

1-1 By: Madla S.B. No. 1857
1-2 (In the Senate - Filed April 12, 2005; April 14, 2005, read
1-3 first time and referred to Committee on Natural Resources;
1-4 May 3, 2005, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 8, Nays 0, 1 present not
1-6 voting; May 3, 2005, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1857 By: Madla

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the consolidation of the Kinney County Groundwater
1-11 Conservation District into the Edwards Aquifer Authority.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. DISSOLUTION. The Kinney County Groundwater
1-14 Conservation District is dissolved, and the aquifer and other
1-15 underground water in Kinney County is made subject to the
1-16 jurisdiction of the Edwards Aquifer Authority.

1-17 SECTION 2. AMENDMENT. Subsection (a), Section 1.02,
1-18 Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993,
1-19 is amended to read as follows:

1-20 (a) A conservation and reclamation district, to be known as
1-21 the Edwards Aquifer Authority, is created in all or part of
1-22 Atascosa, Bexar, Caldwell, Comal, Guadalupe, Hays, Kinney, Medina,
1-23 and Uvalde counties. A confirmation election is not necessary. The
1-24 authority is a governmental agency and a body politic and
1-25 corporate.

1-26 SECTION 3. AMENDMENT. Section 1.03, Chapter 626, Acts of
1-27 the 73rd Legislature, Regular Session, 1993, is amended by amending
1-28 Subdivision (1) and adding Subdivision (28) to read as follows:

1-29 (1) "Aquifer" means the Edwards Aquifer, which is that
1-30 portion of an arcuate belt of porous, water-bearing, predominately
1-31 carbonate rocks known as the Edwards and Associated Limestones in
1-32 the Balcones Fault Zone extending from west to east to northeast
1-33 from the western hydrologic division near Brackettville in Kinney
1-34 County that separates underground flow toward the Comal Springs and
1-35 San Marcos Springs from underground flow to the Rio Grande Basin,
1-36 through Uvalde, Medina, Atascosa, Bexar, Guadalupe, and Comal
1-37 counties, and in Hays County south of the hydrologic division near
1-38 Kyle that separates flow toward the San Marcos River from flow to
1-39 the Colorado River Basin.

1-40 (28) "Western hydrologic division" means the aquifer
1-41 boundary or groundwater divide, delineated in the Edwards
1-42 Underground Water District Report 95-01, between the Edwards
1-43 Aquifer to the east and the Edwards-Trinity (Plateau) Aquifer to
1-44 the west, which extends along a line, sometimes referred to as the
1-45 Spofford Fault, that runs from the intersection of the Kinney
1-46 County/Maverick County line and Stricklin Creek, northwesterly
1-47 along a lineament oriented approximately North 14° West along the
1-48 western side of the Anacacho Mountains, to the unnamed igneous
1-49 intrusion south of Highway 90 referenced in Report 95-01, then
1-50 westerly through Las Moras Springs to Pinto Springs, and then
1-51 northwesterly along the Spofford Fault system, along the western
1-52 side of Pinto Mountain and the topographic high in the unnamed
1-53 escarpment referenced in Report 95-01, to the intersection of Flat
1-54 Rock Creek and the Kinney County/Edwards County line. This
1-55 boundary may be described more precisely as a line connecting the
1-56 following latitude/longitude coordinate points geospatially
1-57 referenced to the North American Datum of 1927:

1-58 Beginning at Point 1: North 29° 5.09'/West 100° 16.04';

1-59 Thence through Point 2: North 29° 16.57'/

1-60 West 100°/20.37';

1-61 Thence continuing to Point 3: North 29° 18.52'//

1-62 West 100° 25.20';

1-63 Thence continuing to Point 4: North 29° 24.45'//

2-1 West 100° 27.12'; and
 2-2 Ending at Point 5: North 29° 37.40'/West 100° 33.43'. The
 2-3 source of water discharged from both Las Moras Springs and Pinto
 2-4 Springs is the Edwards Aquifer.

