

**MONTGOMERY COUNTY  
MUNICIPAL UTILITY DISTRICT NO. 8**

c/o Johnson Radcliffe Petrov & Bobbitt PLLC  
1001 McKinney, Suite 1000  
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**MONTGOMERY COUNTY  
MUNICIPAL UTILITY DISTRICT NO. 9**

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September 18, 2009

Lone Star Groundwater Conservation District  
Attention: Board of Directors  
207 W Phillips St, Suite 300  
Conroe, Texas 77301

RE: Comments of Montgomery County MUDs 8&9 Regarding Lone Star Groundwater Conservation District's "District Regulatory Plan Phase II(B)"

Dear Lone Star GCD Board Members:

Thank you for the opportunity to comment on the Lone Star Groundwater Conservation District's "District Regulatory Plan Phase II(B)." These comments are submitted on behalf of Montgomery County Municipal Utility Districts Nos. 8 & 9 ("MUDs 8&9"), for inclusion in the official record for Phase II(B).<sup>1</sup> MUDs 8&9 request an active dialog with Lone Star regarding these comments prior to final adoption of Phase II(B) and any related district regulations.

MUDs 8&9 were created as political subdivisions of the state by the Texas Water Rights Commission on January 12, 1972 and August 30, 1971, respectively, and are governed by elected boards of directors. The districts supply water to communities in and around Walden on Lake Conroe. This area, including an expanse of the Lake Conroe shoreline, is physically remote from the City of Conroe, as well as the other larger groundwater users within Montgomery County, which has prompted MUDs 8&9 to investigate options for an alternative water supply.

The sole source of water supply for MUDs 8&9 has been fresh groundwater pumped from the Gulf Coast Aquifer. The groundwater supply is critical to the residents and businesses located within the MUDs 8&9 service areas, and the districts greatly appreciate Lone Star's efforts to protect and extend the groundwater resource.

Area water supply challenges will require the cooperation of all Montgomery County groundwater users with reasonable goals and rules for groundwater use set by the Lone Star district. However, MUDs 8&9 must object that some parts of Phase II(B) are not reasonable, and that Lone Star's proposed regulation of the process by which groundwater users will develop alternative water supplies goes beyond Lone Star's authority. MUDs 8&9 acknowledge Lone Star's charge to manage groundwater withdrawals. However, Lone Star's powers do not extend to managing and even enforcing against the non-groundwater related decisions of other political subdivisions. Using the term "groundwater reduction plan" in Phase II(B) does not mask what really is an alternative water supply development plan that is not within a groundwater district's purview or particular expertise.

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<sup>1</sup> Unless otherwise noted, references in these comments to "Phase II" are to the version of Lone Star Groundwater Conservation District's "District Regulatory Plan Phase II (B)" that was made available publicly on September 8, 2009.

Phase II(B) does not allow for reasonable methods to evaluate, and therefore to provide for, alternative water supplies. Specifically, MUDs 8&9 must be ensured the opportunity to continue pursuing the feasibility of groundwater reuse without penalty under Phase II(B).

We specifically ask the Lone Star Board of Directors to demand, prior to adopting regulations that may prematurely require a significant expense from the Montgomery County residents, that you be provided information as to what degree, if any, the results of the ongoing U. S. Geological Survey aquifer study will influence the pumping reduction target. If the U. S. Geological Survey results of that study are expected to justify any adjustment in the reduction target, then a strong argument could be made that Lone Star should delay requiring any LVGU from committing planning and construction resources on a conversion project until the actual, final target has been established. We appreciate that the target may move again with the benefit of experience under Phase II(B), but Lone Star's timetable should accommodate the best data that can be made available now.

MUDs 8&9's additional comments below are organized into these four categories: (1) that Lone Star must allow more flexibility in the timetable between now and the deadline for partial conversion to alternative water supplies; (2) that critical elements of Phase II(B) must be clarified; (3) that Phase II(B) unnecessarily limits water conservation as part of the solution to Montgomery County's water supply challenges; and (4) that provisions under which Lone Star presumes to manage and enforce against the decisions of other political subdivisions with regard to water supplies that are alternative to withdrawing groundwater are inappropriate and outside the district's authority.

