

## Lost Pines Groundwater Conservation District

### Board of Directors Agenda Minutes

Wednesday, August 17, 2022

The Board of Directors convened at 7:01 p.m. in a meeting pursuant to public notice having been given under the Texas Open Meetings Act, at Elgin Public Library Civic Center – City Council Chambers, Elgin, Texas. The following members of the Board were present: President Sheril Smith; Secretary-Treasurer Elvis Hernandez; Directors: Tom Arsuffi, Melissa Cole, Herbert Cook, Phil Cook, Larry Schatte, Billy Sherrill and Michael Simmang.

Staff members present: Jim Totten, General Manager, Peggy Campion and Dana Goertz.

Consultants present: Natasha Martin, Attorney and Paul Kirby, Hydrogeologist.

1. President Smith called the meeting to order and welcomed the public.
2. *Public Comments.* There were no non-agenda public comments.
3. *Review and consider approval of the minutes of the July 20, 2022 regular Board meeting.* Director Cole moved to approve the minutes of the July 20, 2022 regular Board meeting. Director H. Cook seconded the motion, which carried unanimously. President Smith and Director P. Cook abstained as they did not attend the July 20, 2022 meeting.
4. *Consideration of the financial report through July 31, 2022.* General Manager Totten presented the financial report to the Board.
5. *Consideration of and possible action on a resolution to adopt the District's amended 401(a) Plan & Trust proposed by ABG.* General Manager reported that every five (5) years retirement plan documents are reviewed for compliance with the IRS requirements. Natasha Martin, Attorney, stated that required language by the IRS has been incorporated in the documents. Director Cole then moved to adopt the District's amended 401(a) Plan & Trust proposed by ABG. Director Arsuffi seconded the motion, which carried unanimously.
6. *Consideration of and possible action on the application Manville Water Supply Corporation for a new Drilling and Operating Permit for Well #7 in Lee County for municipal use in the Simsboro Aquifer for a total combined withdrawal amount of 8,968 acre-feet of water per year aggregated with Manville's existing Blue Well Field pursuant to District Rules 5.2.B and 5.3.C* The application does not seek to withdraw any amount of water in addition to the aggregated permitted annual withdrawal amount of the Blue Well Field. General Manager Totten explained to the Board the reasons for the Manville Water Supply Corporation application and recommended approval. Erik Prinz, Director of Operators for Manville Water Supply Corporation, also explained to the Board the reasons for the application. Mr. Prinz answered questions from President Smith and Directors Cole, P. Cook, H. Cook and Sherrill. Director P. Cook also had

questions concerning the memo from hydrogeologist Andy Donnelly. At the conclusion of questions from the Board, Director Simmang moved to approve the application of Manville Water Supply Corporation for a new drilling and operating permit for Well #7 in Lee County for municipal use in the Simsboro Aquifer for a total combined withdrawal of 8,968 acre-feet of water per year aggregated with Manville's existing Blue Well Field pursuant to District Rules 5.2.B and 5.3.C. Secretary-Treasurer Hernandez seconded the motion, which carried with President Smith, Secretary-Treasurer Hernandez, Directors Simmang, Arsuffi, Cole, H. Cook, P. Cook and Schatte voting for and Director Sherrill against.

*7. Discussion, consideration, and possible action on the Modeled Available Groundwater (MAGs) provided by the Texas Water Development Board, including, but not limited to, consideration of a 10% variance to the MAG for the Simsboro Aquifer.* The new MAGs were not available and there was no information on this agenda item to consider.