2-5 SECTION 4. AMENDMENT. Section 1.04, Chapter 626, Acts of
 2-6 the 73rd Legislature, Regular Session, 1993, is amended to read as
 2-7 follows:

2-8 Sec. 1.04. BOUNDARIES. The authority includes the
 2-9 territory contained within the following area:

2-10 (1) all of the areas of Bexar, Kinney, Medina, and
 2-11 Uvalde counties;

2-12 (2) all of the area of Comal County, except that
 2-13 portion of the county that lies North of the North line through the
 2-14 county of Subdivision No. 1 of the Underground Water Reservoir in
 2-15 the Edwards Limestone, Balcones escarpment area, as defined by the
 2-16 order of the Board of Water Engineers dated January 10, 1957;

2-17 (3) the part of Caldwell County beginning with the
 2-18 intersection of Hays County Road 266 and the San Marcos River;

2-19 THENCE southeast along the San Marcos River to the point of
 2-20 intersection of Caldwell, Guadalupe, and Gonzales counties;

2-21 THENCE southeast along the Caldwell-Gonzales County line to
 2-22 its intersection with U.S. Highway 183;

2-23 THENCE north along U.S. Highway 183 to its intersection with
 2-24 State Highway 21;

2-25 THENCE southwest along State Highway 21 to its intersection
 2-26 with Hays County Road 266;

2-27 THENCE southwest along Hays County Road 266 to the place of
 2-28 beginning;

2-29 (4) the part of Hays County beginning on the northwest
 2-30 line of the R. B. Moore Survey, Abstract 412, in Comal County where
 2-31 it crosses the Comal County-Hays County line northeast along the
 2-32 northwest line of said Survey to the northeast corner of said Survey
 2-33 in Hays County, Texas;

2-34 THENCE southeast in Hays County, Texas across the Jas.
 2-35 Deloach Survey, Abstract 878, to the most westerly northwest corner
 2-36 of the Presidio Irrigation Co. Survey, Abstract 583;

2-37 THENCE northeast along the northwest line of said Survey to
 2-38 its most northerly northwest corner;

2-39 THENCE continuing in the same line across the R.S. Clayton
 2-40 Survey 2, Block 742, to the west line of the H. & G. N. RR. Co.
 2-41 Survey 1, Abstract 668;

2-42 THENCE north along the west line of said Survey to its
 2-43 northwest corner;

2-44 THENCE east along the north line of said Survey to its
 2-45 northeast corner;

2-46 THENCE northeast across the David Wilson Survey 83, Abstract
 2-47 476, to the southeast corner of the F. W. Robertson Survey 71,
 2-48 Abstract 385;

2-49 THENCE north along the east line of said Survey to the
 2-50 southwest corner of the Benjamin Weed Survey 72, Abstract 483;

2-51 THENCE east along the south line of said Survey to its
 2-52 southeast corner;

2-53 THENCE northeast across the William Gray Survey 73, Abstract
 2-54 92, and the Murray Bailey Survey 75, Abstract 42, to the southwest
 2-55 corner of the D. Holderman Survey 33, Abstract 225;

2-56 THENCE north along the west line of said Survey to its
 2-57 northwest corner;

2-58 THENCE continuing in the same line to the north line of the
 2-59 Day Land & Cattle Co. Survey 672;

2-60 THENCE west along said north line of said Survey to its
 2-61 northwest corner, which is in the east line of the Jesse Williams
 2-62 Survey 4 to the northeast corner of said Survey;

2-63 THENCE west along the north line of said Survey to the
 2-64 Southwest corner of the Amos Singleton Survey 106, Abstract 410;

2-65 THENCE north along the west lines of said Amos Singleton
 2-66 Survey 106 and the Watkins Nobles Survey 107, Abstract 346, to the
 2-67 northwest corner of said Watkins Nobles Survey 107;

2-68 THENCE east along the north line of said Survey to the
 2-69 southwest corner of the Jesusa Perez Survey 14, Abstract 363;

