

LAW OFFICES OF  
**McCARTHY & McCARTHY, L.L.P.**

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AUSTIN, TEXAS 78701  
(512) 904-2310  
(512) 692-2826 (FAX)

December 14, 2021

Southwest Travis County Groundwater  
Conservation District  
Attn: Lane Cockrell, General Manager  
8656A W Highway 71, Suite 224  
Austin, Texas 78735

**Via Hand Delivery  
& E-mail**

Re: Clancy Utility Holdings, LLC - Application for a Municipal Groundwater  
Production Permit for Clancy Well No. 1

Dear Lane:

As you are aware, the former Norsworthy Ranch is being developed as Mirasol Springs Subdivision. The 1400 contiguous acres in western Travis and Hays Counties will be developed on a low density, large lot basis. The current plans call for development of 55 estate private homes, some clustered garden-style casita cottages, and a 77-room inn. There will also be an organic farm developed on the property to service the restaurant at the Inn, as well as a University of Texas Field Station Study Facility.

Clancy Utility Holdings, LLC ("Clancy") has been selected by the Developer to operate retail water and wastewater services within the development. In December 2020, Clancy contracted with the Lower Colorado River Authority ("LCRA") to obtain water from Lake Travis to be diverted at the property adjacent to the Pedernales River as the primary water supply for the subdivision. Clancy has an application pending at the Texas Commission on Environmental Quality ("TCEQ") to obtain the necessary authorization to divert the LCRA water at the Mirasol Property.

Due to the drought prone nature of surface water resources, in order to meet its statutory mandate as a retail potable water utility, and TCEQ requirements that municipal water supplies satisfy TCEQ's "firm yield" criteria, Clancy is applying to Southwest Travis County Groundwater Conservation District ("SWTCGCD") for a groundwater production permit for municipal purposes to supply a portion of its demand, during those periods when the surface water supplies are unavailable.

Clancy seeks authorization from SWTCGCD to produce up to a maximum annual volume of 33.63 ac-ft/yr from a single well completed in the Middle Trinity Aquifer on the Hays County portion of the Mirasol Springs Development. The Well subject to this Application is referred to as the "Clancy Well No. 1."

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Groundwater is intended to serve as a redundant source of water to meet Clancy's retail water supply demands. Clancy's utility services will be limited to the Mirasol Springs development. The Developer of Mirasol Springs, together with Clancy, plans to supplement groundwater and surface water supplies with treated effluent from buildings and homes to be constructed at the property, which will be connected to the central wastewater collection and treatment system. Rainwater harvesting also will be incorporated into facilities constructed on the property for non-potable uses, including landscape irrigation.

Enclosed with this letter is Clancy's Application for the single well for which the groundwater production permit for municipal use within the Mirasol Springs Development is sought from SWTGCD. I have separately e-mailed you the following DropBox link with a digital copy of the Application:



Please note that the Application includes multiple water supply studies and analyses, including the required "Groundwater Availability Analysis" prepared by Rusty Tarver, P.G. Mr. Tarver will be delivering to SWTGCD separately a "digital" copy of the pumping test data that supports his Groundwater Availability analysis.

The majority of the 1400 acres of the Mirasol Springs Project is located in Hays County. Approximately 165 acres out of the 1400 acres, however, is located in Travis County. For this reason, Clancy has filed a groundwater production permit application from the Hays Trinity Groundwater Conservation District ("HTGCD"). The HTGCD Application seeks authorization for four production wells. Again, this groundwater permit for the Clancy Well No. 1 will be used to supplement the surface water supplies that are contracted from LCRA.

The Mirasol Springs Development is a contiguous 1400-acre tract. Accordingly, while any groundwater produced from the property, whether permitted by HTGCD or SWTGCD, once introduced into the Clancy Retail Water Utility System will be subject to beneficial use throughout the subdivision. This means the water to be produced from the Clancy Well No. 1 will be available for use both within and outside of the groundwater district's boundaries. Technically, this would mean an out-of-district transport *if* groundwater produced in Travis County is applied to beneficial use in the Hays County portion of the Development. Given the fact that Clancy will be a single utility operating on a contiguous tract of land, and the molecules of water, irrespective of their source, will be commingled and may possibly leave their County of origin, Clancy would request that the District waive the out-of-district consideration and requirements in connection with the Permit.

