

DRAFT PERMIT FOR CONSIDERATION

**LOST PINES GROUNDWATER CONSERVATION DISTRICT
OPERATING PERMIT**

District Well Number: 58-55-5-0032

Permit Approved: _____

Permittee:

Lower Colorado River Authority
P.O. Box 220
Austin, Texas 78767-0220

Location of Well: Approximately eight (8) miles northeast of the City of Bastrop in Bastrop County (30.202285/-97.207107), Well No. 1

Permittee is authorized to operate Well No. 58-55-5-0032 within the Lost Pines Groundwater Conservation District under the following conditions:

Authorized annual withdrawal: See Special Conditions

Maximum rate of withdrawal: See Special Conditions

Aquifer unit: Simsboro

Type of water use: Municipal, Industrial, Recreational, Irrigation, and Agricultural

Place of water use: LCRA Water Service Area

Standard Permit Provisions:

This Operating Permit is granted subject to the District Rules, the orders of the Board, the District Management Plan, and Chapter 36 of the Texas Water Code. In addition to any well-specific permit provisions and special conditions included in this Operating Permit, this Operating Permit includes the following provisions:

(1) This permit is granted in accordance with District Rules, and acceptance of this permit constitutes an acknowledgement and agreement that Permittee will comply with the terms, conditions, and limitations set forth in this permit, the District rules, the orders of the Board, and the District Management Plan.

(2) Water withdrawn under the permit must be put to beneficial use at all times, and operation of the permitted well in a wasteful manner is prohibited.

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(3) Water produced from the well must be measured using a water measuring device or method approved by the District that is within plus or minus 10% of accuracy.

(4) The well site must be accessible to District representatives for inspection, and permittee agrees to cooperate fully in any reasonable inspection of the well and well site by District representatives.

(5) Permittee will use reasonable diligence to protect groundwater quality.

(6) Permittee will follow well plugging guidelines at the time of well closure.

(7) The application pursuant to which this permit has been issued is incorporated in this permit by reference, and this permit is granted on the basis of and contingent upon the accuracy of the information provided in that application. A finding that false or inaccurate information has been provided is grounds for revocation of the permit.

(8) Violation of the permit's terms, conditions, requirements, or special provisions, including pumping amounts in excess of authorized withdrawals, may subject the permittee to enforcement action under District Rules.

(9) Whenever the special conditions in the permit are inconsistent with other provisions of the permit or the District Rules, the special condition will prevail.

Special Conditions:

This Operating Permit is granted subject to the following special conditions:

(1) Within ninety (90) days of the issuance of the Permit, Permittee shall enter into the Monitoring Well System Construction and Maintenance Agreement approved by the District Board (the "Monitoring Well Agreement"). Permittee shall construct, operate, and maintain the New Monitoring Wells and the Existing Monitoring Well, as defined in the Monitoring Well Agreement, in accordance with the terms and provisions of the Monitoring Well Agreement. Any violation of the terms of the Monitoring Well Agreement shall constitute a violation of this Permit.

(2) The authorized annual withdrawal amount and the authorized maximum rate of withdrawal under this permit are hereby aggregated with the authorized annual withdrawal amount and the authorized maximum rate of withdrawal for the following designated wells: Well No. 58-55-5-0033 (Well No. 2); Well No. 58-55-4-0016 (Well No. 3); Well No. 58-55-4-0017 (Well No. 4); Well No. 58-55-4-0018 (Well No. 5); Well No. 58-55-4-0019 (Well No. 6); Well No. 58-55-4-0020 (Well No. 7); and Well No. 58-55-4-0021 (Well No. 8). Well No. 58-55-5-0032 and the designated wells are collectively referred to as the "Aggregated Wells."

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(3) Subject to the other terms of this Permit, Permittee is authorized to withdraw an aggregated annual withdrawal amount of up to 25,000 acre-feet per year from the Aggregated Wells with a maximum rate of withdrawal of 18,000 gallons per minute for the Aggregated Wells as follows:

(a) Phase I. Permittee may not withdraw water from any Aggregated Well until the date that Permittee conveys the Existing Monitoring Well, the New Monitoring Wells and the Monitoring Well Equipment to the District in accordance with the terms and provisions of the Monitoring Well Agreement (the "Phase II Date").