3-1 THENCE north along the west line of said Jesusa Perez Survey
3-2 14 to its northwest corner;
3-3 THENCE east along the north line of said Survey to its
3-4 northeast corner;
3-5 THENCE, south along the east line of said Survey for a
3-6 distance of approximately 10,000 feet to its intersection with
3-7 Ranch Road 150;
3-8 THENCE, east by southeast along Ranch Road 150 approximately
3-9 24,500 feet to its intersection with the southern boundary line of
3-10 the Andrew Dunn Survey 9, Abstract 4;
3-11 THENCE, east along the south line of said survey as it extends
3-12 and becomes the southern boundary line of the Morton M. McCarver
3-13 Survey 4, Abstract 10, for a distance of approximately 7,000 feet to
3-14 its intersection with Ranch Road 2770;
3-15 THENCE, south on Ranch Road 2770 for a distance of
3-16 approximately 400 feet to its intersection with Farm-to-Market Road
3-17 171;
3-18 THENCE, east along Farm-to-Market Road 171 for a distance of
3-19 approximately 10,500 feet to its intersection with Farm-to-Market
3-20 Road 25;
3-21 THENCE, north by northeast along Farm-to-Market Road 25 for a
3-22 distance of approximately 3,100 feet to its intersection with
3-23 Farm-to-Market Road 131;
3-24 THENCE, east by southeast along Farm-to-Market Road 131 for a
3-25 distance of approximately 3,000 feet to its intersection with the
3-26 east line of the Thomas G. Allen Survey, Abstract 26;
3-27 THENCE south along the east line of said Thomas G. Allen
3-28 Survey to the most northerly northwest corner of the Elisha Pruett
3-29 Survey 23, Abstract 376;
3-30 THENCE southwest along a west line of said Elisha Pruett
3-31 Survey 23 to the west corner of said Survey;
3-32 THENCE southeast along the southwest line of said Survey to
3-33 the north corner of the John Stewart Survey, Abstract 14;
3-34 THENCE southwest along the northwest line of said John
3-35 Stewart Survey to its west corner;
3-36 THENCE continuing in the same line to the most northerly
3-37 southwest line of the John Jones Survey, Abstract 263;
3-38 THENCE southeast along said southwest line to an interior
3-39 corner of said John Jones Survey;
3-40 THENCE southwest along the most southerly northwest line of
3-41 said Survey to the southwest corner of said Survey;
3-42 THENCE southeast along the south line of said Survey to the
3-43 north corner of the James W. Williams Survey 11, Abstract 473;
3-44 THENCE southwest along the northwest line of said James W.
3-45 Williams Survey 11 to its west corner;
3-46 THENCE southeast along the southwest line of said Survey to
3-47 the north right-of-way line of the I. & G. N. RR.;
3-48 THENCE southwest along said right-of-way of said I. & G. N.
3-49 RR. to the Hays County-Comal County line;
3-50 THENCE south along said county line to the northwest line of
3-51 the R. B. Moore Survey, Abstract 412, in Hays County where it
3-52 crosses the Hays County-Comal County line;
3-53 (5) all of the territory of Hays County contained
3-54 within the following described area:
3-55 Beginning on the most southern point of Hays County at the
3-56 intersection of Hays, Comal, and Guadalupe Counties; then
3-57 continuing in a northeasterly direction along the Hays-Guadalupe
3-58 county line to its intersection with the Hays-Caldwell county line;
3-59 then continuing along the Hays-Caldwell county line to an
3-60 intersection with Farm-to-Market Road 150; then continuing in a
3-61 northwesterly direction along Farm-to-Market Road 150 to the
3-62 intersection with the existing southern boundary of the part of
3-63 Hays County described in Subdivision (4) of this section; then
3-64 continuing in a southwesterly direction along the existing southern
3-65 boundary of the part of Hays County described in Subdivision (4) of
3-66 this section to the intersection with the Hays-Comal county line;
3-67 then continuing in a southerly direction along the Hays-Comal
3-68 county line to the point of beginning;
3-69 (6) the part of Guadalupe County beginning at the

4-1 Guadalupe County-Caldwell County-Hays County line at the San Marcos
4-2 River in the northeast corner of Guadalupe County, Texas.

