

**RULES WORKSHOP**  
**OF**  
**GONZALES COUNTY UNDERGROUND WATER CONSERVATION DISTRICT**

The Gonzales County Underground Water Conservation District will hold a Rules Workshop on May 18<sup>th</sup>, 2024, at 10:00 a.m. at the Gonzales County Underground Water Conservation District Office, at 522 Saint Matthew Street Gonzales, Texas.

**Note:** Members of the public wishing to comment **must** attend the meeting in-person. No participation or public comments will be allowed via video or conference call. However, any person may view or listen to the meeting via audio and video conference call. The Audio and Video Conference opens 5 minutes before the 10:00 a.m. District's Rule Workshop.

**GCUWCD May 18th, 2024, District's Rule Workshop**

May 18, 2024, 10:00 – 10:30 AM (America/Chicago)

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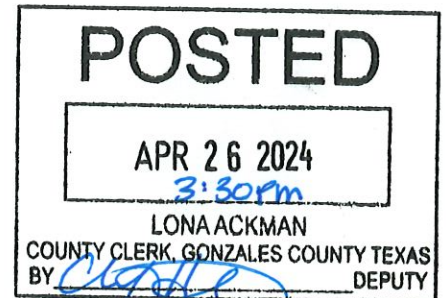
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Agenda is as follows:

1. Call to order.
2. President of the Board to make comments.
3. Receive comments from the public on proposed amendments to the District's Rules.
4. Adjourn.

The purpose of the workshop is for discussion and clarification of the possible amendments to the District's Rules. A quorum of the Board may be in attendance. The Board of Directors and General Manager will be in attendance to answer any questions concerning any possible rule amendments. If you require any special assistance to attend the meeting, please call 830.672.1047 at least 24 hours in advance of the meeting to coordinate any special physical access arrangements.

### **Rule 2 General Rules A. 3.**

A sample of the Public Participation Form is attached hereto as ~~Exhibit~~ Appendix E."

Changed from Exhibit to Appendix E to match workflow of document.

### **Rule 5 Exemptions from Permitting A.**

- A. A water well used or to be used solely for domestic purposes ~~use or for providing water for livestock or poultry that is either drilled, completed or equipped~~ so that it is incapable of producing more than 25,000 gallons of groundwater per day (17.5 GPM) is exempt from the requirements to first obtain a drilling permit or an operating permit.

Removed livestock or poultry as they would be agricultural use in Rule 5.B.

### **Rule 5 Exemptions from Permitting D.**

D. A water well used solely to supply water for fracking a formation through a completed oil or gas well permitted by the Railroad Commission of Texas is exempt from the requirement to obtain a drilling permit or operating permit provided that the person holding the Railroad Commission permit is responsible for drilling and operating the water well and the water well is located on the same lease or field associated with fracking operation and the water well is constructed as follows:

- ~~1. For the Wilcox Aquifer, a water well completed and screened below the level where the water quality exceeds 3,000 parts per million of total dissolved solids;~~
- ~~2. For the Carrizo Aquifer, a water well completed and screened below the level where the water quality exceeds 3,000 parts per million of total dissolved solids;~~
- ~~3. For the Queen City Aquifer a water well completed and screened below the level where the water quality exceeds 3,000 parts per million of total dissolved solids;~~
- ~~4. For the Sparta Aquifer a water well completed and screened below the level where the water quality exceeds 3,000 parts per million of total dissolved solids; and~~

For the Yegua-Jackson Aquifer a water well completed and screened at a depth below 350 feet.

Removed exemptions in Rule 5.D.1-4

#### **Rule 6 Annexation into District Boundaries A.**

- B. Export of water outside the District from annexed water wells that serve as public water utility supply wells shall be limited to 5,000-acre feet of water per year in the aggregate shall pay a fee to the District in accordance with Water Code section 36.122(e-2). The export fee rate will be established by Board resolution, and the fee rate will be included in the District's fee schedule. Export fees will be assessed monthly based on the amount of groundwater exported from the District in the preceding month. Monthly fees are due in the District office by the 30th day of the following month. If the amount of groundwater produced and exported is not metered during the month reported, or if any meter fails during that month, the fee shall be based on 1/12 of the annual authorized export permit amount. See attached Appendix D - Production and Transportation Fee Schedule and shall pay an export fee of 2.5 cents per thousand gallons of water exported outside the District's boundaries. Permittees shall submit reports to the District on a monthly basis. Monthly reports are due in the District office by the 30th day of the following month. Monthly fees are due in the District office by the 30th day of the following month.

