICE OF PUBLIC HEARING ON APPLICATION FOR EXCEPTION TO
THE RULES OF
NORTH PLAINS GROUNDWATER CONSERVATION DISTRICT***

**TO: ALL INTERESTED PERSONS AS DEFINED BY THE DISTRICT'S
RULE 11.2.3.D.(2):**

The North Plains Groundwater Conservation District ("District") will conduct a public hearing concerning the Application for Exception to District Rules 3.4; 3.7; 5.1.1.; 5.1.4.A.; and 5.1.5, filed by Marvin W. Jones, Esq., on behalf of Prestage Farms of Oklahoma, LLC.

This public hearing is to provide interested members of the public the opportunity to appear and provide oral or written comments on the proposed Application for Exception to the District's Rules requested by Marvin W. Jones, Esq., on behalf of Prestage Farms of Oklahoma, LLC.

Date, Time, and Place of Public Hearing.

The date, time and place of the public hearing is as follows:

Date: **July 9, 2019**
Time: **9:00 a.m. Daylight Saving Time**
Location: Hampton Inn & Suites Conference Room
2010 South Dumas Avenue
Dumas, Texas 79029.

**Procedures for Submitting Public Comments on the Application
for Exception of Prestage Farms of Oklahoma, LLC.**

A. Oral Comments:

Any interested person, as defined by District Rule 11.2.3.D.(2), may appear in person, or by authorized representative, at the public hearing on the proposed Exception to the Rules hearing. Any person making an appearance must indicate their desire to make oral comments on the registration form provided by the District at the public hearing. A person must disclose any affiliation on the registration form and if applicable, the legal authority to speak for a person represented. Any other person attending the public hearing will be considered by the District to be an observer not desiring to make comment on the proposed Application for Exception. The District will not consider any comments of an observer in the Rule exception hearing.

The presiding officer will establish the order of oral comments of persons at the hearing. As appropriate, the presiding officer may limit:

1. the number of times a person may speak;
2. the time period for oral comments;
3. cumulative, irrelevant, or unduly repetitious comments;
4. general comments that are so vague, undeveloped, or immaterial as to be impracticable for the District to ascertain the intent or purpose of the person making the general oral comments and that are otherwise unhelpful to the District in analyzing the proposed Application for Exception to the District's Rules; and
5. other matters that come to the attention of the presiding officer as requiring limitation.

B. Written Comments:

1. Written comments on the Application for Exception must be filed with the District by mail or hand-delivery at the District's office at 603 East First Street, P. O. Box 795, Dumas, Texas 79029-0795. All written comments must be filed with the District and date-stamped no later than **Friday, July 5, 2019 at 5:00 p.m. Daylight Saving Time.**
2. Written comments should be filed on 8½ x 11-inch paper and be typed or legibly written.

C. Response to Comments:

Please note that the District Board and staff will not respond to oral and written comments at the hearing.

Procedure for Obtaining the Application for Rule Exceptions.

Copies of the Application for Exception may be obtained from the District by:

1. telephoning (806) 935-6401;
2. e-mailing a request to the District at swalthour@northplainsgcd.org;
3. visiting the offices of the District at 603 East First Street, Dumas, Texas 79029-0795; or,
4. visiting the District's website at <http://www.northplainsgcd.org>.

Issued this _____ day of June, 2019.

Steven D. Walthour, General Manager
North Plains Groundwater Conservation District

AFFP
NOTICE OF PUBLIC HEARING ON AP

Affidavit of Publication

STATE OF TEXAS }
COUNTY OF POTTER } SS

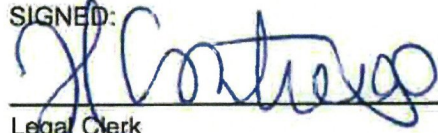
Heather Contreras, being duly sworn, says:

That she is Legal Clerk of the Amarillo Globe-News daily newspaper of general circulation, printed and published in Amarillo, Potter County, Texas; that the publication, a copy of which is attached hereto, was published in the said newspaper on the following date:

June 19, 2019

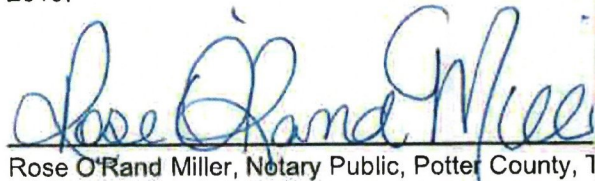
That said newspaper was regularly issued and circulated on those dates.

SIGNED:



Legal Clerk

Subscribed to and sworn to me this 19th day of June 2019.



Rose O'Rand Miller, Notary Public, Potter County, Texas

My commission expires September 06, 2021



00004439 16053738

NORTH PLAINS GROUNDWATER CONSERVATION DISTRICT
PO BOX 795
DUMAS, TX 79029

Legal Notices

NOTICE OF PUBLIC HEARING ON APPLICATION FOR EXCEPTION TO THE RULES OF NORTH PLAINS GROUNDWATER CONSERVATION DISTRICT

TO: ALL INTERESTED PERSONS AS DEFINED BY THE DISTRICT'S RULE 11.2.3.D.(2):

The North Plains Groundwater Conservation District ("District") will conduct a public hearing concerning the Application for Exception to District Rules 3.4; 3.7; 5.1.1.; 5.1.4.A.; and 5.1.5, filed by Marvin W. Jones, Esq., on behalf of Prestage Farms of Oklahoma, LLC.

This public hearing is to provide interested members of the public the opportunity to appear and provide oral or written comments on the proposed Application for Exception to the District's Rules requested by Marvin W. Jones, Esq., on behalf of Prestage Farms of Oklahoma, LLC.

Date, Time, and Place of Public Hearing.

The date, time and place of the public hearing is as follows:

Date: July 9, 2019
Time: 9:00 a.m. Daylight Saving Time
Location: Hampton Inn & Suites Conference Room
2010 South Dumas Avenue
Dumas, Texas 79029.

Procedures for Submitting Public Comments on the Application for Exception of Prestage Farms of Oklahoma, LLC.

A. Oral Comments:

Any interested person, as defined by District Rule 11.2.3.D.(2), may appear in person, or by authorized representative, at the public hearing on the proposed Exception to the Rules hearing. Any person making an appearance must indicate their desire to make oral comments on the registration form provided by the District at the public hearing. A person must disclose any affiliation on the registration form and if applicable, the legal authority to speak for a person represented. Any other person attending the public hearing will be considered by the District to be an observer not desiring to make comment on the proposed Application for Exception. The District will not consider any comments of an observer in the Rule exception hearing.

The presiding officer will establish the order of oral comments of persons at the hearing. As appropriate, the presiding officer may limit:

1. the number of times a person may speak;
2. the time period for oral comments;
3. cumulative, irrelevant, or unduly repetitious comments;
4. general comments that are so vague, undeveloped, or immaterial as to be impracticable for the District to ascertain the intent or purpose of the person making the general oral comments and that are otherwise unhelpful to the District in analyzing the proposed Application for Exception to the District's Rules; and
5. other matters that come to the attention of the presiding officer as requiring limitation.

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Copies of the Application for Exception may be obtained from the District by:

1. telephoning (806) 935-6401;
2. e-mailing a request to the District at swalthour@northplainsgcd.org;
3. visiting the offices of the District at 603 East First Street, Dumas, Texas 79029-0795; or,
4. visiting the District's website at <http://www.northplainsgcd.org>.

Issued this 17 day of June, 2019.

Steven D. Walthour, General Manager
North Plains Groundwater Conservation District

for the District to ascertain the intent or purpose of the person making the general oral comments and that are otherwise unhelpful to the District in analyzing the proposed

PRESTAGE FARMS TIME OUTLINE FOR EXCEPTION TO THE RULES HEARING

Date	Entity	Event	Supporting Documents
1995	Monte Carlo Inc	NPGCD Rules Adopted, Max production 5 GPM/Acre, No Density Rule, No Property Spacing, "A" class well 150 yards from any other well.	Adopted Rules
1996, August 8	Vall Inc	Vall Inc purchased property from Monte Carlo Inc	Appraisal District Record
1997, March 20	Vall Inc	SH-1904 Well Drilled, "A" Class 100 GPM.	Well Log Sect 124 (NW/4)
1997, June 16	Vall Inc	SH-1923 Well Drilled, "A" Class 100 GPM	Well Log Sect 124 (NW/4)
1997, June 13	Vall Inc	SH-1918 Well Drilled, "A" Class 100 GPM	Well Log Sect 117 (SW/4)
1997, June 12	Vall Inc	SH-1919 Well Drilled, "A" Class 100 GPM.	Well Log Sect 117 (SE/4)
1997, Oct 22	Vall Inc	SH-1920 Well Drilled, "A" Class 100 GPM	Well Log Sect 117 (NE/4)
1997, Dec 16	Vall Inc	SH-2009 Well Drilled, "A" Class 100 GPM	Well Log Sect 117 (SE/4)
1998, Feb 09	Vall Inc	SH-2148 Well Drilled, "A" Class 100 GPM	Well Log Sect 117 (SW/4)
2000, Sept 15	Vall Inc	GG Freeman and Sons bought Pivots only on Section 117 & N/2 of 124. Deed includes acres around wells also.	9/15/2000 - Deed from Sherman County Clerk
2002, Sept 5	Vall Inc	SH-2149 Well Drilled, "A" Class 100 GPM	Well Log (NE/4)
2003, April 7	Murphy Farms of Texhoma Inc	Murphy Farms purchased property from Vall Inc. (corners around pivot) on 117 and 124.	Appraisal District Record
2005	Murphy Farms of Texhoma Inc	New District Rules, Well Density and Property Spacing	Adopted Rules
2011, July 22	Prestage Farms, Inc	Prestage purchased property from Murphy Farms of Texhoma, Inc	Deed from Sherman County Clerk. Sect 117, 124 not including property outlined in 9/15/2000 Deed.
2011, Oct 31	Prestage Farms, Inc	Prestage Farms #1. Prestage Pools NW corner Section 117 with 3 acre tract in Section 124 encompassing 2 wells. GPU 2809	Pooling Document. To include wells in 124 supplying for Finisher in NW/4 of 117.
2011, Dec 21	Prestage Farms/George Freeman	George Freeman #1. Freeman Pools N/2 of 124 with Prestage so George Freeman has entire N/2 of 124 & Pivot on 117. Prestage has (4) 40 acre corners on 117 and 2 wells on 124 pooled with NW corner of 117. GPU 1442.	Pooling Document. To accommodate wells not included in circles on Section 117 & 124.