4-3 THENCE southwest along the Guadalupe County-Hays County line
4-4 to the intersect of the Guadalupe County-Hays County-Comal County
4-5 line.

4-6 THENCE southwest along the Guadalupe County-Comal County
4-7 line to the intersect of the Guadalupe County-Comal County-Bexar
4-8 County intersect at the Cibolo creek.

4-9 THENCE south along the Guadalupe County-Bexar County line
4-10 along the Cibolo creek to the intersect of the Guadalupe
4-11 County-Bexar County-Wilson County line.

4-12 THENCE south along the Guadalupe County-Wilson County line
4-13 along the Cibolo creek to the intersect and crossing of Guadalupe
4-14 County Road 417.

4-15 THENCE east along Guadalupe County Road 417 to the intersect
4-16 of Guadalupe County Road 417 and Guadalupe County Road 412.

4-17 THENCE northeast along Guadalupe County Road 412 to the
4-18 intersect of Guadalupe County Road 412 and Guadalupe County Road
4-19 411 A.

4-20 THENCE east along Guadalupe County Road 411 A to the
4-21 intersect of Guadalupe County Road 411 A and Farm-to-Market road
4-22 number 725.

4-23 THENCE north along Farm-to-Market Road 725 to the intersect
4-24 of Farm-to-Market Road 725 and Interstate Highway 10.

4-25 THENCE east along Interstate Highway 10 to the intersect of
4-26 Interstate Highway 10 and State Highway 90.

4-27 THENCE east along State Highway 90 to the Guadalupe
4-28 County-Caldwell County line at the San Marcos river.

4-29 THENCE northwest along the Guadalupe County-Caldwell County
4-30 line along the San Marcos river to the place of beginning; and

4-31 (7) the part of Atascosa County beginning on the north
4-32 line of the Robt. C. Rogers Survey, at the Bexar County-Atascosa
4-33 County line, to its northwest corner, which is the northeast corner
4-34 of the F. Brockinzen Survey, Abstract 86;

4-35 THENCE south along the east line of said Survey passing
4-36 through its southeast corner and continuing south along the east
4-37 line of the F. Brockinzen Survey, Abstract 90, to its southeast
4-38 corner;

4-39 THENCE west along the south line of said survey to its
4-40 southwest corner;

4-41 THENCE north along the west line of said F. Brockinzen Survey
4-42 to the southeast corner of the B. Bonngartner Survey, Abstract 87;

4-43 THENCE west along the south line of said B. Bonngartner
4-44 Survey passing through its southwest corner and continuing along
4-45 the south line of the J. B. Goettlemann Survey, Abstract 309, to the
4-46 Atascosa County-Medina County line;

4-47 THENCE north along the Atascosa County-Medina County line to
4-48 the Bexar County line;

4-49 THENCE east along the Atascosa County-Bexar County Line to
4-50 the place of beginning.

4-51 SECTION 5. AMENDMENT. Section 1.08, Chapter 626, Acts of
4-52 the 73rd Legislature, Regular Session, 1993, is amended by amending
4-53 Subsection (b) and adding Subsections (b-1), (b-2), and (b-3) to
4-54 read as follows:

4-55 (b) The authority's powers regarding underground water
4-56 apply only to underground water within or withdrawn from:

4-57 (1) the aquifer; or
4-58 (2) any other underground water resource in Kinney
4-59 County.

4-60 (b-1) With respect to underground water in Kinney County
4-61 that is not water of the aquifer:

4-62 (1) Sections 1.01, 1.13 through 1.21, 1.23, 1.25,
4-63 1.26, 1.28(a) and (b), 1.29 through 1.34, and 1.41 through 1.45 of
4-64 this article do not apply;

4-65 (2) Section 36.205(e)(1), Water Code, does not apply;
4-66 and

4-67 (3) the authority has all the rights, powers,
4-68 privileges, authority, functions, and duties provided by:

4-69 (A) the applicable provisions of this article;

5-1 (B) the general law of this state applicable to a
5-2 groundwater conservation district created under Section 59,
5-3 Article XVI, Texas Constitution, including Chapter 36, Water Code;
5-4 and

5-5 (C) Chapter 49, Water Code, as that chapter
5-6 applies to an authority created under Section 59, Article XVI,
5-7 Texas Constitution.