#### **Updated Rule 6.B. to reflect changes in Production and Transportation Fee Schedule.**

#### **RULE 10 – APPLICATION FOR DRILLING AND OPERATING PERMITS H.**

H. No new permits, and or an increase amendments will be issued when the district has reached 100% of production of the current Modeled Available Groundwater (MAG) of measured actual production for the previous calendar year.

#### **Added Rule 10.H**

#### **RULE 11 – ISSUANCE OF DRILLING AND OPERATING PERMITS E.2.k**

E.2.k Wellhead meters shall be calibrated in accordance with Texas Commission on Environmental Quality (TCEQ) requirements and shall be reported to the District within 30 days of such measurements. Calibrations of wellhead meters shall be performed by a qualified third party personnel using a doppler shift flow meter. The meter shall have a certified calibration within 1 year of the test date. A copy of the calibration certificate shall accompany the test results.

#### **Added Rule 11.E.2.k.**

#### **RULE 15 – EXPORTATION OF GROUNDWATER FROM THE DISTRICT F.3**

3. Permittees shall pay a fee to the District in accordance with Water Code section 36.122(e-2). The export fee rate will be established by Board resolution, and the fee rate will be included in the

District's fee schedule. Export fees will be assessed monthly based on the amount of groundwater exported from the District in the preceding month. Monthly fees are due in the District office by the 30th day of the following month. If the amount of groundwater produced and exported is not metered during the month reported, or if any meter fails during that month, the fee shall be based on 1/12 of the annual authorized export permit amount. See attached Appendix D - Production and Transportation Fee Schedule

## Updated Rule 15.F.3. to reflect changes in Production and Transportation Fee Schedule

### **RULE 16 – REQUIREMENTS FOR DRILLING, COMPLETING, EQUIPPING AND REWORKING WELLS A**

No person may drill, complete, equip or rework a well or borehole without having a current Texas Water Well Driller's license or Texas Pump Installer's license. Any person who drills, completes, equips or reworks a well or borehole shall comply with the Rules and Regulations of the District, State or Federal agencies or political subdivisions having jurisdiction, including but not limited to the statutes and rules of the Texas Department of Licensing and Regulation (TDLR) and the Texas Commission on Environmental Quality (TCEQ). A copy of the Texas Water Well Driller's license or Texas Pump Installer's license shall be provided to the District with a copy of the licensed person or company's liability insurance coverage.

Added the requirement for drillers and pump installers to provide the District with a copy of insurance coverage.

### **RULE 18 – CLASSIFICATION, SPACING AND PRODUCTION PROVISIONS B.6.b.**

18.B.6.b. Individual well production rates are allowed to increase up to 150% of the permitted production rate during peak demand periods for a period not to exceed 90 days.

Set time limitation on peak demand periods.

### **RULE 21 – PLUGGING AND CAPPING OF WATER WELLS A.**

- A. Complete records shall be kept and reports thereof made to the District concerning the plugging and capping of all water wells drilled or reworked. Such records shall include an accurate Driller's plugging log. Such records shall be filed with the District, within sixty (60) days after the plugging or capping.

Added Plugging documentation requirement.

**RULE 21 – PLUGGING AND CAPPING OF WATER WELLS D.**

- D. The Gonzales County Underground Water Conservation District (GCUWCD) has budgeted money for assisting landowners located within the district in plugging and abandoning deteriorated wells. The GCUWCD desires to assist the landowners in paying for a portion of the costs to complete the plugging and abandonment of the well in accordance with the Water Well Plugging Fund and Policy Manual adopted May 10, 2016. Additional details about the Water Well Plugging and Policy can be found in this manual.
- a. The GCUWCD will provide a landowner who wishes to participate in the water well plugging fund a 99/10 percent cost share allowance. The GCUWCD will pay 99 percent of the costs to plug and abandon the water well with the remaining 1 percent of the costs paid by the landowner.
- b. The landowner must agree to pay the estimated 10 percent of the plugging and abandonment costs prior to the start of the plugging operations. If the Landowner chooses to make payments over time, then Landowner must consent in writing to the District placing a lien on the property equal to the amount of reimbursement due to the District in accordance with a written payment schedule. The District will file a lien in the Gonzales County Deed Records and will subsequently file a Release of Lien in accordance with payment agreement.

Added Plugging & Abandonment Program information.

