



# **SPECIAL MEETING MINUTES**

## **OF THE**

### **SOUTHWESTERN TRAVIS COUNTY GROUNDWATER CONSERVATION DISTRICT**

**Via Telephone Conference**

In accordance with the order of the Office of the Governor issued March 16, 2020, the SWTCGCD Board of Directors conducted a Special Board Meeting as a remote access only meeting in order to advance the public health goal of limiting face-to-face meetings (also called “social distancing”) to slow the spread of the Coronavirus (COVID-19). The meeting was open to the public and instructions for accessing the conference call were provided in advance with the Notice of Meeting

**Wednesday, July 21, 2020 at 9:00 am**

**1. Call to order, declare meeting open to the public, take roll and declare quorum status**

Director and Board President Scadden called the special meeting of the Southwestern Travis County Groundwater Conservation District (SWTCGCD or District) Board of Directors to order at 9:00 AM on Tuesday July 21, 2020. Seven District Directors were present on the conference call constituting a quorum, including Directors Davis, Hennings, Dower, Scadden, Hunt, Van Ackeren and Urie. Also present were General Manager Kodi Sawin, Kirk Holland, Ty Embry with Lloyd Gosselink, Rusty Tarver private citizen and hydrologist, and Hank Smith representing Travis County MUD #1 (West Cypress Creek).

At the request of Director Scadden all present introduced themselves.

**2. Public comments**

Director Scadden expressed the opinion that it is important that we always start District meetings with an opportunity for citizens that have an interest in what we are doing to comment, and he called for public comments. There were no public comments.

**3. Discuss and possibly act on matters related to formulating District Rules, including setting a Public Hearing on the rulemaking at some future Board meeting.**

Director Scadden initiated the discussion by saying that he feels like the Rules Committee is making good progress and he is excited to have the Committee share that today and get feedback from the Board and he thanked General Manager Sawin and Kirk Holland for doing the heavy lifting on this effort and the progress being made is due to their hard work.

General Manager Sawin, and Kirk Holland led a discussion of the topics outlined in the Work Session Agenda provided to the Board prior to the Work Session.

***The Work Session Agenda is attached as Exhibit A***



General Manager Sawin said that the goal for this Work Session is to provide enough confirmation and direction on key questions to begin drafting Rules. She then reviewed Item 1) *Next Steps* on the Work Session Agenda which outlines the steps to a possible approval of the Rules at a late September public hearing.

General Manager Sawin then went on to discuss Agenda Item 2) *Permit Process* saying that the Rules Committee has reviewed with the Board, and received guidance on, information on Exempt Wells and what remains outstanding now is issues regarding Non-Exempt Wells which are mostly Operating Permit issues, and the Committee will also need guidance on some General Permit by Rule issues.

Kirk Holland explained that anything that is not Exempt by Chapter 36 or Exempt by Rules is Non-Exempt and requires some sort of special authorization that Exempt Wells do not. He explained that there are three types of Exempt Wells and he reviewed the types as shown in the graphic in Item 2) *Permit Process* of the *Work Session Agenda* as well as other types that are Exempt by Rule.

Kirk Holland then reviewed the Non-Exempt Well criteria presented in Item 2) *Permit Process* of the *Work Session Agenda* explaining that there are two categories of Non-Exempt wells: those requiring an Operating Permit with metering and production fees and the General Permit by Rule wells which do not require metering or production fees. He clarified that Aquifer Storage and Recovery (ASR) wells only require an operating permit if withdrawal volume is greater than injection volume.

General Manager Sawin reviewed the criteria or allocation methods recommended by the Rules Committee as presented in Item 2) *Permit Process* of the *Work Session Agenda*. She then reviewed the allocation methods that are *not* recommended by the Committee. Kirk Holland further discussed the operating permit criteria and suggested that the *Permit applicant data supporting the requested permit* amount be moved up from *not recommended* to *recommended* since we will certainly be using applicant data in evaluating permit applications. He went on to briefly explain correlative rights as permitted amounts based on acreage of land which is mostly used in agricultural regions and unreasonable impacts which is impact on existing wells. Director Hunt commented that evaluating unreasonable impacts is probably not practical now but may be considered in the future. Director Scadden asked if there were any questions before moving on. Director Davis said that she would like to discuss correlative rights more in the future.