5-8 (b-2) With respect to that part of Kinney County west of the
5-9 western hydrologic division, Section 36.201(c), Water Code, does
5-10 not apply to or restrict the authority's continuing imposition of
5-11 an ad valorem tax not to exceed 10 cents on each \$100 of assessed
5-12 valuation.

5-13 (b-3) This section [subsection] is not intended to allow the
5-14 authority to regulate surface water.

5-15 SECTION 6. AMENDMENT. Subsection (n), Section 1.093,
5-16 Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993,
5-17 is amended to read as follows:

5-18 (n) District 14 is composed of Kinney County and that part
5-19 of Uvalde County BNA 9502 included in block groups 3 and 4 and
5-20 blocks 102, 103, 106, 117, 140, 142, 201, 202, 203, 204, 206, 207,
5-21 208, 209, 210, 211, 212, 213, 214, 215, 216A, 216B, 217, 218, 219,
5-22 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232,
5-23 233, 234, 235, 236, 237, 238, 239A, 239B, 240, 241, 242, 243, 244,
5-24 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257,
5-25 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270,
5-26 271, 272, 273, 274, 278, 279, 280, 281, 282, 283, 284, 285, 286,
5-27 288, 296, 297, 299, 299R, 521, 522, 523, 524, 525, 526, 527, 528,
5-28 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, and 541;
5-29 and that part of Uvalde County BNA 9503 included in block groups 2,
5-30 3, 4, 5, 6, and blocks 101B, 101C, 102, 103, 104, 105, 106, 107, 108,
5-31 109A, 109B, 110, 111, 112, 113, 114, 115, 116A, 116B, 116C, 117A,
5-32 117B, 118, 119, 120, 121, 122, 123, 124, 126, 133, 134, 135, 136,
5-33 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149,
5-34 150, 151, 152, 153, 154, 155, 156, 164A, 164B, 165, 166, 167, 168,
5-35 169, 170, 171, 172, 173, and 174; and that part of Uvalde County BNA
5-36 9504 included in block group 4 and blocks 314, 316, and 319; and
5-37 that part of Uvalde County BNA 9505 included in block groups 2 and 3
5-38 and blocks 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123,
5-39 124, 125, 126A, 126B, 126C, 127, 128, 129, 130, 131, 132, 133, 134,
5-40 135, 136, 137, 138, 139A, 139B, 140, 141, 142A, 142B, 143A, 143B,
5-41 144, 145, 146, 147, 148, 149A, 149B, 150, 151, and 152.

5-42 SECTION 7. AMENDMENT. Subsection (a), Section 1.10,
5-43 Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993,
5-44 is amended to read as follows:

5-45 (a) The South Central Texas Water Advisory Committee shall
5-46 advise the board on downstream water rights and issues. The
5-47 advisory committee consists of one member appointed by the
5-48 governing body of each of the following counties and
5-49 municipalities, except that Atascosa County may not have a
5-50 representative on the advisory committee when the county has a
5-51 representative member on the board:

- 5-52 (1) Atascosa;
- 5-53 (2) Caldwell;
- 5-54 (3) Calhoun;
- 5-55 (4) Comal;
- 5-56 (5) DeWitt;
- 5-57 (6) Goliad;
- 5-58 (7) Gonzales;
- 5-59 (8) Guadalupe;
- 5-60 (9) Hays;
- 5-61 (10) Karnes;
- 5-62 (10-a) Kinney;
- 5-63 (11) Medina;
- 5-64 (12) Nueces;
- 5-65 (13) Refugio;
- 5-66 (14) San Patricio;
- 5-67 (15) Uvalde;
- 5-68 (16) Victoria;
- 5-69 (17) Wilson;

- 6-1 (18) the City of San Antonio;
- 6-2 (19) the City of Victoria; and
- 6-3 (20) the City of Corpus Christi.