Enclosed with Clancy's Application is my Law Firm's Check No. 1936 in the amount of \$750.00 payable to the District as the application fee for the requested Production Permit for the Clancy Well No. 1. This fee was determined based upon (i) the attached Fee Schedule found on the District's website, and (ii) Clancy's request for one production well. If there are additional fees required at this time in connection with the processing of the Application, please let me know so I can have the same remitted to you. A copy of the Check is also appended hereto for future reference.

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Along with myself, and Shaun Miller, President of Clancy Utility Holdings, LLC, the other point of contact for purposes of this Application is Mr. Rusty Tarver, P.G. As you will see from reviewing the Application, Mr. Tarver has performed the hydrogeologic studies and related work associated with the development of the Permit.

Mr. Miller's contact information is found on the Cover, and in the body of the Application. For your convenience, contact information for both myself and Mr. Tarver is as follows:

Edmond R. McCarthy, Jr.  
McCarthy & McCarthy, LLP  
1122 Colorado, Suite 2399  
Austin, Texas 78701  
(512) 904-2313  
[ed@ermlawfirm.com](mailto:ed@ermlawfirm.com)

Robert "Rusty" Tarver, P.G.  
Managing Member  
Tarver Geologic Services, LLC  
2123 Divide Pass  
Blanco, Texas 78606  
(512) 914-7591  
[rtarver512@gmail.com](mailto:rtarver512@gmail.com)

After you have had an opportunity to review the Application, please let me know if you would like to schedule a follow-up conference with Mr. Tarver and myself to go over the Application and address any preliminary questions you may have. We look forward to working with you on this Application.

Best wishes.

Sincerely,

~~MCCARTHY & MCCARTHY, LLP~~

  
Edmond R. McCarthy, Jr.

ERM/tn  
Encl.

cc: Clancy Utility Holdings, LLC  
Attn: Shaun Miller, President

Tarver Geologic Services, LLC  
Attn: Rusty Tarver, P.G.

Murfee Engineering, Inc.  
Attn: George Murfee, P.E.

HORIZON BANK

1936

88-794/1119

CHECK ARMOR  
FRAUD PROTECTION

**McCARTHY & McCARTHY LLP**

1122 COLORADO STREET  
SUITE 2399  
AUSTIN, TX 78701

12/13/2021

PAY TO THE ORDER OF SWTGCD

\$ \*\*750.00

Seven Hundred Fifty and 00/100\*\*\*\*\*

DOLLARS

SWTGCD  
P.O. Box 340595  
Austin, TX 78734

MEMO Prod. Permit Fee



THIS DOCUMENT MUST HAVE A COLORED BACKGROUND, ULTRAVIOLET FIBERS AND AN ARTIFICIAL WATERMARK ON THE BACK - VERIFY FOR AUTHENTICITY.

**McCARTHY & McCARTHY LLP**

SWTGCD

12/13/2021

1936

Production Permit Filing Fee paid to SWTGCD

750.00

Firm Checking 3496 Prod. Permit Fee

750.00

**McCARTHY & McCARTHY LLP**

SWTGCD

12/13/2021

1936

Production Permit Filing Fee paid to SWTGCD

750.00

Firm Checking 3496 Prod. Permit Fee

750.00



Details on Back  
Security Features Included



## Southwestern Travis County Groundwater Conservation District

### ADOPTED FEE SCHEDULE FOR FY 2021

- [Application Fees](#)
  - [Well Registration](#)
  - [Well Drilling/Modification Authorization Application](#)
  - [Well Construction](#)
  - [Production Authorization Application](#)
  - [Amending an Existing Production Authorization](#)
  - [Renewal of Production Authorization](#)
  - [Capping, Sealing, or Plugging Well](#)
- [Groundwater Production Fees](#)
  - [Wells under an Individual Operating Permit](#)
  - [Wells under a General Permit by Rule](#)
- [Service Connection Fees](#)
- [Other Approved Fees](#)
- [Summary Table of Fees in District Fee Schedule](#)

The Board of Directors (Board) of Southwestern Travis County Groundwater Conservation District (District) has adopted by resolution the following schedule of fees for Fiscal Year 2021, beginning October 1, 2020. The Effective Date for these fees is October 1, 2020. A summary of the scheduled fees that are related to authorizations for wells and groundwater production is shown in the enclosed table.