**APPENDIX A**

**Penalties and Sanctions**

## APPENDIX D

### Production and Transportation Fee Schedule

<u>Date Range</u>	<u>Transportation Export Fee</u>
<u>Present-September 30, 2024</u>	<u>\$0.025 per 1,000 gallons</u>
<u>October 01, 2024-September 30, 2025</u>	<u>\$0.10 per 1,000 gallons</u>
<u>October 01, 2025-September 30, 2026</u>	<u>\$0.20 per 1,000 gallons</u>
<u>October 01, 2026-Annually</u>	<u>3% increase per 1,000 gallons annually</u>



May 17, 2024

Mr. Bruce Tieken

President, Board of Directors  
Gonzales County Underground Water Conservation District  
522 Saint Matthew Street  
P.O. Box 1919  
Gonzales, TX 78629

RE: Comments to Proposed Rule Revisions.

Dear Mr. Tieken and Directors:

Schertz Seguin Local Government Corporation, as an owner of land within the District's boundaries, submits the following written comments pursuant to District Rule 1 (A) (3).

The District must adopt rules to implement its management plan pursuant to section 36.1071(f) of the Water Code. When adopting a rule, Section 36.101 requires districts to

- (1) consider all groundwater uses and needs;
- (2) develop rules that are fair and impartial;
- (3) consider the groundwater ownership and rights described by Section 36.002;
- (4) consider the public interest in conservation, preservation, protection, recharging, and prevention of waste of groundwater, and of groundwater reservoirs or their subdivisions, and in controlling subsidence caused by withdrawal of groundwater from those groundwater reservoirs or their subdivisions, consistent with the objectives of Section 59, Article XVI, Texas Constitution;
- (5) consider the goals developed as part of the district's management plan under Section 36.1071 . . . .

Several of the proposed rules appear inconsistent with the District's management plan and contrary to the above-quoted mandates.

### **1. Proposed Rule 10(H)**

The proposed new rule requiring the denial of applications for new permits or amendments to permits once the volume of modeled available groundwater is produced appears to be inconsistent with the law and the management plan.

The law requires districts to issue permits, to the extent possible, "up to the point that the total volume of exempt and permitted groundwater production will achieve an

applicable desired future condition” and when “issuing permits, manage total groundwater production on a long-term basis to achieve an applicable desired future condition.” The law requires all districts to consider:

- (1) the modeled available groundwater determined by the executive administrator;
- (2) the executive administrator's estimate of the current and projected amount of groundwater produced under exemptions granted by district rules and Section 36.117;
- (3) the amount of groundwater authorized under permits previously issued by the district;
- (4) a reasonable estimate of the amount of groundwater that is actually produced under permits issued by the district; and
- (5) yearly precipitation and production patterns.

The proposed rule automatically denying any application once the production equals the MAG ignores the limitations of models and the other factors that the district is required to consider. The law requires the District to consider the DFC and other relevant factors, and not just the modeled available groundwater.

The current management plan does not include a provision requiring the denial of applications based upon the modeled available groundwater. In fact, the current management plan states:

The District will base future permitting decisions on the amount of existing water permitted, amount existing water being produced, and the condition of the aquifer (water level drawdowns) at the time the permit application is filed in order to achieve the DFC

The proposed rule is inconsistent with the management plan.

Finally, the proposed rule if adopted could create unintended adverse consequences that should be considered. For example, will the District over-permit until production of the MAG is reached? Worse, does this rule create a race to the finish line by rewarding permit holders who rush to produce all of their permit before others?

## **2. Proposed Rule 15(F)(3) and Appendix D.**

The District proposes a rule that adopts a transportation fee based upon the maximum allowable under the law. In the very near future, the export fee may go from 2.5 cents/thousand gallons to over 20 cents/thousand gallons of exported water in two to three years.



First, The District is obviously imposing a cost burden, or penalty, on the individuals who now rely upon the exported water for their domestic and other needs. The magnitude of the increase over a short period of time will cause financial shock within thousands of families who have no choice on where their water is produced. The increased revenue from SSLGC alone is shown below:

- o Financial impacts to SSLGC based on full permit

Year	Rate	Permit AF	Total Fee
Current	\$0.0250	19,362	\$157,728
24-25	\$0.1000	19,362	\$630,913
25-26	\$0.2000	19,362	\$1,261,825
26-27	\$0.2060	19,362	\$1,299,680
27-28	\$0.2122	19,362	\$1,338,671
28-29	\$0.2185	19,362	\$1,378,831
29-30	\$0.2251	19,362	\$1,420,196
30-31	\$0.2319	19,362	\$1,462,801

- o Financial impacts based on recent production of approximately 13,000 AF

Year	Rate	Permit AF	Total Fee
Current	\$0.0250	13,000	\$105,902
24-25	\$0.1000	13,000	\$423,606
25-26	\$0.2000	13,000	\$847,213
26-27	\$0.2060	13,000	\$872,629
27-28	\$0.2122	13,000	\$898,808
28-29	\$0.2185	13,000	\$925,772
29-30	\$0.2251	13,000	\$953,545
30-31	\$0.2319	13,000	\$982,152

The District has not provided any information as to how they will utilize the additional dollars. In order to justify the significant increase in fees, there must be a multi-year strategic plan that will describe the revenue will be utilized.