6-4 SECTION 8. AMENDMENT. Subsection (g), Section 1.14,
 6-5 Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993,
 6-6 is amended to read as follows:

6-7 (g) The authority by rule may, in accordance with
 6-8 hydrogeologic research:

- 6-9 (1) define other pools within the aquifer;
- 6-10 (2) [~~in accordance with hydrogeologic research, and~~
 6-11 ~~may~~] establish index wells for any pool to monitor the level of the
 6-12 aquifer to aid the regulation of withdrawals from the pools; or
- 6-13 (3) more accurately define and locate the western
 6-14 hydrologic division in Kinney County.

6-15 SECTION 9. AMENDMENT. Section 1.16, Chapter 626, Acts of
 6-16 the 73rd Legislature, Regular Session, 1993, is amended by adding
 6-17 Subsection (b-1) to read as follows:

6-18 (b-1) An existing user withdrawing underground water from
 6-19 the portion of the aquifer in Kinney County must file a declaration
 6-20 of historical use on or before March 1, 2006, on a form prescribed
 6-21 by the board. An applicant for a permit must timely pay all
 6-22 application fees required by the board.

6-23 SECTION 10. AMENDMENT. Section 1.17, Chapter 626, Acts of
 6-24 the 73rd Legislature, Regular Session, 1993, is amended by adding
 6-25 Subsections (a-1) and (e) to read as follows:

6-26 (a-1) Subsection (a) of this section does not apply to a
 6-27 person who, on September 1, 2005, owns a producing well located in
 6-28 Kinney County and uses the well to withdraw water from the aquifer.
 6-29 A person who, on September 1, 2005, owns a producing well in Kinney
 6-30 County that withdraws water from the aquifer may continue to
 6-31 withdraw and beneficially use water without waste until final
 6-32 action on permits by the authority if:

6-33 (1) the well is in compliance with all statutes and
 6-34 rules relating to well construction, approval, location, spacing,
 6-35 and operation; and

6-36 (2) the person files a declaration of historical use
 6-37 as prescribed by Section 1.16(b-1) of this article.

6-38 (e) Subsection (d) of this section does not apply to a well
 6-39 described by Subsection (a-1) of this section. Interim
 6-40 authorization for a well described by Subsection (a-1) of this
 6-41 section ends on:

6-42 (1) entry of a final and appealable order by the
 6-43 authority acting on the application for the well; or

6-44 (2) March 1, 2006, if the well owner has not filed a
 6-45 declaration of historical use.

6-46 SECTION 11. AMENDMENT. Subsection (b), Section 1.18,
 6-47 Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993,
 6-48 is amended to read as follows:

6-49 (b) The authority may not consider or take action on an
 6-50 application relating to a proposed or existing well of which there
 6-51 is no evidence of actual beneficial use before June 1, 1993, until a
 6-52 final determination has been made:

6-53 (1) on all initial regular permit applications
 6-54 submitted on or before the initial application date of March 1,
 6-55 1994; or

6-56 (2) on all initial regular permit applications
 6-57 submitted for aquifer use in Kinney County on or before the initial
 6-58 application date of March 1, 2006.

6-59 SECTION 12. AMENDMENT. Subsection (c), Section 1.34,
 6-60 Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993,
 6-61 is amended to read as follows:

6-62 (c) A permit holder may lease permitted water rights, but a
 6-63 holder of a permit to use water from the aquifer for irrigation use
 6-64 may not lease more than 50 percent of the irrigation rights
 6-65 initially permitted. The user's remaining irrigation water rights
 6-66 must be used in accordance with the original permit and must pass
 6-67 with transfer of the irrigated land.

6-68 SECTION 13. REPEALER. Chapter 1344, Acts of the 77th
 6-69 Legislature, Regular Session, 2001, is repealed.