These fees provide the minimum funding to sustain the District's regulatory programs and offset ancillary administrative expenses as it seeks to promote groundwater conservation, provide for long-term availability of groundwater resources, reduce localized depletion of groundwater, minimize interference between wells, and minimize the degradation of

groundwater. Generally, these fees are non-refundable unless it is shown that the District erroneously calculated the fee due.

Failure to pay uncontested applicable fees is subject to enforcement provisions and penalties set forth in District Rule 7.

## **Application Fees**

**Well Registration Fee.** All owner/operators of existing groundwater wells in the District other than those used by a single residential household must register each of their wells with the District not later than February 28, 2021. Each of the wells used by single residential households must be registered with the District as soon as practicable but not later than September 30, 2021. Registration can be accomplished by the owner's completing and submitting a well registration form available from the District. At this time, no individual fee is assessed for registering any well in the District, whether Existing or New, and whether Exempt or Non-exempt.

**Well Drilling/Modification Authorization Application.** Any groundwater well proposed to be installed or to be modified after the Effective Date must have completed an application for a Well Drilling/Modification Authorization (WDA) for each individual proposed well or modification, on a form available from and to be submitted to the District with the WDA application fee, if applicable. The application form for the WDA also serves as the registration for the prospective well, as an application for modifying a previously installed well, and as an application to cap, seal, and/or plug an existing well. While there is no additional fee for registration of that well, the application fee for the WDA for each new proposed well is **\$500.00**.

The WDA application form must also be completed for prospective Minor and Major Modifications, as defined in Rule 3.2.C, to certain previously installed wells. Minor Modification of a previously installed well that is Exempt is not assessed a WDA application fee. Minor Modifications to a Non-exempt well under either a General Permit by Rule or an Operating Permit will have a WDA application fee of **\$100.00**. Major Modifications to any previously installed well, regardless of whether Exempt or Non-exempt and, if Non-exempt, regardless of the type of permit, will have a WDA application fee of **\$500.00**. Repairs and replacement of existing well equipment are not considered Modifications and do not require submittal of a WDA application or application fee, provided there is no change to the well's production

capacity or aquifer being used and provided the existing well is or becomes registered before modification.

Submittal of an application for a WDA for a proposed Non-exempt well or for a Major Modification to an existing Non-exempt well also requires payment of a statutorily authorized Well Construction Fee, as specified in the next subsection of this Fee Schedule. The application fee but not the well construction fee is charged each time such an application is (re)submitted for the same well.

The owner or applicant must obtain an approved WDA Authorization from the District before work installing or modifying the well commences. The District may assess an additional fee if the District incurs non-routine expenses relating to the investigation of the application, a protest to the application requiring a contested-case hearing, or recurring inspections caused by the applicant or the applicant's agent failing to comply with District Rules and requirements.

**Well Construction Fee.** A proposed Exempt Well and a Minor Modification, if authorized by the District, to a previously installed well are not assessed a Well Construction Fee.

All Non-exempt Wells are assessed and must pay a Well Construction Fee along with the application fee for the WDA before the WDA will be issued. The fee differs for the type of authorization sought for the Non-exempt Well:

- (1) Proposed New Well to be authorized under an Operating Permit - **\$1000.00**
- (2) Proposed New Well to be authorized under a General Permit by Rule - **\$500.00.**
- (3) Major Modification to Previously Installed Well with a General Permit - **\$500.00**
- (4) Major Modification to Previously Installed Well with an Operating Permit:
  - a. **Non-agricultural Use - \$500.00**
  - b. **Agricultural Use - \$250.00**

This fee is different from and in addition to the application fee for a Well Drilling/Modification Authorization that is described in the preceding subsection. This fee is also different from and in addition to the application fee for a Production Authorization for withdrawing water from such Non-exempt Wells, as described in the following subsection.

