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October 28, 2015

Dr. Sanjeev Kalaswad
Director of Conservation & Innovative Water Technologies
Texas Water Development Board
P.O. Box 13231
Austin, Texas 78711-3231

Dear Dr. Kalaswad:

Thank you for allowing us the opportunity to provide comments on efforts by the Texas Water Development Board to implement House Bill 30 from the 84th Legislative Session.

The Texas Land & Mineral Owners Association (TLMA) is a statewide advocacy association of about 1,000 members who are farmers, ranchers, landowners, and mineral interest owners. The association strives for a business and legal environment that promotes a healthy oil and gas industry in Texas by ensuring that the rights of both the mineral and surface owners are protected; a reduction in litigation that impedes the orderly development of the state's mineral resources; and the protection of our precious groundwater resources. We have hands-on experience in the production of valuable natural resources from beneath our land and a vested interest in protecting the rights of Texans to the resources they own.

As the TWDB designates brackish groundwater production zones, TLMA feels it is critical that the agency make it very clear it is not in the business of creating rules that provide for the special treatment of and production of brackish groundwater. As the agency is well aware, brackish groundwater is often not separate and isolated from better-quality water contained within an aquifer.

TLMA recognizes the Legislature gave the agency the responsibility of designating brackish groundwater production zones. While it is always good to know more about the quality of water that lies beneath the surface, we fear that Texas is inching ever more closely to setting up a different regulatory scheme for the different chemical makeup of water below ground. TLMA believes that drawing a regulatory distinction between brackish and fresh groundwater creates concerns on many levels. Such action may lead to an infringement upon a landowner's legally-recognized right to the groundwater beneath his land. It could also very easily cause the same problem that required the State of Texas to create

the Railroad Commission and well-spacing rules—too many straws drawing from the same resource.

It is the position of TLMA that, when it comes to landowners' legal right to the groundwater beneath their land, no distinction should be made based on water quality that would diminish that right. In other words, all landowners whose surface covers the aquifer from which water is drawn should have the ability to receive fair and just compensation for the water, whether brackish or sweet.

As you draft your rules and guidelines to study brackish groundwater in our great state, TLMA asks that some language in the formal document certify that, by designating brackish groundwater production zones, the state is in no way suggesting a separate form of regulation for brackish groundwater from that of fresh groundwater.

Thank you for your time and consideration of the positions of TLMA.

Sincerely,

A handwritten signature in cursive script that reads "Laura Buchanan". The signature is fluid and elegant, with a long, sweeping underline that extends to the right.

Laura Buchanan
Executive Director
Texas Land & Mineral Owners Association