PRESTAGE FARMS TIME OUTLINE FOR EXCEPTION TO THE RULES HEARING

2013 Jan	NPGCD	New Rules on wells req. Meters on all wells when new well is drilled.	NPGCD Rules
2017, July 28	Prestage Farms, Inc	Prestage took out permit for SH-10180, replacement well for SH-1918, Plugged.	Permit
2017, Aug 2	Prestage Farms, Inc	SH-10180 was drilled in 40 acre portion. Meter at Collection point for 2 wells (Pressure	Well Log
2017, Nov	Prestage Farms, Inc	Pooled Entire Section 117 and N/2 of 124, 1-C, GH&H with Freeman to facilitate drilling of SH-10285 due to not able to drill replacement well for SH-2009 due to TCEQ requirements and to meet NPGCD well	Pooling Document
2018, January 9	Prestage Farms, Inc	SH-10285 Well Drilled	Well Log
2018, July 26	Prestage Farms, Inc	GM met with Prestage to inspect location of Meters.	None
2018, September 25	Prestage Farms, Inc.	Letter sent by General Manager to Prestage to put meters at all wells by June 1, 2019 or request exception to rules by then.	NPGCD Letter
2019, May 20	Prestage Farms, Inc	Prestage Farms requests exception to rules	Exceptions Request Letter.
2019, Jun 12	TCEQ , Austin	Steve Walthour met with TCEQ regarding Prestige Farm LLC General Permit. TCEQ confirmed the need to move away from the waste pit but indicated that there was a procedure for asking for an exception to TCEQ Rules that takes approximately 30 days if all information needed to make a decision is available.	Email correspondence with TCEQ
2019, Jun 18	Prestage Farms, Inc	NPGCD Staff survey well and meter location on Prestage Farms property.	Pictures, Maps.

ENCLOSED MAPS AND POOLING DOCUMENTS.

1. MAP AND POOLING DOCUMENT OF PRESTAGE/FREEMAN GPU 1442 (12-21-11)
2. MAP AND POOLING DOCUMENT OF PRESTAGE/FREEMAN GPU 7586 (11-29-17)
3. MAP OF SE/4 OF SECTION 117
4. MAP OF SW/4 OF SECTION 117.
5. POOLING DOCUMENT OF NW CORNER SECT 117 & NE CORNER OF WELLS ON SECT 124 FOR PRESTAGE.

X SH-1377

VOL 0298 PAGE 0768 CLERK # 023738
Fees \$28.00

PRESTAGE/FREEMAN POOLING
AS OF 12-21-2011 BEFORE

George Freeman #1 Amended
approx. 815.6 acres

X SH-1313

95

SH 0637

SH 2149

SH 1258

SH 2002

SH 1015

SH 1046

SH 1330

X SH 0487

SH-0710
SH-1886

GH&H, SLK 1-C

Property includes the following wells: SH-0416, SH-1397,
SH-1910, SH-1465, SH-0415, + SH-1911

Property does not include the following wells: SH 1012,
SH-1013, SH-1904, SH-1923, SH-2148, SH-1915, SH-1342

D.3

5804237340

George Freeman

Dec 21 11 08 16a

North Plains Groundwater CONSERVATION DISTRICT

Property ID # 1442 1442

VOL 0298 PAGE 0787 CLERK # 023738

Fees: \$28.00

DECLARATION OF POOLED GROUNDWATER

RECEIVED
 DEC 21 2011
BY: fax

I, the undersigned, hereby certify that I am the owner of the groundwater underlying the following described tracts of land located in Block 1-C of the G1H+H Survey, Sherman County, Texas:

SECTION #: <u>117</u>	TRACT: <u>Circle + 1/2 acre to connect</u>	# of ACRES: <u>487</u>
SECTION #: <u>124</u>	TRACT: <u>2 North circles</u>	# of ACRES: <u>239.33</u>
SECTION #: <u>124</u>	TRACT: <u>acreage in N1/2 outside circles</u>	# of ACRES: <u>87.27</u>
SECTION #: _____	TRACT: _____	# of ACRES: _____

A map of the pooled unit created hereunder is attached. This pooled unit may be identified as the George Freeman #1 unit and contains approximately 813.6 acres.

Amended

I hereby commit, consolidate, combine and pool the groundwater underlying the land within the pooled unit to form a single acre pooled unit for compliance with Rule 17 of the Rules of North Plains Groundwater Conservation District (District) which became effective January 19, 2005.

I understand and agree that this consolidation and pooling shall be binding upon and inure to the benefit of the undersigned owner, his or its heirs, personal representatives, successors, and/or assigns.

The owner covenants and agrees that no changes in the boundaries of the above-described pooled unit shall be made without the written approval of the District, which approval shall not be unreasonably withheld.

Date: 10-6-2011
 Owner: GG Freeman & Son
 Address: Box 568
Texhoma, OK 73949
 Phone: 580-423-7340
 Fax: not dedicated 580-423-7340
 Email: twags@ptsi.net
 Signature: [Signature]
 Print Name: George G Freeman, Jr

Date: 10-12-11
 Owner: Prestage Farms LLC
 Address: P.O. Box 504
Texhoma, OK 73949
 Phone: 580-521-1511
 Fax: 580-423-1403
 Email: kstalley@prestagefarms.com
 Signature: [Signature]
 Print Name: Kelli L Johnson

CORPORATE ACKNOWLEDGEMENT



VOL 0298 PAGE 0769 CLERK # 023738

Fees: \$28.00

State of OklahomaCounty of Texas

This instrument was acknowledged before me on this 12 day of October, 2011, by Kelli Johnson of Prestage Farms of Oklahoma, LLC, a(n) LLC corporation, on behalf of said corporation.

SUBSCRIBED and SWORN to before me by Kelli Johnson this 12th day of October, 2011.

Notary Public, State of Oklahoma

My Commission expires:

1-3-13

The foregoing DECLARATION will be APPROVED and ACCEPTED by the NORTH PLAINS GROUNDWATER CONSERVATION DISTRICT once it has been filed with the COUNTY CLERK and a copy has been received by the DISTRICT.



VOL 0298 PAGE 0790 CLERK # 023738

Fees: \$28.00

PARTNERSHIP ACKNOWLEDGEMENT

State of TexasCounty of Moore

This instrument was acknowledged before me on this 6th day of October, 20 11, by GG Freeman & Son, partner on behalf of GG Freeman & Son, a partnership.

SUBSCRIBED and SWORN to before me by Christine Ann Frost this 6th day of October, 20 11.

Christine Ann Frost
Notary Public, State of Texas

My Commission expires:

7-30-12

The foregoing DECLARATION will be APPROVED and ACCEPTED by the NORTH PLAINS GROUNDWATER CONSERVATION DISTRICT once it has been filed with the COUNTY CLERK and a copy has been received by the DISTRICT.

FILED
GINA GRAY
COUNTY & DISTRICT CLERK
Filed 10/13/2011 08:58:45 AM
SHERMAN COUNTY TEXAS
By Christine Ann Frost DEPUTY

GEORGE G FREEMAN
PICKED UP

STATE OF TEXAS COUNTY OF SHERMAN
I hereby certify that this instrument was FILED on the date
and time and in the Volume and Page stamped hereon by
me and was duly RECORDED in the Official Public
Records of Sherman County, Texas.



GINA GRAY, COUNTY CLERK
SHERMAN COUNTY, TEXAS
By Christine Ann Frost DEPUTY

X SH-1377

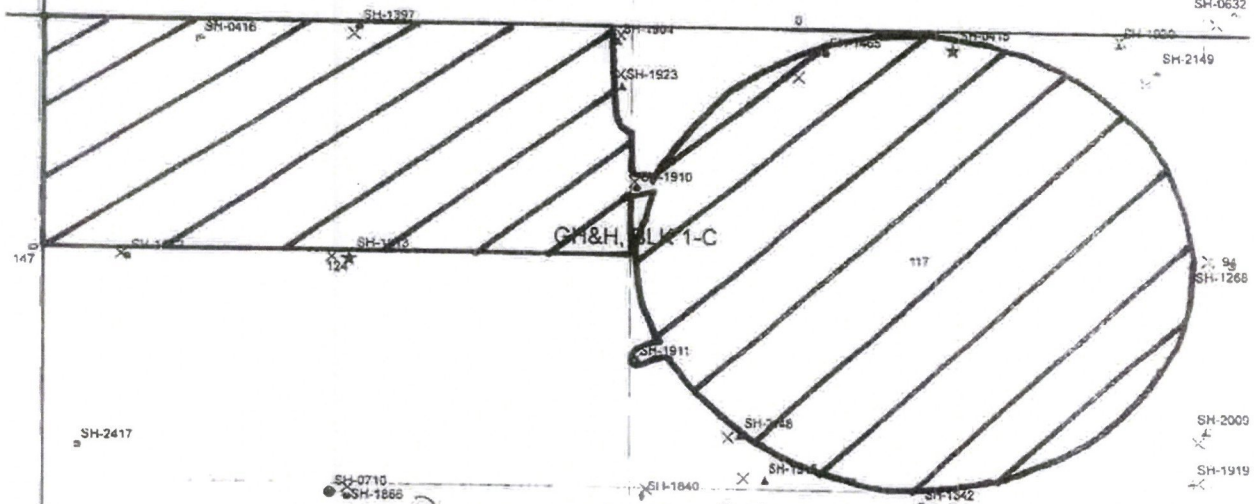


VOL 0298 PAGE 0768 CLERK # 023738

Fees: \$28.00

XSH-1313

George Freeman #1 Amended
approx. 813.6 acres



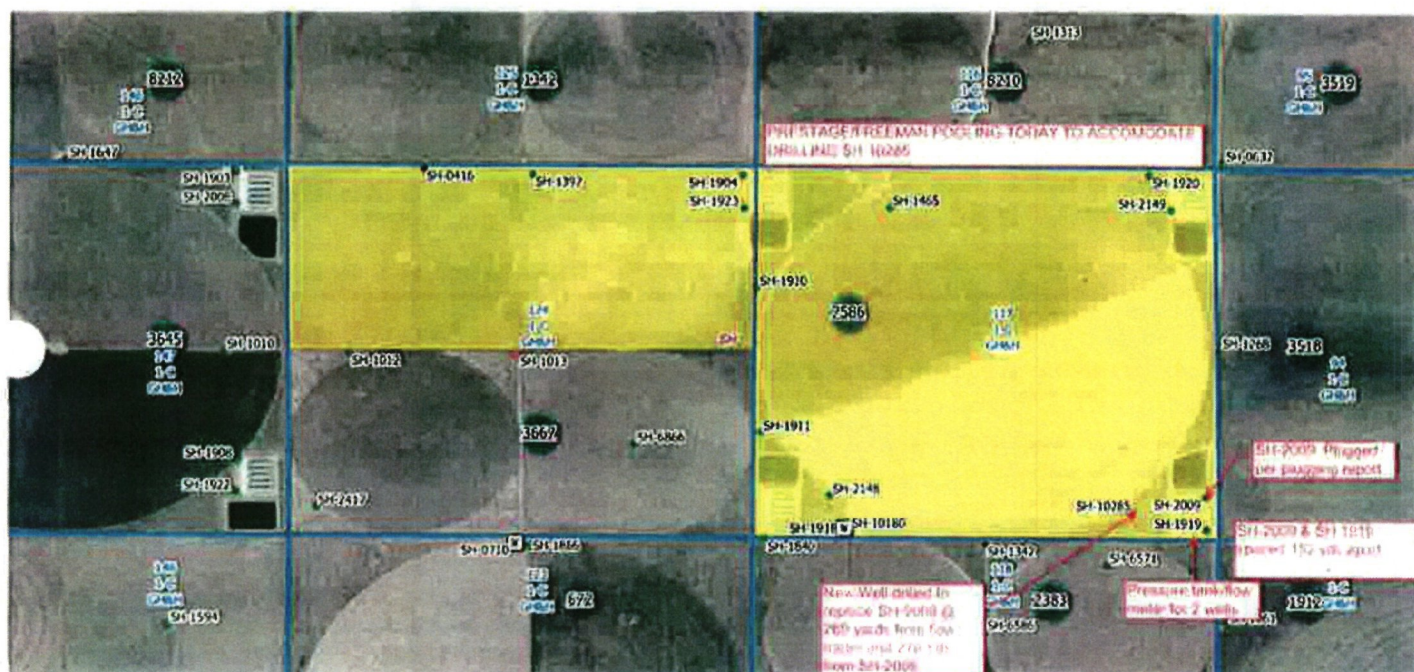
Property includes the following wells: SH-0416, SH-1397,
SH-1910, SH-1465, SH-0415, + SH-1911

