

**UPPER TRINITY GROUNDWATER CONSERVATION DISTRICT**  
**THURSDAY, MARCH 16, 2023**  
**MINUTES OF MEETINGS**  
**OF THE**  
**BOARD OF DIRECTORS**

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**INTRODUCTORY MATTERS**

The Board may discuss, consider, and take appropriate action, including expenditure of funds as necessary or appropriate, on any item listed on this agenda:

1. Welcome guests and members of the public. The meeting convened at 5:00 p.m.
2. Roll call, establish a quorum, call Public Hearing and Regular Board Meeting to order; declare the Hearing and Meeting open to the public.  
  
Directors Present: Tracy Mesler, Shannon Nave, Mike Berkley, Tim Watts, Brent Wilson, and Don Majka  
Director Absent: Jarrod Reynolds
3. Pledges of allegiance to the flags.
4. Public comments were made where noted below.

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**PUBLIC HEARING**

1. There was no public comment on the District's 2023 Management Plan Update. Director Majka made a motion to adopt Resolution 23-001 Adopting a Management Plan and adopt the proposed Management Plan as presented. Director Wilson seconded the motion. Motion passed unanimously.
2. Receive any public comments, requests to contest, and the General Manager's report and recommendations regarding the following applications for permits, permit amendments, and/or requests for exceptions to the District's water well spacing or minimum tract size requirements:
  - A. **Applicant/Owner:** Store Master Funding XVI, LLC — 640 N Lasalle St, Ste 670, Chicago, IL 60654  
**Type of Application:** Operating Permit and Exception to Minimum Well Spacing Requirements  
**Permit ID:** 197-W-OP  
**Well ID(s):** 19284  
**Location of well or proposed well:** 2188 E Hwy 380, Decatur, TX 76234  
**Requested Permit Volume:** 300,000 gallons/year  
**General Manager's Recommendation:** 300,000 gallons/year  
**Description of Request:** Store Master Funding XVI, LLC is seeking an operating permit and an exception to the District's water well spacing requirements under District Rule 4.7, in order to drill and operate one new commercial well to supply water for fire suppression on the property.
  - B. **Applicant/Owner:** Autodrome, LLC — 7629 FM 51 N, Decatur, TX 76234  
**Type of Application:** Operating Permit  
**Permit ID:** 198-W-OP  
**Well ID(s):** NA  
**Location of well or proposed well:** 7629 FM 51 N, Decatur, TX 76234  
**Requested Permit Volume:** 1,500,000 gallons/year  
**General Manager's Recommendation:** 1,500,000 gallons/year

**Description of Request:** Autodrome, LLC is seeking an operating permit in order to drill and operate one new commercial water well to supply water for bathrooms, showers, and car washing on the property.

GM Shaw presented his recommendations for the following projects:

- A. Shawna Aujla participated in the discussion regarding Operating Permit and Exception to Minimum Well Spacing Requirements related to Permit ID 197-W-OP submitted by Store Master Funding XVI, LLC. Director Berkley made a motion to approve the application for Permit ID 197-W-OP in the amount of 300,000 gallons per year. Additionally, the motion included approval of the Application for Exception to Spacing Requirements for Well ID 19284, with the following stipulations: 1) Enter into a monitoring well agreement with the District; 2) complete the water well so that the District may install water level monitoring equipment; 3) the applicant shall provide a geophysical log to the District or allow the District to log the well; 4) because the applicant has stated that the well will only be used for fire protections, if the applicant over-pumps the permitted volume, the Board shall reconsider the Application for Exception to Spacing Requirements; and 5) if the applicant ever seeks to amend the Operating Permit, the Board may reconsider the Application for Exception to Spacing Requirements at that time. Director Majka seconded the motion. Motion passed unanimously.
  - B. Director Nave made a motion to approve Operating Permit 198-W-OP submitted by Autodrome, LLC., in the amount of 1,500,000 gallons per year. Director Berkley seconded the motion. Motion passed unanimously.
3. President Mesler adjourned the Public Hearing at 5:19 p.m.