(b) Phase II. If Permittee has a binding contract to provide water to one or more End Users in one or more authorized places of use, then beginning on the Phase II Date, Permittee may withdraw an aggregated annual withdrawal amount from Well Nos. 7 and 8 equal to the lesser of: (i) the amount of water per year that Permittee has a binding contract to provide; or (ii) 8,000 acre-feet of water per year from the Aggregated Wells (the "Phase II Withdrawal Amount"). A maximum rate of withdrawal of 6,000 gallons per minute for Well Nos. 7 and 8 shall apply in this phase (the "Phase II Maximum Rate of Withdrawal"). "End User" shall be defined, consistent with the District Rules as the person or entity that makes beneficial use of the water withdrawn from a well, including, but not limited to, an agricultural user, industrial user, mining user, municipal user, or Retail Public Water Utility. End User does not include the retail customers of a retail public utility. For any agricultural commitments, LCRA shall be the End User.

(c) Phase III. Permittee may request that the aggregated annual withdrawal amount be increased to an amount not to exceed 15,000 acre-feet of water per year from Well Nos. 5, 6, 7 and 8 (the "Phase III Withdrawal Amount"), with a maximum rate of withdrawal of 10,000 gallons per minute for Well Nos. 5, 6, 7 and 8 (the "Phase III Maximum Rate of Withdrawal"), and the General Manager shall grant that request, if and when Permittee submits information to the District demonstrating that:

(i) At least three years have passed since the issuance of the Permit;

(ii) Permittee has withdrawn an aggregate amount of at least 8,000 acre-feet per year from a combination of one or more of the Aggregated Wells for two (2) consecutive twelve calendar month periods;

(iii) the Estimated DFC Year Water Level, as defined in the Monitoring Well Agreement, is less than the Desired Future Condition for the Simsboro Aquifer in effect when the Permittee submits the information to the General Manager; and

(iv) Permittee has a binding contract to provide the Phase III Withdrawal Amount that Permittee has requested to one or more End Users in one or more authorized places of use.

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(d) Phase IV. Permittee may request that the aggregated annual withdrawal amount be increased to an amount not to exceed 25,000 acre-feet per year from Well Nos. 1, 2, 3, 4, 5, 6, 7 and 8 (the "Phase IV Withdrawal Amount"), with a maximum rate of withdrawal of 18,000 gallons per minute for Well Nos. 1, 2, 3, 4, 5, 6, 7 and 8 (the "Phase IV Maximum Rate of Withdrawal"), and the General Manager shall grant that request, if and when Permittee submits information to the District demonstrating that:

(i) Permittee has withdrawn an aggregate amount of at least 15,000 acre-feet per year from a combination of one or more of the Aggregated Wells for three (3) consecutive twelve calendar months periods;

(ii) the Estimated DFC Year Water Level, as defined in the Monitoring Well Agreement, is less than the Desired Future Condition for the Simsboro Aquifer in effect when the Permittee submits the information to the General Manager; and

(iii) Permittee has a binding contract to provide the Phase IV Withdrawal Amount that Permittee has requested to one or more End Users in one or more authorized places of use.

(4) For purposes of this Operating Permit, each of the following terms has the following meanings:

(a) "Monitoring Well System" means the monitoring wells used to calculate the Estimated DFC Year Water Level, as defined in this Special Condition (4), and shall consist of the New Monitoring Wells, as defined in the Monitoring Well Agreement. Monitoring Well System may consist of any current or future District monitoring wells or third-party wells used for Desired Future Condition compliance district-wide, county-wide or for any applicable existing or future District management zone.

(b) "Annual Static Water Level" means the measured water level in each Monitoring Well in the Monitoring System that best represents the static water level in that Monitoring Well at the end of a calendar year. All water levels shall be determined using scientifically appropriate methodologies.

(c) "Average Annual Static Water Level" means the average of Annual Static Water Levels in all Monitoring Wells, as follows:

Average Annual Static Water Level = Sum of Annual Water Levels in Monitoring Wells / Number of Monitoring Wells

(d) "Annual Drawdown" in each Monitoring Well means subtracting the Annual Static Water Level for the Monitoring Well at the end of the calendar year from the Annual Static Water Level for that Monitoring Well at the end of the previous calendar year, as follows:

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Annual Drawdown = Annual Static Water Level for the Monitoring Well at the end of the previous calendar year - Annual Static Water Level for the Monitoring Well at the end of a current calendar year

(e) "Average Annual Drawdown" means the average of the Annual Drawdowns for all wells in the Monitoring Well System for which Annual Drawdowns were able to be calculated for that calendar year.