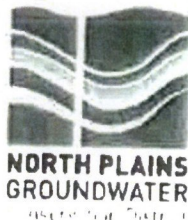
Property does not include the following wells: SH-1012, SH-1013, SH-1904, SH-1923, SH-2148, SH-1918, SH-1342

X, SH-0487

SH-1330

SH-1046





DISTRICT USE ONLY

GPU: 7586

KB

DECLARATION OF GROUNDWATER PRODUCTION UNIT

I the undersigned hereby certify that I am the Owner of the groundwater underlying the following described tracts of land located in Block 1C of the GMSH Survey SHERMAN County Texas

SECTION #	117 PRESTAGE	TRACT	corners	# of ACRES:	166.70
SECTION #	117 FREEMAN	TRACT	circle	# of ACRES:	486.50
SECTION #	124 - Prestage	TRACT	N/2 corners	# of ACRES:	87.27
SECTION #	124 - Freeman	TRACT	N/2 less corners	# of ACRES:	239.33
SECTION #		TRACT		# of ACRES:	
SECTION #		TRACT		# of ACRES:	

A map of the Groundwater Production Unit (GPU) is attached. This GPU may be identified as the Prestage-Freeman 117 124 Pool GPU and contains approximately 979.80 acres

I hereby commit, consolidate and combine the groundwater underlying the land within the GPU for compliance with Rules 7.1 - 7.6 of the Rules of North Plains Groundwater Conservation District ("District") which became effective April 14, 2015.

I understand and agree that the creation of this GPU shall be binding upon and inure to the benefit of the undersigned Owner, his or its heirs, personal representatives, successors, and/or assigns.

The Owner covenants and agrees that no changes in the boundaries of the above-described GPU shall be made without the written approval of the District.

Each undersigned Owner hereby accepts joint and several liability for any violation of the District's Rules on the designated GPU including without limitation, exceeding the District's Allowable Annual Production Limits.

Date: 11-29-17
Owner: Prestage Farms Inc
Address: PO Box 509
Texhoma TX 73949
Phone: (580) 521-1511
Fax:
Email: kjohnson@prestagefarms.com
Signature: Kelly Johnson
Print Name: Kelly Johnson

Date: 11-29-17
Owner: Robert Freeman
Address: PO Box 708
Texhoma OK 73949
Phone:
Fax:
Email:
Signature: Robert Freeman
Print Name: Robert Freeman

INDIVIDUAL ACKNOWLEDGEMENT

State of Oklahoma

County of Texas

This instrument was acknowledged before me on this 29th day of November, 20 17, by Kelli Johnson individually and as agent for Prestage Farms Inc.

SUBSCRIBED and SWORN to before me by Kelli Johnson this 29th day of November, 20 17.



Shannon L Word
Notary Public, State of Oklahoma

My Commission expires 01/14/2021

THE FOREGOING DECLARATION WILL BE REVIEWED BY THE NORTH PLAINS
GROUNDWATER CONSERVATION DISTRICT. IT WILL BECOME EFFECTIVE ONCE IT
HAS BEEN CERTIFIED AS TRUE AND CORRECT.

I hereby certify that this is a true and
correct copy of the original document.

Certified By Kurtis Blackwell
Month 11 Day 29 Year 17

INDIVIDUAL ACKNOWLEDGEMENT

State of Oklahoma

County of Texas

This instrument was acknowledged before me on this 29th day of November, 20 17, by Robert Freeman individually and as agent for Robert Freeman

SUBSCRIBED and SWORN to before me by Robert Freeman this 29th day of November, 20 17.



Shannon L Word

Notary Public, State of Oklahoma

My Commission expires

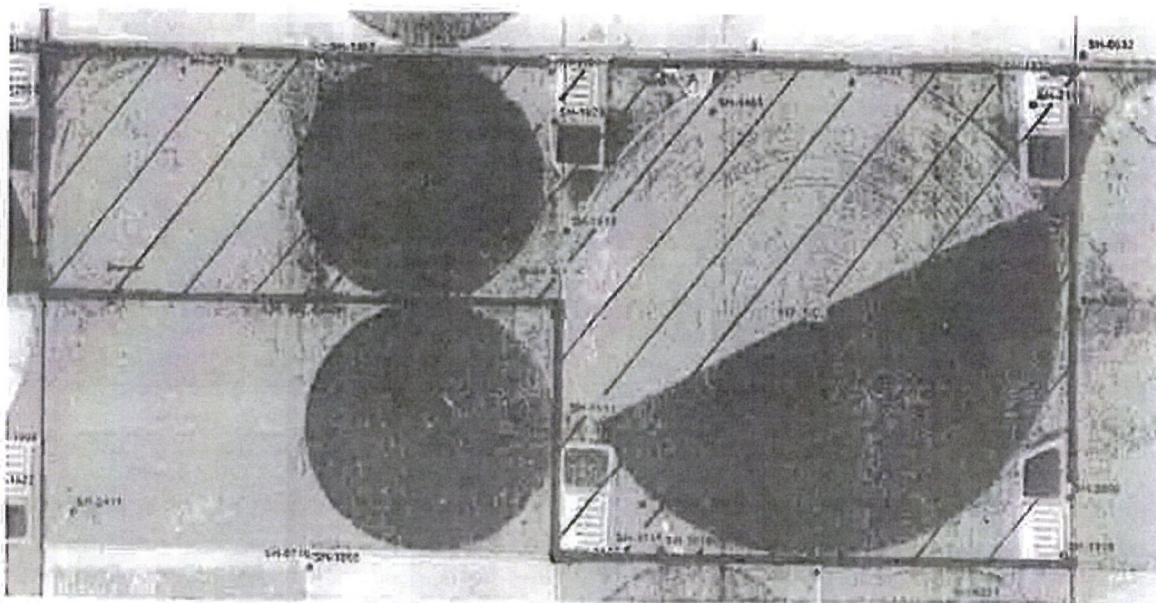
01/14/2021

THE FOREGOING DECLARATION WILL BE REVIEWED BY THE NORTH PLAINS
GROUNDWATER CONSERVATION DISTRICT. IT WILL BECOME EFFECTIVE ONCE IT
HAS BEEN CERTIFIED AS TRUE AND CORRECT.

I hereby certify that this is a true and
correct copy of the original document.

Certified by Kristen Blackwell
Month 11 Day 29 Year 17

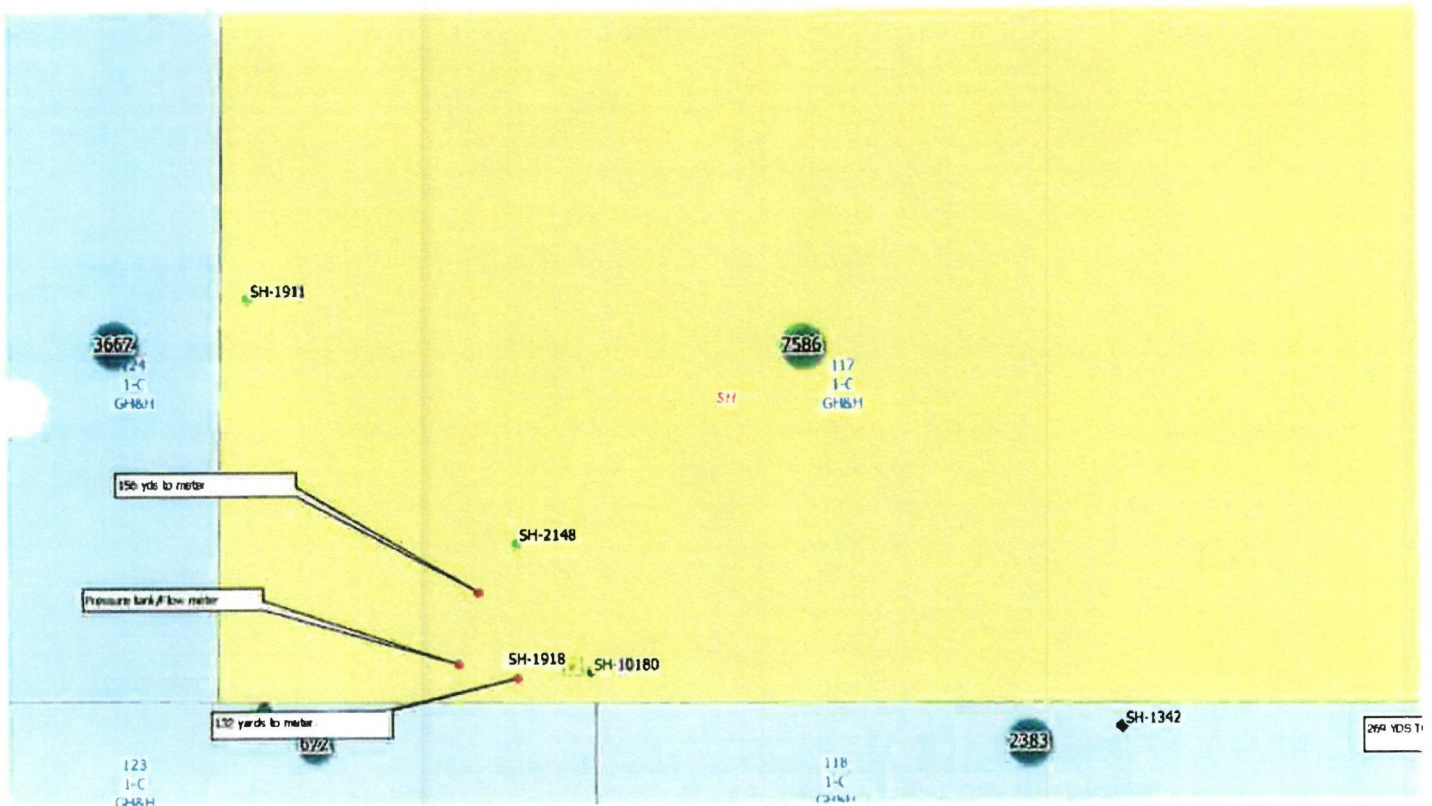
Prestage/Freeman 117/124 Pool
Approximately 979.80 acres



SE/4 Sec 117



SW/4 Sect 117



North Plains Groundwater
CONSERVATION DISTRICT

Property ID # 2809



VOL 0299 PAGE 0246 CLERK # 023795

Fees: \$24.00

DECLARATION OF POOLED GROUNDWATER

I, the undersigned, hereby certify that I am the owner of the groundwater underlying the following described tracts of land located in Block I-C of the GH+H Survey, Sherman County, Texas:

SECTION #:	<u>117</u>	TRACT: <u>NW corner</u>	# of ACRES:	<u>43.702</u>
SECTION #:	<u>124</u>	TRACT: <u>outside circle</u>	# of ACRES:	<u>3</u>
SECTION #:		TRACT: <u>3 acre tract</u>	# of ACRES:	
SECTION #:		TRACT: <u>in NE corner</u>	# of ACRES:	
SECTION #:		TRACT:	# of ACRES:	
SECTION #:		TRACT:	# of ACRES:	

A map of the pooled unit created hereunder is attached. This pooled unit may be identified as the Prestage Farms #1 unit and contains approximately 46.702 acres.