7-1 SECTION 14. TRANSITION: DISSOLUTION AND RULES. (a) On the
7-2 effective date of this Act:

7-3 (1) all the powers, duties, rights, assets, and
7-4 obligations of the Kinney County Groundwater Conservation District
7-5 become the powers, duties, rights, assets, and obligations of the
7-6 Edwards Aquifer Authority;

7-7 (2) all records, supplies, and other property relating
7-8 to the administration of the Kinney County Groundwater Conservation
7-9 District shall be transferred to the Edwards Aquifer Authority; and

7-10 (3) the Edwards Aquifer Authority shall be
7-11 automatically substituted for the Kinney County Groundwater
7-12 Conservation District in any judicial or administrative proceeding
7-13 to which, on the effective date of this Act, the Kinney County
7-14 Groundwater Conservation District is a party or is sitting or
7-15 serving as an administrative, regulatory, or adjudicative body.

7-16 (b) On completion of the transfer under Subdivision (2),
7-17 Subsection (a) of this section, the Kinney County Groundwater
7-18 Conservation District is dissolved.

7-19 (c) Any rule adopted by the Kinney County Groundwater
7-20 Conservation District before the effective date of this Act that
7-21 relates to the management or control of the Edwards Aquifer is void.
7-22 Any rule adopted by the Kinney County Groundwater Conservation
7-23 District before January 1, 2005, that relates to the management or
7-24 control of underground water other than water of the Edwards
7-25 Aquifer is, on the effective date of this Act, a rule of the Edwards
7-26 Aquifer Authority and remains in effect until amended or repealed
7-27 by the authority.

7-28 SECTION 15. TRANSITION: PERMITS AND HEARINGS. (a) In
7-29 this section:

7-30 (1) "Authority" means the Edwards Aquifer Authority.

7-31 (2) "District" means the Kinney County Groundwater
7-32 Conservation District.

7-33 (b) Not later than the 90th day after the effective date of
7-34 this Act and in accordance with this section, the authority shall
7-35 review and act on each application for a historic or existing use
7-36 permit for underground water other than water of the Edwards
7-37 Aquifer that was filed with the district on or before December 31,
7-38 2003, in accordance with the district's rules then in effect.

7-39 (c) If the district reviewed an application for and granted
7-40 a permit before the effective date of this Act and the applicant did
7-41 not timely file a motion for rehearing on the application, the
7-42 applicant shall, on or before December 31, 2005:

7-43 (1) notify the authority in writing that the applicant
7-44 accepts the permit granted by the district; or

7-45 (2) file with the authority a motion to reconsider the
7-46 application and review the district record of the application.

7-47 (d) If an applicant accepts the district permit under
7-48 Subsection (c) of this section, not later than the 45th day after
7-49 the date on which the authority receives the applicant's
7-50 acceptance, the authority shall issue to the applicant a permit
7-51 that has terms and conditions consistent with the terms and
7-52 conditions of the district permit and authorizes production amounts
7-53 equal to the amounts authorized by the district permit.

7-54 (e) If an applicant does not timely file an acceptance or a
7-55 motion for reconsideration under Subsection (c) of this section,
7-56 not later than February 14, 2006, the authority shall issue to the
7-57 applicant a permit that has terms and conditions consistent with
7-58 the terms and conditions of the district permit and authorizes
7-59 production amounts equal to the amounts authorized by the district
7-60 permit.

7-61 (f) If an applicant timely files a motion for
7-62 reconsideration under Subsection (c) of this section, not later
7-63 than the 90th day after the date on which the authority receives the
7-64 motion, the authority shall review the district record of the
7-65 application and, after notice to the applicant and an opportunity
7-66 for a hearing, make an independent recommendation on the issuance
7-67 of a permit based on the district's rules in effect on January 1,
7-68 2004, regarding the issuance of historic or existing use permits
7-69 and evidence in the record, including any additional information

8-1 presented by the applicant during a hearing conducted by the
8-2 authority.

