

GMA 14 Opening Remarks

Thanks to Wade for the presentation on the 9 factors and I look forward to discussing the 9 factors with each GCD representative and focusing on potential DFC statements. Before we dig into that, I want to clear the record on a few points to make sure we are all on the same page.

The dual metric scenarios or model runs introduced by Wade have appeared to cause some confusion among the public and perhaps other GMA 14 representatives. Wade first introduced the dual metric approach at the April 29, 2020 GMA 14 meeting and runs were ultimately voted on at the following May 29, 2020 meeting. As stated by Wade when he introduced these model runs, “the runs were to be used as a basis for evaluating the remaining factors because each have some component that will rely on model run results, which is why we need model scenarios to move forward.” Specifically, the scenarios were used primarily to evaluate impacts on subsidence, private property rights, and socioeconomic impacts. Wade also specifically stated that selection of the model runs to move forward to evaluate these factors would not “marry you to any particular DFC statement at this time.” The “runs are used to study the remaining factors” and inform the process of determining the ultimate DFC statement. I, along with James Beach, qualified Lone Star’s vote and approval of the model scenarios as a basis to evaluate the remaining factors, but ***not*** as ultimate DFC statements. Since the May 29, 2020 meeting, Lone Star has reiterated that it did not intend to use subsidence as a metric in its actual DFC statement.

So, consistent with Wade’s qualifications regarding approval of the scenarios as a basis to evaluate the remaining factors and not as binding DFC statements, Lone Star supported 2 of the 3 scenarios. At that same meeting, I asked that each scenario be taken up individually, but the motion was made as a package deal. No matter, Lone Star has never been confused about the model run exercise nor has Lone Star ever changed its position about not wanting a subsidence DFC statement.

There also have been questions as to whether myself, or the Lone Star consultants, have had proper authority to make presentations, decisions, or statements in this process. I can say with 100% certainty that we have had the authority we’ve needed to engage in this process. As some of you know, I reached out to inquire as to how you have handled the votes and decisions. What I have learned is that my board chose to take preliminary votes on certain matters though it was not necessarily required to do so. My board even created a DFC committee to which it delegated full authority to navigate this process and bring back a DFC statement for the board to consider. And like you, I was delegated authority to engage in this process as the GMA 14 representative. As we all know, our boards will have the ultimate vote on the DFCs. My board chose to vote on model scenarios to evaluate the remaining factors even though it was not required to. Some of you have obtained or will obtain board approval to vote on proposed DFCs while others have chosen to provide their boards with updates on the DFC process through a GM report. Personally, I am not questioning your process or authority, in fact the research has been educational for me (as my first time going through this process) and I only bring this up because presentations circulating in Montgomery County suggested that Lone Star, my board, our consultants or myself had done something wrong, which we have not. We addressed this at our last board meeting, and I wanted to make sure we cleared the record here, as well. If the implications against Lone Star were true, it could suggest that other GCDs may have done something wrong, as well, & I, personally, do not believe that to be the case. Lone Star including all directors, staff and consultants have acted with full authority throughout this process.

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At this time & per previous votes on the model scenarios, Lone Star supports the two 70% remaining available drawdown scenarios. Using the Run D base file is consistent with the resolution of the DFC petition and the Strategic Water Planning Study. My board intends to vote on proposed DFC statements but has not yet done so. The presentations circulating in Montgomery County, which wrongfully implied that Lone Star changed its story and lacked authority, created confusion and took up much of our last board meeting. We also heard from a number of public commenters. Therefore, at the last meeting, the DFC committee stated that it was not ready to make a recommendation to the board. The board instead requested that I schedule 1:1 meetings with various stakeholders to ensure we have all questions answered before the committee makes a recommendation and the board votes.

While my board has not formally voted yet on proposed DFCs, Lone Star cannot support a DFC statement that is not a revision of the DFC and does not address the issues raised in the successful DFC petition. The voting GCDs are required to revise the DFC after a successful petition. The successful petition of the 2016 DFCs means we are still waiting for the DFC to be revised, which was promised to occur in this round. While the 80% remaining available drawdown scenario embraces an actual aquifer condition and common reservoir process, it still is not reasonable with regard to finding the balance between the highest practicable level of production and conservation. The level of production associated with the 2016 DFC was approximately 64,000 acre-feet per year. The level of production associated with the 80% remaining available drawdown is 61,537 acre-feet per year. So, the 80% remaining available drawdown DFC is going backwards and not forward in terms of finding the balance of the highest practicable level of production and conservation for Lone Star.

