

**RESOLUTION #22-006**

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE  
PRAIRIELANDS GROUNDWATER CONSERVATION DISTRICT  
TO INCREASE GROUNDWATER PRODUCTION UNDER RULE 5.10  
BECAUSE OF EXTREME DROUGHT**

THE STATE OF TEXAS                   §  
  §  
PRAIRIELANDS GROUNDWATER       §  
CONSERVATION DISTRICT           §

**WHEREAS**, Prairielands Groundwater Conservation District (the “District”) was created as a groundwater conservation district by the 81<sup>st</sup> Texas Legislature under the authority of Section 59, Article XVI, of the Texas Constitution, and in accordance with Chapter 36 of the Texas Water Code by the Act of May 31, 2009, 81st Leg., R.S., ch. 1208, 2009 Tex. Gen. Laws 3859, codified at TEX. SPEC. DIST. LOC. LAWS CODE ANN. ch. 8855 (“the District Act”).

**WHEREAS**, the District Act and Chapter 36 of the Texas Water Code assign certain duties, rights, powers, privileges, authorities, and functions to the District; and

**WHEREAS**, the District is a governmental agency and a body politic and corporate;

**WHEREAS**, the Board of Directors (the “Board”) adopted permanent rules (“Rules”) during a properly called and noticed public meeting on December 17, 2018, in accordance with Sections 36.101 and 36.1071(f) of the Texas Water Code, which authorize the District to make and enforce rules;

**WHEREAS**, the Board subsequently adopted amendments to the Rules during properly called and noticed public hearings on October 21, 2019, November 16, 2020, December 20, 2021, and July 18, 2022, and such Rules will continue to be amended by the Board from time to time as necessary or appropriate after proper notice and public hearing;

**WHEREAS**, Rule 5.10, among others, was adopted by the Board on July 18, 2022, giving the Board permissive authority to increase groundwater production by Board resolution during periods of extreme drought by authorizing permittees to overproduce their permits by a certain percentage designated by the Board in any calendar year in a collective total amount that will still promote achievement of the desired future conditions for the aquifers;

**WHEREAS**, the Board finds that in August of calendar year 2022 the entire District was categorized as being in “extreme drought” or worse under the U.S. Drought Monitor;

**WHEREAS**, the Board has determined that, due to the extreme drought in the District and the resulting increase in groundwater pumping by many well owners, and because many permitted well owners are still adjusting to producing groundwater under the District's permitting system and its limits on pumping, and to avoid a rush of permit and permit amendment applications to increase pumping authorizations before the end of the calendar year when most such authorizations will not be needed once the drought breaks, and to avoid taking excessive enforcement actions against many permittees who may exceed their permit limits this calendar year only because of the extreme drought, it is reasonable and appropriate for the Board to authorize increased groundwater production for all eligible permittees under Rule 5.10(a) at a level that will still promote achievement of the desired future conditions for the aquifers in the District;

**WHEREAS**, in accordance with Rule 5.10(b), based on a review of data and analysis by the District's hydrogeologist, the Board has considered the difference in sum of the total amount of groundwater produced in the District in each of the previous five (5) years and the sum of the Modeled Available Groundwater amounts for each of those years, and has determined that there are approximately 9,715 acre-feet of groundwater available for emergency authorization under this Rule 5.10(b) analysis; and furthermore, the Board has determined that, when divided by the sum of current annual permitted groundwater production plus the estimate of current exempt groundwater production, there is presently approximately 28.5% additional groundwater production available to Board to allocate to permittees under Rule 5.10;

**WHEREAS**, after considering that the drought may evolve into a multi-year drought and additional production authorization may be needed in the coming years, and after considering that only a minority of permittees are expected to need the additional production authorization authorized by this resolution in calendar year 2022 so that simply authorizing the additional groundwater pumping percentage will not actually result in all of the additional authorized groundwater being produced, and after reviewing current pumping records for calendar year 2022 through July, and after considering that production by exempt well owners also increased during the 2022 drought, and after balancing these various considerations, the Board hereby authorizes each eligible permittee, as eligibility is defined herein, to produce groundwater in calendar year 2022 in an amount over and above their current annual permit limit of no more twenty percent (20%);

