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P.O. BOX 1749
1260 E. HWY. 199
SPRINGTOWN, TX 76082

WWW.UPPERTRINITYGCD.COM

December 22, 2010

Sunset Advisory Commission
1501 North Congress Avenue
6th Floor, Robert E. Johnson Bldg.
Austin, Texas 78701

Dear Chairman Hegar and Members of the Sunset Advisory Commission:

The Upper Trinity Groundwater Conservation District was created in 2007 by the Texas Legislature to preserve, manage, and protect the groundwater resources underlying all of Hood, Montague, Parker, and Wise counties. In an effort to fulfill its constitutional and statutory mandates emanating from article XVI, Section 59 of the Texas Constitution, and Chapter 36 of the Texas Water Code, the District has, since its inception, taken an active interest in the State's management and ultimate disposition of produced water and other oilfield wastes generated from activities related to Barnett Shale production.

The Sunset Advisory Commission's Staff Report on the Texas Commission on Environmental Quality (the "Staff Report") discusses and describes the regulatory interaction between the TCEQ and the Railroad Commission of Texas on matters relating to surface casing depth settings for oil and gas well drilling authorizations and application reviews for Class II underground injection control permits. As you are aware, the report includes a recommendation that implicates this existing regulatory relationship.

The District Board of Directors has developed an acute interest in the use of underground injection within the District's boundaries to dispose of wastes generated from the production and exploration of oil and gas. There are many factors that can determine whether a particular injection well will become a safe waste management tool or, instead, will be a threat to groundwater quality. Of these many factors, perhaps the most important is ensuring that each permit application is subjected to a robust and appropriately thorough level of scrutiny before any such authorization is granted.

The District believes the consequences of poor injection well permitting decisions on groundwater quality are substantial enough that the reviews of such requests justify perhaps more, but certainly not less, technical scrutiny by the public entities charged with protecting such an important resource. Part of the technical scrutiny that is applied today to Class II injection well applications filed with the Railroad Commission involves an analysis by TCEQ staff regarding the depth of pertinent underground sources of drinking water—or USDWs—relative to the injection project and an initial analysis of potential groundwater quality threats resulting from the proposed activity. Similarly, Class I injection disposal applications filed with TCEQ are



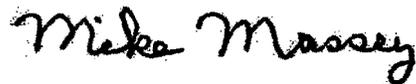
subjected to an analysis by Railroad Commission staff to determine whether the proposed injection operations in each instance presents an unreasonable risk of impairment of hydrocarbon resources in the area. This existing relationship in the context of injection disposal well permitting is a reflection of each of these State agency's respective areas of regulatory expertise, and it provides a level of technical perspective in each application process that is important to identifying threats to hydrocarbon and groundwater resources.

The Sunset Advisory Commission focuses on the TCEQ involvement with surface casing depth recommendations in the Staff Report. The District can appreciate that there may be regulatory benefits accomplished by altering this existing relationship in the context of *oil and gas well drilling* authorizations. However, from the District's perspective, it is important that the existing relationship between the TCEQ and the Railroad Commission on *underground injection control* permitting reviews be preserved or enhanced under the structure contemplated today under Chapter 27 of the Texas Water Code, but in any event certainly not weakened.

Accordingly, should the Sunset Advisory Commission contemplate modifications to the recommendations made in the Staff Report on this issue, the District urges that the Commission forego any changes that would negatively impact the existing role TCEQ plays in the permitting process for Class II underground injection control permits.

Should any member of the Sunset Advisory Commission or its staff have any questions for the District on this important issue, please do not hesitate to let me know.

Respectfully submitted,

A handwritten signature in black ink that reads "Mike Massey". The signature is written in a cursive, slightly slanted style.

Mike Massey, President
Upper Trinity Groundwater Conservation District
Board of Directors