Kirk Holland reviewed the nine questions presented in Item 3) of the *Work Session Agenda*:

**Question 1: Prohibitions and Restrictions Recommended** – Director Hunt said that he agreed with the sentiment of having new wells pay an operating permit application fee and he opined that the idea of not charging an application fee to existing wells for initial operating permit is consistent with wanting to get everyone into the fold as soon as possible and he said he didn't know of any other way to incentivize that other than financially. Director Hennings said that she agreed. Kirk Holland also agreed and said that the goal is to get a fee schedule set after this work session.

He went on to discuss permit renewal fees saying that the maximum amount allowed by statute is \$400 but, even though the permittee has to apply for renewal and it takes Board action to



approve renewal, it is essentially an administrative and “automatic” renewal so \$400 seems high. BSEACD charges a \$50 renewal fee. Director Scadden suggested that we may want to have district representatives go and look at wells due for renewal just to be sure that conditions have not changed and that the well is still in good structurally stable condition. That would be an additional cost that would be covered by the \$400 renewal fee. Director Hunt suggested that there may be annual data collection expenses, such as meter reading, that may be covered by permit renewal fee. He also suggested the possibility of tiered fees, for example, greater or less than 2 Million gallons per year production. Kirk Holland pointed out that we are already doing that with other fees based on size of well for example, but the Rules Committee has not looked at what sort of tiering might be used here. At the request of Director Hennings, Kirk Holland explained Non-Exempt Domestic Use Permits which renew every 5 years v. Operating Permits which renew annually and advised that a \$400 renewal fee every 5 years is roughly equivalent to 33,000 gallons per month production well paying a \$0.20 per 1,000 gallons production fee for 5 years. He also said that one member of the Rules Committee brought up a good point asking what the basis is for having a Well Drilling Authorization Fee and a separate Well Construction Fee and maybe we should have just a Well Drilling Authorization Fee apply to new wells. Director Hunt said that makes sense to him. Kirk Holland commented that to eliminate one of the fees will be leaving some money on the table but the combination of the two fees is a hefty sum for a landowner to pay. Director Scadden pointed out that the enabling legislation specifically calls out authorization for a Well Construction Fee so if we choose to have one fee, his preference is to refer to it as a Well Construction Fee. Director Hennings said that she agreed and expressed the desire to keep the fee structure streamlined so that well owners can understand it. Regarding the prohibition of new wells in the Upper Trinity Director Scadden pointed out that the goal is not only to protect the resource but to protect the well owner’s investment.

**Question 2: Fee Schedule** – Kirk Holland reviewed the draft fee schedule which he said has been reviewed by the Rules Committee and a few others. He said fees would be effective on October 1, 2020 or some other date as the Board may adopt, and the amounts shown here are suggestions based on what adjacent GMA 9 Districts are using. He said the Rules Committee and Legal Counsel agree the date that determines if a well is existing or new needs to be the date the Rules are adopted by the Board and any well drilled after that date will require a Well Drilling Authorization (WDA). The suggested WDA application fee is \$500.

***The Draft Fee Schedule is attached as Exhibit B***

Director Dower pointed out that the \$500 fee is to review the WDA application and a WDA may or may not be issued. Kirk Holland confirmed that is correct and he added, as discussed earlier, we need to decide if we want separate WDA application and Well Construction fees. Director Scadden said that he would like to talk about how an applicant who receives a well construction authorization might not get a production permit, under what circumstances would they not get that permit? Kirk Holland explained that the WDA may also require an aquifer test and the well hydraulic properties may not allow the amount of production applied for to be permitted. It could perhaps be permitted for something less than that if the applicant wants to change their application. Director Scadden opined that such a situation would be the result of the well hydrogeology and not any administrative decision made by the GCD. Director Hunt said that in the future that may not be the case if we are considering things like the MAG for example, there may be some constraints that are not hydrogeologic. Kirk Holland added that there is also the possibility that a new well may unexpectedly have adverse impact on adjacent wells. Director



Scadden said that it is important to lay all of this out to applicants so that it is a transparent process and they understand why. Kirk Holland reiterated that the draft fee schedule has the WDA Application Fee of \$500 and the Well Construction Fee of \$1,000 but that can be changed if the board wants. Director Dower said the because the Well Construction Fee is specifically authorized in the enabling legislation it seems appropriate that we would charge that, but he did not understand the need to have multiple other fees for a well. Kirk Holland explained that Exempt Wells do not have a production permit and we do not have the well data required to issue a production permit until the well is drilled. The production permit application phase is when the District will be evaluating the effect of producing that much water out of that well and much of that will not be known until the well is drilled. General Counsel Embrey said this is where a lot of the Districts staff's time is going to be devoted. Kirk Holland said he agreed that is where most of the work is going to go and any well that is not an Exempt well is going to have a production permit.

