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Mr. Rick Broun, Manager  
Hays Trinity Groundwater Conservation District  
P.O. Box 1648  
Dripping Springs, TX 78626

Re: Comments of Dripping Springs Water Supply Corporation  
to proposed New Rule 15 and Amendments to Rules 13, 10 and 2

Dear Mr. Broun:

These comments are filed on behalf of Dripping Springs Water Supply Corporation (“DSWSC”) concerning the Hays Trinity Groundwater Conservation District’s (“District”) proposed amendments to District Rules 13, 10 and 2 and proposed new Rule 15. As the District is aware, DSWSC has undertaken efforts, at great expense to its rate payers, to reduce its production of groundwater from the Trinity Aquifer and now supplies its customers with a combination of surface water and groundwater. While usage of the sources varies, on average DSWSC has reduced its dependence on groundwater by more than 60% through the use of these alternative supplies. In addition, DSWSC is examining other options and methods to reduce its reliance on groundwater in an effort to be a good steward of the resource which, prior to these measures, had been its sole source of supply. In addition, DSWSC takes response to drought seriously and has adopted service regulations addressing demand reduction during drought. These measures have been undertaken with the goal of preserving DSWSC’s ability to continue to rely on the Trinity Aquifer in the future. As the Board is further aware, DSWSC is experiencing rapid growth and the number of connections grow monthly.

#### Rule 13 Amendments

Current District Rule 13 establishes drought triggers based upon flow in both the Pedernales and Blanco Rivers and authorizes the General Manager to declare drought stage levels and obligates users, once a drought stage has been initiated, to implement their individually adopted drought management strategies in accordance with production cutback charts. The system has worked in the past to reduce peak demand during critical periods and leaves the mechanism and cutbacks to be achieved within the discretion of the individual user.

Proposed amendments to Rule 13 completely change this approach. Proposed amendments to Rule 13 now propose to manage usage by month based upon the actual amount of groundwater produced and put to a beneficial use during each month of calendar year 2017, using actual production from calendar year 2017. During a declared drought, each permittee is then required

to, at various drought stages, reduce production by a certain percentage (20%, 30% or 40% depending upon stage) when a drought is declared.

DSWSC's permit issued by the District authorizes the production of up to 1,125 acre feet of groundwater per year and does not allocate this authorization by month. The District's proposed rules would, during drought, convert this annual authorization to a monthly authorization based upon previous usage, not on DSWSC's annual authorization. Drought restrictions should be based upon annual permit authorization, not previous use.

Using calendar year 2017 is inappropriate, arbitrary and inherently discriminatory to growing utilities like DSWSC for the following reasons.

First, calendar year 2017 is inappropriate since it is not a representative year and does not address growth on DSWSC's water supply system which has occurred since 2017. DSWSC has added approximately 400 connections since the end of calendar year 2017, thereby increasing its need for water to supply these customers. Indeed, the District is well aware of this growth in the system since the District's operations are financed by connection fees levied against new customer connections made by DSWSC.

Rainfall in calendar 2017 was above average and varied considerably from month-to-month. For instance, rainfall in August of 2017 was nearly 10 inches. Abundant rainfall substantially reduces demand. Using August 2017 as the benchmark for future August production is inherently unreasonable, discriminatory and arbitrary. Worse, by selecting calendar year 2017, the Board is basing drought restrictions on an amount that is less than actual demand during normal or dry years or months. Pumpage amounts during that year varied considerably depending upon rainfall, leaving some months with extremely below average usage and other months with just average usage. Using calendar 2017 and gauging compliance on a monthly basis, based upon 2017 pumpage, inherently discriminates against utility users like DSWSC, whose system demand varied considerably depending upon weather.

State law requires that DSWSC maintain a minimum supply to meet anticipated demand. Indeed, the Texas Commission on Environmental Quality ("TCEQ") requires that utilities have sufficient supplies to meet existing demand with a comfort factor of approximately 25% above current usage. The District's rules ignore this state law requirement.

