



August 4, 2023

Edmond R. McCarthy, Jr.,
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1122 Colorado Street, Suite 2399
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via email: ed@ermlawfirm.com

RE: Conditional Waiver of Southwestern Travis County Groundwater Conservation District Rule 3.4(A)(5)(k) in the Application of Clancy Utility Holdings, LLC for an Operating Permit

Dear Ed:

Thank you for your letter dated June 20, 2023, regarding the request by Clancy Utility Holdings, LLC (“Applicant”) for the Southwestern Travis County Groundwater Conservation District (“District”) General Manager to grant a temporary conditional waiver from District Rule 3.4(A)(5)(k). Thank you also for meeting with the District’s General Counsel, Ty Embrey and Cole Ruiz, and me on July 20, 2023, regarding this request.

As you know, pursuant to District Rule 3.4(B), no application for an Operating Permit may be deemed administratively complete if any of the information required by Rule 3.4(A) is missing or incomplete, unless expressly waived in writing by the District’s General Manager. Please accept this letter as a conditional waiver of Rule 3.4(A)(5)(k) as it relates to the administrative completeness of the Applicant’s application currently before the District for an Operating Permit to produce up to 28.3 acre-feet of groundwater per annum (“Application”). The conditions of this waiver are detailed below.

Rule 3.4(A)(5) sets forth the necessary information the District’s Board of Directors (“Board”) needs in order to grant an operating permit application, to grant an operating permit authorizing production of a lesser amount than requested by the applicant, or to deny the application altogether. The information required by Rule 3.4(A)(5) may also inform the Board’s decision to require certain special permit conditions. Therefore, before the Application at issue is deemed administratively complete, it is in the Applicant’s best interest to provide all the information necessary for the Board to render its decision. As detailed below, I am granting the Applicant’s request to waive the requirement that the Applicant provide a copy of a Texas Commission on Environmental Quality (“TCEQ”) approval letter for the proposed public water supply well and a Public Utility Commission of Texas (“PUC”) certificate of convenience and necessity (“CCN”) as contemplated by the Application, on the following conditions:

Condition 1. In lieu of a TCEQ approval letter for the proposed public water supply well contemplated by the Application, District Staff requires as a condition to its waiver of Rule 3.4(A)(5)(k) the following information and records: Courtesy copies of all TCEQ and PUC applications, pleadings, and other filings of the Applicant or Applicant’s affiliates, subsidiaries, partners, and/or consultants, concerning Applicant’s proposed public water supply well, public potable water system, and CCN associated with the Application

("Applicant's Filings"); provided that Applicant's filings shall be provided to the District at the time of filing with the appropriate state agency;

Condition 2. The Applicant must provide the information required by Rule 3.4(A)(5)(k) as a condition precedent to the Applicant's use and production of any groundwater under the Application's proposed permit, which may be authorized by the Board in the future. The Applicant must provide all requisite TCEQ approvals and a PUC-approved CCN, such that the District is satisfied that the requirements of Rule 3.4(A)(5)(k) have been sufficiently met by the Applicant prior to the production of any groundwater permitted by the Board;

Condition 3. The conditions set forth herein waive the Applicant's requirement to comply with Rule 3.4(A)(5)(k) for the sole purpose of deeming the Application administratively complete, and shall not be construed to waive Applicant's obligation to provide the information required by Rule 3.4(A)(5)(k) as it relates to the Board's ultimate decision to grant the proposed permit, grant a permit with more restrictive permit conditions (including a reduction of the requested production), or deny the proposed permit. Applicant acknowledges that nothing in this conditional waiver binds the Board to waiving any District rule or statutory requirement under Texas Water Code, Chapter 36.

After the Applicant provides the information required under Condition 1, above, District Staff will review materials submitted and inform you and the Applicant if the Application is administratively complete or is missing any additional information as required by the District's rules.

If you or the Applicant have any additional questions or would like to further discuss the contents of this temporary conditional waiver, please let me know.

Sincerely,



Lane Cockrell
General Manager/Hydrogeologist
Southwestern Travis County GCD

Cc: Jim Truitt, Vice President, Clancy Utility Holdings, LLC

Cole Ruiz and Ty Embrey, District's General Counsel, Lloyd Gosselink Rochelle and Townsend,
PC

Charlie Flatten, General Manager, Hays Trinity Groundwater Conservation District