As you may recall, Lone Star's management standard from its creation in 2001 and during the last two rounds of joint planning was sustainability. The sustainability standard was based on a simple calculation of how much the Gulf Coast Aquifer recharged annually within the District's boundaries, which was determined to be approximately 64,000 acre feet per year. That estimate was then set as a pumping cap and de facto MAG in the first round of joint planning. The District then requested in the prior two rounds for the voting districts to approve a DFC that yielded an available groundwater number equal to the 64,000 acre feet per year pumping. We understand you did that at Lone Star's request. But, as you know, the law has changed, and Lone Star's prior DFCs and regulations were challenged successfully because they did not comply with the new standard in Chapter 36 or Texas law. Chapter 36 was modified by the Legislature to require the balancing test and changed "managed available groundwater" to "modeled available groundwater" and made it one consideration in permitting decisions. The Texas Supreme Court has also mandated that groundwater regulation must afford every owner an opportunity for a fair share of groundwater production.

In response to the changes in the law and the legal challenges, Lone Star commissioned a three-year water planning study to understand how additional groundwater could be produced without unreasonable impacts. In the Strategic Water Planning Study performed by LBG Guyton, Lone Star studied resulting aquifer conditions if additional groundwater was produced. The study specifically evaluated water level declines and subsidence. The study was completed in 2017 and showed that additional groundwater up to 100,000 acre-feet/year could be produced without unreasonable impacts on subsidence or unreasonable economic impacts. Based on the results of the study and changes in Chapter 36, Lone Star changed its management approach from setting a

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production cap based on estimated recharge volume to one of reasonable aquifer declines and used Run D from the study to resolve the DFC petition. I have provided you with a complete copy of the study addressing additional groundwater production in the GMA 14 Dropbox. I also believe you were provided with a copy after the DFC petition was resolved and LSGCD requested this group to revise its DFCs ASAP.

Lone Star's 2016 DFCs were found to be no longer reasonable and its reduction rules put in place to achieve the DFC were found to be statutorily invalid from their inception. These were serious legal issues for Lone Star that it cannot repeat in this round of planning. Lone Star must have a DFC that is reasonable; a DFC that affords every owner a fair share; and a DFC that represents the balance between the highest practicable level of production and conservation. Simply put, Lone Star can no longer justify a DFC based on the recharge estimate because the law has changed, and Lone Star got in serious legal trouble for violating the law under its prior DFC and regulation. Lone Star is asking you to help it move forward with a new DFC that represents that balance, complies with the law, and is supported by the best available data and science.

I do not think it's a secret that the protestants who successfully challenged the 2016 DFC are still waiting for the DFC to be revised and are monitoring this process closely. At least one of the protestants has indicated it will petition the DFCs and include all member districts if the voting GCDs adopt any DFCs for Lone Star that deviates from those agreed upon in resolution of the DFC petition. The same protestant has also indicated that if a direct challenge is ineffective, then it will likely be forced to file suit against the various districts. I have included a copy of the letter I received in the GMA 14 Dropbox. The 70% remaining available drawdown using the Run D well file is consistent with the resolution of the DFC petition. As you know, we proposed Run D as a stand-alone, but this group did not approve it. We believe using the scenario with the Run D well file will address the protestants' concerns.

The presentations on water level declines and modeled subsidence we've seen throughout this process were the same or similar information that was considered during the Strategic Water Planning Study. Importantly, on the Lone Star board at the time were representatives from SJRA, Woodlands Water (then WJPA) and Conroe, all who have given public comment throughout this process. These stakeholders all approved the study and its conclusions and voted in favor of seeking a DFC that had an associated production of 100,000 acre feet per year as the balance between the highest practicable level of production and conservation. The study utilized the HAGM model, which was and still is the best available data and science we have. Lone Star's board, at the time, all supported the additional production and resulting aquifer conditions, which were found to be reasonable. So, the science supporting production of 100,000 acre feet per year in Montgomery County was fully vetted by key stakeholders who had seats on the board and was approved unanimously by the board including those directors who were appointed to represent the interests of the key stakeholders like Conroe, SJRA and Woodlands Water, again whom you've heard from throughout this process.

