

Legislation Text

File #: REP 13-1181, Version: 1

Receive report from EAA staff on an incentive program related to Limited Production Wells and settlement alternatives associated with EAA compliance and settlement agreements.

STAFF RECOMMENDED MOTION:

This item is for discussion purposes only. No action required.

SUMMARY:

The purpose of this agenda item is for the Permits/Enforcement Committee to receive a report from EAA staff regarding: (1) possible incentive programs for owners of Limited Production Wells (LPWs); and (2) settlement alternatives under EAA settlement guidelines. If the committee agrees that these programs promote EAA goals to better manage, enhance and protect the Edwards Aquifer system, EAA staff will further develop and implement these programs.

Limited Production Wells Incentivized Reporting Program

EAA staff proposes an incentive program for owners of LPWs to expand their annual use reporting requirement using the EAA Meter Matters Smartphone Application ("Meter App"); wherein, if the LPW owner uses the Meter App to report *at least quarterly meter readings throughout the year*, the administrative fee requirement for the next year will be waived through a contractual agreement.

EAA rules (Section 711.67) require that a yearly administrative fee of \$25 be paid to the EAA by LPW owners. This fee is intended to cover administrative costs incurred by the EAA (inspections and data management) associated with LPWs. EAA rules (Section 711.69) also require the LPW owners to accurately read the well's meter on December 31st of each year and file it with the EAA no later than January 31st of each year.

EAA staff would like to incentivize LPW owners to provide meter readings as the year progresses, thus allowing staff the opportunity to advise the owner if their current use may track to exceed annual authorization. By submitting only an end-of-year meter reading, EAA staff does not have a chance to provide this assistance before a violation occurs.

Additionally, the well owner's use of the Meter App will increase EAA staff efficiency by significantly reducing the number of site visits staff would need to make to confirm annual use, and by automating data entry.

To begin the proposed Limited Production Well Incentivized Reporting Program (LPWIRP), EAA staff would need to modify the current Meter App in such a way that by December 2019, LPW Owners could 'opt in' to the LPWIRP, and provide meter readings on or around March 31, June 30,

September 30, and December 31. As long as meter readings are submitted in accordance with the LPWIRP, EAA would waive the Annual Administrative Fee.

Settlement Alternatives and Supplemental Environmental Projects

EAA staff proposes another option for owners of facilities who have an outstanding settlement offer. As part of an EAA General Manager Compliance and Settlement Guidelines process, owners may, in lieu of payment to the EAA, request to re-invest their settlement amount back into their business for mutually beneficial purposes, or fund a defined supplemental environmental project (SEP) that would promote EAA goals to better manage, enhance and protect the Edwards Aquifer system.

The *Edwards Aquifer Authority General Manager Compliance and Settlement Guidelines (March 26, 2019)* (“settlement guidelines” or “guidelines”) were developed to outline basic and general compliance requirements and settlement amounts for common and generally occurring violations of EAA rules. In addition, the guidelines also recognize a limited number of specific settlement alternatives staff could offer to meet settlement requirements. Since the guidelines were not intended to be all inclusive of possible violations and potential remedies, EAA staff recognizes that additional committee and board input may be necessary to implement more innovative or alternative counter-offer proposals.

EAA staff would like to allow alleged violators of operational rules to invest settlement offers in other ways that would promote EAA goals of conservation and aquifer protection. Rather than paying the EAA, the violator could re-invest the settlement amount back into their business by funding additional employee training or equipment purchases, or by funding SEPs. For example, employee training opportunities could promote water conservation, regulated materials safety, and hazard awareness improvement programs related to Edwards Aquifer Recharge Zone protection. Equipment could be retro-fitted with additional spill, overflow, or collision avoidance accessories. SEPs could promote general improvements to Edwards Aquifer or springflow protection initiatives. Such settlement agreements would promote EAA goals of building long-term collaborative relationships and shared value in the protection of the aquifer.

EAA staff proposes that staff be allowed to use its judgment based on scientific, best management practices, or industry recognized standards to validate the applicability of the proposal. EAA staff would also not consider mandatory employee training, pre-planned activities, or requirements based on periodic or routine maintenance as applicable for this kind of alternative settlement approach. Finally, staff's ability to accept alternatives or SEPs would be limited to settlements of less than \$2,500. In the event the EAA feels it cannot accept a proposal based on circumstances outlined herein, or the settlement value exceeds \$2,500, the owner can request the proposal be considered by the board, through a Permits/Enforcement Committee recommendation.

To launch the proposed settlement alternatives and SEPs, EAA staff would invite the facility owner to provide a written proposal as to their alternatives or SEP. If the General Manager finds the proposal to be acceptable as an alternative to the settlement payment, or if the proposal is approved by the board, EAA staff would work directly with the facility to verify that the terms of the proposal are fully performed. Once approved, the related compliance matter would remain open until the terms of the proposal were fully completed. Once verified, the matter would be considered fully resolved.

STRATEGIC PLAN REFERENCE:

This agenda item supports the EAA's policy direction as set forth in the EAA 2016-20 Strategic Plan: Goal B. Ensure Effective Management of the Edwards Aquifer.

FISCAL IMPACT:

The EAA will see a decrease in revenue from participants in the LPWIRP who do not pay the \$25 annual administrative fee, however cost savings from reduced inspections and report generation for those participants would offset this loss. And since the EAA does not use compliance settlements to fund operating expenses or to make capital purchases, there is not a direct financial impact for alternatives to making a settlement payment to the EAA.