*8. Discussion, consideration, and possible action on matters related to Groundwater Management Area 12 including, but not limited to, a Vista Ridge Impact Study, comments on the joint planning process and the explanatory report, and consideration of a resolution on cost sharing for shared expenses at GMA 12.* The Board heard comments from the public. Please see attachment B for comments from Michele Gangnes, Lee County landowner and spokesperson for Simsboro Aquifer Water Defense Fund and attachment C for comments from Nancy McKee, Lee County land and well owner. Bill Rhodes also addressed the Board and said that he has a 243 foot well that pumps 10 gallons per minute and the water level in the well is falling 4 feet per month. Steve Box, Board President and Executive Director of Environment Stewardship provided written comments to the Board. Please see attachment D. President Smith discussed cost sharing at the GMA level for expenses incurred by the member districts at the GMA. She suggested that the Board consider presenting an interlocal agreement to the member districts at the GMA. President Smith also is proposing a resolution that states any expenditures by Lost Pines GCD contributed toward the GMA will require an interlocal agreement. Natasha Martin, Attorney, discussed the common purpose requirement for an interlocal agreement under the Texas Local Government Code. President Smith also spoke on aquifer-based voting and suggested that the current voting district structure should be reconsidered to apportion votes based on aquifer use or size within the GMA. Director Arsuffi inquired about a possible Vista Ridge impact study and noted that the District is waiting on monitoring data from Post Oak Savannah GCD related to Vista Ridge. Ms. Martin updated the Board that Post Oak Savannah GCD would like to see a GMA-wide study instead of a joint study between the two districts. President Smith, Secretary-Treasurer Hernandez and Director P. Cook have submitted comments to the General Manager on the joint planning process. General Manager Totten suggested that the comments submitted by the Board members be summarized in a single document, go to the governance committee for approval and provide final document to the GMA. Secretary-Treasurer Hernandez commented that a professional arbitrator and negotiator be hired to meet with the five (5) groundwater districts in the GMA to note issues and problems and offer solutions for joint planning.

*9. Discussion, consideration, and possible action on announcement of the Hydrogeologist Request for Qualifications (RFQ) Committee on the selected company for hydrogeology services, and request for Board permission to negotiate pricing.* President Smith reported that the RFQ

committee had met twice to consider selecting a company for hydrogeology services. The applicants were scored and the RFQ Committee requested board permission to negotiate pricing with the highest scored applicant. If a price cannot be negotiated, the committee would then move to the next highest scored applicant. Director P. Cook moved to grant permission to the RFQ committee to negotiate pricing with the highest scored applicant. Director Cole seconded the motion, which carried unanimously.

10. *Discussion and possible action by Board President on committee appointments.* President Smith announced that Vice-President Rogers resigned from the infrastructure committee and has been appointed to the education outreach committee. President Smith established the performance evaluation committee and will consist of President Smith, Vice-President Rogers and Secretary-Treasurer Hernandez.

11. *Committee Reports with possible Board discussion. No action will be taken on any reports.*

a) *Financial Services Committee.* Secretary-Treasurer Hernandez, Chair, reported that there was no update.

b) *Governance committee.* President Smith, chair, reported that the committee had met August 3, 2022 and discussed comments will be accepted through September 1, 2022 to GMA 12 on GMA 12's joint planning process to adopt DFCS. She also discussed water levels, joint invoicing between districts, corrective actions on the State audit have been completed, southern Bastrop County monitoring well, RFQ calendar, and the mitigation resolution that was passed by Lee County and will be presented to Bastrop County.

c) *Infrastructure committee.* Director P. Cook, chair, reported that the committee had not met but that the real estate agent is continuing to look for a site for the District's offices.

d) *Education Outreach committee.* Director Arsuffi, chair, reported that the committee would be meeting to discuss the photo and calendar contest and the conservation award. He also reported that Assistant General Manager Saenz was preparing a newsletter and that the email sign up will be on the front page of the website.

e) *Management Committee.* Director Melissa Cole reported that the Management Committee had met and discussed the DFC evaluation report, water well monitoring, drought conditions, grant for conservation and a drought contingency plan.

12. *General Manager's report.* President Sheril Smith next recognized General Manager Totten to present the General Manager's report. There was discussion on enforcement actions being taken by the District. Please see attachment A.

13. *Discussion of Lost Pines Groundwater Conservation District legislation, related legislation and/or activities occurring that affect or pertain to the District and groundwater.* There was no legislation report given.