It now appears that these some of these same stakeholders no longer support the results of the Strategic Water Planning Study. This is confusing for Lone Star because their appointed representatives supported it at the time. It is also confusing and appears contradictory that the Woodlands residents and MUD boards are advocating for less groundwater production to maintain certain conditions in the Woodlands yet its sole water provider, SJRA, has filed an application to

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increase its permit. As you know, a GCD does not force any permit holder to produce a certain amount of groundwater or prevent any permit holder from using as much surface water as it chooses. So, it appears, and is my hope, that the Woodlands, SJRA, and Lone Star can work together to address the Woodlands' concerns. The good news for you, these are local issues that are not a problem for this group to solve. Lone Star plans to address these local concerns through stakeholder meetings and potentially through regulation at the local level, if need be, on a long-term basis. Lone Star respectfully requests that GMA 14 voting members address the bigger planning goals for the entire GMA and let Lone Star handles its local issues.

Lone Star has objected to and continues to object to having a subsidence DFC statement for a number of reasons.

First, in all 3 model-scenarios, remaining available drawdown was the limiting factor (not subsidence) for Lone Star such that a subsidence DFC metric or statement is not necessary or meaningful for Lone Star in terms of developing DFC metrics. In other words, the models do not predict that either of the 70% remaining available drawdown scenarios would create an average of 1 foot of subsidence in Lone Star's jurisdiction over the planning period.

Second, Lone Star objects to a subsidence DFC statement because there are other impacts outside of Lone Star's control. For example, impacts can be felt in Montgomery County from pumping in Harris County and Lone Star has no control over their pumping, which is approximately 4 times as much as Lone Star's pumping. Lone Star has commissioned a subsidence study specific to Montgomery County to ascertain more data on where subsidence may be occurring and what are the causes. Of course, the end goal is to share the results of the study with this group for future planning.

Third, there is a question of reasonableness and fairness. I've been asked, what is reasonable for impacts on subsidence when trying to find the balance between the highest practicable level of production and the other factors? Chapter 36 doesn't tell us how to evaluate the impact on subsidence in the 9-factor analysis. But, it's instructive to review the data for the subsidence districts to help inform what might be reasonable for a GCD. James will be presenting some maps that will show historically, how much subsidence occurred in Harris, Galveston, and Fort Bend counties in previous years and then more recently from 2000-2016. You will see significant occurrences historically and then you will see leveling off in more recent years as the subsidence districts have worked hard to attempt to end subsidence. Despite their best efforts and hard work, you will still see increases of subsidence still occurring on the boundaries of Harris County in the last fifteen+ years. Requiring GCDs to restrict pumping to cause less than an average of 1 foot of subsidence over the next 70-80 years when 1—2 feet of subsidence has occurred in HGSD over the last 15-20 years does not seem reasonable and is not required under the balancing test in Chapter 36. My question is why would the GCDs put a stricter standard on themselves than even the subsidence districts have accomplished or been able to accomplish historically? The subsidence districts have a statutory mandate to end subsidence but pumping in Harris County is still causing subsidence. Ultimately, the subsidence districts have been given an opportunity to find out how to meet their demands while also trying to minimize subsidence over a long period of time under their own rules.

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So, you have to ask yourself how is it fair that a number of GMA 14 GCDs are bordered by subsidence districts whose groundwater pumping can affect us, yet the subsidence districts do not have an acceptable level of subsidence standard or a max level of subsidence they are allowed to cause – it seems like you are proposing a stricter standard for the GCDs if you seek to impose a subsidence DFC statement on the GCDs. So, we are requesting that you keep the impact of subsidence in perspective, evaluate it relative to what’s happening in neighboring counties, and under the balancing test required for GCDs.

Fourth, a metric used in the DFC statement must be measured and monitored. Lone Star does not feel it has the appropriate number of monitoring sites or equipment at this time to provide accurate monitoring for all the county. The location of our current sites and equipment will not give us a good average. This was similarly echoed in the HARC GW Consortium SAC Report I mentioned earlier. Lone Star is in the middle of a subsidence study that will help inform how to expand its subsidence monitoring network – it was a goal of the previous board, it is a goal of the new board, it will happen, but we need to finish the study. There are other GCDs with much less or even no monitoring equipment whatsoever. A GCD should not have DFCs that it cannot measure and monitor.