The proposed process for addressing system growth contained in Rule 13.1.2 is inherently unworkable. It requires the utility to file with the District a request to increase this baseline production based upon increases caused by the addition of new water utility service connections. This means DSWSC will be required to seek these increases each and every month in the future.

The system has no way to reduce demand and must rely on its customers to implement their own measures to reduce consumption during drought. Obligating the system to "reduce" demand is unworkable. DSWSC does not control or have the capability of limiting demand or usage. It must supply water at sufficient pressure to meet customer needs. It is inherently unfair to require a utility with limited authority to implement measures that can somehow reduce demand.

The process for addressing system growth is inherently uncertain and requires nearly constant amendment of existing authorizations and perhaps monthly consideration by the Board of increased demands associated with growth. Given system growth, DSWSC would be before the Board on a monthly basis seeking amendments to its authorization for every month for the foreseeable future. Worse, the rules appear to grant the Board the discretion to deny these requests when made. Such a requirement is inherently burdensome, expensive and unwieldy. As noted, they substantially impair the utility's ability to meet state imposed obligations to provide service to its customers.

### Drought Triggers

Amendments to proposed Rule 13.2 change the drought triggers from the Pedernales and Blanco Rivers to a monitoring well and only the Blanco River. Rule 13.2.4 goes even further, allowing the District Manager to declare a drought stage in advance of meeting the stated triggers if, in his opinion, the projected drought conditions reveal the likelihood of a pending drought stage.

Proposed amendments to Rule 13.3, for the first time, establishes percentage reductions for various drought stages based upon the 2017 monthly baseline production amount established by the rule. In addition, the rule is unworkable since it assumes that drought restrictions will be imposed on the first of the month. The rules do not address what happens to this monthly allocation when a drought is declared in the middle of the month or later.

The drought restrictions mandated by the rules are completely unachievable and inherently discriminatory against water utilities. Water utilities do not control demand. Their authority to limit production of their customers and restrict usage is very limited. It is extremely unlikely that any water utility could achieve, on an instantaneous basis, reductions of 20, 30 or 40% from a monthly allocation set based upon a wet year.

The proposed use of the Skipton Well to determine if drought triggers have been reached is inappropriate as applied to DSWSC. Conditions in the Skipton Well are not reflective of aquifer conditions in the area or DSWSC's wells. Drought triggers, to the extent modified, should correspond to aquifer conditions in the area where DSWSC's wells are located. DSWSC monitors levels in its wells and these conditions should be used as the appropriate measure of relevant aquifer conditions.

### Rule 15.2.4 Penalty Fees

Rule 15.2.4 proposes a penalty of \$5.00 per 1,000 gallons produced over the production limit based upon the monthly baseline production amount. This proposed fee is clearly in excess of the authority granted the District to impose a penalty for violation of its rules. Section 36.102 of the Texas Water Code provides that:

“(b) the board by rule may set reasonable civil penalties against any person for breach of any rule of the district not to exceed \$10,000 per day per violation, and each day of a continuing violation constitutes a separate violation.”

The District proposes a monthly “accounting” of groundwater produced to determine if reduction requirements have been met. As proposed, a violation would occur in any month where production exceeded authorization. Since compliance is on a monthly basis, Section 36.102(b) authorizes a potential penalty of up to \$10,000 for such violation. Assessing a penalty of \$5.00 per 1,000 gallons produced in excess of authorization clearly exceeds the limited authority of the Board to impose a penalty for violations of the District’s rules.

The District’s attempt to address this concern by reducing monthly allocations to an equal amount of water authorized per day is clearly in excess of the District’s authority and does not recognize daily variability based upon weather, day of the week or other factors which makes daily production highly variable inherently. For instance, as written, a permittee could comply with the monthly reduction requirement but exceed the calculated daily authorization and thus incur penalties.

Chapter 36 contemplates annual production limits, not monthly or daily production authorizations. No groundwater conservation district in the State of Texas attempts to impose daily production limits on permittees and fining users based upon daily production. This far exceeds the District’s limited authority to impose penalties.

Sincerely,

A handwritten signature in black ink, appearing to read "Russell S. Johnson", with a long horizontal flourish extending to the right.

Russell S. Johnson