

LOST PINES GROUNDWATER CONSERVATION DISTRICT OPERATING PERMIT

District Well Number: 5933122

Permit Approved: December 21, 2015

Permittee:

Forestar (USA) Real Estate Group, Inc.
6300 Bee Caves Rd., Bldg. 2, Suite 500
Austin, Texas 78746-5149

Location of Well: approximately 4.5 miles northeast of the City of Lexington and 1.5 miles east of US Highway 77 off County Road 411 in Lee County (W096°58'6" N30°28'22"), Well #1

Permittee is authorized to operate Well No. 5933122 within the Lost Pines Groundwater Conservation District under the following conditions:

Authorized annual withdrawal: See Special conditions

Maximum rate of withdrawal: 3,500 gallons per minute

Aquifer unit: Simsboro

Type of water use: Municipal

Place of water use: Bastrop, Hays, Lee, Travis and Williamson Counties

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(2) Water withdrawn under the Permit must be put to beneficial use at all times, and operation of Well No. 5933122 (the "Permitted Well") in a wasteful manner is prohibited.

(3) Water produced from the Permitted 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 Permitted Well site must be accessible to District representatives for inspection, and Permittee agrees to cooperate fully in any reasonable inspection of the Permitted Well and Permitted 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 conditions 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 under this Permit is hereby aggregated with the authorized annual withdrawal amount for the following designated wells: Well No. 5933409 (Well #2); Well No. 5933410 (Well #3); Well No. 5933411 (Well #4); Well No. 5933412 (Well #5); Well No. 5933217 (Well #6); Well No. 5933123 (Well #7); Well No. 5933413 (Well #8); Well No. 5933504 (Well #9); and Well No. 5933505 (Well #10). Well No. 5933122 and the designated wells are collectively referred to as the "Aggregated Wells".

(3) Subject to the other terms of this Permit, Permittee is authorized to withdraw an aggregated annual withdrawal amount of up to 28,500 acre-feet per year from the Aggregated Wells as follows:

(a) Phase I. Permittee may not withdraw water from any Aggregated Well until the date that Permittee conveys the New Monitoring Wells and 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 at least 12,000 acre-feet of water per year 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 of not more than 12,000 acre-feet of water per year from the Aggregated Wells.

(c) Phase III. Permittee may withdraw an aggregated annual withdrawal amount of not more than 20,000 acre-feet of water per year from the Aggregated Wells if and when Permittee submits information to the District demonstrating that:

- (i) At least five years have passed since the issuance of the Permit;
- (ii) Permittee has withdrawn an aggregate amount of at least 6,000 acre-feet per year from a combination of one or more of the Aggregated Wells for three (3) consecutive twelve calendar month periods;
- (iii) the Estimated DFC Year Water Level, as defined in Special Condition (4), 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 at least 20,000 acre-feet of water per year to one or more End Users in one or more authorized places of use.

(d) Phase IV. Permittee may withdraw an aggregated annual withdrawal amount of not more than 28,500 acre-feet of water per year from the Aggregated Wells 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 Special Condition (4), 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 at least 28,500 acre-feet of water per year 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 following: (i) the New Monitoring Wells, as defined in the Monitoring Well Agreement, (ii) other existing wells currently monitored by the District, and (iii) other third-party wells that the District may obtain authorization to monitor and include in the System ("Other Monitoring Wells"). Other Monitoring Wells shall only be added to the Monitoring Well System if the District provides written notice to Permittee of the addition of an Other Monitoring Well to the Monitoring Well System and Permittee does not object to the inclusion of that Other Monitoring Well in the Monitoring Well System within 30 days of the date of the notice. If Permittee timely objects to the inclusion of an Other Monitoring Well in the Monitoring Well System, 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 the inclusion of the Other Monitoring Well to the Board of Directors for action.

(b) "Annual Water Level" means the measured or interpolated 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 Water Level" means the average of Annual Water Levels in all Monitoring Wells, as follows:

$$\frac{\text{Sum of Annual Water Levels in Monitoring Wells}}{\text{Number of Monitoring Wells}} = \text{Average Measured Water Level}$$

(d) "Annual Drawdown" means the change in the Average Measured Water Level between January 1 of a calendar year and January 1 of the previous calendar year, calculated as follows:

Average Water Level – prior year Annual Water Level = Annual Drawdown

(e) “Rate of Change” means the Annual Drawdown on January 1 of a calendar year divided by the Total Production in the previous calendar year/

(f) “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.