Lone Star's guidance and assistance regarding alternative water supply is welcome in a cooperative effort to meet Montgomery County's water supply challenges. In this regard, many of the Phase II(B) provisions should be utilized as a resource rather than a regulation.

## **1. More Flexibility in Timetable.**

### General Comments.

If Phase II(B) is adopted as proposed, groundwater users will need to file a binding declaration of intent by January 1, 2010, and a detailed and enforceable groundwater reduction plan by July 1, 2010. These internal deadlines for meeting the conversion obligation were only recently made public, which will not provide a reasonable amount of time for groundwater users in Montgomery County to investigate options with their consultants and provide reasonable opportunities to their constituents to approve or disapprove feasible alternatives to meet these requirements.

The Phase II(B) deadlines will *preclude* due diligence about alternative water supply options at most favorable cost and *predetermine* the sole alternative water supply for Montgomery County. Specifically for MUDs 8&9, the deadlines also could force the districts to sacrifice significant investments already made toward an independent alternative water supply project.

Earlier in 2009, the Lone Star Board of Directors resolved that MUDs 8&9 should fully evaluate the prospects of constructing a water reuse project. Lone Star's Resolution 09-002 further states that:

“The Board of Directors resolves to encourage and support Montgomery County Municipal Utility District No. 8 and Montgomery County Municipal Utility District No. 9 in their joint efforts (i) to evaluate the economic options of a Reuse Project, (ii) to fund costs associated with such evaluation, including, but not limited to any legal, financial and engineering costs to provide an estimate of capital and operating costs for the Reuse Project, (iii) to provide a final economic review for a Reuse Project, and (iv) after presentation of such final economic review to the public, to contract for, finance and construct a Reuse Project that may be found to be cost-effective and beneficial to the residents and property owners in Montgomery County and Walden on Lake Conroe area.”

Relying on Lone Star's stated support, MUDs 8&9 have invested in planning a water reuse project to account groundwater returns discharged to state waters in Lake Conroe and to divert a like amount of water after deducting all carriage losses and protecting the storage capacity of the reservoir. The water diverted would be treated at a membrane-based micro-filtration facility, constructed within MUDs 8&9's service area.

On September 10, 2009, engineering consultants for MUDs 8&9 presented their findings that “no fatal flaws were identified for the proposed water credit project.” With that recommendation, and in an effort to as quickly as possible move toward meeting Lone Star's currently proposed conversion date, the respective Boards of Directors of MUDs 8&9 resolved to authorize their board presidents to direct submittal of the necessary application to the Texas Commission on Environmental Quality (“TCEQ”). MUDs 8&9 would pursue that application diligently while continuing to work actively with San Jacinto River Authority representatives towards achieving their and the City of Houston's support. The districts have a high expectation of success in that regard, particularly considering that San Jacinto River Authority and the City of Houston have the same agreement for accounting and using amounts of groundwater returns discharged to Lake Houston and that San Jacinto River Authority also previously resolved in favor of MUDs 8&9 reusing their groundwater supplies.

Nevertheless, MUDs 8&9 cannot control the TCEQ's processes for reviewing and approving an application, nor the time required to obtain additional support for the project. Certain steps toward designing, financing, and constructing the physical facilities to implement a reuse project should, with prudence, proceed *after* the TCEQ's permitting action becomes final.

Unless Lone Star adds a provision that provides adequate time for the state administrative process, Phase II(B) could put *Lone Star* in the position of denying MUDs 8&9 the opportunity to pursue their legal rights to reuse groundwater under Water Code Chapter 11 *before* the TCEQ assesses the districts' application. It is imperative that Phase II(B) be

modified to reflect the limitations that the TCEQ permitting process imposes. Not providing this flexibility would be unreasonable and inconsistent with Lone Star's previous resolution of support. It is in the best interests of the county as a whole that the most cost-effective alternatives for new infrastructure be encouraged for individual water systems.