(f) "Rate of Change" means the Average Annual Drawdown during a calendar year divided by the Total Production in that calendar year, as follows:

Rate of Change = Average Annual Drawdown during one calendar year / Total Production from that calendar year

(g) "Total Production" means the actual reported withdrawals from the Simsboro Aquifer from permitted wells within the District in a calendar year plus the Estimated Simsboro Exempt Well Production for the same calendar year.

(h) "Estimated Simsboro Exempt Well Production" means 1,143.21 acre-feet per year in 2015, 1,143.21 acre-feet plus 15.14 acre-feet per year for each year after 2015, and 1,976.06 acre-feet per year in 2070. The General Manager may update the Estimated Simsboro Exempt Well Production if additional data allows for a more accurate accounting of exempt use estimates.

(i) "Average Rate of Change" means the average of the Rates of Change for each calendar year beginning in 2011 and ending the calendar year before Permittee submits the documentation described in Special Conditions (3)(c) or (d) of the Operating Permits, as follows:

Average Rate of Change = Sum of Rate of Change for past years beginning in 2011 / Number of past years

(j) "Estimated DFC Year Water Level" means the projected water level for the year identified in the then-current Desired Future Condition statement for the Simsboro Aquifer, calculated by subtracting the Estimated Future Drawdown from the Annual Static Water Level for the calendar year before Permittee submits the documentation described in Special Conditions (3)(c) or (d) of the Operating Permits, as follows:

Estimated DFC Year Water Level = Average Measured Water Level in prior year - Estimated Future Drawdown

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The Estimated DFC Year Water Level applies to the Permittee and the terms of this Permit. It does not apply to the District's determination of Desired Future Condition compliance district-wide, county-wide or for any applicable existing or future District management zone.

(k) "Estimated Future Drawdown" means the sum of the Estimated Annual Drawdowns for each year beginning in the year in which Permittee submits the documentation described in Special Conditions 3(c) or (d) of the Operating Permit and ending in year identified in the then-current Desired Future Condition for the Simsboro Aquifer.

(l) "Estimated Annual Drawdown" means the Average Rate of Change times the Estimated Existing Well Production plus the Current Phase Withdrawal and the Next Phase Withdrawal for a calendar year, as follows:

Estimated Annual Drawdown = (Estimated Existing Well Production + Current Phase Withdrawal + Next Phase Withdrawal) x (Average Rate of Change)

(m) "Estimated Existing Well Production" is based on the Texas Water Development Board's Modeled Available Groundwater for the District and means:

- (i) 8,508 acre-feet per year from January 1, 2010 to December 31, 2019;
- (ii) 14,253 acre-feet per year from January 1, 2020 to December 31, 2029;
- (iii) 15,673 acre-feet per year from January 1, 2030 to December 31, 2039;
- (iv) 16,311 acre-feet per year from January 1, 2040 to December 31, 2049;
- (v) 17,334 acre-feet per year from January 1, 2050 to December 31, 2059;
- (vi) 16,279 acre-feet per year from January 1, 2060 to December 31, 2069.

(n) "Current Phase Authorized Withdrawal" means the amount of groundwater authorized to be withdrawn in the current phase under the Operating Permit.

(o) "Next Phase Authorized Withdrawal" means the additional amount that Permittee has requested it be authorized to withdraw in the next phase under the Operating Permit.

(5) The General Manager may approve a weighted average methodology for calculating the Average Water Level or Average Rate of Change if the new methodology is supported by data gathered by the Monitoring Well System.