14. *Consideration of conferences, meetings and educational opportunities Board members desire to attend.* Vice-President Rogers and Director Cole will be attending the 2022 Texas Groundwater Summit as well as General Manager Totten and Natasha Martin, Attorney.

15. *Announcements.* There were no announcements.

16. *Set date and location of next meeting.* The next regular board meeting will be held September 21, 2022 at the Giddings Public Library in Giddings, Texas. The Elgin Public Library Civic Center – City Council Chambers has been reserved for a possible special meeting August 29, 2022.

17. There were none at this time.

18. *Executive session of the Board pursuant to Tex. Gov't Code section 551.071, or any closed session permitted by law, to consult with its attorneys and seek advice regarding GateHouse Water, LLC v. Lost Pines Groundwater Conservation District, et al., Cause No. 1:22-cv-00132, United States District Court of the Western District of Texas.* The Board did not go into executive session. Natasha Martin, Attorney, reported that an answer in this case had been filed in response to the lawsuit.

President Smith adjourned the meeting at 8:37 p.m.

Approved:

  
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Sheril Smith, President

  
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Elvis Hernandez, Secretary-Treasurer

Lost Pines Groundwater Conservation District  
P.O. Box 1027  
Smithville, TX 78957

**Date:** August 17<sup>th</sup> 2022

**To:** President and Board of Directors

**From:** General Manager and Staff

**August 2022 General Manager's Report**

1. Statistics Exempt Wells:
  - LPGCD Form 100 Drilling Permits received  
**July 1<sup>st</sup> through July 31<sup>st</sup> 2022 (7)**
  - LPGCD Form 300 Certificates of Registration received  
**July 1<sup>st</sup> through July 31<sup>st</sup> 2022 (1)**

Wells plugged : 0

Water Quality Tests : 4

Wells gauged : 6

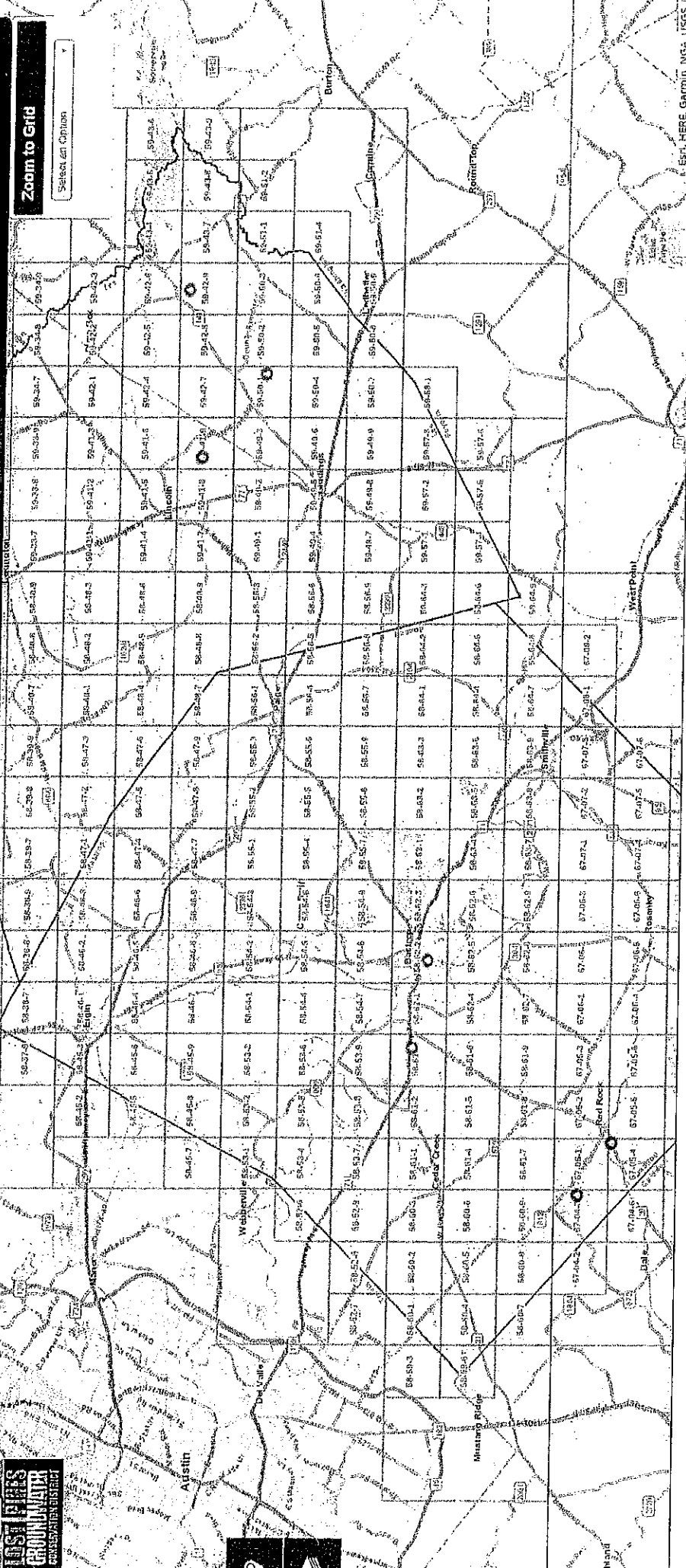
Drought Conditions: Approximately ninety percent of Lee County and sixty-eight percent of Bastrop County are experiencing extreme drought conditions with the remainder of each county experiencing severe drought conditions. To date 2022 is the sixth driest year on record. (Drought.gov)