### Specific Comments.

1.1 One of the rationales for local control of groundwater management decisions is the often-used phrase "one size does not fit all." One size absolutely does not fit all when it comes to meeting a conversion obligation in Montgomery County. Lone Star's Groundwater Management Plan states that:

"[The district] shall consider the time necessary for water users to secure alternate sources of water, including surface water, by economically feasible means. This consideration may necessitate that the District authorize total production to exceed availability, either within a particular management zone or in the District as a whole, for a period of time to be determined by the district until economically feasible alternative water sources may reasonably be expected to be available to such groundwater users, and nothing in this plan shall be construed to limit the ability of the district to utilize that regulatory flexibility."<sup>2</sup>

The District Regulatory Plan: Phase I is consistent with this expectation as it contemplates that Lone Star would "consider the time frames by which groundwater users could reasonably secure alternate sources of water by economically feasible means when making its proportional adjustments." Instead of doing so, however, Lone Star has defaulted to a uniform conversion obligation date without an opportunity for large-volume groundwater users to come forward to show good faith effort and a reasonable march forward to securing alternative supplies. Phase II(B) should be modified to create this opportunity.

1.2 Phase II(B) also should be modified to expressly allow for pursuing state administrative processes that are a prerequisite for some alternative water supplies. Additional flexibility in the Phase II(B) deadlines also should be provided by postponing internal deadlines, by requiring far less detail by certain interim points, and by allowing amendments of the declaration of intent and groundwater reduction plan without penalty.<sup>3</sup>

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<sup>2</sup> Groundwater Management Plan, as Re-Adopted October 14, 2008 (Page 18). The management plan continues that: "The District will ensure that its planning efforts, operations, and activities will be consistent with the provisions of this plan." (Page 20).

<sup>3</sup> Modifications are required in all of the following: Page 6, "DRP Phase II(B) Requirements," Item 7; Pages 6-7, "Groundwater Reduction Plans;" Page 9, "Regulatory Milestones;" Page 10, "Construction Start Date;" and Page 10, "Enforcement." Conforming modifications may be necessary in other sections of Phase II(B), as well.

1.3 Phase II(B) should be modified so that declarations of intent are not binding and withdrawal from a joint project is not effectively precluded.<sup>4</sup> If this change is not made, then Lone Star should clearly identify the process by which it proposes to determine whether or not the withdrawal of one entity after a declaration would affect a group plan. Lone Star's explanation should include identifying procedural safeguards for affected groundwater users.

1.4 If it remains Lone Star's intent to effectively preclude withdrawal from a group groundwater reduction plan, then provisions that hold all participants responsible for meeting the requirements of Phase II(B) also should be modified.

1.5 Phase II(B) should be modified to expressly contemplate that some large-volume groundwater users may have more than one viable option for alternative water supply as of the deadlines for filing a declaration of intent and a groundwater reduction plan. This is the case for MUDs 8&9 as more time is required to conduct an alternatives assessment that would include participation in the San Jacinto River Authority WRAP. MUDS 8&9 also authorized its engineering consultants to commence this assessment, as of the districts' September 10 joint board meeting at which a proof of concept report was accepted. In such instances, it should be acceptable for groundwater users to identify all of their options. If Lone Star can show that the information is necessary to its groundwater mission, users also could describe their planned processes for choosing between the options still available.<sup>5</sup>

## 2. Clarifications:

### General Comments.

Certain key provisions of Phase II(B) are unclear and/or have been recently modified. This is particularly true with regard to how large-volume groundwater users in Montgomery County can meet increased water demands with groundwater. Prior information from Lone Star regarding the conversion obligation has left room for misunderstandings regarding whether the 70/30 ratio of groundwater use and alternative water supplies would apply as their demands for water increased beyond 2014 levels. Even this one element of Phase II is so fundamental that additional time must be afforded *after* the provisions are clarified and established and before imposed deadlines.

