

RESOLUTION NO. 20231102-01

A RESOLUTION OF THE  
HAYS TRINITY GROUNDWATER CONSERVATION DISTRICT  
ADOPTING FEE & SETTLEMENT SCHEDULE

WHEREAS, the Hays Trinity Groundwater Conservation District (“HTGCD” or “the District”) is a political subdivision of the State of Texas, created by Act of May 28, 1999, 76th Leg., R.S., ch. 1331, 1999 Tex. Gen. Laws 4536, §§ 1-18 and by Act of May 27, 2001, 77th Leg., R.S., ch. 966, 2001 Tex. Gen. Laws 1991, 2027, §§ 3.0301-3.0313, codified at Texas Special District Local Laws Code ch. 8843 (“HTGCD Act”);

WHEREAS, HTGCD has as its purpose the conservation, preservation, protection, recharging, and prevention of waste of groundwater and groundwater reservoirs or their subdivisions, including the Trinity Aquifer, within its jurisdiction in Hays County, consistent with the objectives of Section 59, Article XVI, Texas Constitution, Chapter 36 of the Texas Water Code, and Chapter 8843, Special District Local Laws Code. Tex. Water Code Ann. § 36.0015(b); HTGCD Act § 8843.101;

WHEREAS, groundwater conservation districts “are the state’s preferred method of groundwater management in order to protect property rights, balance the conservation and development of groundwater to meet the needs of this state, and use the best available science in the conservation and development of groundwater.” Tex. Water Code Ann. § 36.0015(b);

WHEREAS, the District has “all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapter 36, Water Code, applicable to groundwater conservation districts created under Section 59, Article XVI, Texas Constitution.” HTGCD Act § 8843.101;

WHEREAS, the District is authorized by the HTGCD Act to collect certain fees for well

construction, application renewals and service connections. HTGCD Act §§ 8843.151, 8843.1515 and 8843.152; and

WHEREAS, the District is authorized to “make and enforce rules, including rules limiting groundwater production based on tract size or the spacing of wells, to provide for conserving, preserving, protecting, and recharging of the groundwater or of a groundwater reservoir or its subdivisions in order to control subsidence, prevent degradation of water quality, or prevent waste of groundwater and to carry out the powers and duties provided by this chapter.” Tex. Water Code Ann. § 36.101(a);

WHEREAS, the District is authorized to enforce Chapter 36 of the Water Code “and its rules against any person by injunction, mandatory injunction, or other appropriate remedy in a court of competent jurisdiction.” Tex. Water Code Ann. § 36.102(a);

WHEREAS, the District is authorized to “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.” Tex. Water Code Ann. § 36.102(b);

WHEREAS, civil penalties for violations of the District’s rules may be enforced against any person by a suit filed in Hays County. Tex. Water Code Ann. § 36.102(c);

WHEREAS, Section 36.102 of the Texas Water Code provides, “If the district prevails in any suit to enforce its rules, the district may seek and the court shall grant against any person, in the same action, recovery for attorney’s fees, costs for expert witnesses, and other costs incurred by the district before the court. Tex. Water Code Ann. § 36.102(d);

WHEREAS, the District may agree to settle any violations of its rules to resolve its claim for civil penalties and injunctive relief and costs in court. Tex. Water Code Ann. § 36.067(a); and

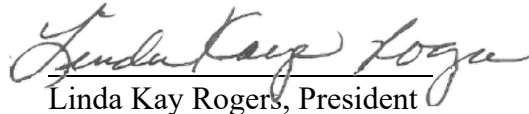
WHEREAS, the Board of Directors of the HTGCD has reviewed the Fee & Enforcement Settlement Schedule attached to this Resolution and Order as Exhibit 1 and determined that the adoption of the schedule is consistent with the District's authority and is appropriate for the management of the District.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED BY THE BOARD OF DIRECTORS OF THE HAYS TRINITY GROUNDWATER CONSERVATION DISTRICT THAT:


1. The recitals set out above are found to be true and correct, and they are hereby adopted by the Board of Directors and are made a part of this Resolution and Order for all purposes.

2. The Fee & Enforcement Settlement Schedule attached to this Resolution and Order as Exhibit 1 are hereby adopted.

PASSED AND APPROVED BY THE BOARD OF DIRECTORS OF THE HAYS TRINITY GROUNDWATER CONSERVATION DISTRICT ON THIS THE 2ND DAY OF NOVEMBER 2023.

  
Linda Kay Rogers, President

ATTEST:

  
David Smith  
Secretary/Treasurer

APPROVED AS TO FORM:

A handwritten signature in black ink, appearing to read "Gregory M. Ellis", written over a horizontal line.

