

# HTGCD Staff Recommendations on Mirasol Springs LLC / Clancy Utilities Application for an Operating Permit

## Overview of Application:

Mirasol Springs LLC / Clancy Utilities Holdings LLC (the Applicant) has applied for a 56.7 acre-feet per year Middle Trinity Aquifer operating permit from the Hays Trinity Groundwater Conservation District (HTGCD) to serve as the secondary water source<sup>1</sup> for a mixed-use development that straddles the Hays-Travis County line. The Applicant has requested additional groundwater rights for the development via a 28.3 acre-feet per year (a-f/y) operating permit from the Southwestern Travis County Groundwater Conservation District (SwTGCD), for a total of 85 acre-feet per year requested for the development. 57.6 acre-feet per year is 67.76% of the total 85 acre-feet request.

The Applicant has proposed to maximize the conservation features of this project to minimize the potable water consumption inherent in a project of this size and nature. The Applicant has provided the following information with respect to conservation as part of the development, conjunctive water use administration and a phased approach:

## Applicant's Conservation Development Details:

- 1,400 acres on former Norsworthy Ranch
- +-1000-acre conservation easement
- 71-room boutique hotel by Auberge Resorts Collection
- Resort residences, Inn, Restaurant & Farm, Clubhouse in Travis County
- UT Field Station, Resort residences and Permanent residences in Hays Co
- < 5% impervious cover
- 1 home per 33 acres
- 1.5-acres of cultivated land for farm
- Native and drought tolerant landscape planting only
- Herbicides/pesticides and fertilizers will be restricted
- UT Biodiversity Research Station facilities
- Creek stream-gauges

## Applicant Proposes Conjunctive Water Use to be Administered by a MUD:

- Surface water will be primary source and estimated to be utilized 75% of the time
  - 108 ac-ft/y LCRA diversion permit out of the Pedernales River
- Groundwater 85 a-f-y (75,883 g/d) request
  - 56.7 a-f/y to be used in Hays County

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<sup>1</sup> The primary water source as described by the Applicant is a permit for surface water rights secured from LCRA by contract for 108 acre-feet/year. NOTE: the surface water rights permit has been applied for from the TCEQ -- but has not been granted.

- 28.3 a-f/y to be used in Travis County
- No groundwater or potable water will be used for lawn and landscape irrigation
- Two (2) existing wells located on the property and three (3) newly installed wells were utilized as pumping wells for aquifer testing as part of this study. The pumping wells were paired with five (5) new observation wells for monitoring of water levels during the constant rate pumping tests.
- 5 pumping wells total for entire project to manage drawdown (there are currently 3)
- Wells spread across spring-sheds as far as possible from springs to minimize impacts to springs
- Long-term monitoring program has started by the University of Texas' Bureau of Economic Geology
- HTGCD has 11 registered wells on the property
- No individual water wells allowed by deed covenant
- No existing individual wells may be pumped by deed covenant
- Aquifer tests performed less than three years ago
- All buildings will have rainwater and condensate harvesting
  - Will integrate rainwater and reclaimed a/c condensate to potable and landscape water supply
- Wastewater will be treated to Type I
  - No individual septic systems allowed by deed covenant
  - Treated wastewater only for irrigation and farm operation
  - Excess wastewater discharge by TLAP

**Phased Approach:**

One half of the permitted amount is assigned on date of issuance, and the second half will be assigned on demonstration of need based on construction progress.

**District Staff Consideration of Factors Required to be Considered with Respect to Applications for an Operating Permit:**

The District has found the application to be administratively complete as of December 21, 2023. Applicant has indicated that there is not an adequate water supply available from a retail public water utility.

The Groundwater Availability Certification provided by Applicant as required by HTGCD Rule 11, Sec. 11.8.3 indicates that the Applicant's proposed groundwater pumping during prolonged drought could lower Middle Trinity Aquifer levels at the development site and joining property by as much as 5.5 feet after 10 years and by as much as 6.1 feet after 30 years. Proposed groundwater pumping will decrease local aquifer storage and prolong springflow recovery.

The District's data indicates that pumping within the District is causing the District to exceed the desired future conditions for the Middle Trinity Aquifer, therefore, granting the Application is somewhat inconsistent with the District's approved management plan.

The Applicant has indicated that it will use reasonable diligence to protect groundwater quality, has an adequate water conservation plan and an adequate drought contingency plan.

Staff believes that conditions and limitations in an operating permit based on the application will prevent waste, achieve water conservation, and minimize as far as practicable the drawdown of the water table or the reduction of artesian pressure, or lessen interference between wells.

Because the District's data indicates that pumping within the District is causing the District to exceed the desired future conditions for the Middle Trinity Aquifer, an operating permit based on the application may substantially affect the availability of water in the District or prevent the District from achieving the adopted desired future condition.

**Consideration of Projected Water Demand:**

[District Rule 11.4.1](#) gives specific guidelines for Projected Residential Water Demand on indoor and outdoor estimates at 110 gallons per capita per day at 1 person per bedroom plus 1 additional person. *(5 bedroom home = 6 persons times 110 = 660 gallons per connection per day.)*

Because the Applicant has restricted outdoor irrigation use to non-groundwater sources, Applicant is using 80 gallons/capita/day (GPCD) to calculate its residential demand and uses 320 gallons/living unit equivalent/day to calculate its commercial demand.<sup>2</sup>

**Place of Use Proposed for Groundwater Withdrawal Permit:**

A place of use outside of the boundaries of the District requires an export permit so any authorization granted pursuant to this application for an operating permit will require an export permit in order to be pumped.