**Production Authorization Application.** The owner of a Non-exempt Well or multiple wells that are Non-exempt Aggregated Wells, as defined by District Rule 3.4(D)(2), that seeks either an Operating Permit or an authorization under a General Permit by Rule for either previously installed well(s) or proposed new well(s) must submit a Production Authorization application

along with the designated application fee to obtain a permit to withdraw groundwater from the well or Aggregated Wells. The amount of the application fee differs, depending on the type of authorization sought and the intended beneficial use:

- (1) Authorization for Agricultural Use of wells under an Operating Permit - **\$400.00**
- (2) Authorization for Non-Agricultural Use of wells under an Operating Permit - **\$750.00**
- (3) Authorization for Use of wells under a General Permit by Rule - **\$400.00**.

The application fee shall be assessed each time such an original application is (re)submitted or amended. In the special instance in which the District requests the applicant to conduct an aquifer test for the WDA evaluation itself (see Rule 3.3(B)(7)) rather than the one proposed by the applicant for the Production Authorization, the application fee for authorizing the Test Well General Permit by Rule that would ordinarily be assessed for the production test well shall be waived, regardless of any subsequent use of that well in aquifer tests required to support the assessment of an application for a Production Authorization.

Upon the initial application for an Operating Permit of an Existing Well or Aggregated Wells that is not solely for single-residence use, the District will provide the well owner/operator with a temporary Operating Permit from the District that specifies a subset of requirements for continuing to operate that well or Aggregated Wells until a regular Operating Permit is administratively complete and the regular permit received. The temporary permit will have an effective date of January 1, 2021, regardless of when the temporary permit or the regular Operating Permit is received by the well owner/operator. The temporary permit does not have a separate application fee assessed.

**Application for Amending an Existing Production Authorization.** The owner of a well that seeks an amendment to a previously issued Production Authorization arising from modifying a Non-exempt Well or Aggregated Wells that constitutes a Major Modification of the well, as defined by Rule 3.2(C), must submit a new Production Authorization application indicating the changes being contemplated, along with an application fee of **\$400.00**. The application fee for modifying an existing Operating Permit for agricultural use is reduced to **\$300.00**. The application fee is charged each time such an application is submitted with different parameters. A public hearing shall be required for such amendment of an Operating Permit and may be required for such amendment of a General Permit by Rule. The conversion of a temporary Operating Permit to a regular Operating Permit is not considered a modification or amendment to the Production Authorization and does not require the application fee described above in addition to the initial application fee for the Production Authorization application.



**Application for Renewal of a Production Authorization.** The owner of a well or Aggregated Wells with a Production Authorization, whether an Operating Permit or General Permit by Rule, must apply for renewal of that permit no later than two months before the end of the Permit's term, on a form available from the District for such purpose. (Temporary Operating Permits are not eligible for renewal.)

Provided there are no changes to the existing Operating Permit's provisions, pending enforcement actions, or outstanding fees due the District, its renewal of an Operating Permit will be authorized by the Board, following payment of a reduced **\$200.00** application fee for such renewals if no public hearing is required by the Board, **or** payment of the **\$400.00** standard application fee for such renewal if a public hearing is required (or **\$150.00** and **\$300.00**, respectively if Agricultural Use).

Provided a well owner is meeting the terms of an existing General Permit authorization, upon receipt of the completed renewal application and payment of the **\$200.00** application fee, the General Permit authorization will be renewed without the Board's conducting a public hearing.

**Application for Capping, Sealing, or Plugging Well.** The landowner or its designated agent must complete a District WDA application form to cap, seal, and/or plug an existing deteriorated or abandoned well and submit the form to the District, along with an application fee of **\$100.00**. The application and application fee are a pre-requisite for District review of the plans and approval of the work, which is required before it is undertaken.