If export fees must be increased, the increase should be phased in during a longer period of time to avoid rate shock upon the individuals that rely upon the exported water.

By immediately proposing the maximum fee allowed by law, the District appears to be disregarding the budgeting process. If export fees must be raised, the increase should

be based upon District costs as shown in the annual budget that is subject to public review and comment.

The District and SSLGC, among others, are parties to agreements that require the exporter to pay a “negotiated export fee surcharge.” If the District imposes this surcharge on exporters, in addition to the fee stated in Appendix D, the District’s export fees will exceed the maximum allowed by law.

Second, this rule, if adopted, grants preferential treatment for the owners of public water supply wells in the “Annexed Area” because the transportation fee is fixed by Rule 6(B), so they would not be subject to the higher fees proposed by the District. If the District adopts these fees, the District is asked to amend rule 6(B) to read as follows:

- B. Export of water outside the District from annexed water wells that serve as public water utility supply wells shall be limited to 5,000-acre feet of water per year in the aggregate and shall pay ~~an export fee of 2.5 cents per thousand gallons of water exported outside the District's boundaries~~production, export, transport and other fees required under the District's rules. Permittees shall submit reports to the District on a monthly basis. Monthly reports are due in the District office by the 30th day of the following month. Monthly fees are due in the District office by the 30th day of the following month.

Finally, should the District automatically adopt production fees at the maximum allowed by law, the District should consider using the additional revenue to cooperate with the Guadalupe County Groundwater Conservation District to drill, sample, and test monitoring wells around the Post Oak Dump. Only a thin plastic liner separates leachate in the landfill from entering the recharge zone for the Carrizo Aquifer. The management plan states

The District’s goal is to protect the Natural Resources of the GCUWCD. The District believes that preventing the contamination of groundwater is the single most important waste prevention activity it can undertake.

**Management Objective 2:** The District will monitor new facilities and activities on the recharge zones of the Carrizo/Wilcox, Queen City, Sparta, and Yegua-Jackson Aquifers on at least an annual basis for point source and non-point source pollution and compile this data into a database.

**Performance:** Record the date and results of the visual survey of all recharge zones for point source and nonpoint source activities and facilities and include the information in the District’s Annual Report.

(emphasis added).

The suggested monitoring wells and data collection are necessary to determine if leachate is entering the water supply.

### **3. Proposed Rule 18 (B)(6)(B)**

The District is proposing to limit the amount of time that individual well production can exceed 150% of the permitted production rate during peak demand periods for a period not to exceed 90 days. Permit holders currently have the ability to produce up to 150% of their volumes without limitations as long as their annual permit volumes are not exceeded.

The proposed limitation of “not to exceed 90 days” further limits the permit holder’s ability to utilize their permitted allocation of groundwater as needed while remaining within their legal volumes. The 90-day limitation period is ambiguous as written as to what 90-day period of time it references. If the 90-day period is the same for all permits, it could create a situation in which all producers are producing up to 150% at the same time causing impacts to water levels in which they are trying to protect.

The District should not focus the permit holders ability to exceed permitted well production limits to a specific duration of time. Permit holders should be allowed to continue operating within the current rules, able to produce up to 150% as needed without focusing on a 90-day period.

### **4. Proposed Rule 21(C)**

The District proposes to use District funds to finance capping and plugging activities that the law, and District rules, make the sole responsibility of the owner of the land where the well is located. This seems to be a gift of public funds that may not be allowed under the Texas Constitution.

Further, the District has agreed to limit expenditures of the money in the fund described in the above-referenced agreement between the District and SSLGC to registered or permitted wells located in Western Gonzales County west of the middle of the San Marcos Arch that:

- a. were drilled on or before January 1, 2010;
- b. were registered with the District on or before June 1, 2010;
- c. do not produce water for a public water supply; and
- d. meet the criteria for mitigation under the District’s Rules and Policies.

The District should not use money in the mitigation fund to cap or plug wells that do not satisfy the above criteria.

### **Conclusion.**



SSLGC requests that the District not adopt the above-described revisions to the District rules.

SSLGC reserves the right to submit additional comments during the public hearing, or after the public hearing if allowed, pursuant to District Rule 1 (A) (4).

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew McBride".

Andrew McBride

General Manager

Cc (via email)

Laura Martin, General Manager

Directors and City Managers and Assistant Managers.