



Legislation Text

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Consider recommendation from the Permits/Enforcement Committee to restore limited production well status for the wells owned by Broderick E. and Susan G. Milford dba Fey's Boat and Camper Storage based on the owners' demonstrated ability to pump within annual groundwater withdrawal limits.

RECOMMENDED MOTION:

Move the board adopt an 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 owned by Broderick E. and Susan G. Milford dba Fey's Boat and Camper Storage.

SUMMARY:

The purpose of this agenda item is to consider a Permits/Enforcement Committee recommendation to reinstate limited production well status to the well owner above based on the following facts.

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annual use reports at the end of each calendar year documenting that no more than 1.4 acre-feet of groundwater was withdrawn; and (5) pay a yearly \$25 administration fee.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. After a second occurrence of exceeding this withdrawal limit, the EAA board considers the need to rescind the LPW status to the well, and the owner would then be required to obtain groundwater withdrawal rights in order to continue making authorized withdrawals.

Generally, a well owner who has the LPW status rescinded by the board may make an appeal to the board to have their LPW status restored if they can demonstrate the ability to pump within LPW limits on a future Annual Groundwater Use reporting form.

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 show the well exceeded the LPW limit during 2015 (pumped 2.945 acre-feet), in 2018 (pumped 2.637 acre-feet), and in 2019 (pumped 1.882 acre-feet).

On January 17, 2020, after overpumping in 2019, the owner explained the exceedance was because the well supplied water to the entire property until July 2019 when a second well on the property was brought back into service, metered, and registered 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 separate uses as intended.

At the March 2020 board meeting, the board voted to issue 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.

On January 4, 2021, the owner filed an Annual Use Report (AUR) with the EAA indicating 2020 annual withdrawals of 1.39 acre-feet, thus meeting annual limits. On January 14, 2021, the owner submitted a request that the LPW status be restored to W107-002 due to the owner's ability to make annual withdrawals within the limits of an LPW. The 2020 AUR and written request are attached to this item as well as a draft of the order vacating the rescission of the LPW status, which has been reviewed by legal counsel.

At the meeting on January 26, the Permits/Enforcement Committee voted to recommend the board adopt an 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 owned by Broderick E. and Susan G. Milford dba Fey's Boat and Camper Storage.

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 supports the general EAA mission.

FISCAL IMPACT:

None.