1. The House Natural Resources Interim Committee will be holding a hearing at the Capitol on August 24<sup>th</sup>. Among the interim charges that will be considered at the hearing is the charge relating to groundwater management policies and regulatory frameworks. President Smith intends to attend the hearing and provide testimony.
2. The staff at HALFF that will be handling the transfer of data from the existing District database to the new HALFF system are in the early stages of configuring the new database. In response the District staff have begun collecting the available digital data and records that can be immediately imported to the new system when it is ready (well and production data).
3. The next GMA 12 meeting is scheduled for September 30<sup>th</sup>. This meeting will include discussion and consideration of the comments received regarding the process for developing the next round of Desired Future Conditions.
4. The POSGCD Groundwater Summit will take place tomorrow (8.18.22) at the civic center in Caldwell. The District has posted notice of a possible quorum for the event.
5. The District has initiated two enforcement actions against well owners in central and south central Bastrop County. A notice of violation has been sent to a well owner in south central Bastrop County regarding a well that was drilled without District registration and in violation of District spacing rules. A secondary complaint against the driller will also be filed with TDLR. Another notice of violation will be sent this week to a developer in central Bastrop county regarding the improper usage of an exempt well to serve multiple subdivided properties.
6. Pending Permits
  1. None at this time
7. Upcoming meetings:
  1. GMA 12 September 30<sup>th</sup>, 10 a.m. POSGCD offices in Milano TX and online



Zoom to Grid

Select an Option



SAWDF comments to Lost Pines Groundwater Conservation District, August 17, 2022 Board Meeting

Good evening, Board members.

For the record, I am Michele Gangnes, I'm a Lee County landowner speaking for myself and tonight as the spokesperson for the Simsboro Aquifer Water Defense Fund. Andy Wier, our Executive Director, and I collaborated on these comments; however, he is on vacation this evening.

SAWDF is supportive any time this board is interested in enhancing the integrity of the GMA-12 planning effort with real world studies that contribute data, lessons learned, and maybe even the occasional cautionary tale.

A Vista Ridge Impact Study –what we might call a socio-economic impact study --- is a perfect example of what is needed, and I feel confident there are plenty of Lee County landowners who will also applaud any honest and fair review of Vista Ridge, while they wait for the next shoe to drop on their wells.