(g) “Estimated 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.

(h) “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:

$$\frac{\text{Sum of Rate of Change for past years beginning in 2011}}{\text{Number of past years}} = \text{Average Rate of Change}$$

(i) “Estimated DFC Year Water Level” means the projected water level for the year identified in the then-current Desired Future Condition for the Simsboro Aquifer, calculated by subtracting the Estimated Future Drawdown from the Average 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:

$$\text{Average Water Level in prior year} - \text{Estimated Future Drawdown} = \text{Estimated DFC Year Water Level}$$

(j) “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.

(k) “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:

$$\text{Estimated Existing Well Production} + \text{Current Phase Withdrawal} + \text{Next Phase Withdrawal} \\ \times \text{Average Rate of Change} = \text{Estimated Annual Drawdown}$$

- (l) "Estimated Existing Well Production" means:
 - (i) 20,298 acre-feet per year from January 1, 2010 to December 31, 2019;
 - (ii) 28,184 acre-feet per year from January 1, 2020 to December 31, 2029;
 - (iii) 31,240 acre-feet per year from January 1, 2030 to December 31, 2039;
 - (iv) 34,295 acre-feet per year from January 1, 2040 to December 31, 2049;
 - (v) 37,361 acre-feet per year in from January 1, 2050 to December 31, 2059;
 - (vi) 40,406 acre-feet per year from January 1, 2060 to December 31, 2069.

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

(n) "Next Phase Authorized Withdrawal" means the additional amount that would be authorized to be withdrawn 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 Phase II or Phase III amounts 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 data 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), (4) and (5) 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 Rule 7.2.

(8) Beginning no later than the fifth (5th) anniversary of the date of issuance of the Permit, Permittee shall have a binding contract or contracts to provide at least 12,000 acre-feet of water per year to one or more End Users in one or more authorized places of use. If Permittee does not have such a contract or contracts, then the aggregated annual withdrawal amount in this Permit shall be automatically reduced to the amount for which Permittee has a binding contract or contracts, and the General Manager is authorized to issue an amendment to this Permit reflecting the reduced amount.

(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.

(10) This Permit is issued subject to any future production limits adopted by the District under the District Rules that apply within the District or within the applicable management zone.

(11) 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.

(12) Production Fees charge 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.

Term:

(1) The District may terminate this Permit 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, and Permittee fails to: (a) 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; (b) request a variance from the District spacing requirements in the manner provided in the District Rules within thirty (30) days of the date of such notice; or (c) complete the Permitted Well and file the well log required by Texas Occupations Code Section 1901.251 with the District within 180 days of the date of such notice.

(2) This Operating Permit shall be effective for a period of five (5) years from the date the Permit is approved, unless terminated, amended 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:

Michael H. Talbot

President, Lost Pines Groundwater
Conservation District Board of Directors

Date: 1-21-16

LOST PINES GROUNDWATER CONSERVATION DISTRICT TRANSPORT PERMIT

District Well Number: 5933122

Permit Approved: December 31, 2015

Permittee:

Forestar (USA) Real Estate Group, Inc.
6300 Bee Caves Rd., Bldg. 2, Suite 500
Austin, Texas 78746-5149

Location of Well: approximately 4.5 miles northeast of the City of Lexington and 1.5 miles east of US Highway 77 off County Road 411 in Lee County (W096°58'6" N30°28'22"), Well #1

Permittee is authorized to transfer water produced from Well No. 5933122 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 28,500 acre-feet per year from Well No. 5933122 (Well #1); Well No. 5933409 (Well #2); Well No. 5933410 (Well #3); Well No. 5933411 (Well #4); Well No. 5933412 (Well #5); Well No. 5933217 (Well #6); Well No. 5933123 (Well #7); Well No. 5933413 (Well #8); Well No. 5933504 (Well #9); and Well No. 5933505 (Well #10), subject to the terms and conditions of the Operating Permits for those wells.

Type of water use: Municipal

Place of water use: Bastrop, Hays, Lee, Travis and Williamson Counties

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

Term:

- (1) The term of this Transport Permit shall be three 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:

Michael H. Talbot

President, Lost Pines Groundwater District
Board of Directors

Date: 1-21-16