I hereby commit, consolidate, combine and pool the groundwater underlying the land within the pooled unit to form a single acre pooled unit for compliance with Rule 17 of the Rules of North Plains Groundwater Conservation District (District) which became effective January 19, 2005.

I understand and agree that this consolidation and pooling shall be binding upon and inure to the benefit of the undersigned owner, his or its heirs, personal representatives, successors, and/or assigns.

The owner covenants and agrees that no changes in the boundaries of the above-described pooled unit shall be made without the written approval of the District, which approval shall not be unreasonably withheld.

Date: 10-12-11
Owner: Prestage Farms LLC
Address: P.O. Box 527
Tulahoma, GA 73477
Phone: 580-521-1511
Fax: 580-423-1403
Email: jstalley@prestagefarms.com
Signature: [Signature]
Print Name: Kenneth Johnson

RECEIVED
OCT 31 2011
BY: USPS



VOL 0299 PAGE 0247 CLERK # 023795

Fees: \$24.00

CORPORATE ACKNOWLEDGEMENT

State of Oklahoma

County of Texas

This instrument was acknowledged before me on this 12 day of October, 2011, by Kelli L. Johnson of Prestage Farms of Oklahoma, LLC a(n) LLC corporation, on behalf of said corporation.

SUBSCRIBED and SWORN to before me by Kelli Johnson this 12th day of October, 2011.

Shannon L Word

Notary Public, State of Oklahoma

My Commission expires:

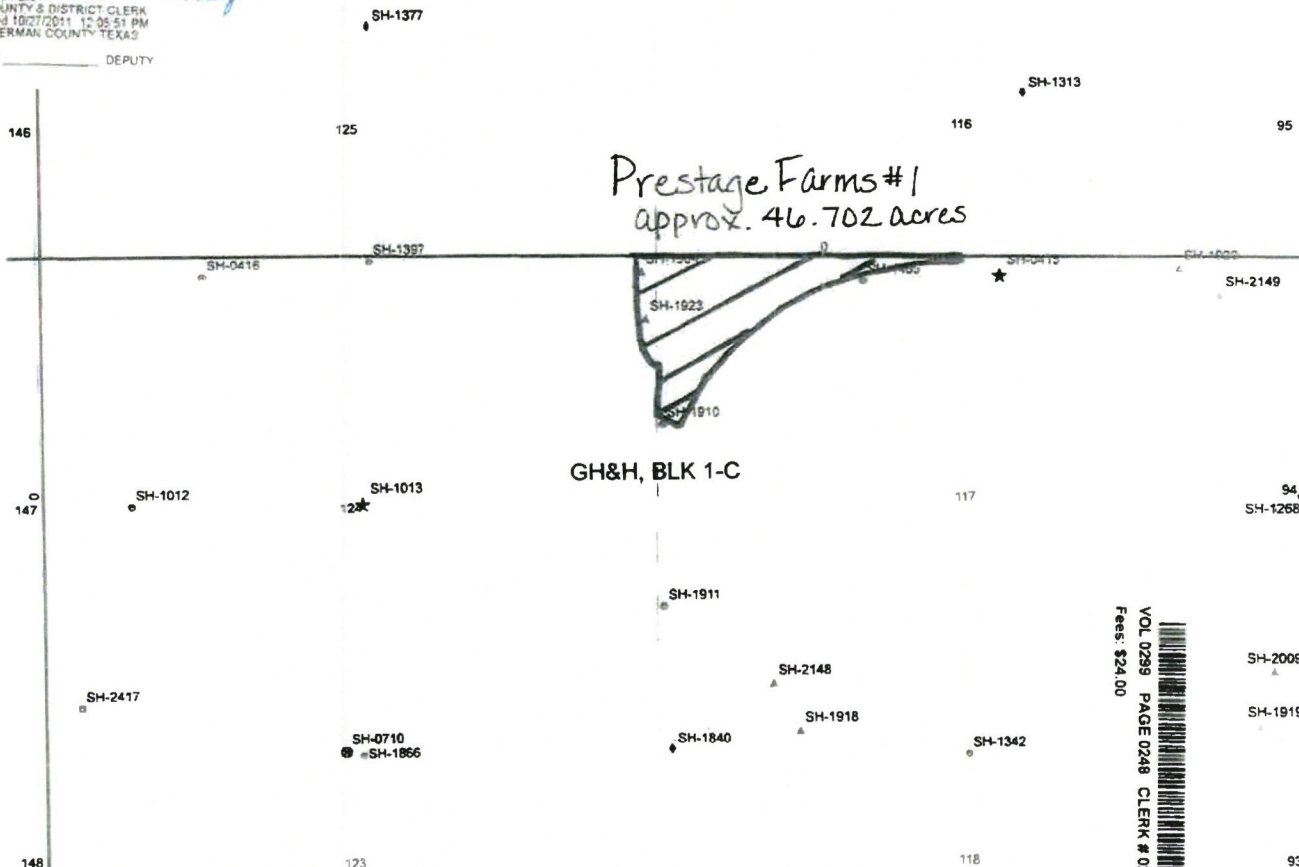
1-3-13



The foregoing DECLARATION will be APPROVED and ACCEPTED by the NORTH PLAINS GROUNDWATER CONSERVATION DISTRICT once it has been filed with the COUNTY CLERK and a copy has been received by the DISTRICT.

FILED
GINA GRAY
COUNTY & DISTRICT CLERK
Filed 10/27/2011 12:05:51 PM
SHERMAN COUNTY TEXAS

BY _____ DEPUTY



STATE OF TEXAS COUNTY OF SHERMAN
I hereby certify that this instrument was FILED on the date
and time and in the Volume and Page stamped hereon by
me and was duly RECORDED in the Official Public
Records of Sherman County, Texas
GINA GRAY, COUNTY CLERK
SHERMAN COUNTY, TEXAS
BY _____ DEPUTY

NORTH PLAINS GROUNDWATER CONSERVATION
803 E 1ST ST
P O BOX 795
DUMAS, TX

VOL 0299 PAGE 0248 CLERK # 023795
Fee: \$24.00

ENCLOSED PRESTAGE WELL LOGS.

1. SH-1904 – SECT 124
2. SH-1918 – SECT 117
3. SH-1919 – SECT 117 (SE/4)
4. SH-1920 –SECT 117
5. SH-1923- SECT 124
6. SH-2009 SECT 117 (SE/4)
7. SH-2148 SECT 117 (SW/4)
8. SH-2149 SECT 117
9. SH-10180 SECT 117 (SW/4)
10. SH-10285 SECT 117 (SE/4)

District File No. _____

Original - District Office Copy

NORTH PLAINS WATER CONSERVATION DISTRICT No. 2 REGISTRATION AND LOG OF WELL

 Field Well No. SH-1904
 Date Received _____
 Size of Well A in Maximum Yield 100 GPM
1 Well Owner Vall Inc. F 15 Address P.O. Box 426 Teshoma, Ok 739492 Well located _____ miles N, _____ miles S, 14 miles E, _____ miles W of the town of Stratford3 County Sherman League _____4 NW¼ (NEW) SW¼ SE¼ Section 124 Block 1C Survey GH
(CIRCLE ONE)
 { 40 measured yards from (N) or S section line.
30 measured yards from (E) or W section line.

DRILLER'S LOG OF WELL

Method of Drilling: Multi Rotary

FROM (FEET)	TO (FEET)	DESCRIPTION OF FORMATION MATERIAL	FROM (FEET)	TO (FEET)	DESCRIPTION OF FORMATION MATERIAL
0	7	Topsoil	510	520	Red Clay
7	16	Caliche			
16	20	Rock			
20	160	Caliche / Fine Sand			
160	178	Caliche / Clay			
178	190	Tight Sand			
190	220	Caliche / Sand			
220	244	Sand			
244	248	Clay			
248	270	Sand			
270	277	Caliche			
277	341	Sand			
341	346	Clay			
346	361	Sand / Clay Streaks			
361	370	Coarse Sand			
370	378	Sand / Clay			
378	387	Clay			
387	410	Sand			
410	429	Clay			
429	510	Sand			

I hereby certify that this well was drilled by me (or under my supervision), and that each and all of the statements herein are true to the best of my knowledge and belief.

 Driller Alva Howard Address P.O. Box 806 Beaver, Ok 73932 Date Drilled 3-20-97 19____

DESCRIPTION OF WELL

6. Casing: (new) used, or shop made Diameter SDR 21 6" in. Total length 520 ft.
7. Casing perforations: from 440 ft to 520 ft Size .032 Number per foot 230
- 8 Pump Column: Size 2 in. Total length 399 ft Suction pipe Size 2 in. Length 2 ft.
9. Pump bowls: Size 2 Number of stages 10 Pump discharge pipe: Size 2 in.
10. Depth to water level 300 ft Pump discharge 65 GPM. Pumping level: 324 ft
11. Power Unit: Electrical, Natural Gas, Butane, Other Electrical Horsepower 10

 Signature Alva Howard Driller & Partner P.O. Box 806 Beaver, Ok 73932
 OWNER OR AGENT TITLE ADDRESS
Final Completion of Well - Date 3-20-97, 19____

Original—District Office Copy

District File No. _____

NORTH PLAINS WATER CONSERVATION DISTRICT No. 2 REGISTRATION AND LOG OF WELL

INSTRUCTIONS: Fill out in quadruplicate. Submit all copies to County Commission for registration. (Please type or print.)

FOR USE OF COMMITTEEMEN	
Field Well No.	SH-1918
Date Received	
Size of Well	A
Maximum Yield	100 GPM

1. Well Owner Vall Inc. F 18 Address P.O. Box 426 Texhoma, Ok 73949
2. Well located _____ miles N, 1 miles S, 14 miles E, _____ miles W of the town of Stratford
3. County Sherman League _____
4. NW¼ NE¼ SW¼ SE¼ Section 117 Block 1C Survey G&H
(CIRCLE ONE)
5. ACTUAL LOCATION OF THIS WELL IS { 34 measured yards from N or S section line.
347 measured yards from E or W section line.

DRILLER'S LOG OF WELL

Method of Drilling: Mud Rotary

FROM (FEET)	TO (FEET)	DESCRIPTION OF FORMATION MATERIAL	FROM (FEET)	TO (FEET)	DESCRIPTION OF FORMATION MATERIAL
0	2	Clay	392	400	Sandy Clay
2	12	Caliche / Clay	400	422	Clay / Sandy Clay
12	18	Caliche / Rock	422	480	Sand
18	39	Caliche / Clay	480	500	Sand / Clay Streaks
39	62	Sandy Clay	500	519	Sand / Sand stone
62	76	Caliche / Sandy Clay	519	530	Red Clay
76	94	Sand / Sandy Clay			
94	109	Clay			
109	123	Caliche / Sandy Clay			
123	152	Clay			
152	185	Clay / Sandy Clay			
185	193	Sandy Clay			
193	206	Sand / Clay Streaks			
206	291	Sand			
291	302	Caliche / Clay / Rock			
302	343	Clay			
343	360	Sandy Clay / Sand			
360	366	Clay			
366	379	Sandy Clay			
379	392	Sand			

I hereby certify that this well was drilled by me (or under my supervision), and that each and all of the statements herein are true to the best of my knowledge and belief.