Planning and implementation take time. The subsidence districts have been at this since the 70s trying to curb subsidence—according to their regulation, they balance demand, growth, and subsidence. According to subsidence districts’ own information, and as an example, Northwest Houston on the loop has experienced 7 feet of subsidence historically. So, it has taken these model subsidence districts that we all look to for ending subsidence decades to try to find that balance. Even under the most focused and strictest statutory mandates to end subsidence, subsidence is still occurring historically for the subsidence districts. To be clear, we don’t want to have anywhere near the level of subsidence that has occurred in Harris County occurring in Montgomery County, and the good news is the model predicts that subsidence won’t exceed an average of 1 foot over the planning period based on the projected pumping. GCDs have to balance many other factors that the subsidence districts are not required to take into consideration, which makes this process all the more difficult.

Another thing GCDs must consider are private property rights. The Lone Star board is focused on fair share across the common reservoirs. It’s my understanding that the decreases in groundwater in the subsidence districts’ regulatory areas are based on a percentage of demand, which can increase. So, that does not necessarily mean that less groundwater is being produced in the aggregate. The 2016 combined MAGS for the subsidence districts for 2020 is 545,246 acre-feet per year. Yet, some are questioning whether it is appropriate to allow 100,000 acre-feet per year to be produced in Montgomery County. Only authorizing a GCD to allow its owners to produce a mere fraction of the amount of pumping that is authorized by a comparable neighboring county raises serious questions regarding private property rights and fair share. The 70% remaining available drawdown using the Run D well file still allows for much less pumping than what is occurring in neighboring counties but is a good step toward providing fair share across the common reservoir.

Lone Star does not object if any other GCD would like to include a subsidence metric in their DFC statement, if, for example, subsidence is a limiting factor for that GCD. If all GCDs have the same base DFC statement of a remaining available drawdown with potentially an “OR _ feet of

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subsidence” language, if subsidence is a limiting factor for that GCD, then we believe that is still approaching management from a common reservoir basis. This group started with an aquifer condition that can be measured without a model, which is what we were advocating for as a starting place as opposed to deriving a DFC from a pumping cap or managed available groundwater number. So, we believe if everyone has a remaining available drawdown statement and potentially an “or ___ blank feet of subsidence statement”, then we have made great progress toward managing a common reservoir – we would all have the same core DFC statement modified to add additional metrics for those districts that need or want it. However, even though we have adopted a common reservoir approach, we still have the statutory duty to adopt DFCs that represent a balance between the highest practicable level of production and conservation. The 80% model run does not do that because its associated production is less than the production associated with the 2016 DFCs, which were deemed no longer reasonable and successfully petitioned. The other two runs of 70% remaining available drawdown using the 2016 and Run D well file generally only affect the pumping distributions in Montgomery County, with the exception of very minor changes in counties bordering Montgomery County. So, approving those allows you to have the standard you want while also finding the balance needed in Montgomery County to ensure a reasonable DFC is adopted.

Planning in this process is long term but the decisions here have real world implications for Lone Star and local regulation. So, what we are doing here *does* matter and we need to fulfill our duty to find the balance between the highest practicable level of production and conservation. The prior DFCs were based on crude estimates of recharge and did not survive a DFC petition because it did not balance between the highest level of practicable production and conservation—so, we need to be somewhere between the two, if you will. And we need your help and support to get there. Otherwise, Lone Star will be back in litigation and unfortunately, it sounds as if all the other GMA members could be included, as well, if there is a DFC petition.

As I let you all know a few weeks ago, Lone Star is not ready to vote today. The DFC Committee and my board want to continue to review model runs, study the 9 factors, and hold stakeholder meetings.

This was a long statement and this process has been long, but I thank you so much for all the time and effort you have put in and for working with me this round. I’ve asked James to show a few technical slides that further illustrate some of the points Lone Star has been making. We welcome all questions and I hope we can still engage in some Q&A and general dialogue on everything that has been presented this round.