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#### REGULAR BOARD MEETING

1. Discuss and consider appointment of person to fill vacancy on Board of Directors for an unexpired term representing Hood county created by the resignation of Mr. Richard English, including but not limited to the adoption of Resolution 23-002 and consultation with the District's Attorney in executive session, in compliance with the Texas Open Meetings Act, Chapter 551, Government Code, concerning personnel matters (§551.074). No action was taken.
2. Director Watts moved to approve the Consent Agenda, including:
  - A. Approval of minutes from the Regular Board Meeting and Public Hearing on January 26, 2023. Cancellation Notice of Hearing and Regular Board Meeting on February 16, 2023.
  - B. Approval of bank statements ending January 31, 2023 and February 28, 2023, and current financial reports of the District.
  - C. Approval of Investment Report.
  - D. Payment of bills/invoices received through March 16, 2023.
  - E. Reimbursements for expenses incurred on behalf of the District through March 16, 2023.
  - F. Approval of Request for an Extension Applications submitted through March 16, 2023.Director Berkley seconded the motion. Motion passed unanimously.
3. No items were pulled from consent agenda for further discussion.
4. Mike Massey provided comments related to the discussion regarding proposed Interlocal Agreement related to Groundwater Management Area 8 (GMA 8) Funding for Update to Groundwater Availability Model. Director Wilson moved to authorize the District Representative to GMA 8 (the General Manager) to execute the Agreement on behalf of the District. Director Majka seconded the motion. Motion passed unanimously.
5. Discussion regarding the following potential violations of District Rules; take action as necessary.



## A. Exempt Wells

- 1) President Mesler moved to offer a settlement to Mr. Mize of Gap Drilling Water Well Service, in lieu of litigation, to include the following: (1) a 1st major violation for drilling a well without a compliant and approved registration; (2) a \$500 penalty associated with the first major violation; (3) a requirement to submit a new well registration application for the well at 9538 Evergreen Cemetery Rd. and pay the associated fees (\$600 registration fee and \$100 well report deposit); (4) forfeiture of the well report deposit; and (5) requirement to either (a) complete work on the well so that it is compliant with TDLR standards or (b) plug the well. All requirements must be fulfilled by May 15, 2023 or the settlement will be withdrawn, and the issue will be reconsidered by the Board. Director Nave seconded the motion. Motion passed unanimously.
- 2) Trevor Holzbog and Brad Culberson participated in the discussion regarding Well ID 16606 in Wise Co. Director Nave moved to offer a settlement to Mr. Culberson of Crosswire Properties, LLC, in lieu of litigation, to include the following: (1) a 1st major violation for failure to maintain ownership of acreage necessary to comply with spacing requirements for which the water well is subject; (2) a \$500 penalty associated with the first major violation; (3) a requirement to bring Well ID 16606 into compliance with District and TDLR rules by either (a) plugging the water well or (b) replatting the lot such that the well is at least 50 ft. from the nearest property line. All requirements must be fulfilled by May 15, 2023 or the settlement will be withdrawn, and the issue will be reconsidered by the Board. Director Berkley seconded the motion. Motion passed unanimously.

## B. Non-Exempt Wells Pumping in Excess of Authorized Amount

- 1) Matt VanHattem of Collier Consulting participated in the discussion regarding Aqua Texas, Inc. Director Nave moved to offer a settlement to Aqua Texas Inc., in lieu of litigation, which includes: (1) a 1<sup>st</sup> major violation, related to pumping groundwater in excess of the authorized amount, for each of the systems listed herein; and (2) the following fees and penalties:

○ System ID 004-H <ul style="list-style-type: none"><li>▪ Additional Fees: <b>\$13,326.06</b></li><li>▪ Civil Penalties: <b>\$308.15</b></li></ul>	○ System ID 009-P <ul style="list-style-type: none"><li>▪ Additional Fees: <b>\$4,012.80</b></li><li>▪ Civil Penalties: <b>\$144.28</b></li></ul>	○ System ID 002-W <ul style="list-style-type: none"><li>▪ Additional Fees: <b>\$2,578.62</b></li><li>▪ Civil Penalties: <b>\$114.74</b></li></ul>
○ System ID 005-H <ul style="list-style-type: none"><li>▪ Additional Fees: <b>\$72.60</b></li><li>▪ Civil Penalties: <b>\$100</b></li></ul>	○ System ID 010-P <ul style="list-style-type: none"><li>▪ Additional Fees: <b>\$75.90</b></li><li>▪ Civil Penalties: <b>\$100</b></li></ul>	○ System ID 005-W <ul style="list-style-type: none"><li>▪ Additional Fees: <b>\$1,365.54</b></li><li>▪ Civil Penalties: <b>\$100</b></li></ul>
○ System ID 017-H <ul style="list-style-type: none"><li>▪ Additional Fees: <b>\$1,645.38</b></li><li>▪ Civil Penalties: <b>\$100</b></li></ul>	○ System ID 011-P <ul style="list-style-type: none"><li>▪ Additional Fees: <b>\$2,268.42</b></li><li>▪ Civil Penalties: <b>\$144.61</b></li></ul>	○ System ID 008-W <ul style="list-style-type: none"><li>▪ Additional Fees: <b>\$8,094.24</b></li><li>▪ Civil Penalties: <b>\$198.59</b></li></ul>
○ System ID 024-H <ul style="list-style-type: none"><li>▪ Additional Fees: <b>\$1,024.98</b></li><li>▪ Civil Penalties: <b>\$100</b></li></ul>	○ System ID 014-P <ul style="list-style-type: none"><li>▪ Additional Fees: <b>\$699.60</b></li><li>▪ Civil Penalties: <b>\$100</b></li></ul>	
○ System ID 025-H <ul style="list-style-type: none"><li>▪ Additional Fees: <b>\$353.10</b></li><li>▪ Civil Penalties: <b>\$100</b></li></ul>	○ System ID 018-P <ul style="list-style-type: none"><li>▪ Additional Fees: <b>\$1,215.72</b></li><li>▪ Civil Penalties: <b>\$107.97</b></li></ul>	

Director Majka seconded the motion. Motion passed unanimously.