A minimum of six months should be afforded between the time that a clarified Phase II(B) becomes effective and any deadline for filing a declaration of intent. A minimum of one year should be afforded between the time that Phase II(B) becomes effective and any deadline for filing a groundwater reduction plan. This time should be afforded to the LVGU Montgomery County residents and property owners. Considering the proposed surface water project under a San Jacinto River Authority Groundwater Reduction Plan will cost in excess of

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<sup>4</sup> The specific modification contemplated is striking the last two sentences of Item 7, of Page 6, "DRP Phase II(B) Requirements."

<sup>5</sup> The required modifications would be at least to Page 6, "DRP Phase II(B) Requirements," Item 7, and Page 6, "Groundwater Reduction Plans."

\$2,000,000,000 (Two Billion Dollars), the Montgomery County residents and property owners deserve this modest additional time to evaluate their options.

Specific Comments.

2.1 Phase II(B) should be clarified with regard to meeting increased future demands with groundwater. Within the limitations of what reasonably can be known about the physical availability of groundwater within Montgomery County, large-volume groundwater users deserve absolute clarity regarding how Lone Star proposes to limit their access to groundwater supplies to meet future growth in demand. This clarification is a prerequisite to any user's ability to evaluate alternative water supplies.

Page 5, "DRP Phase II(B) Requirements," Item 2, states that:

"For any growth in water demand experienced by an LVGU after January 1, 2015, such increased demand must be met using a source or sources of water supply other than groundwater unless:

- (A) the LVGU did in fact timely meet or exceed its Conversion Obligation; and
- (B) the LVGU's overall groundwater use, when averaged over the planning period of 2015-2045, complies with the Conversion Obligation."

This provision is stated in the negative and also is convoluted with the following definitional placeholders:

"Total Qualifying Demand" is defined in Phase II(B) to mean a user's "total annual water demand for calendar year 2014." Total Qualifying Demand then is a static number. For purposes of understanding Item 2, a static number is substituted below-- 1000 acre-feet.

"Conversion Obligation" is defined in Phase II(B) as the requirement that each user convert "not less than 30 percent of its Total Qualifying Demand to a non-groundwater source." Thirty percent of 1000 acre-feet is 300 acre-feet.

What the September 9, 2009, version of Phase II(B) actually *says* is that large-volume groundwater users can use groundwater for any growth in water demand experienced after January 1, 2015 if:

- (A) the user did in fact meet or exceed converting 300 acre-feet of annual demand to a non-groundwater source; and
- (B) the user's overall groundwater use, when averaged over the planning period of 2015-2045, complies with converting 300 acre-feet of annual demand to a non-groundwater source.

This literal reading of Item 2 is included in our comments only to demonstrate that Phase II(B) must, indeed, be clarified. If Total Qualifying Demand meant each preceding year's annual water demand, rather than a static number based on 2014 demand, a user still could increase its groundwater usage over time, so long as it maintained a 70/30 ratio of groundwater use to alternative supply. An expectation of this scenario is one that some information from Lone Star, itself, furthered over time.<sup>6</sup> What Phase II(B) does NOT at all say is that 70% of 2014 total annual demand becomes a perpetual cap on groundwater withdrawals that carries forward into future years, average or otherwise, or that meeting future growth with groundwater is disallowed. Not saying this implies that Phase II(B) leaves room for increased groundwater use. *If* it is Lone Star's intent that 70% of year-2014 demands become a user's maximum annual withdrawal amount for groundwater, averaged or otherwise over time, Phase II(B) should say so directly and clearly.

2.2 Also *if* it is the case that Lone Star no longer proposes, or never has intended to propose, to allow post-2015 water demand increases to be met with some groundwater, all large-volume groundwater users should be afforded additional time to evaluate and reevaluate their options in light of a clear statement to that effect.