General Counsel Embrey clarified that the District will not issue a physical document called a production permit, it will be either an Operating permit or a General Permit by Rule and that the term production permit is an over-arching term used in the District's Rules. Kirk Holland said that right now both the Operating Permit and General Permit application fees are \$650, but they could be different. General Counsel Embrey asked if it might be possible to eliminate the term production permit and just refer to Operating Permits and General Permits. Director Scadden suggested using the term production authorization which will have two types, either an Operating Permit or a General Permit by Rule. Director Dower said that he still did not see the need for the term production permit or production authorization. General Counsel Embrey suggested that simplifying the language by eliminating the term is desirable even if it means utilizing the names of both Operating Permit and General Permit in the few cases where we are describing something that could be either type. Directors Scadden and Hennings disagreed and said they like the use of production authorization to encompass both type of permits. General Counsel Embrey agreed that was a good solution.

Director Scadden said he would like to review the Well Drilling Authorization application and the Well Construction Fee again and see if we can get a Board consensus on that. He said it is his understanding that the Well Drilling Authorization application applies to Non-exempt Wells, but does it apply to all wells? Kirk Holland responded that it applies to all new or prospective wells and it does not matter whether they are exempt or not exempt. Director Scadden said that he is not comfortable having a Well Drilling Authorization Fee and a Well Construction Fee, and a Well Construction Fee is specifically authorized in the enabling act. He said he would like to not charge for the Well Drilling Authorization and collect the Well Construction Fee even if the Well Construction Fee needs to be applicable to Exempt Wells at a fee of \$500 then add that but not have both of these fees. Kirk Holland asked if we are willing to have a Well Construction Fee be collected on the type 2 Exempt Wells? After further discussion it was agreed that there are two separate application periods when the District staff must perform work and that there should be separate fees. It was suggested that the Well Drilling Authorization Fee should be \$500 and for Exempt Wells (except Type 2) and General Permit Wells the Well Construction Fee should be \$500 or for Operating Permit Wells the Well Construction Fee should be \$1,000. Concern was expressed that for the Operating Permit the total cost would be over the \$1,000 limit set in the enabling legislation for a well construction permit. General Counsel Embrey said that he recommends continuing this discussion in executive session at a future meeting.



Director Dower asked if the amount of revenue associated with charging the Type 1 Exempt Wells the \$500 Construction Fee was significant because excluding all Exempt Well from that fee would greatly simplify things. Kirk Holland agreed that it would simplify the fee structure and opined that he always felt the Legislature meant to exclude all Exempt Wells from the Well Construction Fee and not just type 2. He also said that it is too soon to be able to estimate the revenue associated with Type 1 Exempt Well Construction Fees.

After some discussion, the Board agreed to schedule a Special Meeting for another work session on July 29<sup>th</sup> at 10:00 AM and they will have an executive session during that meeting. Kirk Holland said he will put together a fee table as requested by Director Dower.

Kirk Holland then moved on to discuss the application process for Modification to an Operating Permit which needs to be evaluated almost like it's a new permit application, except you will have some operating experience to look at so there is an application fee of \$400. There is also an application for Renewal of an Operating Permit on an annual basis if there are no changes, or every five years for a General Permit and they will pay a \$400 renewal fee. The \$400 amount is a statutory limit on renewal fees. Director Dower pointed out that the way this is currently written it appears to say that there is an actual permit that is issued for both types of permits, is that correct? Kirk Holland explained that there is an actual Operating Permit that is issued and then there is a letter authorization to operate under a General Permit by Rule. Director Hennings offered the opinion that the problem may again be the use of the term *Production Permit*. Kirk Holland proposed changing *Production Permit* to *Production Authorization* and Director Dower agreed that would resolve the confusion.

Kirk Holland asked what the Board thought of the \$400 Renewal Fee every year for an Operating Permit. Director Dower suggested that \$400 seems extreme since little needs to be done by the applicant or the District staff. Director Scadden said he was in favor of keeping the \$400 fee amount. Kirk Holland pointed out that the permit renewal process is not just a fee acquisition process but it is a process to insure performance under the permit because if there is non-compliance of a permit then it is not going to be renewed. Director Scadden asked if we could have a two-tiered fee like for example \$200 for an automatic renewal and then \$400 for an application that requires a public hearing, or are these all not requiring a public hearing? Kirk Holland advised that only the Operating Permits require a public hearing if changes are requested. Director Scadden said that he was now thinking if the renewal were just administrative requiring little District staff time it could be less but if it requires a public hearing it could be the \$400 amount. Kirk Holland agreed that it could be \$200 or \$100 for renewals not requiring a public hearing and \$400 for those that do. He asked what the Board would want for the lower fee \$200 or \$100 and Director Scadden said \$200. Director Hennings said that she was not sure it is simply an administrative process if the staff had to review compliance and maybe go out and inspect wells. Director Dower said that he suspects that in most cases a well inspection will not be required but if it is then we do have the authorization to charge for that inspection. Director Hennings suggested that this might be something we need to think about and discuss further next week. Director Scadden agreed.