Gregory M. Ellis  
General Counsel

# Exhibit 1

## FEE & ENFORCEMENT SETTLEMENT SCHEDULE

### FEE SCHEDULE:

#### Well Construction:

- New Exempt Well: drilled after November 30, 2015  
(domestic/residential or combined agricultural + residential use) \$1,000
- New Non-Exempt Well: drilled after November 30, 2015  
(public water supply, commercial, irrigation, etc.) \$1,000
- New Agriculture-Only Well No charge  
(Ag-Only wells are exempt but require a TX Comptroller Ag/Timber Registration Number)
- Geothermal: First five wells \$300
- Geothermal: Each additional well above 5 \$60
- Existing Well drilled prior to September 1, 2001 No charge
- Existing Well drilled September 1, 2001 thru October 31, 2013 \$300
- Existing Well drilled November 1, 2013 thru November 30, 2015 \$600

#### Public Water Supply Connections:

- New Water Connection after November 30, 2015  
(Includes community/long term **and** non-community/short term except RV) \$1,000
- New Water Connection: RV Slip \$200
- Existing Connection prior to September 1, 2001 No charge
- Existing Connection September 1, 2001 thru October 31, 2013 \$300
- Existing Connection November 1, 2013 thru November 30, 2015 \$600

#### Operating Permit and Export Permit Annual Renewal Schedule:

- 2-Acre Feet or less (Tier 1) \$150
- More than 2-Acre Feet to 6-Acre Feet (Tier 2) \$275
- More than 6-Acre Feet (Tier 3) \$400

*Effective November 2, 2023*

## **HAYS TRINITY GROUNDWATER CONSERVATION DISTRICT COMPLIANCE AND SETTLEMENT GUIDELINES**

This document describes general guidelines Hays Trinity Groundwater Conservation District (HTGCD) staff will follow in proposing settlement terms and conditions to resolve certain alleged violations of Chapter 36 of the Texas Water Code, HTGCD rules, the terms of a permit issued by the HTGCD, or an order of the board, and includes the approved Enforcement Settlement Schedule. This document does not address when an enforcement action is initiated, but rather how HTGCD staff is to evaluate violations when offering settlement terms already acknowledged by the HTGCD's Board of Directors through this guidance.

These guidelines include a description of authorized *compliance requirements* necessary to resolve a violation, and any *settlement* that must be made to fully resolve the matter in lieu of initiating alternative enforcement proceedings. Generally, HTGCD staff work to ensure full compliance is achieved before offering a settlement.

These guidelines are not intended to address an exhaustive list of possible violations. Rather, they include only those matters where the cause and remedy of a violation is similar in nature and generally applicable to all regulated entities. It is intended that if these guidelines are applied and accepted by both parties (HTGCD and an alleged violator), the violation can be fully resolved and settled without additional involvement by the HTGCD board.

Failing to resolve a violation using this settlement process may necessitate further enforcement through a judicial civil enforcement action.

The use of this procedure is limited to those compliance matters listed herein. Other violations not specifically listed in this guidance may utilize a Settlement Agreement approach, however, the resulting agreement would ultimately require board approval.

*This document is intended to provide guidance only and should not be construed as binding on the HTGCD's Board or staff.*

**ENFORCEMENT SETTLEMENT SCHEDULE:**

This schedule sets forth pre-approved settlement amounts to resolve enforcement matters without additional approval by the Board of Directors.

A. Incomplete or late submission of the State of Texas Well Report (Well Log) or other reports required by District Rules.....up to \$500.00

B. Failure to submit a Well Construction Notification for a new well prior to drilling or failure to submit a Well Construction Notification for an existing non-exempt well..... up to \$500.00

C. Operating a non-exempt well without an operating permit; or failure to submit an operating permit application; or failure to comply with permitting rules.....up to \$500.00

D. Failure to comply with the terms and conditions of an operating permit.....up to \$500.00 plus \$100.00 per day of noncompliance after 30 days of receipt of NOAV

E. Exceeding production limit of an operating permit..... up to \$500.00 plus \$5.00 per 1,000 gallons in excess of the total approved annual amount permitted based on either meter readings or other reliable evidence of the amount pumped. Applicable amounts will be calculated annually upon submission and review of yearly meter reading reporting totals.

F. Failure to submit or to comply with Water Service Connection requirements up to \$500.00 per violation

G. Failure to comply with a Board Order or District Rule.....up to \$500.00 plus \$100.00 per day of noncompliance after 30 days of receipt of NOAV.

H. Failure to comply with the terms and conditions of the User Drought Contingency Plan, the Water Conservation Plan, or the Drought Production Cutback Chart.....up to \$500.00 plus \$5.00 per 1,000 gallons in excess of the annual drought cutback reduction total. Applicable amounts will be calculated annually upon submission and review of yearly reporting totals.

I. Incomplete or late submission of timely reporting as agreed to in the operating permit.....up to \$500.00 plus \$100.00 per day of noncompliance beginning the 31<sup>st</sup> day after receipt of NOAV.

J. Groundwater produced from within the District boundaries shall not be used in such a manner or under such conditions as to constitute waste as defined within District Rules 2 and 9. If a conflict between determining whether a use is beneficial use or waste, beneficial use is subordinate to waste. If the District Board of Directors identifies a person or entity responsible for waste....up to \$500.00

K. Pollution as defined within District Rules 2 and 9.....up to \$500.00

*Effective November 2, 2023*