(6) If Permittee submits information that Permittee claims demonstrates that the conditions for increasing groundwater withdrawal to the Phase III Withdrawal Amount or the

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Phase IV Withdrawal Amount have been met, then, within 60 days of receipt of the information, the General Manager will notify Permittee, in writing, if the General Manager has determined that the required conditions have been met or if the General Manager disputes that the desired conditions have been met. If the General Manager disputes that the required conditions have been met, the General Manager shall supply the information and analysis supporting his determination with his written notice. If the General Manager and the Permittee are unable to agree within 60 days of receipt of the information provided by the General Manager disputing that the required conditions have been met, then the General Manager and Permittee will mutually agree upon a registered professional engineer or a certified groundwater professional with expertise in hydrology, hydraulics and hydrogeology to mediate the dispute. If the General Manager and Permittee are unable to resolve the dispute through mediation, Permittee may request a contested case hearing as provided in the District Rules and the Texas Water Code to resolve the dispute. Permittee and the General Manager shall be the sole parties to the contested case hearing.

(7) If the Permittee files an application to renew the Permit, then the General Manager and Permittee shall evaluate the methodology for determining the Estimated DFC Year Water Level described in Special Conditions (3) and (4) based on data collected prior to the date of the application to renew and jointly propose revisions to the Permit based on that data. If the General Manager and the Permittee are unable to agree to joint proposed revisions within sixty (60) days of the date that the application to renew is filed, then the General Manager and Permittee will mutually agree upon a registered professional engineer or a certified groundwater professional with expertise in hydrology, hydraulics and hydrogeology to mediate the dispute. If the General Manager and Permittee are unable to resolve the dispute through mediation, then the General Manager may propose revisions to the Permit as provided in District Rules.

(8) Beginning no later than the fifth (5th) anniversary of the date of the Phase II Date, Permittee shall have a binding contract or contracts to provide water to one or more End Users in one or more authorized places of use. If Permittee does not have any binding contracts before the fifth (5th) anniversary of the Phase II Date, the permit expires on the 5th anniversary of the Phase II Date.

(9) Before providing water withdrawn from the Aggregated Wells to any End User, Permittee shall submit to the District: (a) each End User's water conservation plan and drought contingency plan, if the Texas Water Code or Texas Commission on Environmental Quality rules require the End User to prepare a water conservation plan and drought contingency plan; or (b) if the Texas Water Code or Texas Commission on Environmental Quality rules do not require the End User to prepare a water conservation plan and drought contingency plan, a certification from the End User that the End User agrees to avoid waste and achieve water conservation. Any End User water conservation plans and drought contingency plans that are submitted must comply with the relevant provisions of the Texas Water Code and rules of the Texas Commission on Environmental Quality or successor agency.

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(10) This Permit is not subject to the District's rules on time limits for the completion of a permitted well or the operation of a permitted well.

(11) This permit is issued subject to any future production limits adopted by the District under the District Rules.

(12) Production Fees charged to Permittee under this Permit shall be based upon amounts authorized to be produced under this Permit at the time that Production Fees are due.

(13) Permittee is subject to the District Rules that require that all wells be completed within 100 feet of the location identified on the application pursuant to which this permit has been issued; provided that the well location complies with the applicable well spacing requirements under the District Rule 8.2.B.

(14) Prior to operation of any of the Aggregated Wells, Permittee shall complete a 36-hour pump test that complies with District Rule 5.1.B(5) and report the results of the test to the District.

(a) Permittee shall produce groundwater from the well at an instantaneous rate of withdrawal at the Maximum Rate of Withdrawal for each phase in Special Condition No. 3 during the 36-hour pump test for each well.

(b) Permittee shall provide the District with not less than 75 days' prior notice of the date the 36-hour pump test will begin.

(c) Permittee shall pay all costs of the 36-hour pump test.

(d) Within ninety (90) days of the completion of the 36-hour pump test, Permittee shall provide the data gathered at any of the Aggregated Wells tested during the pump test to the General Manager.

(e) The General Manager will review the results of the 36-hour pump test to determine if the permitted maximum rate of withdrawal results in any adverse impacts to groundwater or the Simsboro Aquifer. If the pump test results indicate aquifer parameters that result in unanticipated impacts on water levels in nearby wells that are materially different than the model predictions, then the General Manager may reduce the authorized maximum rate of withdrawal under this permit. The General Manager will mail notice of his decision to reduce the maximum rate of withdrawal or not to reduce the maximum rate of withdrawal to Permittee no later than the 90th day after receipt of the information described in subsection (d).

(f) Permittee may appeal the General Manager's decision under subsection (e) to the Board under the District Rules.