Kirk Holland went on to discuss Groundwater Production Fees saying these are all basically statutory. We have \$0.04 per 1,000 gallons for agricultural use wells which is 20% of the \$0.20 per 1,000 gallons for non-agricultural use wells as allowed by Chapter 36 plus a 50% surcharge for any portion of produced water that is exported out of the District. There was a discussion of



alternative export surcharge methodologies and the possibility that there might be a water distribution system that straddles the District boundary. Production fees are paid each quarter on the 10<sup>th</sup> of the month.

Service Connection Fees for new connections to a public water supply are proposed to be the statutory allowed \$1,000 per connection and RV slips are \$200 and places like hotels, motels, and restaurants will be assessed \$1,000 per building. There was a discussion of the rationale for charging RV slips \$200.

Administrative fees are standard based on other District's fees. Kirk Holland reviewed several of the administrative fees and penalties. It was agreed that including a table of penalties for major and minor violations would be a good approach.

Kirk Holland went on to discuss Drought Curtailments. He and Director Hunt worked on the Framework for Drought Curtailments table using U.S. Drought Monitor intensity levels for Travis County. He reviewed the drought stages and the recommended curtailments for each type of Well Permit. He said that the Committee has tried to be consistent across the different types of wells using the same percentage curtailment across the board regardless of whether it is a mandatory curtailment or a targeted reduction. He also discussed Drought Contingency Plans which all Operating Permittees and General Permittees will be required to have in place. Kirk Holland then said that one thing he would like the Board to consider is that while we have 10% curtailments for D-1 Moderate Droughts that may create some issues with well owners taking actions to achieve the 10% goal and then ignoring the later higher curtailments of 20%, 30%, Etc. Director Hunt shared that the BSEACD has a voluntary reduction period during the month of May to kind of get everyone thinking about drought season but some Mays are really wet and it just does not make a lot of sense in those situations. We are stepping into Drought Curtailments sort of gradually and maybe the D-1 10% curtailment is sort of an education period. Kirk Holland said that he expected that the Rules will also have a calendar-based water conservation period from say May to September. Director Hennings suggested including a link to the U.S. Drought Monitor website on this table and include a definition of *Targeted Reduction*. Director Dower asked how these rules compare to surface water suppliers in this area. Kirk Holland said they are similar, and Director Hunt added that they are consistent with other groundwater districts, and by using the same drought indices as most other water suppliers we will be similar.

***The Draft Framework for Drought Curtailments and Contingency Plans is attached as Exhibit C***

Kirk Holland said that the rest of the questions have already been covered to some extent in the discussion during today's meeting. Question 4 is regarding having different requirements for existing wells beyond a certain age. General Counsel Embrey suggested discussing this during the executive session at the next meeting.

General Manager Sawin asked that anyone who has a question or comment before the next meeting go ahead and send them to her and she will track them to be sure they get incorporated in the draft Rules.

Director Scadden asked Mr. Tarver if he had any comments or question and Mr. Tarver responded that he appreciated the opportunity and he commended the Board on their work and said that his particular interest is more toward the technical side of the Rules particularly with regard to



aquifer testing. Director Scadden thanked him and said that we are always interested in getting feedback from the public.

**4. Adjourn**

***On a motion by Director Hunt and a second by Director Hennings, the Board voted to adjourn the meeting – 6 ayes to 0 nays. The meeting was adjourned at 11:54 PM.***

