

**BEFORE THE
EDWARDS AQUIFER AUTHORITY
State of Texas**

IN THE MATTER OF THE FOLLOWING WELL:)
)
W107-002 Broderick E. and Susan G. Milford DBA Fey's)
Boat and Camper Storage)

ORDER VACATING THE ORDER ISSUED ON JUNE 9, 2020
RESCINDING LIMITED PRODUCTION WELL STATUS PURSUANT TO SECTION
711.70(B) OF THE EAA RULES RELATIVE TO WELL NO. W107-002

ON THIS DAY CAME ON TO BE HEARD the above-styled matter relative to the rescission of the limited production well status for Well No. W107-002 of Broderick E. and Susan G. Milford DBA Fey's Boat and Camper Storage ("Respondents"). As set forth below, the General Manager of the Edwards Aquifer Authority ("EAA") issued notice to the Respondents of his recommendation in this matter. The Board of Directors ("Board") of the EAA, after having reviewed and considered the materials contained in the Board Packet, the arguments and presentations of the General Manager, and other interested persons who may have appeared before the Board, is of the opinion and finds that, with reference to the above-styled matter, the facts necessary to support issuance of this Order Vacating the Order Issued on March 10, 2020, Rescinding Limited Production Well Status Pursuant to Section 711.70(b) of the EAA Rules Relative to Well No. W107-002 ("Order") have been established. Accordingly, the Board is of the opinion and finds that this Order should be **ISSUED**. In support of this Order, the Board makes its Findings of Fact and Conclusions of Law as follows:

I. FINDINGS OF FACT

1. On March 10, 2020, the Board issued the Order Rescinding Limited Production Well Status Pursuant to Section 711.70(b) of the EAA Rules ("Rescission Order") relative to Well No.

W107-002 owned by the Respondents.

2. On or about January 4, 2021, the Respondents filed a groundwater use report for Well No. W107-002 of the metered withdrawals from the Edwards Aquifer for calendar year 2020. The General Manager reviewed the report and concluded that the report demonstrated that the Respondents did not withdraw more than 1.4 acre-feet of water from the Edwards Aquifer from Well No. W107-002 during calendar year 2020.

3. On or about January 14, 2021, the Respondents filed a request with EAA staff requesting that, based on their demonstrated ability to not withdraw more than 1.4 acre-feet of water from the Edwards Aquifer during a calendar year, their limited production well status be reinstated.

4. In light of the submitted use report and request for reinstatement, the General Manager recommends to the Board that the Rescission Order be vacated, that this Order be issued, and that the limited production well status for Well No. W107-002 be fully reinstated and recognized.

5. On or about January 22, 2021, the General Manager provided written notice by United States mail, return receipt requested, to the Respondents that: (1) the General Manager's investigation for 2020 withdrawals from Well No. W107-002 was complete; (2) advised the Respondents that the General Manager intended to make a recommendation to the Board that it issue an order vacating the Rescission Order; and (3) advised the Respondents of the date and time of the Board meeting at which the Board would take up the General Manager's recommendation.

6. On or about January 19, 2021, the Respondents waived their right to a 30-day notice of the Board meeting via email.

7. The Docket Clerk of the EAA scheduled before the Board a presentation by the

General Manager on his recommendation that the Rescission Order be vacated and that this Order be issued. The presentation occurred at the regular meeting of the Board held on February 9, 2021, at the official offices of the EAA, located at 900 E. Quincy, San Antonio, Texas. Notice of public meeting for this meeting was duly and properly posted in accordance with Chapter 551, Texas Government Code and the Governor's orders temporarily suspending certain provisions of Chapter 551 due to the Covid-19 pandemic. Additionally, an agenda item relative to the General Manager's recommendation which is the subject of this Order was duly and properly listed in the notice of public meeting. Notice of this meeting had been duly and properly given to the Respondents.

II. CONCLUSIONS OF LAW

1. Under Section 1.33(d) of the EAA Act, a well is exempt from the requirement to obtain a groundwater withdrawal permit from the EAA if: (1) the well was drilled on or before June 1, 2013; (2) the purpose of use for the water withdrawn from the well is for any purpose authorized under the EAA Act; and (3) the well is not capable of producing more than 1,250 gallons of water a day; or (4) the well is metered and does not produce more than 1.4 acre-feet of water in a calendar year. Section 1.33(d) has been implemented by the EAA at Section 711.61(a), and the accompanying rules located in Subchapter D (Limited Production Wells) of Chapter 711 (Groundwater Withdrawals) of the EAA Rules ("LPW Rules"). Under these rules, wells qualifying for this type of exempt well status are referred to as "limited production wells."

2. Under Section 711.70(b) of the EAA Rules, the owner of a well registered with the EAA as a limited production well is subject to enforcement if the well is found not be in compliance with the LPW Rules.

3. In light of violations of the LPW Rules by the Respondents relative to Well No. W107-002, on March 10, 2020, the Board issued the Rescission Order and rescinded the limited

production well status of Well No. W107-002.

4. In light of Findings of Fact Nos. 2 and 3, the Board finds that the Respondents are no longer operating Well No W107-002 in violation of Section 1.33(d) of the EAA Act and the LPW Rules.

5. Therefore, the Board has determined that it is appropriate to vacate the Rescission Order issued for Well No. W107-002 on March 10, 2020 and issue this Order.

III. ORDERING PROVISION

1. The Board is of the opinion and finds that the facts necessary to support vacating the Rescission Order have been established. Accordingly, the Board is of the opinion and finds that the Rescission Order should be and is hereby **VACATED. IT IS THEREFORE ORDERED AND DECREED** that the limited production well status for Well No. W107-002 is hereby **REINSTATED**.

2. The General Manager is directed to advise the Respondents in writing of the issuance and effect of this Order, and specifically, that limited production well status for Well No. W107-002 has been reinstated and is fully recognized by the EAA.

3. The General Manager is directed to make appropriate adjustments, changes, or modifications to the EAA's exempt well, permits, water accounting, and other databases, as appropriate, consistent with the issuance and effect of this Order.

4. Nothing in this Order shall be construed as an estoppel, waiver, or bar to the future enforcement of the EAA Act or the LPW Rules by the EAA as they relate to the limited production well status of Well No. W107-002 in the event future violations of the Act and EAA Rules are found to have occurred.

PASSED AND APPROVED BY THE BOARD OF DIRECTORS OF THE EDWARDS
AQUIFER AUTHORITY, **TO BE EFFECTIVE** THIS 9TH DAY OF FEBRUARY 2021.

LUANA BUCKNER
Chairman, Board of Directors

ATTEST:

BEN F. YOUNGBLOOD
Secretary, Board of Directors

APPROVED AS TO FORM:

DARCY ALAN FROWNFELTER
General Counsel