From SAWDF's point of view, impacts on what we call the "donor communities" of groundwater have always needed to be considered in the planning process. Now the GMA only worries about impacts on cities like San Antonio if they don't get our water, and some GMA members may not even want to consider anything but the groundwater models in setting DFCs.

San Antonio did have feasible alternatives to Vista Ridge, but Lee County landowners who don't have ready access to alternative water supplies have a lot to worry about and deserve to be part of a cost-benefit analysis. Beyond their personal interests, they are also concerned about the future of our aquifers and Lee County's economic health, which should be a universal concern, county-wide.

Please at least consider the following "costs" for inclusion in a comprehensive socio-economic study of massive water projects like Vista Ridge, that considers both the human toll, as well as how many dollars Lee County's economy might stand to lose:

1. Well mitigation costs, which have already been considerable.
2. The potential loss of landowner income.
3. The loss of property value. Maybe well owners can't successfully sue the water producers under the Rule of Capture, but none of that changes the fact that farm and ranch property values go down when water becomes unavailable, physically or economically, a fact acknowledged by even Senator Perry.
4. Disruption to farm and livestock routines; e.g. forced sale of livestock, the need to buy and haul water, and damages suffered while landowners look for both emergency and long-term solutions.
5. The need for some sort of "consumer confidence" impact study, similar to how the government monitors the economy ---- public loss of confidence in a county's water supply can result in less investment in the county, including residential, agricultural and industrial, the latter being as water sensitive as agricultural endeavors. Drought just exacerbates the crises of confidence that uncertain water supply creates.
6. The human impacts of water anxiety result in mental health issues, loss of public confidence in government, and financial worries caused by well costs that were never anticipated and are downright unaffordable for some.

These are just some of the possible avenues of inquiry.

SAWDF's Andy Wier, our Executive Director, has been urging this kind of study at GMA-12 for quite some time. I hope it's time has come in your eyes too. I know from a recent conversation with J. Fisher he is very worried about this big picture I have tried to outline, and I believe his commissioners share his concern.

Thank you for the opportunity to address you.



ADDRESS TO LPGCD  
BOARD MEETING 8-17-22

Attachment C

Good evening Lost Pines GCD Board. For the record, my name is Nancy McKee, and I am a landowner, as well as a well owner in Lee County.

In addressing Item 8 on the agenda tonight, I wish to express not only my gratitude but my encouragement to the Board in their attempt to add considerations when calculating criteria for the future Desired Future Conditions.

The DFCS have long been a "pet peeve" with me because in the past they have not reflected actual occurrences within the aquifers. This must change if we are to have realistic projections; otherwise, we will only see another corrupted document and unfortunately, it will be used in planning.

In reading emails among President Smith, Mr. Hernandez and Mr. Totten with recommendations that would further give credit to the DFCS, I am very much encouraged with the hope that the GMA-12 will listen and be willing to adopt these proposals.

But these recommendations begin HERE. And so I respectfully ask the Board to soberly take into consideration the proposals set before you; the resolution regarding cost sharing and a Vista Ridge Impact Study.

I know that *you* know dozens of Lee County well owners have been impacted by Vista Ridge. I mention it for the record here, but also to emphasize to you that the anxiety and stress that has overtaken us, out of the blue and through no fault of our own, has become an unpleasant fact of our lives. With respect, we want those who are planning our water future to demonstrate they care about all Texans, not just the recipients of our water and those who profit from selling it. We take this agenda item as evidence that you realize the significance of this important first step of doing an impact study that will inform others of your planning efforts for the next five years.

Thank you for your time and allowing me to address the Board.

Dear President Smith and Board,

Having participated in all but a few of the GMA-12 meetings since inception, I am sharing my perspective of how the 3<sup>rd</sup> joint-planning cycle ended, and offering the following strategy forward for the Board's consideration. These comments are being provided in response to items on the August 17, 2022, agenda. I regret that I cannot be there in person, but I am presently out of the state.

First, Environmental Stewardship strongly urges Lost Pines GCD Board to adopt the 10% variance values on the 2022 DFCs as discussed below.