**WHEREAS**, the Board has determined that this increased pumping percentage will not cause the District to fail to achieve the Desired Future Conditions for the aquifers adopted by the District under § 36.108, Texas Water Code;

**WHEREAS**, in accordance with Rule 5.10(c), eligibility to produce additional groundwater under this Resolution is limited for all permittees to those that timely remit payment of water use fees to the District for the additional groundwater produced no later than February 15,

2023; and, for those permittees that are required by state law or the rules of the Texas Commission on Environmental Quality (TCEQ) to have drought contingency plans (DCPs), the permittee must also have implemented their DCP during calendar year 2022, including implementation of mandatory water use restrictions by a permittee that is a retail public water system, in order to be eligible to produce additional groundwater under this Resolution; and

**WHEREAS**, permittees required to implement a DCP to be eligible under this Resolution must also submit to the District no later than February 15, 2023, both a sworn statement verifying that the permittee complied with the DCP requirements of this Resolution and a copy of any required correspondence under Title 30, Texas Administrative Code §288.20(b) notifying the Executive Director of TCEQ of the implementation of any mandatory provisions of the permittee's DCP;

**WHEREAS**, in accordance with Rule 5.10(d) of the Rules, a permittee who produces groundwater in calendar year 2022 above its maximum annual permitted amount but in compliance with the terms of this Resolution shall not be in violation of the District Rules for overproduction of groundwater; any permittee who produces groundwater above the additional twenty percent (20%) authorized by this Resolution but who is otherwise in compliance with the terms of this Resolution shall only be in violation of the District Rules for the amount produced above the additional twenty percent (20%).

**NOW, THEREFORE, BE IT ORDERED BY THE BOARD OF DIRECTORS OF THE PRAIRIELANDS GROUNDWATER CONSERVATION DISTRICT THAT:**

1. The above recitals are true and correct.
2. The Board of Directors hereby resolves and orders pursuant to District Rule 5.10 that each eligible permittee of the District, as eligibility is defined in this Resolution, is authorized to produce groundwater in calendar year 2022 in an amount over and above their current annual permit limit of no more twenty percent (20%).
3. The Board of Directors hereby resolves and orders that to be eligible to produce additional groundwater above the annual permit limit pursuant to this Resolution, a permittee must:
  - a. timely remit payment of water use fees to the District for all additional groundwater produced pursuant to this Resolution no later than February 15, 2023; and
  - b. for those permittees that are required by state law or the rules of the Texas

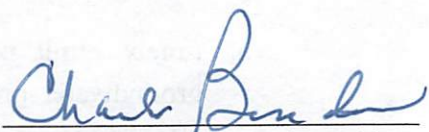
Commission on Environmental Quality (TCEQ) to have drought contingency plans (DCPs), the permittee must also:

- (i) have implemented their DCP during calendar year 2022, including implementation of mandatory water use restrictions by a permittee that is a retail public water system; and
  - (ii) submit to the District no later than February 15, 2023, both a sworn statement verifying that the permittee complied with the DCP requirements of this Resolution and a copy of any required correspondence under Title 30, Texas Administrative Code §288.20(b) notifying the Executive Director of TCEQ of the implementation of any mandatory provisions of the permittee's DCP;
4. The General Manager is authorized to immediately begin invoicing permittees on a monthly basis for payment of water use fees for the additional groundwater produced each month pursuant to this Resolution for any permittee identified by the General Manager to be overproducing their permit limit.
  5. The General Manager is directed by the Board to notify permittees of the availability of the additional production authorization authorized by this Resolution as soon as practical.
  5. The District's Board, its officers, the General Manager and District staff, and legal counsel are further authorized to take any and all actions necessary to implement this Resolution.

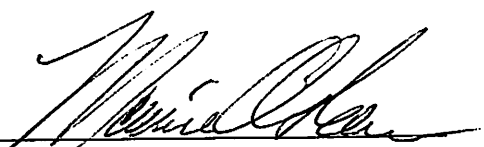
**AND IT IS SO ORDERED.**

**PASSED AND ADOPTED** on this 19 day of September, 2022.

**PRAIRIELANDS GROUNDWATER CONSERVATION DISTRICT**

By:   
Charles Beseda, Board President

ATTEST:

  
Maurice Osborn, Board Secretary

[SEAL]