Driller Alva Howard Address Box 806 Beaver, Ok 73932 Drilled 6-13 19 97

DESCRIPTION OF WELL

6. Casing: new, used, or shop made. Diameter SDR 21 6" in Total length 520 ft.
7. Casing perforations: from 420 ft to 520 ft Size .032 Number per foot 230
8. Pump Column: Size 2 in. Total length 420 ft Suction pipe: Size — in. Length — ft.
9. Pump bowls: Size — Number of stages 10 Pump discharge pipe: Size — in.
10. Depth to water level 327 ft. Pump discharge 65 GPM. Pumping level: 350 ft.
11. Power Unit: Electrical, Natural Gas, Butane, Other Electrical Horsepower 10

Signature Alva Howard Driller & Partner Box 806 Beaver, Ok 73932
OWNER OR AGENT TITLE ADDRESS

Final Completion of Well — Date 6-13- 19 97

Original—District Office Copy

District File No. _____

NORTH PLAINS WATER CONSERVATION DISTRICT No. 2 REGISTRATION AND LOG OF WELL

INSTRUCTIONS: Fill out in quadruplicate. Submit all copies to County Commissioners for registration. (Please type or print.)

FOR USE OF COMMITTEEMEN

 Field Well No. SH-1919
 Date Received _____
 Size of Well A Maximum In. Yield 500 GPM

1. Well Owner Vall Inc. F 17 Address Box 426 Tushoma, Ok 73949
2. Well located _____ miles N, 1 miles S, 15 miles E, _____ miles W of the town of Stratford
3. County Sherman League _____
4. NW¼ NE¼ SW¼ SE¼ Section 117 Block 1C Survey ghh
(CIRCLE ONE)
5. ACTUAL LOCATION OF THIS WELL IS { 47 measured yards from N or (S) section line.
34 measured yards from (E) or W section line.

DRILLER'S LOG OF WELL

Method of Drilling: Mud Rotary

FROM (FEET)	TO (FEET)	DESCRIPTION OF FORMATION MATERIAL	FROM (FEET)	TO (FEET)	DESCRIPTION OF FORMATION MATERIAL
0	4	Clay	360	371	Clay / Sandy Clay
4	9	Caliche / Clay	371	420	Red Clay
9	16	Rock	420	447	Sand
16	48	Caliche / Clay	447	456	Red Clay / Yellow Clay
48	60	Caliche / Sandy Clay	456	462	Sand
60	91	Sand / Sandy Clay	462	473	Sandy Clay
91	110	Caliche / Sandy Clay	473	495	Sand
110	120	Caliche / Clay	495	500	Red Clay
120	143	Caliche / Sandy Clay	500	520	Sand / Sand Stone / Red Clay
143	202	Clay	520	530	Red Clay
202	220	Clay / Sandy Clay			
220	234	Caliche / Clay			
234	240	Sand			
240	273	Sand / Clay Streaks			
273	280	Clay			
280	310	Sand			
310	325	Clay			
325	339	Sand / Clay Streaks			
339	351	Sand			
351	360	Clay			

I hereby certify that this well was drilled by me (or under my supervision), and that each and all of the statements herein are true to the best of my knowledge and belief.

 Driller Alva Howard Address Box 806 Beaver, Ok 73932 Date Drilled 6-12-97 19 97

DESCRIPTION OF WELL

6. Casing: new used, or shop made Diameter SDR 21 6" in Total length 520 ft.
7. Casing perforations: from 420 ft to 520 ft Size .032 Number per foot 230
8. Pump Column: Size 2 in. Total length 420 ft. Suction pipe: Size — in. Length — ft.
9. Pump bowls Size — Number of stages 10 Pump discharge pipe: Size — in.
10. Depth to water level 305 ft Pump discharge 65 GPM Pumping level: 395 ft.
11. Power Unit: Electrical, Natural Gas, Butane, Other Electrical Horsepower 10

 Signature Alva Howard Driller & Partner Box 806 Beaver, Ok 73932
OWNER OR AGENT TITLE ADDRESS

 Final Completion of Well — Date 6-12 19 97

Original—District Office Copy

District File No.

NORTH PLAINS WATER CONSERVATION DISTRICT No. 2
REGISTRATION AND LOG OF WELL

INSTRUCTIONS: Fill out in quadruplicate. Submit all copies to County Commissioner for registration (Please type or print.)

FIRM USE OF COMMITTEES	
Field Well No.	SH-1920
Date Received	
Size of Well	Maximum 100 GPM

1. Well Owner: Vall, Inc. F-16 Address: P.O. Box 426, Texhoma, OK 73949
2. Well located: _____ miles N; _____ miles S; 15 miles E; _____ miles W of the town of Stratford
3. County: Sherman League: _____
4. NWN NEW SWN SEW Section: 117 Block: 1C Survey: GRISH
5. ACTUAL LOCATION OF THIS WELL IS { 33 measured yards from Q or S section line.
257 measured yards from E or W section line.

DRILLER'S LOG OF WELL

Method of Drilling: Mud Rotary

FROM (FEET)	TO (FEET)	DESCRIPTION OF FORMATION MATERIAL	FROM (FEET)	TO (FEET)	DESCRIPTION OF FORMATION MATERIAL
0	6	Fill dirt			
6	34	Caliche			
34	50	Sandy Clay/Caliche			
50	116	Sand/Sandy clay streaks			
116	194	Sandy Clay/Clay			
194	237	Clay/Sandy clay streaks			
237	254	Sand			
254	277	Clay			
277	294	Sand			
294	360	Clay/Sandy Clay			
360	385	Sand			
385	454	Sandy Clay			
454	540	Sand			

I hereby certify that this well was drilled by me (or under my supervision), and that each and all of the statements herein are true to the best of my knowledge and belief.

Driller: Alvin Howard Address: Box 806 Beaver, OK 73932 Date Drilled: 10-22-97

DESCRIPTION OF WELL

6. Casing: new used, or shop made. Diameter: SDR 21 6" in. Total length: 540 ft.
7. Casing perforations: from 440 ft to 540 ft. Size: .032 in. Number per foot: 230
8. Pump Column: Size: 2 in. Total length: 420 ft. Suction pipe: Size: — in. Length: — ft.
9. Pump bowls: Size: — in. Number of stages: 10 Pump discharge pipe: Size: — in.
10. Depth to water level: 305 ft. Pump discharge: 65 GPM. Pumping level: 325 ft.
11. Power Unit: Electrical, Natural Gas, Butane, Other: Electrical Horsepower: 10

Signature: Alvin Howard Driller & Partner Box 806 Beaver, OK 73932
OWNER OR AGENT TITLE ADDRESSFinal Completion of Well—Date: 10-22, 1997

Original—District Office Copy

District File No _____

NORTH PLAINS WATER CONSERVATION DISTRICT No. 2 REGISTRATION AND LOG OF WELL

INSTRUCTIONS: Fill out in quadruplicate. Submit all copies to District Commissioner for registration. (Please type or print.)

FOR USE OF COMMISSIONER

Field Well No SH-1923
Date Received _____
Size of Well A Maximum In Yield 100 GPM

1. Well Owner Vall Inc. F 15 Address P.O. Box 426 Texoma, Ok 73949
2. Well located _____ miles N, _____ miles S, 14 miles E, _____ miles W of the town of Stratford
3. County Sherman League _____
4. NW¼ (NE¼) SW¼ SE¼ Section 124 Block 1C Survey GH&H
(CIRCLE ONE)
5. ACTUAL LOCATION OF THIS WELL IS { 190 measured yards from (N) or S section line.
30 measured yards from (E) or W section line.

DRILLER'S LOG OF WELL

Method of Drilling: Art Rotary

FROM (FEET)	TO (FEET)	DESCRIPTION OF FORMATION MATERIAL	FROM (FEET)	TO (FEET)	DESCRIPTION OF FORMATION MATERIAL
0	19	Clay	370	392	Clay
19	57	Caliche / Clay	392	410	Sand
57	65	Sandy Clay	410	420	Clay / Sandy Clay
65	140	Caliche / Sandy Clay	420	426	Sand
140	161	Sand / Sandy Clay	426	448	Clay
161	165	Clay	448	460	Sand
165	180	Clay / Sandy Clay	460	512	Sand / Sand Stone
180	185	Caliche / Clay	512	520	Red Clay
185	200	Clay			
200	210	Clay / Sandy Clay			
210	240	Sand / Clay Streaks			
240	264	Sand			
264	280	Sandy Clay / Sand			
280	286	Caliche / Rock			
286	302	Sandy Clay			
302	324	Sand			
324	331	Sand / Clay Streaks			
331	345	Clay			
345	360	Clay / Sand Streaks			
360	370	Sand			

I hereby certify that this well was drilled by me (or under my supervision), and that each and all of the statements herein are true to the best of my knowledge and belief.

Driller Alva Howard Address Box 806 Beaver, Ok 73932 Date Drilled 6-16- 19 97

DESCRIPTION OF WELL

6. Casing: new, used, or shop made. Diameter SDR 21 6" in Total length 520 ft
7. Casing perforations: from 420 ft to 520 ft Size .032 Number per foot 230
8. Pump Column: Size 2 in. Total length 420 ft Suction pipe: Size — in. Length — ft
9. Pump bowls: Size — Number of stages 10 Pump discharge pipe: Size 2 in.
10. Depth to water level 318 ft Pump discharge 65 GPM Pumping level 338 ft
11. Power Unit: Electrical, Natural Gas, Butane, Other Electrical Horsepower 10

Signature Alva Howard Driller & Partner Box 806 Beaver, Ok 73932
OWNER OR AGENT TITLE ADDRESS

Final Completion of Well — Date 6-16, 19 97.

Original—District Office Copy

District File No. _____

NORTH PLAINS WATER CONSERVATION DISTRICT No. 2
REGISTRATION AND LOG OF WELL

INSTRUCTIONS: Fill out in quadruplicate. Submit all copies to County Commissioner for registration. (Please type or print.)

FOR USE OF COMMITTEEMEN

Field Well No. SH 2009

Date Received _____

Size of Well A Maximum In. Yield 100 GPM1. Well Owner Vall, Inc. F-17 Address P.O. Box 426 Texhoma, OK 739492. Well located _____ miles N, 1 miles S, 15 miles E, _____ miles W of the town of Stratford3. County Sherman League _____4. NW¼ NE¼ SW¼ SE¼ Section 117 Block 1C Survey GH&H
(CIRCLE ONE)5. ACTUAL LOCATION OF THIS WELL IS { 198 measured yards from N or S section line.
34 measured yards from E or W section line.

DRILLER'S LOG OF WELL

Method of Drilling: mud Rotary

FROM (FEET)	TO (FEET)	DESCRIPTION OF FORMATION MATERIAL	FROM (FEET)	TO (FEET)	DESCRIPTION OF FORMATION MATERIAL
0	2	Clay	405	445	Sandy Clay/Sand
2	19	Clay	445	460	Sand/Sandy Clay
19	50	Caliche/Clay	460	500	Sand
50	80	Caliche/Sandy Clay	500	515	Tight Sand
80	97	Sand/Sandy Clay	515	530	Red
97	120	Caliche/Sandy Clay			
120	130	Clay			
130	160	Sandy Clay			
160	172	Clay/Sandy Clay			
172	202	Clay			
202	227	Clay			
227	240	Sandy Clay			
240	251	Clay			
251	260	Sandy Clay			
260	290	Sand			
290	296	Caliche rock			
296	335	Sand			
335	347	Clay			
347	361	Sand/Sandy Clay			
361	405	Clay			

I hereby certify that this well was drilled by me (or under my supervision), and that each and all of the statements herein are true to the best of my knowledge and belief.