## **Groundwater Production Fees**

**Non-exempt Well or Aggregated Wells under an Individual Operating Permit.** The owner of a well or Aggregated Wells under either a temporary or regular Operating Permit, whether for an Existing or New Well, must meter, or otherwise estimate using a method acceptable to the District in its sole discretion, the amount of groundwater actually withdrawn from the well or Aggregated Wells each month, beginning April 1, 2021, and report that actual use to the District monthly. The metered groundwater use is used by the permit holder to calculate and pay a quarterly production fee as follows:

- (1) For uses that are not Agricultural Uses, as defined in Rule 2, a fee of **\$0.20 per thousand gallons** of water reported as actually withdrawn from the well for such use.

- (2) For Agricultural Uses, as defined in Rule 2, a fee of **\$0.04 per thousand gallons** of water reported as actually withdrawn from the well for such use.
- (3) For groundwater transported out of the District from a well or Aggregated Wells under an Operating Permit, a surcharge will be applied to the Production Fee of an **additional 50% of the standard Production Fee amount**. Only wells under an Operating Permit are authorized to export water out of the District. Exempt Wells and wells authorized under General Permits by Rule are prohibited from such export. As an alternative to the surcharge and in lieu of its separate metering requirement, the permittee and the District may negotiate a quarterly or annual fee for exporting a portion of the groundwater under the permit.

Production fees for each quarter are due no later than the tenth day of the month following each fiscal-year quarter (i.e., January 10, April 10, July 10, October 10), and are considered late after the fifteenth day of that month.

**Non-exempt Well or Aggregated Wells under a General Permit by Rule.** The amount of groundwater withdrawn under authorization of a General Permit by Rule in good standing is generally not required to be metered and reported to the District, and the permittee is not required to pay a groundwater production fee.

### **Service Connection Fee**

The owners of wells that provide a water supply to members of the public that are not members of their own residential household, regardless of whether the wells are permitted under temporary or regular Operating Permits, shall be assessed and pay the District a statutorily authorized one-time Service Connection Fee for each new service connection made to the well system after October 1, 2020, using the definitions and procedures specified in Rule 3.8.

- (1) The Service Connection Fee for new longer-term end-user connections, except RV slips, will be assessed by the number of newly completed living units or dwellings, regardless of occupancy, multiplied by the statutorily authorized connection fee amount of **\$1000.00**.
- (2) The Service Connection Fee for new RV slips will be assessed at the rate of **\$200 each**.
- (3) The Service Connection Fee for new shorter-term end-user connections will be assessed at **\$1000.00 per new building** served by the well unless the system utilizes submeters, in

which case the Service Connection Fee will be assessed at **\$1000.00** for each new submeter.

The Service Connection Fee is in addition to the quarterly Groundwater Production Fees for the water supply well. The Service Connection Fee must be paid before the service connection is activated, as described in Rule 3.8(C), except for those connections activated in the initial, interim period between October 1, 2020, and receipt of the temporary Operating Permit following initial registration. During the interim period, the Service Connection Fees will be due after activation of the new connections and paid in aggregate by the permit holder upon its receipt of the temporary Operating Permit.

### **Other Approved Fees**

**Returned Check Fee.** The District will assess the person writing the returned check a **\$30.00** fee for each check returned by the District Depository due to non-sufficient funds, account closed, signature missing, or any other problem causing such a return. This fee will be charged every time a check is returned.

**Copying Fees.** The District may charge for making requested paper copies for District documents or for responding to Public Information requests (pursuant to Office of the Attorney General Rules 1 TAC § 70.3). The District will charge **\$0.25 per page** for District documents and responses to Public Information requests. Public Information requests that require cumulatively more than 30 minutes to assemble responses by any method will incur an additional **\$50.00 per hour** fee for staff time.

**Late fee.** A late fee of **10% of the cumulative amount due**, including past-due late fees, will be assessed if payments due the District are not received within 10 days following the due date. The fee payment and the late fee payment must be made within 30 days following the date of the assessment of the late payment fee.