Second, Environmental Stewardship offers a strategy for the Boards consideration with regard to how to proceed with the 4th (current) cycle of DFC reviews. We also call attention to the comments ES and SAWDF jointly submitted to GMA-12 on June 23, 2021. This document should be on the GMA-12 website and is being distributed at Phil Cook's request.

Please find attached the details of this request.

**Jim, please distribute physical copies of the attached to the Board.**

**Steve Box**

Board President & Executive Director

**Environmental Stewardship**

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512-300-6609 cell

<http://www.environmental-stewardship.org>

**BRINGING SCIENCE TO DECISION-MAKING!**



DFC\_Strategy\_L  
PGCD\_...22.pdf

**DFC Roll-back and Recalibrate Strategy  
for Lost Pines at GMA-12  
for 2022-2027 Joint-Planning Cycle**

To: Sheril Smith, President  
Board Members  
Jim Totten, General Manager (Please distribute hard copies to Board)

From: Steve Box, Environmental Stewardship

cc: Simsboro Aquifer Water Defense Fund

Having participated in all but a few of the GMA-12 meetings since inception, I am sharing my perspective of how the 3<sup>rd</sup> joint-planning cycle ended, and offering the following strategy forward for the Board's consideration. These comments are being provided in response to items on the August 17, 2022, agenda. I regret that I cannot be there in person, but I am presently out of the state.

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As articulated in Environmental Stewardship's proposed edits to the Explanatory Report (which are on the GMA-12 [website](#)), the GMA-12 representatives consciously blocked Lost Pine's attempt to stay with the 2017 Adopted DFCs in both drawdown amount and the pumping quantity (MAG) directly related to the drawdown. As you will recall, the GMA-12 took the position that the "drawdown" amount is the ONLY parameter of the 2017 Adopted DFC that is applicable and Lost Pines staff backed that position until the Board understood that the full implications of using the 240 ft of drawdown in the NEW 2020 GAM was to allow a 48,728 acre-ft per year increase in pumping over what they intended from the 2017 DFC drawdown value. This increase would allow a significantly greater amount of pumping than the Lost Pines Board gave as guidance: 81,864 acre-ft per year (S-19) vs Board guidance of 33,136 acre-ft per year (S-20)<sup>1</sup>.

**DFC Strategy Step 1: 2022-2027 Joint-Planning Cycle 4.**

An initial step of cycle 4 will be to develop a base-line pumping file that will serve as the starting point for the 4<sup>th</sup> cycle. Without Lost Pines insistence, GMA-12 will likely want to use the adopted S-19 run values for Lost Pines (Drawdown and MAG), not the S-20 guidance values.

Environmental Stewardship recommends that Lost Pines insist on starting where the Board wanted to end last year. This will require that the starting point be rolled back to the S-20 pumping file. With this as a starting point, the Board and staff will be able to review the nine (9) factors for consideration and the additional permits approved and re-calibrate the final DFC to reflect Lost Pines' actual considerations and conclusions regarding the nine factors. In this way Lost Pines will be starting from a "conservation" scenario and make adjustments that are calculated and meaningful.

Environmental Stewardship provided the Board and DFC committee with best-science information from George Rice's work that demonstrates, along with what you will learn from Robert Mace when his recent report is updated with the 2022 adopted DFC run values, that there are three things that will likely occur (be predicted by the 2020 GAM).

**1. The amount of groundwater pumping already permitted and anticipated by GMA-12 will not be "sustainable".**

- a. Be careful with the term "sustainable" because it means different things depending on the constraints placed on the GAM runs and intentions of the authors. For example, in Mace's paper the term sustainable ONLY include sustaining groundwater pumping and does not consider the negative impact on surface waters described in 2 below.

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<sup>1</sup> See Donnelly's November 12, 2021, presentation to GMA "S-12, S-19, and S-20 Model Results".