PASSED, APPROVED AND ADOPTED THIS 12th day of August 2020

  
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Tim Van Ackeren, Secretary



## **Exhibit A**

### Work Session Agenda



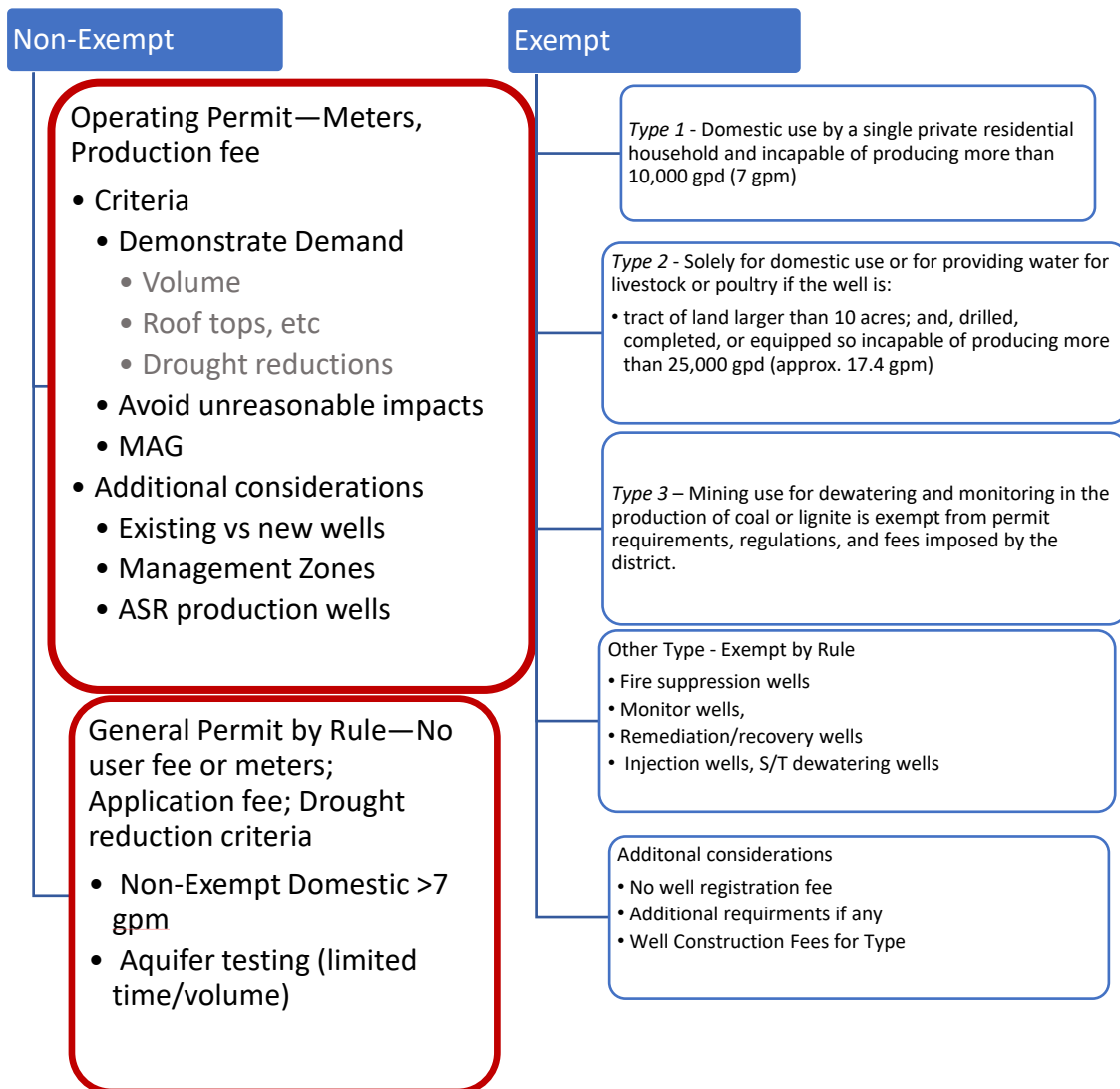
# Work Session Agenda

Today's goal: To provide enough confirmation/direction on key questions to begin drafting rules

## 1) Next Steps – Review upcoming milestone schedule

- Post-July 21 Work Session – Holland completes first draft of rules, and Sawin continues to reach out to stakeholders to participate in rule development
- August regular board meeting – PH on Fee Schedule, and If possible, approve Fee Schedule
- Late August work session – Time TBD review draft rules
- September regular Board meeting – PH on proposed budget, and if possible, approve initial FY 21 Budget
- Late September Public Hearing on Rules – Barring outside issues, approve Rules if possible

## 2) How the permit process works – Board to provide direction on contents of red box



**Operating Permit Background** – Non-exempt permittees will have a unique set of parameters and criteria.

The criteria (allocation method) recommended by the rules committee includes:

- Demonstrated Demand (volume, roof tops, drought reductions)
- Reasonableness of the amount for proposed use
- Non-speculative demand
- DFC and MAG (we have a lack of clarity on the MAG)
- Avoid Unreasonable Impacts (Include in definitions without prescribed application, see below)

Allocation methods that are not recommended or need more investigation include:

- Permit applicant data supporting requested permit amount
- Correlative rights – Unlikely to not possible/appropriate
- Avoid Unreasonable Impacts—applied at high level, not likely to be able to be applied for now at detailed level (More later):
  - Spring baseflow impacts by modeling
  - Well interference by modeling
  - Adverse effects on Preexisting Wells and their use, etc.