2.3 "Alternative Water Supply" is defined too narrowly within Phase II(B) and the term "groundwater" is used throughout without distinguishing impaired or brackish groundwater supplies. These provisions should be modified such that brackish groundwater, and other groundwater sources that do not diminish area supplies could be considered an acceptable alternative water supply.<sup>7</sup>

2.4 Phase II(B) variously refers to water reuse and to reclaimed water. These terms should be conformed and clarified to include both indirect and direct reuse.<sup>8</sup>

2.5 The early conversion incentive trigger is based on "completing a project." That trigger is unnecessarily limiting, and should be revised to specify that any large-volume groundwater user that produces or uses alternative water supplies prior to the deadline for conversion is eligible for the described incentive.<sup>9</sup>

2.6 The definition of "Aquifer Sustainable Yield" should be reconciled more closely with prior explanations of how 64,000 acre-feet has been derived as a ratio of annual recharge to the area of the District in acres.

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<sup>6</sup> Even the District Regulatory Plan: Phase II(A) states *both* that "the District will reduce the groundwater production authorized under its permits issued by the District to no more than 70 percent of the user's total demand *beginning on January 1, 2015*" and that users should assume that increased demands will be met with alternative supplies *for purposes of the WRAP*. (Emphasis added).

<sup>7</sup> Modifications would include those to Page 11, "Definitions, Alternative Water Supply."

<sup>8</sup> Modifications would include those to Page 7, "Projected Water Demand," Item 2, and Page 10, "Reclaimed Water Early Conversion Incentive,"

<sup>9</sup> Page 10, "Reclaimed Water Early Conversion Incentive"

2.7 The definition of “Safe Harbor GRP” is not clear with regard to whether “new” LVGU means new *to* the Safe Harbor.<sup>10</sup> Under the framework of Phase II(B) as proposed, this definition should be clear regarding the responsibility of a Safe Harbor GRP.

2.8 Phase II(B) states on Page 4 that Lone Star has determined to maintain a county-wide management zone regulatory approach. Legislation was pursued in 2003, however, specifically to allow Lone Star to adopt different rules for different subdivisions of an aquifer or different areas if the district finds that conditions in or use of the aquifer differs substantially. Phase II(B) does not adequately describe the basis for continuing to choose a single management zone. The decision should not be driven *by* any particular strategy for developing alternative water supply. If aquifer conditions justify different management zones, then it should not be any particular strategy for alternative water supply development that drives a contrary approach. MUDs 8&9 request more clarification on the record regarding Lone Star’s decision regarding a single management zone.

### 3. Conservation.

#### Specific Comments.

3.1 If Phase II(B) proposes that 70% of year-2015 demand becomes a maximum withdrawal amount in future years, then MUDs 8&9 question why water conservation is addressed at all on Page 6, “DRP Phase II(B) Requirements,” Item 6. Under that scenario, any reduction in demand, as well as any alternative supply, should be in the user’s favor. MUDs 8&9 have taken water conservation options very seriously and feel the Phase II(B) needs to support such efforts.

3.2 Phase II(B) should be modified under any scenario so that large-volume groundwater users are benefited, specifically with regard to their conversion obligation, by programs they undertake to encourage water savings that are *quantifiable*, whether or not those savings are metered *by* the water supplier or, indeed, metered at all. There could be a number of examples, including but not limited to programs for providing or encouraging low-flow toilet and shower head installations, rainwater harvesting, or raw water for lawn-watering. A theory of such efforts is that a water provider can consider *the expense* of an active water conservation program by comparing it to the cost to purchase or otherwise provide that amount of *supply*.<sup>11</sup>

Unless such programs are allowed and/or encouraged, without direct metering, implementation of reuse as alternative water supply would make some of these well-established water conservation measures could actually be detrimental to reuse projects by reducing the amount of return flows. That result would be contrary to provisions of Phase

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<sup>10</sup> Page 11, “Definitions” defines “Safe Harbor GRP.”

<sup>11</sup> Modifications would be to Page 6, “DRP Phase II(B) Requirements,” Item 6.

