



## Legislation Text

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**Consider recommendation from the Permits/Enforcement Committee to rescind limited production well status for the well owned by Broderick E. & Susan G. Milford dba Fey's Boat & Camper Storage, based on the owner's inability to meet annual groundwater withdrawal limits.**

### RECOMMENDED MOTION:

Move the board adopt an Order Rescinding Limited Production Well Status for the well (W107-002), owned by Broderick E. & Susan G. Milford dba Fey's Boat & Camper Storage, and move that an opportunity for reinstatement be allowed if 2020 use limitations are met.

### SUMMARY:

The purpose of this agenda item is for the board to consider a Permits/Enforcement Committee recommendation to recommend the board adopt an Order Rescinding Limited Production Well Status for the Edwards Aquifer well (W107-002) owned by Broderick E. & Susan G. Milford dba Fey's Boat & Camper Storage.

### Background

Following the passage of Senate Bill 1241 during the 2013 Regular Session of the Texas Legislature, the EAA adopted new rules in December 2013 creating a new category of exempt well called a Limited Production Well (LPW). To be recognized as an LPW, a well owner must: (1) have an Edwards Aquifer well that was drilled prior to June 1, 2013; (2) amend his or her well registration; (3) have a registered meter on the well; (4) submit annual use reports at the end of each calendar year documenting that no more than 1.4 acre-feet of groundwater was withdrawn; and (5) pay a yearly \$25 administration fee. Therefore, owners of LPWs may make withdrawals of up to 1.4 acre-feet of groundwater per year without the need for an EAA groundwater withdrawal permit.

In the event an annual use report shows an LPW owner withdrew more than 1.4 acre-feet of groundwater, EAA staff provides written notification to the well owner that the inability to consistently remain below the annual withdrawal limit for an LPW may result in the loss of LPW status for the well. Originally, it was the policy of EAA staff to inform the board when an LPW exceeded authorized withdrawals after the third such notification for the board to consider possible removal of LPW status. While it is current policy to inform the board after a second occurrence, the following situation originally came to light under the previous policy. Any well owner who loses LPW status must then, by the end of the current calendar year, obtain groundwater withdrawal rights in order to continue making authorized withdrawals.

### **Broderick E. and Susan G. Milford dba Fey's Boat and Camper Storage (W107-002)**

Broderick E. and Susan G. Milford dba Fey's Boat and Camper Storage filed an LPW registration with the EAA on December 31, 2015. EAA records indicate the owner reported metered withdrawals in 2015, 2016, 2017, and 2018 of 2.954, 1.498, 1.152, and 2.637 acre-feet, respectively. Following the occurrences in 2015 and 2016, EAA staff notified the owner that continued over-pumping of the LPW annual limit may result in loss of LPW status. EAA recognized a downward pumping trend - and consequently, the well was not overpumped in 2017. However, following an additional overpumping in 2018, EAA staff notified the owner that staff would recommend the board rescind limited production well status for the well based on the owner's inability to meet annual groundwater withdrawal limits.

On April 25, 2019, Mr. Milford submitted a counter-offer letter explaining how, in 2018, they operated two wells on the property; the registered LPW that supplies water to livestock, a home, and to a low-volume car wash; and an additional, smaller well (registered exempt), that supplies water to two rental homes. EAA staff met with Mr. Milford on June 12, 2019, to inspect the wells and water use, and based on observations and the commitment of Mr. Milford, EAA staff recommended both wells be metered and registered as separate LPWs, making all future withdrawals within authorized thresholds. Based on meter readings taken in June 2019, it appeared W107-002 was on track to meet LPW limits.

With this information, a 'counter-offer' to EAA staff's recommendation to rescind LPW status from W107-002 was accepted by the board at the July 9, 2019 meeting. In accepting the counter-offer, the board allowed well W107-002 to retain LPW status for 2019, subject to the owner's ability to maintain LPW limits in the future.

On January 17, 2020, the owner filed the 2019 Annual Groundwater Use Report for W107-002, indicating a total of 1.882 acre-feet were withdrawn in 2019, thus exceeding LPW limits by 0.482 acre-feet (157,060 gallons). With the report, the owner included a letter (dated January 10, 2020) that explained the exceedance was because W107-002 supplied water to the entire property until July 2019 when the second well was metered and put into service as a second LPW. In addition, it was discovered that the new LPW well (W109-534) had only been hooked up to one house, rather than two. Since this discovery, they corrected the problem for 2020, and the wells are servicing the uses as intended in the counter-offer. The letter from Mr. Broderick Milford is attached to this item.

At the February 25 meeting, the Permits/Enforcement Committee heard from the owner, Mr. Broderick Milford, who spoke to this matter. The Committee voted to recommend the board adopt an Order Rescinding Limited Production Well Status for the Edwards Aquifer well (W107-002) owned by Broderick E. & Susan G. Milford dba Fey's Boat & Camper Storage, with an opportunity to reinstate limited production well status if Mr. Milford meets the limited production well limits for 2020 use. The draft order prepared by General Counsel is attached to this item.

#### M/WBE PARTICIPATION:

This agenda item does not involve the procurement of goods or services by the EAA and, therefore, this section is not applicable.

#### STRATEGIC PLAN REFERENCE:

This agenda item does not relate to a specific goal or action step within the Strategic Plan, but supports the general EAA mission.

**FISCAL IMPACT:**

None.