**3) What questions did the Rules Committee evaluate and what, if any, recommendation does the committee wish to make to the Board at this time.**

- **Question 1:** What are the Prohibitions and Restrictions? – **Recommend:**
  - Existing wells of any type will not have to pay registration fees.
  - Existing non-exempt wells will not be charged application fee for initial Operating Permit—new non-exempt wells will be charged \$650.
  - Non-exempt (both existing and new) will be charged a renew application fee (\$400) but NDUs will renew each 5 years while Op Permits renew annually.
  - New exempt wells of any type will not have well construction fee assessed but will have Well Drilling Authorization fees assessed.
  - General Permits for NDUs have 5-year term if in good standing. NDUs can't export water. No ceiling on total amount of production by existing or new wells under NDU General Permits, since we have no way to monitor it other than visibly egregious use and use of waste rules.
  - No new non-exempts in Upper Trinity (and new exempts discouraged), no new NDU wells in Middle Trinity in Area 2
- **Question 2:** Are we ready for the board to review questions from Board re: Fee schedule during the work session? **Recommend: Yes.**
- **Question 3:** What is our recommended framework for Drought Curtailments? **Recommend:** See drought framework below.

- **Question 4:** Are we going to employ differentiation of rule applicability on basis of age of wells (beyond current Existing and New relative to Rule promulgation date)?
  - **Recommend:** Existing vs. New Wells (Rule 2 Definitions, et seq.) – Treat differently under specific prescriptive measures, e.g., spacing and well construction only apply to new proposed wells.
  - Rules now differentiate these by existence before or after date of Rules promulgation – okay?
  - Also, rule language must take care in use of Existing Wells when it is really referring to “previously installed wells” which we recommend be called pre-existing wells, and also New Well when it is really referring to a “proposed well”, as in one seeking a permit. But, what do we intend regarding the possibility of having different rules for Existing (in the “Historic Use” sense) wells vs New Wells that came into existence after the regulatory framework was established? And what rules might be different?
  
- **Question 5:** Will we have General Permits by Rule (Non-Exempt Domestic Uses (NDUs) and Test Wells)? – **Recommend:** That language distinguish non-exempts from those with individual Operating Permits in numerous places in the various Rules.
  - Current language also reinforces the approach that General Permits are not required to be metered, or report actual use routinely, or pay production fees, and their permitting does not require notice and a public hearing. Does the board agree with this approach?
  - Also, existing and new NDUs are required to submit both Water Conservation and Drought Contingency Plans before permit approval, just like under Operating Permits (i.e., they apply for all non-exempts, including NDUs used for lawn irrigation) Okay with Board?
  
- **Question 6:** How will Unreasonable Impacts (Rule 2 Definitions, et seq.) be defined– **Recommend:** That the board take a higher level, less prescriptive approach to the statutory authority during permitting to protect previously installed wells, whether Existing or New Wells definitionally, from being unreasonably adversely affected by a proposed new well seeking a new permit. Does the board agree?
  
- **Question 7:** What are the permit terms? **Recommend:** Permit terms of one-year permit terms for Operating Permits and 5-year terms for General Permits, and amount of permit renewal app fees for both are the statutory maximum of \$400, with “auto renewal” if everything is okay.

**Question 8:** Do we confirm the use of two-stage permitting for new Non-exempts: Well Drilling/Modification Authorization, then Production Permit? **Recommend:** Both have

(different) application fees. Gen Permits are one-half of Op Permits. New smaller Domestic Use (only) Exempts also have WD/MA app/fee but of course no permit fees.