II(B) that require water reuse assessments and grant early conversion incentives, and also contrary to the critical goal of conserving water in Montgomery County.

**4. Groundwater District Regulation of Alternative Water Supply Decisions is Inappropriate and Unauthorized:**

General Comments.

Significant elements of Phase II take Lone Star beyond acting with regard to area groundwater resources and usurp the internal decision-making of area water suppliers with regard to meeting reductions in groundwater usage. Taken together with proposed deadlines, Phase II(B) effectively, although not expressly, predetermines for many groundwater users *which* alternative water supply must be pursued. In so doing, Phase II(B) could require MUDs 8&9 to sacrifice very significant investments already made toward ensuring that they identify and secure the most cost-effective alternative water supply for their constituents.

MUDs 8&9 strongly object to elements of Phase II that would allow Lone Star to charge MUDs 8&9 ratepayers potentially hundreds of thousands or more dollars because Lone Star's board of directors disagrees with the board of directors of MUDs 8&9 regarding financing, engineering, construction, and other timetables for developing MUDs 8&9's alternative water supplies by the conversion deadline. Lone Star has no claim to the particular expertise or capabilities necessary to develop or manage a municipal water supply system. Nor does Lone Star have the responsibility for acting in the particular best interests of MUDs 8&9's constituents.

MUDs 8&9 wish to be clear that their comments here do not dispute Lone Star's authority reasonably to regulate groundwater withdrawals and act with respect to the groundwater resources of the county. However, Lone Star may only exercise those powers granted by statute, together with those necessarily implied from the statutory authority conferred or duties imposed. *Stauffer v. City of San Antonio*, 344 S.W.2d 158, 160 (Tex. 1961); *see also South Plains Lamesa Railroad, Ltd. v. High Plains Underground Water Conservation District No. 1*, 52 S.W.3d 770, 779-80 (Tex. App.—Amarillo 2001, no pet.). The power of any groundwater district is limited by the terms of the applicable statutes authorizing its creation, and it can exercise no authority that the Texas legislature has not clearly granted.

MUDs 8&9 also urge Lone Star, as far as possible consistent with its responsibility to preserve and protect the groundwater resource, to respect the statutory authority and duties of other political subdivisions with regard to water supply for their constituents. Lone Star should not presume that its permittees will violate the district's withdrawal regulations unless Lone Star takes control of *how* those permittees plan to satisfy water demands *other than through groundwater pumpage*,

While Lone Star has the obligation to act in the best interest of all of Montgomery County, Lone Star does not have the responsibility for managing specific daily operation decisions of MUDs 8&9.

### Specific Comments.

4.1 For the reasons stated above, among others, the following provisions of Phase II(B) should be modified to avoid inappropriate and unauthorized groundwater district oversight and/or control of the alternative water supply and management decisions of other political subdivisions in Montgomery County:

- those provisions that set out the elements of an acceptable groundwater reduction plan;<sup>12</sup>
- the requirement for a water reuse feasibility assessment;<sup>13</sup>
- the requirement that large-volume groundwater users must provide evidence that demonstrates in 2010 *to the groundwater district* that a groundwater user's source or sources of alternative water will be adequate and feasible to satisfy conversion requirements in 2015;<sup>14</sup>
- Pages 7-8, "Plans for Meeting Conversion Obligation," Items 1-8, inclusive;
- the requirement that, in 2010, each joint groundwater reduction plan must demonstrate to Lone Star's satisfaction "the requisite commitment and actual ability" of the aggregated large-volume groundwater users to meet the conversion obligation in 2015;<sup>15</sup>
- provisions in which Lone Star proposes to dictate the terms on which a Joint GRP may recoup its costs and affects rate-making;<sup>16</sup>
- requirements that a groundwater reduction plan include all other information that is reasonably necessary for *Lone Star* to fully understand the scope, plans, and procedural milestones that a large-volume groundwater user has for its proposed alternative water supply project;<sup>17</sup>
- Lone Star's proposal to "monitor . . . each achievement of milestones to determine compliance" with Phase II(B) and to impose civil penalties if it determines that any one of the components of a groundwater reduction plan is insufficient or that a user has failed to timely comply with achievement of a timetable milestone; and<sup>18</sup>

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<sup>12</sup> Page 6, "Groundwater Reduction Plans," Paragraph 1 and Pages 7-8, "Plans for Meeting Conversion Obligation," Items 1-6.