**Staff Volumetric and Phasing Recommendations:**

Pursuant to Sec. 36.113 of the [Texas Water Code](#): Permits For Wells; Permit Amendments. *(d). Before granting or denying a permit, or a permit amendment issued in accordance with Section 36.1146, the district shall consider whether:*

- (1) the application conforms to the requirements prescribed by this chapter and is accompanied by the prescribed fees;*
- (2) the proposed use of water unreasonably affects existing groundwater and surface water resources or existing permit holders;*
- (4) the proposed use of water is consistent with the district's approved management plan;*

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<sup>2</sup> From pages 60-64 of the Applicant's June 20, 2023 Permit Addendum.

And, pursuant to Sec. 36.1132 of the [Texas Water Code](#): Permits Based On Modeled Available Groundwater, (a) A district, to the extent possible, shall issue permits up to the point that the total volume of exempt and permitted groundwater production will achieve an applicable desired future condition under Section 36.108.

The adopted desired future condition for HTGCD is defined as allowing for an average decrease in water levels in the Trinity aquifer of no more than thirty feet from 2008 to 2060. Current District monitoring wells data demonstrate that the Trinity Aquifer is five feet below the Texas Water Development Board's, Groundwater Management Area 9's, and District's approved level of 29 feet of average drawdown, 37 years ahead of the target year of 2060.

In order to comply with the above sections in Chapter 36 of the Water Code, District Staff proposes to reduce the Applicant's permitted amount and recommends using 70 GPCD to calculate total project residential demand. 368 persons at 70 GPCD is 28.85 a-f/y for the total residential demand. Staff recommends using 200 gallons/living unit equivalent/day to calculate total project commercial demand. 167 LUEs at 200 gallons/living unit equivalent/day<sup>3</sup> is 37.41 a-f/y for the total commercial demand. Calculations for the project's total development need based on Staff recommendations is 66.26 acre-feet per year.

The Staff recommended total amount for the HTGCD portion of the application is 44.9 acre-feet/year<sup>4</sup> subject to the curtailments dictated by conditions specific to this permit and District drought and Desired Future Condition achievement rules.

**Staff Recommendations For Permit Conditions Are As Follows:**

- Successful issuance of TCEQ Diversion Permit for primary supply is a prerequisite for groundwater production. No withdrawals may be made under this permit until all legally available SW rights have been exercised.
- Groundwater production may not occur when the Pedernales River is above the stated 693-foot conservation level.
- By January 1, 2026, Applicant must transition production out of the Middle Trinity to the Lower Trinity to eliminate negative impacts on the local Middle Trinity springs and neighboring wells. On complete transition to LT production, drought curtailments (see below) will be limited to standard District drought curtailment rules.
- All newly constructed wells must be produced from the Lower Trinity (LT).
- All wells on the property must be registered & metered as non-exempt including "house well" and "farm well."
- All exempt wells must be capped and/or plugged as appropriate.

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<sup>3</sup> See [San Antonio Water System Infrastructure Planning Equivalent Dwelling Unit \(EDU\) Calculation Sheet](#)

<sup>4</sup> 67.76% of the total demand of 66.26 acre-feet/year = 44.9 acre-feet/year..

- Applicant will develop and implement a Lower Trinity ASR pilot project to identify potential storage and recovery capabilities of the Lower Trinity by January 1, 2026. ASR storage must come from surface water only.
- Applicant will develop and implement a Trinity Managed Aquifer Recharge pilot project to identify potential site-specific MT recharge capabilities by January 1, 2026.
- Middle Trinity Groundwater may only be produced for long-term storage during “No Drought” conditions.
- Phased permit issuance based on completed construction based on per need basis. One half of the permitted amount is assigned on date of issuance, and the second half will be assigned on demonstration of need based on construction progress.
- Drought Curtailment based on District Rules and:
  - Applicant required to monitor and report observation well level averages.
  - Applicant required to monitor springflows at Roy Creek.
- Pumping may not exceed 1/12<sup>th</sup> of the annual permitted allotment in any given month.
- Applicant agrees to pay a \$10/1000 gallon charge for overproduction of monthly permitted allotment.
- Applicant will work with the District to create and maintain a springflow – monitor well level correlation model by January 2025.
- Outdoor irrigation with groundwater is prohibited.
- Private and exempt wells are prohibited in the development.
- All additional wells must go through District’s aquifer-test and public notice rules process and require permit amendment.
- Off-site water sales including to water haulers is prohibited.
- Diverting groundwater into a waterway is waste and is prohibited.
- All withdrawals for use out of the District must be authorized by an export permit.
- Applicant may not use groundwater to fill or maintain ponds.
- Rainwater will be collected on all roof structures except for insignificant surface areas. Rainwater will be used for potable water at the resort and will be used for potable water or irrigation for conservation home sites. Will be included in the deed restriction and will include minimum storage capacity.
- All landscaping will be native and drought resistant. Pesticides will also be restricted except for occasional targeted areas. Xeriscaping will be encouraged. Will be included in the deed restrictions.
- No septic systems. Will be included in the deed restrictions and MUD rules.
- Will collect all wastewater and treated effluent will be used for irrigation.
- Will store 1.5 million gallons of surface water to be used before we use groundwater.
- Surface water and ground water will be metered and reported to the District.
- Will share water diversion reports with District.
- No direct discharge into creeks or river.