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(15) This permit is issued subject to the General Manager’s final approval of the total depth of the well, the depth of the screened interval, and the pump size of the completed well. Prior to operation of the well, Permittee must provide the General Manager with the design specifications, including the total depth of the well, the depth of the screened interval, and the pump size, for the completed well within thirty (30) days of completion of the well. The General Manager may administratively approve the design specifications so long as the specifications are in accordance with those provided in the permit application without notice or a hearing if the design amendments do not trigger notice or a hearing under District Rules 7.2 or 7.3.

(16) If the District gives written notice to Permittee that the District has received an application for an Operating Permit for a well whose location would violate District spacing requirements because of that well’s distance from the Permitted Well, the Permittee shall have an opportunity to request a contested case hearing on that application in accordance with the District Rules. If the Permittee does not object to the location of the proposed well, Permittee must provide the District with a signed and notarized waiver stating that Permittee does not object to the location of the proposed well within thirty (30) days of the date of such notice. If no contested case hearing request or waiver is received, the District may take action to authorize an application for an Operating Permit for a well whose location would violate District spacing requirements because of that well’s distance from the Permitted Well.

Term:

(1) This Operating Permit shall be effective for a period of five (5) years from the date the permit is approved, unless terminated, amended, renewed, or revoked as provided in the District Rules.

Acceptance of this permit by the Permittee constitutes acknowledgment and agreement to comply with all of the terms, provisions, conditions, and restrictions stated in the permit and the rules of the Lost Pines Groundwater Conservation District.

ISSUED:

President, Lost Pines Groundwater
Conservation District Board of Directors

Date:_____

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**LOST PINES GROUNDWATER CONSERVATION DISTRICT
TRANSPORT PERMIT**

District Well Number: 58-55-5-0032

Permit Approved: _____

Permittee:

Lower Colorado River Authority
P.O. Box 220
Austin, Texas 78767-0220

Location of Well: Approximately eight (8) miles northeast of the City of Bastrop in Bastrop County (30.202285/-97.207107), Well No. 1

Permittee is authorized to transfer water produced from Well No. 58-55-5-0032 outside the boundaries of the Lost Pines Groundwater Conservation District under the following conditions:

Maximum annual transfer amount: An aggregated annual amount of not more than 25,000 acre-feet per year from Well No. 58-55-5-0032 (Well No. 1); Well No. 58-55-5-0033 (Well No. 2); Well No. 58-55-4-0016 (Well No. 3); Well No. 58-55-4-0017 (Well No. 4); Well No. 58-55-4-0018 (Well No. 5); Well No. 58-55-4-0019 (Well No. 6); Well No. 58-55-4-0020 (Well No. 7); and Well No. 58-55-4-0021 (Well No. 8), subject to the terms and conditions of the Operating Permits for those wells.

Type of water use: Municipal, Industrial, Recreational, Irrigation, and Agricultural

Place of water use: LCRA Water Service Area

Standard Permit provisions:

This Transport Permit is granted subject to the District Rules, the orders of the Board, the District Management Plan, and Chapter 36 of the Texas Water Code. In addition to any well-specific permit provisions and special conditions included in this Transport Permit, this Transport Permit includes the following provision:

- (1) Water withdrawn and transported under the permit must be put to beneficial use at all times, and operation of the permitted well in a wasteful manner is prohibited.

Special Permit provisions:

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(1) Water withdrawn and transported under the permit must be put to beneficial use at all times, and may not be transported pursuant to a bed and banks permit nor discharged to any surface water, as defined by Section 11.021 of the Texas Water Code, as amended (e.g., a stream, river, or lake).

Term:

(1) The term of this Transport Permit shall be three (3) years if construction of a conveyance system has not been initiated prior to the issuance of the permit.

(2) The term of this Transport Permit shall be thirty (30) years if construction of a conveyance system has been initiated prior to the issuance of the permit.

(3) A three-year term under subsection (1) shall automatically be extended to a 30-year term under subsection (2) if construction of a conveyance system is begun before the expiration of the initial three-year term.

Acceptance of this permit by the Permittee constitutes acknowledgment and agreement to comply with all of the terms, provisions, conditions, and restrictions stated in the permit and the rules of the Lost Pines Groundwater Conservation District.

ISSUED:

President, Lost Pines Groundwater District
Board of Directors

Date: _____