2. **The amount of groundwater pumping already permitted and anticipated by GMA-12 will result in as much as 75% or more of the groundwater pumped being originally sourced from induced recharge from surface waters, NOT originally sourced from storage as hydrologist like to claim.**
  - a. The more groundwater pumped; the less groundwater discharged to surface waters.
  - b. When the groundwater that has historically been discharged to surface waters is reduced due to the loss of artesian pressure in the confined portion of the aquifers, this induces a diversion of precipitation (rainwater) from going to surface water flow -- as it has historically in our basin -- to going into groundwater recharge that is then re-pumped as groundwater.
  - c. Be careful about the inclination to quickly embrace "recharge". Induced recharge to the Simsboro first comes from induce vertical flow from the Calvert Bluff and the Hooper into the Simsboro, and thence from surface water sources like the Colorado River and its tributaries in Bastrop County, and the Brazos River and its tributaries in the eastern part of Lee County.
3. **The amount of groundwater pumping already permitted and anticipated by GMA-12 will result in the Colorado River changing from being a "gaining" stream as it has historically been, to become a "losing" stream that continuously contributes surface water to the aquifers by as early as 2060 or sooner.**
  - a. The more groundwater pumped, the faster this change in the relationship will occur.
  - b. There will be a **tremendous resistance** to rolling back pumping to a level that will sustain the aquifers in perpetuity, and **even more resistance** to rolling back pumping to a level that will also sustain the rivers and surface waters in perpetuity.
  - c. Lost Pine, and GMA-12, will need to come to agreement on methodologies to manage curtailment when it is necessary if no actions are taken to avoid or mitigate curtailment.

### **DFC Strategy Step 3: 2017-2022 Joint-Planning Cycle 3. 10% Variance**

Lost Pines Board's initial guidance to staff was to use the same 240 ft of drawdown. However, once the Board realized that the amount of pumping associated with 240 ft in the new GAM was about 82,000 acre-feet per year, rather than about 33,000 acre-ft per years they intended, the Board revised its guidance to a set of values that are represented in the S-20 simulation; what Environmental Stewardship termed the "conservation DFC". Unfortunately, this all came in a rush at the end of the process and valuable time was lost, leaving the Board's guidance vulnerable in the end. This resulted in the Board being forced by the GMA-12 representatives to revert to the S-19 run values (240 ft of drawdown and 82,800 AFY of pumping).

As a compromise, it was agreed that a 10% variance can be applied when the TWDB certifies the adopted 2022 DFCs as administratively complete. Lost Pines will need to pursue this issue now that the opportunity is available. Environmental Stewardship strongly urges the Board to adopt the 10% variations.

### **DFC Strategy Step 2: DFC for Colorado Alluvial Aquifer**

Based primarily on the above three points, and best-available science that George Rice has now completed, Environmental Stewardship will be approaching Lost Pines GCD in the next few months to discuss adopting a DFC on the Colorado River Alluvium that alluvium that is adequate to support a *sound ecological environment* during a repeat of the most recent drought of record<sup>2</sup> (DOR) in the Bastrop reach of the river, protect surface water rights throughout the basin, and will protect the Colorado River from becoming a losing stream due to permitted groundwater pumping. This DFC and monitoring will use direct field data to set and enforce the DFC and will not rely on the GAM. A detailed report with supporting science and GAM runs is in final review and will be provided soon.

### **DFC Strategy Summary: A Strategy to Sustain and Protect**

The suggested "roll-back and recalibrate" strategy, along with an active monitoring program that includes monitoring the impact of groundwater pumping on surface waters, is a strategy that can lead to sustaining and protecting the water resources of Bastrop and Lee Counties based on good science and good data leading to informed policy and management decisions.

I pray you hear my plea.

<sup>2</sup> The U.S. Drought Monitor started in 2000. Since 2000, the longest duration of drought (D1-D4) in Texas lasted 271 weeks beginning on May 4, 2010, and ending on July 7, 2015. The most intense period of drought occurred the week of October 4, 2011, where D4 affected 87.99% of Texas land.  
<https://www.drought.gov/states/texas#historical-conditions>