8-3 (g) If an applicant received a permit from the district and
8-4 timely filed a motion for rehearing with the district, the
8-5 authority shall review the permit issued by the district and the
8-6 hearing report prepared by the district's presiding officer, as
8-7 that hearing report may have been amended on the record during the
8-8 district's public hearing on the application, and:

8-9 (1) issue to the applicant a permit that has terms and
8-10 conditions consistent with the hearing report as it may have been
8-11 amended during the district's hearings on the permit and authorizes
8-12 production amounts equal to the amounts recommended by the report;
8-13 or

8-14 (2) if the authority finds, after notice to the
8-15 applicant and an opportunity for a hearing, that the
8-16 recommendations in the hearing report are not supported by any
8-17 evidence on the record, issue to the applicant a permit with terms,
8-18 conditions, and production amounts the authority determines are
8-19 supported by evidence on the record.

8-20 (h) If the district has not granted a permit to an applicant
8-21 who submitted an application before the effective date of this Act,
8-22 but the presiding officer of the district has prepared a hearing
8-23 report on the application and the district has held a public hearing
8-24 on the application, the authority shall review the hearing report
8-25 and any amendment to the report that may have been made on the
8-26 record during the hearing and:

8-27 (1) issue to the applicant a permit that has terms and
8-28 conditions consistent with the hearing report as it may have been
8-29 amended during the hearing and authorizes production amounts equal
8-30 to the amounts recommended by the report; or

8-31 (2) if the authority finds, after notice to the
8-32 applicant and an opportunity for a hearing, that the
8-33 recommendations in the hearing report are not supported by any
8-34 evidence on the record, issue to the applicant a permit with terms,
8-35 conditions, and production amounts the authority determines are
8-36 supported by evidence on the record.

8-37 (i) An applicant aggrieved by the authority's decision on a
8-38 permit issued by the authority under this section may file a motion
8-39 for rehearing with the authority not later than the 20th day after
8-40 the date on which the authority issues the permit to the applicant
8-41 in writing. Not later than the 45th day after the date on which the
8-42 authority receives the motion, the authority shall act on the
8-43 motion. If the authority does not act on the motion in the time
8-44 allowed, the motion for rehearing is overruled by operation of law.
8-45 The authority's decision on a permit is final and appealable when
8-46 the motion for rehearing is overruled, in whole or in part, by the
8-47 authority in writing or by operation of law. The timely filing of a
8-48 motion for rehearing is a prerequisite to an appeal of the
8-49 authority's decision on a permit issued under this section. An
8-50 applicant aggrieved by the authority's decision on the motion for
8-51 rehearing may appeal the authority's decision by filing suit in
8-52 district court under Subchapter H, Chapter 36, Water Code. On
8-53 appeal, the district court shall conduct a trial de novo on the
8-54 application.

8-55 SECTION 16. TRANSITION: APPOINTMENT TO SOUTH CENTRAL TEXAS
8-56 WATER ADVISORY COMMITTEE. As soon as practicable after the
8-57 effective date of this Act, the Kinney County Commissioners Court
8-58 shall appoint a member of the South Central Texas Water Advisory
8-59 Committee under Subsection (a), Section 1.10, Chapter 626, Acts of
8-60 the 73rd Legislature, Regular Session, 1993, as amended by this
8-61 Act.

8-62 SECTION 17. FINDINGS RELATED TO PROCEDURAL REQUIREMENTS.
8-63 (a) The legal notice of the intention to introduce this Act,
8-64 setting forth the general substance of this Act, has been published
8-65 as provided by law, and the notice and a copy of this Act have been
8-66 furnished to all persons, agencies, officials, or entities to which
8-67 they are required to be furnished under Section 59, Article XVI,
8-68 Texas Constitution, and Chapter 313, Government Code.

8-69 (b) The governor has submitted the notice and Act to the

9-1 Texas Commission on Environmental Quality.

9-2 (c) The Texas Commission on Environmental Quality has filed
9-3 its recommendations relating to this Act with the governor,
9-4 lieutenant governor, and speaker of the house of representatives
9-5 within the required time.

9-6 (d) All requirements of the constitution and laws of this
9-7 state and the rules and procedures of the legislature with respect
9-8 to the notice, introduction, and passage of this Act are fulfilled
9-9 and accomplished.

9-10 SECTION 18. EFFECTIVE DATE. This Act takes effect
9-11 September 1, 2005.

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