Driller Phillip Howard Address Box 806 Beaver, OK 73933 Date Drilled 12-16-97 18

DESCRIPTION OF WELL

6. Casing: new used, or shop made. Diameter SDR 21 6" In. Total length 520 ft.7. Casing perforations: from 420 ft to 520 ft. Size .032 Number per foot 2308. Pump Column: Size 2 in. Total length 420 ft. Suction pipe: Size - in. Length - ft.9. Pump bowls: Size - Number of stages 10 Pump discharge pipe: Size - in.10. Depth to water level 308 ft. Pump discharge 65 GPM. Pumping level: 390 ft.11. Power Unit: Electrical, Natural Gas, Butane, Other Electrical Horsepower 10Signature Phillip Howard Driller & Partner Box 806 Beaver, OK 73933
OWNER OR AGENT TITLE ADDRESSFinal Completion of Well — Date 12-16, 18 97.

DHI, E-Form No. 859 R1W

Original—District Office Copy

District File No. _____

NORTH PLAINS WATER CONSERVATION DISTRICT No. 2 REGISTRATION AND LOG OF WELL

INSTRUCTIONS: Fill out in quadruplicate. Submit all copies to County Commissioner for registration. (Please type or print.)

FOR USE OF COMMISSIONER	
Field Well No.	SH-2148
Date Received	9/5/2002
Size of Well	A
Maximum In Yield	65 GPM

- 1 Well Owner Vall, Inc. F-18 Address P.O. Box 426 Texhoma, OK 73949
- 2 Well located _____ miles N, 1 miles S, 14 miles E, _____ miles W of the town of Stratford
- 3 County Shawnee League _____
- 4 NW¼ NE¼ (SW¼) SE¼ Section 112 Block 1C Survey GH&H
- 5 ACTUAL LOCATION OF THIS WELL IS { 200 measured yards from N or (S) section line.
300 measured yards from E or (W) section line.

DRILLER'S LOG OF WELL

Method of Drilling: Mod Rotary

FROM (FEET)	TO (FEET)	DESCRIPTION OF FORMATION MATERIAL	FROM (FEET)	TO (FEET)	DESCRIPTION OF FORMATION MATERIAL
0	4	Clay	466	475	Sand
4	38	Caliche/Clay	475	483	Clay
38	60	Caliche/Sandy Clay	483	506	Sand
60	100	Sandy Clay	506	520	Red
100	123	Clay/Sandy Clay			
123	168	Clay			
168	180	Clay/Sandy Clay			
180	200	Sand/Sandy Clay			
200	210	Clay			
210	240	Sand			
240	290	Sand/Sandy Clay			
290	342	Clay			
342	363	Clay/Sandy Clay			
363	403	Sandy Clay			
403	420	Sand w/Clay streaks			
420	440	Sand			
440	460	Coarse Sand w/Clay streaks			
460	466	Red Clay			

I hereby certify that this well was drilled by me (or under my supervision), and that each and all of the statements herein are true to the best of my knowledge and belief.

 Driller Phillip Howard Address Box 806 Beaver, OK 73949 Date Drilled 02-09-98

DESCRIPTION OF WELL

6. Casing: new, used, or shop made Diameter SPR 21 6" In. Total length 520 ft.
7. Casing perforations: from 420 ft to 520 ft Size 0.32 Number per foot 240
8. Pump Column: Size 2 In. Total length _____ ft Suction pipe Size _____ In. Length _____ ft.
9. Pump bowls: Size _____ Number of stages 10 Pump discharge pipe: Size _____ In.
10. Depth to water level 328 ft. Pump discharge 65 GPM. Pumping level: 342 ft.
11. Power Unit: Electrical, Natural Gas, Butane, Other Electrical Horsepower 10

 Signature _____ Driller & Partner Box 806 Beaver, OK 73949
 OWNER OR AGENT TITLE ADDRESS

 Final Completion of Well — Date 02-09, 19 98

FOR USE OF COMMITTEEMEN

SA 2149

Field Well No. _____

Date Received _____

Size of Well A Maximum In. Yield 65 GPM

PAGE 07

SH-10180

STATE OF TEXAS WELL REPORT for Tracking #457913

Pump ✓

Owner:	PRESTAGE FARMS OF OK	Owner Well #:	No Data
Address:	PO BOX 509 TEXHOMA, OK 73949	Grid #:	03-42-5
Well Location:	PRESTAGE FIN 18 117-BLK C-GH&H SURVEY SHERMAN COUNTY, TX, TX	Latitude:	36° 18' 50.4" N
	TEXHOMA: 2 W TO FM 119, 10.35 S TO FM 15, 2 E TO CR 22, 1 S, .82 W, N INTO (WELL HAS YELLOW GUARD)	Longitude:	101° 48' 07.92" W
		Elevation:	No Data
Well County:	Sherman		
Type of Work:	New Well	Proposed Use:	Industrial

Drilling Start Date: 8/2/2017

Drilling End Date: 8/2/2017

12.25.17

	Diameter (in.)	Top Depth (ft.)	Bottom Depth (ft.)
Borehole:	10.75	0	520

Drilling Method: Mud (Hydraulic) Rotary

Borehole Completion: Filter Packed

	Top Depth (ft.)	Bottom Depth (ft.)	Filter Material	Size
Filter Pack Intervals:	300	520	Gravel	FINE

	Top Depth (ft.)	Bottom Depth (ft.)	Description (number of sacks & material)
Annular Seal Data:	0	25	

Seal Method: CEMENT GROUT

Sealed By: Driller

Distance to Property Line (ft.): No Data

Distance to Septic Field or other concentrated contamination (ft.): No Data

Distance to Septic Tank (ft.): No Data

Method of Verification: No Data

Surface Completion: Surface Sleeve Installed

Surface Completion by Driller

Water Level: 370 ft. below land surface on 2017-08-03

Packers: No Data

Type of Pump: Submersible

Well Tests: Pump Yield: 70 GPM with 80 ft. drawdown after 1 hours

Strata Depth (ft.) Water Type
Water Quality: 300 GOOD
Chemical Analysis Made: No
Did the driller knowingly penetrate any strata which
contained injurious constituents?: No

The driller did certify that while drilling, deepening or otherwise altering the above described well, injurious water or constituents was encountered and the landowner or person having the well drilled was informed that such well must be completed or plugged in such a manner as to avoid injury or pollution.

Certification Data: The driller certified that the driller drilled this well (or the well was drilled under the driller's direct supervision) and that each and all of the statements herein are true and correct. The driller understood that failure to complete the required items will result in the report(s) being returned for completion and resubmittal.

Company Information: HOWARD DRILLING COMPANY
PO BOX 806
BEAVER, OK 73932

Driller Name: PHILLIP HOWARD License Number: 4723

Comments: No Data

Lithology:			Casing:					
DESCRIPTION & COLOR OF FORMATION MATERIAL			BLANK PIPE & WELL SCREEN DATA					
Top (ft.)	Bottom (ft.)	Description	Dia (In.)	Type	Material	Sch./Gage	Top (ft.)	Bottom (ft.)
0	3	SURFACE						
3	20	CALICHE CLAY	6		New Plastic (PVC)		2	440
20	40	CALICHE ROCK & CLAY	6	Perforated or Slotted	New Plastic (PVC)		440	520
40	165	SANDY CLAY						
165	215	CLAY & SANDY CLAY						
215	304	SAND						
304	315	SAND & CLAY STREAKS						
315	349	CLAY						
349	400	SANDY CLAY						
400	427	SANDY CLAY & SANDSTONE						
427	435	SAND & SANDY CLAY						
435	443	CLAY						
443	450	SAND & SANDY CLAY						
450	490	COURSE SAND						
490	515	SANDSTONE						

SH 10285 W / Pump

STATE OF TEXAS WELL REPORT for Tracking #470070

~~No Pump~~

Owner: PRESTAGE FARMS OF OK

Owner Well #: No Data

Address: PO BOX 509
TEXHOMA, OK 73949

Grid #: 03-42-6

Well Location: PRESTAGE FIN 17/SITE #6
117-BLK 1C-GH&H SURVEY
SHERMAN COUNTY, TX, TX

STRATFORD, TX: 15.75 EAST ON
HWY 15 TO CR 22, .9 SOUTH, WEST
THRU BARNS .1, SOUTHWEST .1 TO
SITE #6

Latitude: 36° 18' 52.8" N

Longitude: 101° 47' 26.74" W

Elevation: No Data

Well County: Sherman

Type of Work: New Well

Proposed Use: Industrial

Drilling Start Date: 1/9/2018

Drilling End Date: 1/9/2018

~~5-12-18~~

	Diameter (in.)	Top Depth (ft.)	Bottom Depth (ft.)
Borehole:	10.75	0	520

Drilling Method: Mud (Hydraulic) Rotary

Borehole Completion: Filter Packed

	Top Depth (ft.)	Bottom Depth (ft.)	Filter Material	Size
Filter Pack Intervals:	190	520	Gravel	FINE

Annular Seal Data: No Data

Seal Method: CEMENT GROUT

Sealed By: Driller

Distance to Property Line (ft.): No Data

Distance to Septic Field or other
concentrated contamination (ft.): No Data

Distance to Septic Tank (ft.): No Data

Method of Verification: No Data

Surface Completion: Pitless Adapter Used

Surface Completion by Driller

Water Level: 380 ft. below land surface on 2018-01-12

Packers: No Data

Type of Pump: Submersible

Well Tests: Pump Yield: 100 GPM with 55 ft. drawdown after 1 hours

	Strata Depth (ft.)	Water Type
Water Quality:	380	GOOD

Chemical Analysis Made: No

Did the driller knowingly penetrate any strata which
contained injurious constituents?: No

The driller did certify that while drilling, deepening or otherwise altering the above described well, injurious water or constituents was encountered and the landowner or person having the well drilled was informed that such well must be completed or plugged in such a manner as to avoid injury or pollution.

Certification Data: The driller certified that the driller drilled this well (or the well was drilled under the driller's direct supervision) and that each and all of the statements herein are true and correct. The driller understood that failure to complete the required items will result in the report(s) being returned for completion and resubmittal.

Company Information: HOWARD DRILLING COMPANY
PO BOX 806
BEAVER, OK 73932

Driller Name: PHILLIP HOWARD License Number: 4723

Comments: No Data

Lithology:			Casing:				
DESCRIPTION & COLOR OF FORMATION MATERIAL			BLANK PIPE & WELL SCREEN DATA				
Top (ft.)	Bottom (ft.)	Description	Die (in.)	Type	Material	Sch./Gage	Top (ft.) Bottom (ft.)
0	4	TOP SOIL					
4	25	BROWN & TAN CLAY	6		New Plastic (PVC)		0 420
25	52	TAN CLAY	6	Perforated or Slotted	New Plastic (PVC)		420 520
52	96	CALICHE CLAY & SAND STRIPS					
96	162	SANDY CLAY & CLAY					
162	180	CLAY					
180	210	SANDY CLAY & SAND STRIPS					
210	271	CLAY & CALICHE SANDY CLAY STRIPS					
271	328	CLAY					
328	371	CLAY & THIN STRIPS SAND					
371	423	CLAY					
423	512	MEDIUM SAND					
512	520	RED CLAY & ROCK STRIPS					

ENCLOSED PRESTAGE DEEDS

1. WARRANTY DEED (SEPTEMBER 15, 2000) PURCHASE OF PIVOTS AND SURROUNDING WELLS FROM VALL INC BY GG FREEMAN AND SONS SECTION 117 AND N/2 OF SECTION 124.