- **Question 9:** Do we have validation of concepts (confirmation of specified parameters underway) for:
  - No new NDUs within 1500 feet of a groundwater-using Retail Public Utility well in same aquifer MZ
  - Requiring aquifer tests for permitting new Non-exempts for more than 20 MG/Yr

**Framework for Drought Curtailments and Contingency Plans Without Management Zones**

Drought Stage	Exempt Uses (All Types)	Operating Permit	General Permit by Rule		Comments
			Non-exempt Domestic Use	Aquifer Testing and Monitoring	
No Drought	0% curtailment	0% curtailment	0% curtailment	0% curtailment	
D-0 (Abnormally Dry)	0% curtailment	0% curtailment	0% curtailment	0% curtailment	No mandatory curtailments; use groundwater water wisely
D-1 (Moderate Drought)	0% mandatory curtailment; 10% targeted reduction	10% mandatory curtailment	10% targeted reduction in monthly water use	Subject to Board orders and permit special conditions	First stage for active drought management
D-2 (Severe Drought)	0% mandatory curtailment, 20% targeted reduction	20% mandatory curtailment	20% targeted reduction in monthly water use	Subject to Board orders and permit special conditions	Allows board orders for emergency responses on per-well system basis
D-3 (Extreme Drought)	0% mandatory curtailment; 30% targeted reduction	30% mandatory curtailment	D-2 + No outdoor water use by automated systems	100% curtailment, except by Board order	Allows board orders for emergency responses on per-well system basis
D-4 (Exceptional Drought)	0% mandatory curtailment; 40% targeted reduction	40% mandatory curtailment	D-3 + No outdoor water use, including irrigation, pools, car washing	100% curtailment, except by Board order	Allows board orders for emergency responses on per-well system basis

Drought Stage: As declared by District Board using US Drought Monitor intensity levels for Travis County

Exempt Use Wells: Curtailment is not mandatory but are targeted reduction goals relative to normal use for month

Drought Curtailments: Percentage of normal monthly withdrawals authorized under permits



## **Exhibit B**

### Draft Fee Schedule

## Southwestern Travis County Groundwater Conservation District

### ADOPTED FEE SCHEDULE FOR FY 2021

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, with an effective date of October 1, 2020, or such other, later effective date as the Board may adopt.

These fees provide the 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 wells installed in the District, regardless of age and of type and amount of use, must be registered with the District, by the owner's completing and submitting a well registration form available from the District. There is no individual fee for registering any well in the District, whether Existing or New and whether Exempt or Non-exempt.

**Well Drilling/Modification Authorization Application.** Any well proposed to be installed or modified after xxx xx, 2020, must complete an application for a Well Drilling/Modification Authorization (WDA), on a form available from and to be submitted to the District. The application form for the WDA also serves as the registration for the prospective well. While there is no fee for registration of that well, the application fee for the WDA is **\$500.00**.

Submittal of an application for a WDA for a proposed Non-exempt well also requires payment of a Well Construction Fee, as specified elsewhere in 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.

**Commented [KH1]:** The Board needs to review the amounts of all of the fees herein, which are in bold font. Some of them are just mid-range fee amounts, based on what other GCDs have used.

**Commented [KH2]:** The Rules Committee is proposing that this be the date on which the Rules are adopted, similarly to adjacent GMA 9 GCDs

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**Commented [KH3]:** A concern that was mentioned is to not have both of these fees on each new well, since the aggregate amounts are large. For example, we may be able to assess a WDA app fee for exempt new wells and a well construction fee for new non-exempt wells. Both could be assessed but one could subsume the other. Board discussion needed. The current Rule 3 language has both being separately assessed on each proposed new well.

The Authorization must be approved by 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 hearing, or recurring inspections caused by the applicant or the applicant's agent failing to comply with District Rules and requirements.

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**Well Construction Fee.** A prospective Exempt Well does not have a Well Construction Fee applied to it but does require an application fee for the WDA. All Non-exempt Wells are assessed and must pay a Well Construction Fee before the WDA will be issued. The fee differs for the type of Non-exempt Well:

- (1) Proposed Well under an Operating Permit - **\$1000.00**
- (2) Proposed Well under a General Permit by Rule - **\$500.00**

This fee is different from and in addition to the application fee for Well Drilling/Modification Authorization.

**Production Permit Application.** The owner of a Non-exempt Well that seeks either an Operating Permit or an authorization under a General Permit by Rule for a **previously** installed well, whether an Existing Well or New Well, must submit a Production Permit application along with an application fee of **\$650.00**. The application fee is charged each time such an **original** application is (re)submitted.

Commented [KH4]: This provision is one that the directors are being asked to consider under Rule 3. The Rule Committee hasn't addressed this yet.

**Application for a Modification to an Operating Permit.** The owner of a well that seeks a modification to a previously permitted Non-exempt Well that modifies the amount or source of water withdrawn from the well must submit a Production Permit application indicating the changes being contemplated, along with an application fee of **\$400.00**. The application fee is charged each time such an application is submitted.