**Trip Fee.** If the District is required to have an employee or agent observe a well or meter or review documents not located within the District's office due to the actions or inaction of a well owner or permittee, the District may charge a trip or mileage fee equal to the **current federal standard mileage rate for distance traveled both ways** between the District office and the well location.

**Meter Verification / Inspection Fee.** A fee of **\$50.00 to \$100.00** will be assessed when a permitted user fails inspection after being advised that meters must be installed or calibrated,

or when a permittee fails to submit the required meter readings and District personnel must visit the well site or take the meter readings. This fee may be assessed as many times as the well owner/operator fails to comply with Board Orders or District Rules to come into compliance. The fee will increase to **\$100.00** on the third instance to occur within a 12-month period in which a \$50 fee was previously assessed two instances prior. This fee is in addition to the variable Trip Fee that typically is assessed along with the Meter Verification/Inspection Fee.

**Enforcement Fee.** If the District is required to incur expenses to enforce the District's Rules, including the payment of the District's production fee, the person responsible for causing the District to incur the expense shall reimburse the District for such expenses within ten days after it certifies receipt of a demand for payment from the District.

**Court-related Fee.** If the District prevails in any suit to enforce its Rules, the District shall seek, and the Court may grant, in the same action, recovery of attorney's fees, costs for expert witnesses, and other costs incurred by the District's appearance before the Court.

**Application and Processing Fee.** For extraordinary expenses incurred during the processing of applications, or if the District incurs additional unanticipated costs including, but not limited to, professional consultant fees or legal counsel specific to an application, the applicant will be responsible for all costs incurred by the District and invoiced to the applicant. District staff labor will be charged at an **hourly rate of \$75.00**.

The amount of processing required for applications is based on the information provided in the application. If the District later determines that the information was substantially incorrect, and a higher application or production fee should have been assessed and paid, all work on the well shall cease until the higher fee is paid.

**SUMMARY TABLE OF FEES IN DISTRICT FEE SCHEDULE, SEPTEMBER 22, 2020**

  = Authorized by Enabling Act     
   = Authorized by Texas Water Code Chapter 36

		<i><b>FOR PREVIOUSLY INSTALLED WELLS</b></i>					
	Comments	Production Authorizations					
		All Exempt	Operating Permit			General Permit by Rule	
			Ag Use	Non-Ag; Non-PWS	Non-Ag; PWS	Non-Exempt Domestic Use	Test Well
<b>Registration Fee</b>	Registration required of all wells, but no separate fee	-	-	-	-	-	-
<b>Well Drilling Authorization Application Fee</b>	No WDA required for an Existing Well as-is	-	-	-	-	-	-
<b>Administrative Management Fees</b>	Annually recurring fee, per well; not assessed	\$0	-	-	-	-	-
<b>Operating Permit Application Fee</b>	Determined by District from application info; PH required	-	\$400	\$750	\$750	-	-
<b>Application Fee for Capping, Sealing, and/or Plugging Well</b>	For any previously installed well	\$100					
<b>General Permit by Rule Application Fee</b>	Determined by District from application info; no PH	-	-	-	-	\$400	\$400
<b>Operating Permit Renewal Fee</b>	Annual renewal fee; 50% discount on renewal if in compliance and PH not required	-	\$300	\$400	\$400	-	-
<b>General Permit Renewal Fee</b>	Authorized renewal every five years; presumed compliance so no PH	-	-	-	-	\$200	\$200
<b>Groundwater Production Fee</b>	Statutorily set rate; volume determined by metering	-	\$.04/1000 gal	\$.20/1000 gal	\$.20/1000 gal	-	-
<b>Groundwater Export Fee</b>	If applicable, surcharge on Production Fee	-	50% of Prod'n Fee	50% of Prod'n Fee	50% of Prod'n Fee	-	-
<b>(New) Service Connection Fee</b>	One-time fee for each new connection to PWS with Operating Permit after 10/1/2020	-	-	-	\$200 for RV slip; \$1000 for other type connection	-	-
<b>Other Approved Fees</b>	As warranted, per Fee Schedule; nominally \$0	Variable with situation	Variable with situation	Variable with situation	Variable with situation	Variable with situation	Variable with situation

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