2. WARRANTY DEED (PRESTAGE FARMS LLC PURCHASE OF CORNERS IN SECTION 124 & 117 FROM MURPHY FARMS.)

WARRANTY DEED

Date: September 15, 2000

Grantor: Vall, Inc., an Oklahoma corporation

Grantee: G. G. Freeman and Son, an Oklahoma general partnership

Grantee's Mailing Address: P.O. Box 568, Texhoma, OK 73949

Consideration:

\$10.00 and other good and valuable consideration, being all cash, receipt of which is hereby acknowledged, and for which no lien, express or implied, is retained or shall exist; and

\$590,338.34 to Grantor, paid by FEDERAL LAND BANK ASSOCIATION OF WESTERN OKLAHOMA, FLCA, receipt of which is hereby acknowledged, said sum being advanced at the request of Grantee as is evidenced by the note in the original principal sum of \$600,000.00, executed by Grantee, payable to said FEDERAL LAND BANK ASSOCIATION OF WESTERN OKLAHOMA, FLCA in installments as set out on the face of said note, said note being secured by the vendor's lien retained below and additionally secured by a deed of trust from Grantee for the benefit of FEDERAL LAND BANK ASSOCIATION OF WESTERN OKLAHOMA, FLCA, and in consideration of the above payment, the vendor's lien so retained is hereby Granted, Sold, and Conveyed to the said FEDERAL LAND BANK ASSOCIATION OF WESTERN OKLAHOMA, FLCA;

Property (including any improvements):

Five tracts out of Section 117 and the North-half of Section 124, both in Block 1-C, GH&H RR Co. Survey, Sherman County, Texas, containing 725.8288 acres as shown on Exhibits "A," "B," "C," "D," and "E" attached hereto and made a part hereof for all purposes.

Grantor grants to Grantee its successors or assigns easements for the purpose of ingress and egress, for the movement of equipment, livestock, and maintaining, repairing, and replacing the existing electric lines, underground water lines, natural gas lines, and irrigation wells located on the balance of Section 117 and the North-half of Section 124 both in Block 1-C, GH&H RR Co. Survey, Sherman County, Texas, owned by Grantor, which are used for the tracts conveyed to Grantee, except no easement is granted crossing the present buildings used by Grantor in its hog operation.

Reservations From and Exceptions to Conveyance and Warranty:

This conveyance is made subject to all restrictions, oil and gas leases, mineral reservations or conveyances, and easements, which are of record in Sherman County, Texas, and which affect the above described property.

There is **RESERVED** unto Grantor and Grantor's successors or assigns an "effluent easement" as shown on Exhibit "F" attached hereto and made a part hereof for all purposes.

First Right of Refusal:

In the event Grantor, or Grantor's successors or assigns ever offer to sell the balance of the North-half of Section 124, Block 1-C, GH&H RR Co. Survey, Sherman County, Texas, Grantor gives to Grantee its successors or assigns the first right of refusal to purchase the balance of the North-half of Section 124, Block 1-C, GH&H RR Co. Survey, Sherman County, Texas.

Grantor will give written notice to Grantee of the terms acceptable to Grantor. Grantee must accept the terms in writing within 30 days of receipt of the written notice from Grantor.

Grantor, for the consideration and subject to the reservations from and exceptions to conveyance and warranty, grants, sells, and conveys to Grantee the property, together with all and singular the rights and appurtenances thereto in any wise belonging, to have and hold it to Grantee, Grantee's successors or assigns forever. Grantor binds Grantor and Grantor's successors, to warrant and forever defend all and singular the property to Grantee, Grantee's successors or assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, except to the reservations from and exceptions to conveyance and warranty.

The vendor's lien against and superior title to the property are retained until each note described is fully paid according to its terms at which time this deed shall become absolute.

When the context requires, singular nouns and pronouns include the plural.

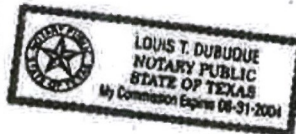
Vall, Inc.

By: 

Enrique Gil, General Manager

THE STATE OF TEXAS

THIS INSTRUMENT was acknowledged before me on September 15, 2000, by Enrique Gil as general manager of Vall, Inc., an Oklahoma corporation, on behalf of said corporation.




Notary Public, State of Texas

Description 'A'

**DESCRIPTION OF A 239.1007 ACRE TRACT OF LAND LOCATED
IN THE NORTH HALF (N/2) OF SURVEY NO. ONE HUNDRED
AND TWENTY-FOUR (124), BLOCK 1-C, GALVESTON, HOUSTON
AND HENDERSON RAILWAY COMPANY SURVEY, SHERMAN
COUNTY, TEXAS.**

COMMENCING AT THE NORTHWEST (NW) CORNER OF SURVEY NO. ONE
HUNDRED AND TWENTY-FOUR (124), BLOCK 1-C, GALVESTON, HOUSTON
AND HENDERSON RAILWAY COMPANY SURVEY, SHERMAN COUNTY,
TEXAS, SAID CORNER BEING A #4 IRON ROD;

THENCE S 89°36' 56" E ALONG THE NORTH LINE OF SAID SURVEY A
DISTANCE OF 2644.50 FEET TO A POINT;

THENCE S 00°23' 04" W WITH A RIGHT ANGLE A DISTANCE OF 1288.09 FEET
TO A POINT ON A CURVE, THE RADIUS OF SAID CURVE BEARING
S 86°56' 45" E A DISTANCE OF 1291.00 FEET, SAID POINT BEING A #5 IRON
ROD, SAID POINT BEING THE TRUE POINT OF BEGINNING FOR THIS
DESCRIPTION;

THENCE NORTHEASTERLY ALONG SAID CURVE TO THE RIGHT HAVING A
RADIUS OF 1291.00 FEET AND HAVING A CENTRAL ANGLE OF 354°45' 38" A
DISTANCE OF 7,993.53 FEET TO A POINT ON A CURVE, THE RADIUS OF SAID
CURVE BEARING N 86°55' 54" W A DISTANCE OF 1284.00 FEET, SAID POINT
BEING A #5 IRON ROD;

THENCE SOUTHWESTERLY ALONG SAID CURVE TO THE RIGHT HAVING A
RADIUS OF 1284.00 FEET AND HAVING A CENTRAL ANGLE OF 354°43' 55" A
DISTANCE OF 7,949.55 FEET TO THE POINT OF BEGINNING AND
CONTAINING 239.1007 ACRES MORE OR LESS.

Signed: William Tim Campbell
William Tim Campbell
Texas Registered Professional Land Surveyor No. 4290.

Description 'B'

DESCRIPTION OF A 0.2296 ACRE TRACT OF LAND LOCATED IN THE NORTH HALF (N/2) OF SURVEY NO. ONE HUNDRED AND TWENTY-FOUR (124), BLOCK 1-C, GALVESTON, HOUSTON AND HENDERSON RAILWAY COMPANY SURVEY, SHERMAN COUNTY, TEXAS.

COMMENCING AT THE NORTHWEST (NW) CORNER OF SURVEY NO. ONE HUNDRED AND TWENTY-FOUR (124), BLOCK 1-C, GALVESTON, HOUSTON AND HENDERSON RAILWAY COMPANY SURVEY, SHERMAN COUNTY, TEXAS, SAID CORNER BEING A #4 IRON ROD;

THENCE S 89°36' 56" E ALONG THE NORTH LINE OF SAID SURVEY A DISTANCE OF 2811.81 FEET TO A POINT;

THENCE S 00°23' 04" W WITH A RIGHT ANGLE A DISTANCE OF 116.28 FEET TO A POINT, SAID POINT BEING A #5 IRON ROD, SAID POINT BEING THE TRUE POINT OF BEGINNING FOR THIS DESCRIPTION;

THENCE S 89°36' 56" E WITH A RIGHT ANGLE A DISTANCE OF 100.00 FEET TO A POINT, SAID POINT BEING A #5 IRON ROD;

THENCE S 00°23' 04" W WITH A RIGHT ANGLE A DISTANCE OF 100.00 FEET TO A POINT, SAID POINT BEING A #5 IRON ROD;

THENCE N 89°36' 56" W WITH A RIGHT ANGLE A DISTANCE OF 100.00 FEET TO A POINT, SAID POINT BEING A #5 IRON ROD;

THENCE N 00°23' 04" E WITH RIGHT ANGLE A DISTANCE OF 100.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.2296 ACRES MORE OR LESS.

Signed:



William Tim Campbell

Texas Registered Professional Land Surveyor No. 4290.

Description 'C'

**DESCRIPTION OF A 0.2296 ACRE TRACT OF LAND LOCATED IN
SURVEY NO. ONE HUNDRED AND SEVENTEEN (117),
BLOCK 1-C, GALVESTON, HOUSTON AND HENDERSON
RAILWAY COMPANY SURVEY, SHERMAN COUNTY, TEXAS.**

COMMENCING AT THE NORTHWEST (NW) CORNER OF SURVEY NO. ONE
HUNDRED AND SEVENTEEN (117), BLOCK 1-C, GALVESTON, HOUSTON AND
HENDERSON RAILWAY COMPANY SURVEY, SHERMAN COUNTY, TEXAS,
SAID CORNER BEING A #6 IRON ROD;

THENCE S 00°08'29" W ALONG THE WEST LINE OF SAID SURVEY A
DISTANCE OF 1754.21 FEET TO A POINT, SAID POINT BEING A #5 IRON ROD,
SAID POINT BEING THE TRUE POINT OF BEGINNING FOR THIS
DESCRIPTION;

THENCE S 89°51'31" E WITH A RIGHT ANGLE A DISTANCE OF 100.00 FEET
TO A POINT, SAID POINT BEING A #5 IRON ROD;

THENCE S 00°08'29" W WITH A RIGHT ANGLE A DISTANCE OF 100.00 FEET
TO A POINT, SAID POINT BEING A #5 IRON ROD;

THENCE N 89°51'31" W WITH A RIGHT ANGLE A DISTANCE OF 100.00 FEET
TO A POINT ON THE WEST LINE OF SAID SURVEY, SAID POINT BEING A #5
IRON ROD;

THENCE N 00°08'29" E ALONG THE WEST LINE OF SAID SURVEY NO. ONE
HUNDRED AND SEVENTEEN (117) A DISTANCE OF 100.00 FEET TO THE
POINT OF BEGINNING AND CONTAINING 0.2296 ACRES MORE OR LESS.

Signed: William Tim Campbell
William Tim Campbell
Texas Registered Professional Land Surveyor No. 4290.