**Application for Renewal of a Production Permit.** The owner of a well with a Production Permit, 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. Provided there are no changes to the existing permit's provisions, pending enforcement actions, or outstanding fees due the District, the renewal will be authorized by the Board without **conducting** a public hearing, following payment of the **\$400.00** application fee for such renewal.

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## Groundwater Production Fees

**Non-exempt Well or Aggregated Wells under an Individual Operating Permit.** The owner of a well under a Production Permit, whether an Existing or New Well, must meter or otherwise estimate, by a method acceptable to District in its sole discretion, the amount of groundwater actually withdrawn from the well each month and then 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 under an Operating Permit, a surcharge will be applied to the Production Fee of an **additional 50% of the 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, the permittee and the District may negotiate an annual fee for exporting 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, and are considered late after the fifteenth day of that month.

**Non-exempt Well or Aggregated Wells under a General Permit by Rule.** Groundwater withdrawn under authorization of a General Permit by Rule is generally not required to be reported as to its amount, 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 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 **xxx xx, 2020**, using the definitions and procedures specified in Rule 3.4.D.8.

**Commented [KH5]:** The Rules Committee discussed but did not come to a conclusion on whether this export fee surcharge should not apply to a public water supply provider (perhaps excluding only Retail Public Water Supply providers) if their service area extends outside the District, primarily for practical reasons. See also next comment.

**Commented [KH6]:** Perhaps this could be used by a Retail Public Supply provider to overcome practicality/fairness issues. Negotiated amounts would best follow some formula that is applied to any other exporters, just to avoid creating a slippery slope as to optics and questions about intent.

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**Commented [KH7]:** Adapted from rules and fees by Hays Trinity GCD.

- (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.

**Commented [KH8]:** This aspect hasn't been previously discussed. What is shown here, including the fee amounts, is what Hays Trinity GCD uses. They generally apply it as a permit provision on newly permitted supply wells for such water provider, i.e., not retrospectively – but that is not unlike our initial permitting situation. Our Board can of course choose to have the amounts of any of these fees be from \$0 to \$1,000, the statutory ceiling. Needs Board discussion and decision.

The Service Connection Fee is in addition to the quarterly Groundwater Production Fees for the water supply well.

### Administrative Fees

**Commented [KH9]:** Adapted mostly from Comal Trinity and Trinity Glen Rose GCDs

**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.

**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.

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**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.

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**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

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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.

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**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.

**Commented [KH10]:** FYI: Ultimately, collecting such payments may involve our bringing litigation in District court. Which we as a sovereign entity would likely win if the fee is properly established and applied. Practically speaking, the cost of doing that almost certainly would exceed the fee amount unless it is assessed daily. So we would probably want to assess a large daily penalty, and offer to settle via an Agreed Order that results in more than the costs we were originally trying to recover.

**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 offer 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**.

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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.



## **Exhibit A**

Draft Framework for Drought Curtailments and Contingency Plans

**Framework for Drought Curtailments and Contingency Plans Without Management Zones**

Drought Stage	Exempt Uses (All Types)	Operating Permit	General Permit by Rule		Comments
			Non-exempt Domestic Use	Aquifer Testing and Monitoring	
No Drought	0% curtailment	0% curtailment	0% curtailment	0% curtailment	
D-0 (Abnormally Dry)	0% curtailment	0% curtailment	0% curtailment	0% curtailment	No mandatory curtailments; use groundwater water wisely
D-1 (Moderate Drought)	0% mandatory curtailment; 10% targeted reduction	10% mandatory curtailment	10% targeted reduction in monthly water use	Subject to Board orders and permit special conditions	First stage for active drought management
D-2 (Severe Drought)	0% mandatory curtailment, 20% targeted reduction	20% mandatory curtailment	20% targeted reduction in monthly water use	Subject to Board orders and permit special conditions	Allows board orders for emergency responses on per-well system basis
D-3 (Extreme Drought)	0% mandatory curtailment; 30% targeted reduction	30% mandatory curtailment	D-2 + No outdoor water use by automated systems	100% curtailment, except by Board order	Allows board orders for emergency responses on per-well system basis
D-4 (Exceptional Drought)	0% mandatory curtailment; 40% targeted reduction	40% mandatory curtailment	D-3 + No outdoor water use, including irrigation, pools, car washing	100% curtailment, except by Board order	Allows board orders for emergency responses on per-well system basis

Drought Stage: As declared by District Board using US Drought Monitor intensity levels for Travis County

Exempt Use Wells: Curtailment is not mandatory but are targeted reduction goals relative to normal use for month

Drought Curtailments: Percentage of normal monthly withdrawals authorized under permits