<sup>13</sup> Page 7, "Projected Water Demand," Item 2.

<sup>14</sup> Page 7, "Projected Water Demand," Item 3.

<sup>15</sup> Page 8, "Joint GRPs," Item 2.

<sup>16</sup> Page 9, "Joint GRPs," Item 4, second sentence.

<sup>17</sup> Page 9, "Other Necessary Information."

<sup>18</sup> Page 10, "Enforcement." With additional reference to the penalties set out, MUDs 8&9 do not believe that Lone Star has the authority to assess such penalties for violation of Phase II (B) requirements.

- Consistent with previous comments, the deadlines set out in Phase II(B) should be modified so that Lone Star does not overreach its substantive authority.<sup>19</sup>

4.2 MUDs 8&9 further ask that Lone Star identify, on the record, the specific statutory section(s) and subsection(s) that Lone Star believes authorize it to “certify” and otherwise oversee *how* alternative water supplies in Montgomery County are developed, including through the provisions of Phase II(B) cited above. MUDs 8&9 ask that Lone Star identify any examples of similar regulations from other Water Code Chapter 36 districts.

4.3 Phase II(B) is silent regarding any procedural safeguards for affected groundwater users. For example, by what method can a groundwater user object to and/or appeal Lone Star’s failure to certify a groundwater reduction plan or to Lone Star’s determination that an element of a plan, for example a timetable, has not been met? In all respects, due process should be provided and the groundwater user’s procedural rights should be clear, either through new provisions in Phase II(B) or by inclusion in Phase II(B) of specific references to other Lone Star rules that define the district’s procedures for protecting its permittees’ rights.


4.4 The guidance that Lone Star provides for alternative water supply development would best be preserved as a resource for area groundwater users, rather than a regulation.

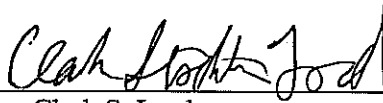
Thank you for your consideration of these comments. Again, MUDs 8&9 request an active dialog with Lone Star prior to the final adoption of Phase II(B) or related regulations. Meanwhile, please contact special counsel for MUDs 8&9, Carolyn Ahrens at (512) 472-3263, if you have any questions regarding these comments.

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<sup>19</sup> Page 6, “DRP Phase II(B) Requirements,” Item 7; Pages 6-7, “Groundwater Reduction Plans;” Page 9, “Regulatory Milestones;” Page 10, “Construction Start Date;” and Page 10, “Enforcement.”

Respectfully submitted on behalf of the Montgomery County Municipal Utility District No. 8 Board of Directors and the Montgomery County Municipal Utility District No. 9 Board of Directors,

By:   
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General Counsel for  
Montgomery County MUD No. 8

General Counsel for  
Montgomery County MUD No. 9

cc: The Honorable Robert Nichols, Texas Senator District 3  
The Honorable Tommy Williams, Texas Senator District 4  
The Honorable Rob Eissler, Texas Representative, District 15  
The Honorable Brandon Creighton, Texas Representative, District 16  
The Honorable Alan B. Sadler, County Judge, Montgomery County  
The Honorable Webb K. Melder, Mayor, City of Conroe  
The Honorable Nelda Blair, Chairman, The Woodlands Township  
Kathy Turner Jones, General Manager, Lone Star Groundwater Conservation District  
Reid Eichelberger, General Manager, San Jacinto River Authority  
Montgomery County MUD No. 8 Board of Directors  
Montgomery County MUD No. 9 Board of Directors  
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