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GOVERNOR

State of Louisiana  
DEPARTMENT OF NATURAL RESOURCES  
OFFICE OF CONSERVATION

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SECRETARY

RICHARD P. IEYOUB  
COMMISSIONER OF CONSERVATION

September 20<sup>th</sup>, 2017

Barry Hughhins, Chairman  
Capital Area Ground Water Conservation Commission  
3535 South Sherwood Forest Blvd., Suite 137  
Baton Rouge, LA 70816-2255

Re: DRAFT Guidance Form and Checklist (Act 425, Groundwater Commission Reporting)

Dear Chairman Hughhins:

I have received your letter of September 16<sup>th</sup>, 2017, with additional comments included on the guidance form with checklist developed by the Office of Conservation in compliance with Act 425 of 2017 Regular Session. I sincerely appreciate your efforts to improve this form and find value in your comments, which my staff will take under due consideration in the development and issuance of a final version. However, I do want to address the two issues raised directly in your letter.

The first is your concern over the Office of Conservation's compliance with the implementation of Act 425 as it pertains to the requirements of Louisiana Revised Statutes 49:950 et seq., the Administrative Procedure Act. To provide further clarity, I directed my staff to revisit and further research the matter. After reviewing the specific language of Act 425 and consulting once more with individuals involved in the passage of the bill along with the author, it is very clear that this law does not mandate nor provide for the utilization of the rulemaking process by the Office of Conservation in the development and issuance of the guidance form and checklist on the reporting requirements listed therein.

Further, under Act 425, the Capital Area Ground Water Conservation Commission report must be filed by November 1<sup>st</sup> regardless of whether the Office of Conservation provides a guidance form with checklist or not. That being said, we have in fact developed a guidance form and checklist in compliance with the law and will finalize this document and issue it in sufficient time for the November 1<sup>st</sup> report.

The second issue I would like to address is the difference between the draft guidance forms sent to your commission and the Sparta Groundwater Conservation Commission for review and comment. Act 425 clearly states that "each ground water conservation district created by law or designated as a regional body, pursuant to R.S. 38:3097.4(D)(6), shall submit to the commissioner of conservation, the Water Resources Commission, the Water Management Advisory Task Force, the Senate Committee on Environmental Quality, and the House Committee on Natural Resources and Environment a written report detailing the district's ground water resources and the activities and actions taken with respect to each of the district's powers delineated by laws creating the district." Again, the law here is very clear in limiting the report of each groundwater commission to those powers delineated to it by statute; in this case, the Sparta commission, as an advisory body, has a limited

statutory authority while the Capital Area commission, a regulatory agency, has a greatly expanded statutory authority. In crafting a form and checklist for each, the Office of Conservation is following the instruction of Act 425 to develop a document that reflects each commission's basis in law.

The agency will continue to accept comments on the document until the close of business at 4:30 p.m. on September 22<sup>nd</sup>, 2017. Following this, the Office of Conservation will utilize any received comments to make edits as deemed appropriate to the guidance form with checklist and then finalize and issue the document.

Sincerely,



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for Richard P. Ieyoub  
Commissioner of Conservation

Cc: Anthony Duplechin

RPI; jwa