Description 'D'

**DESCRIPTION OF A 0.2296 ACRE TRACT OF LAND LOCATED IN
SURVEY NO. ONE HUNDRED AND SEVENTEEN (117),
BLOCK 1-C, GALVESTON, HOUSTON AND HENDERSON
RAILWAY COMPANY SURVEY, SHERMAN COUNTY, TEXAS.**

COMMENCING AT THE SOUTHWEST (SW) CORNER OF SURVEY NO. ONE
HUNDRED AND SEVENTEEN (117), BLOCK 1-C, GALVESTON, HOUSTON AND
HENDERSON RAILWAY COMPANY SURVEY, SHERMAN COUNTY, TEXAS,
SAID CORNER BEING A #6 IRON ROD;

THENCE N 00°08' 33" E ALONG THE WEST LINE OF SAID SURVEY A
DISTANCE OF 1405.39 FEET TO A POINT;

THENCE S 89°51' 27" E WITH A RIGHT ANGLE A DISTANCE OF 26.29 FEET TO
A POINT, SAID POINT BEING A #5 IRON ROD, SAID POINT BEING THE TRUE
POINT OF BEGINNING FOR THIS DESCRIPTION;


THENCE N 00°08' 33" E WITH A RIGHT ANGLE A DISTANCE OF 100.00 FEET
TO A POINT, SAID POINT BEING A #5 IRON ROD;

THENCE S 89°51' 27" E WITH A RIGHT ANGLE A DISTANCE OF 100.00 FEET
TO A POINT, SAID POINT BEING A #5 IRON ROD;

THENCE S 00°08' 33" W WITH A RIGHT ANGLE A DISTANCE OF 100.00 FEET
TO A POINT, SAID POINT BEING A #5 IRON ROD;

THENCE N 89°51' 27" W WITH A RIGHT ANGLE A DISTANCE OF 100.00 FEET
TO THE POINT OF BEGINNING AND CONTAINING 0.2296 ACRES MORE OR
LESS.

Signed:


William Tim Campbell

Texas Registered Professional Land Surveyor No. 4290.

Description 'E'

**DESCRIPTION OF A 486.0393 ACRE TRACT OF LAND LOCATED
IN SURVEY NO. ONE HUNDRED AND SEVENTEEN (117),
BLOCK 1-C, GALVESTON, HOUSTON AND HENDERSON
RAILWAY COMPANY SURVEY, SHERMAN COUNTY, TEXAS.**

THAT PARCEL OF LAND INCLUDED WITHIN THE FULL CIRCUMFERENCE OF
A CIRCLE HAVING A RADIUS OF 2596.00 FEET AND CONTAINING 486.0393
ACRES MORE OR LESS, THE RADIUS POINT OF SAID CIRCLE BEING
DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST (NW) CORNER OF SURVEY NO. ONE
HUNDRED AND SEVENTEEN (117), BLOCK 1-C, GALVESTON, HOUSTON AND
HENDERSON RAILWAY COMPANY SURVEY, SHERMAN COUNTY, TEXAS,
SAID CORNER BEING A #6 IRON ROD;

THENCE S 89°24' 51" E ALONG THE NORTH LINE OF SAID SURVEY A
DISTANCE OF 2700.63 FEET TO A POINT;

THENCE S 00°35' 09" W WITH A RIGHT ANGLE A DISTANCE OF 2652.31 FEET.

Signed: William Tim Campbell
William Tim Campbell
Texas Registered Professional Land Surveyor No. 4290.

EXHIBIT "E"

EXHIBIT "F"

1. **RESERVATION:** Grantor hereby reserves to its self and its successors and assigns an easement and right to apply effluent to the above described real property which effluent is produced by hog production operations and facilities located Tracts out of the North half of Section 124. and Section 117, both in Block 1-C, GH&H RR Co. Survey, Sherman County, Texas.

Grantor further reserves all necessary rights of ingress and egress, in, over, under, and across the real property subject to this effluent easement in connection with the exercise of Grantor's rights under this easement.
2. **TERM:** This easement and rights reserved by Grantor hereunder shall be for a period of thirty (30) years and shall be irrevocable, shall constitute covenants running with the land, and if Grantee sells, mortgages, conveys or encumbers any portion of the Grantee's land subject to this effluent easement, it shall be subject to this effluent easement, and Grantee shall provide any subsequent holder of any interest in Grantee's land with notice of this effluent easement prior to conveyance of any interest.
3. **EQUIPMENT AND FACILITIES:** Grantor shall have the right to place equipment and facilities upon the real property subject to this effluent easement which equipment and facilities are necessary to the exercise and enjoyment of rights by Grantor under the terms of this easement which equipment and facilities may include, but not be limited to wells, effluent lines, utility lines, pipelines to facilitate gas, electric, water, telephone and communication services in, over, under, across, and through the real property subject to the effluent easement.
4. **PURPOSES:** The purpose of this effluent easement is to create rights solely in the Grantor and its successors and assigns to dispose of effluent consisting of waste matter at such times, in such amounts and in such a manner as Grantor may in its sole discretion determine.
5. **EFFLUENT:** Grantor shall have the right, but not the obligation to apply effluent in, under, onto, or across the real property subject of this effluent easement through Grantee's center-pivot irrigation equipment now or hereafter located on the easement premises or at Grantor's option and sole discretion, through the use of application equipment provided by Grantee or Grantor. Grantor shall provide all equipment necessary to deliver effluent to a mutually convenient point for delivery into the center-pivot irrigation equipment. Effluent will be applied by Grantor at agriculturally safe levels of application and in a manner compatible with Grantees use of the real property. Grantor shall, in any event, have the right to deviate from planned effluent application in the event of an emergency. Grantor shall at all times maintain the sole and absolute discretion to apply or not apply effluent to the real property subject of this effluent easement.

VOL 235 PAGE 315

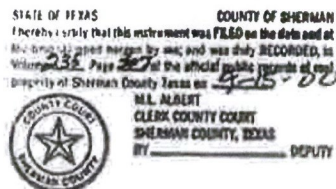
6. **EQUIPMENT MAINTENANCE:** Grantor and Grantee shall each be responsible for maintenance and repair of equipment and systems owned by them respectively and used in connection with Grantor's exercise of Grantor's rights under this effluent easement.
7. **INDEMNITY:** Grantee covenants and agrees to indemnify and save Grantor free and harmless from all damages, claims and demands of any person or persons by reason of Grantee operations on the above described real property. Grantor covenants and agrees to indemnify and save Grantee free and harmless from all damages, claims and demands of any person or persons by reason of Grantor's effluent applications on the real property.
8. **ENTIRE AGREEMENT:** This effluent easement constitutes a complete statement and agreement of the rights of the parties and no other understanding, representation or agreement of any kind shall be binding upon either party except to the extent stated in this effluent easement.
9. **MODIFICATION:** This easement shall not be modified except by written amendment acknowledged by each party.
10. **HEADINGS:** The headings of the sections of this easement are solely for convenience and shall not be used to explain, modify, simplify or aid in the interpretation of the provisions herein.
11. **BINDING EFFECT:** All rights created pursuant to this easement shall constitute covenants running with the Grantee's land and shall be binding upon the heirs, assigns and successors-in-interest of the parties to this easement.

010482

M. L. Albert

FILED
M. L. ALBERT
COUNTY CLERK
00 SEP 15 AM 11:49
SHERMAN COUNTY TEXAS

BY _____ DEPUTY



DAVID K. PETTY
P.O. Box 1187
Guyman, OK 73942

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

SPECIAL WARRANTY DEED

MURPHY FARMS OF TEXHOMA, INC., an Oklahoma corporation ("Grantor"), in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration in hand paid by PRESTAGE FARMS OF OKLAHOMA, LLC, an Oklahoma limited liability company ("Grantee"), the receipt and sufficiency of which are hereby acknowledged, hereby GRANTS, BARGAINS, SELLS and CONVEYS unto Grantee the real property located in Sherman County, Texas, which is more particularly described on Exhibit "A" attached hereto and made a part hereof, together with (i) all and singular, all of Grantor's right, title and interest, if any, in and to any and all rights, benefits, privileges, easements, tenements, and appurtenances thereon and pertaining thereto, including all of Grantor's right, title and interest, if any, in and to any adjacent streets, roads, alleys, easements and rights-of-way, (ii) any and all improvements and buildings located on such real property (said real property, together with such rights, appurtenances and interests, improvements and buildings being collectively called the "Property"), subject to, however, to any and all: (i) taxes and assessments for the current year and subsequent years; (ii) easements, rights-of-way, restrictions, reservations, liens and other encumbrances affecting the Property as may appear of record or that were otherwise incurred in the ordinary course of business; (iii) zoning, building and other land use laws imposed by any governmental authority having jurisdiction over the Property; (iv) matters that an accurate survey or a physical inspection of the Property would reveal; and (v) parties in possession under any leases affecting the Property (said matters being collectively called the "Permitted Exceptions").

TO HAVE AND TO HOLD the Property, subject to the Permitted Exceptions, together with all and singular the rights and appurtenances thereto in anywise belonging unto Grantee, its successors and assigns forever. Grantor does hereby bind itself, and its legal representatives and successors to WARRANT AND FOREVER DEFEND all and singular the Property unto Grantee, its successors and assigns, against every person whomever lawfully claiming or to claim the same or any part thereof, by or under Grantor, but not otherwise, and subject to the Permitted Exceptions.

[Signatures on following page]

MURPHY FARMS OF TEXHOMA, INC.,
an Oklahoma corporation

By: Michael Cole
Print: _____
Its: Michael H. Cole
Vice President

STATE OF Virginia §
COUNTY OF Isle of Wight §

I, the undersigned authority, a Notary Public, in and for said county in said state, hereby certify that Michael H. Cole, Vice President of Murphy Farms of Texhoma, Inc., an Oklahoma corporation, and whose name is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such Vice President and with full authority, executed the same voluntarily for and as the act of Murphy Farms of Texhoma, Inc., an Oklahoma corporation.

Melissa A. Brock
NOTARY PUBLIC IN AND FOR
THE STATE OF _____

My Commission Expires: _____

(Printed Name of Notary)

Grantee's Address:

PRESTAGE FARMS OF OKLAHOMA, LLC
4651 Taylors Bridge Highway
Post Office Box 438
Clinton, North Carolina 28329



Consideration = \$1,954,728.13

TRACT 1:

Section One Hundred Seventeen (117), Block 1-C, GH&H Ry Co. Survey, Sherman County, Texas.

TRACT 2:

The North Half of Section One Hundred Twenty-Four (124), Block 1 C, GH&H Ry Co. Survey, Sherman County, Texas.

Less and Except those certain tracts totaling approximately 725 acres described in Warranty Deed dated September 15, 2000, from Vall, Inc., an Oklahoma corporation, to G.G. Freeman and Son, an Oklahoma general partnership, recorded at Volume 235, Page 307, Real Property Records of Sherman County, Texas.

FILED
GINA GRAY
COUNTY & DISTRICT CLERK
Filed 07/22/2011 10:32:11 AM
SHERMAN COUNTY TEXAS
By *Gina Gray* DEPUTY

STEPHANIE SHRUM
PICKED UP

STATE OF TEXAS COUNTY OF SHERMAN
I hereby certify that this instrument was FILED on the date
and time and in the Volume and Page stamped hereon by
me and was duly RECORDED in the Official Public
Records of Sherman County, Texas



GINA GRAY, COUNTY CLERK
SHERMAN COUNTY, TEXAS
By *Gina Gray* DEPUTY