- 2) Director Watts recused himself from the discussion regarding Texas Water Utilites, L.P. and submitted a Conflict Disclosure Affidavit. Director Berkley moved to offer a settlement to Texas Water Utilities, L.P., in lieu of litigation, which includes: (1) a 1st major violation, related to pumping groundwater in excess of the authorized amount, for each of the systems listed herein; (2) the following fees and penalties.

- System ID 046-H
  - Additional Fees: **\$270.60**
  - Civil Penalties: **\$100**
- System ID 050-H
  - Additional Fees: **\$252.12**
  - Civil Penalties **\$100**
- System ID 058-P
  - Additional Fees: **\$3.96**
  - Civil Penalties: **\$100**
- System ID 059-P
  - Additional Fees: **\$275.88**
  - Civil Penalties: **\$100**
- System ID 018-W
  - Additional Fees: **\$161.70**
  - Civil Penalties: **\$120.96**
- System ID 019-W
  - Additional Fees: **\$1,358.95**
  - Civil Penalties: **\$244.61**
- System ID 028-W
  - Additional Fees: **\$1,228.26**
  - Civil Penalties: **\$104.79**

Director Nave seconded the motion. Director Watts abstained. Motion passed.

At 6:27 p.m., the Board went into executive session, in compliance with the Texas Open Meetings Act, Chapter 551, Government Code, concerning attorney-client matters.

President Mesler called the Public Hearing back into open session at 6:53 p.m. No action was taken as a result of the Executive Session.

Director Wilson moved to offer a settlement to each of the following entities, in lieu of litigation, which includes (1) a 1st major violation, related to pumping groundwater in excess of the authorized amount, for the systems listed below; and (2) the following fees and penalties:

- 3) System ID 030-H – City of Tolar
  - Additional Fees: \$2,154.90
  - Civil Penalties: \$411.59
- 4) System ID 011-M – Red River Authority of Texas
  - Additional Fees: \$1,457.00
  - Civil Penalties: \$100
- 5) System ID 001-P – 3D Mobile Home and RV Park, Inc.
  - Additional Fees: \$74.59
  - Civil Penalties: \$100
- 6) System ID 001-P – New Progress Water
  - Additional Fees: \$1,426.13
  - Civil Penalties: \$153.09
- 7) System ID 064-P – CSWR Texas Utility Operating Company, LLC
  - Additional Fees: \$1,209.17
  - Civil Penalties: \$100
- 8) System ID 183-P – Homestead Weatherford, LLC
  - Additional Fees: \$613.44
  - Civil Penalties: \$100
- 9) System ID 116-W – Sage Natural Resources
  - Additional Fees: \$10,914.44
  - Civil Penalties: \$356.42

Director Berkley seconded the motion. Motion passed unanimously.

6. Director Mesler moved to approve a request to locate a replacement well (Well ID 19182) further than 100 ft. from the well being replaced,. Director Nave seconded the motion. Motion passed unanimously.

7. **Management Report on Administrative and Operational Issues:** The General Manager and staff will brief the Board on the following and any other items included in the General Manager's written report, which may be discussed, considered, and acted upon by the Board, including authorizing the initiation of, managing, or resolving enforcement action or litigation where applicable.
  - A. General Manager's report was submitted to the Board of Directors in advance of the Regular Board meeting.
  - B. Discussion regarding delinquent customers of the District; no action was taken.
  - C. Report on Education and Outreach activities; no action was taken.
  - D. Report on injection well applications filed with the Railroad Commission; no action was taken.
  - E. Well Registration and Groundwater Production reports; no action was taken.
8. District General Counsel from SledgeLaw Group gave a brief update regarding groundwater-related legislative activities related to the District.
9. The next Regular Board meeting is scheduled for Thursday, April 20, 2023, at 5:00 p.m. at the District's office.
10. The next meeting agenda will include a Hearing for regarding multiple applications for Operating Permits. It will also include a presentation and discussion regarding the Regional Water Supply and Facilities Planning Study from Freese & Nichols.
11. President Mesler adjourned the meeting at 7:08 p.m.

PASSED, APPROVED, AND ADOPTED BY THE BOARD OF DIRECTORS this 20 day of April 2023.

Attest:

  
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Tracy Mesler, President

  
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Secretary