

Central Texas Groundwater Conservation District 2023 Rule Revisions Stakeholder Committee Report

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Section 1: Purpose and Process

The Central Texas Groundwater Conservation District (CTGCD or District) Stakeholder Committee (SC) was convened by the CTGCD Board of Directors (Board) for the purpose of gaining stakeholder input and insight on the District's Rules from a range of perspectives. The Board requested applications from the community and chose eleven members representing a diversity of perspectives of on groundwater use to fill the committee. The following individuals were selected as the CTGCD Stakeholder Committee: Michael Brown, Zach McMahan, Michael Berg, John Baladez, Olan Kelly, John Branigan, Karen Bruett, Darrel Peckham, Delbert Cain, Amber Cardenas, and Andy Carson.

Sarah Faust, of Ross Strategic, was contracted as a neutral facilitator for the SC meetings. The SC met 5 times from June 2023-October 2023. The SC reviewed informational presentations on the history, legal, and hydrogeologic contexts for groundwater management within the District from the General Manager, the CTGCD General Counsel, and the CTGCD Hydrogeologist. The SC was presented with several proposals for revising various topics within the District rules, including concepts initiated from the General Manager and from the Stakeholders themselves, as well as a redline of the District rules.¹ The group discussed each proposal, and the facilitator noted the various perspectives offered. For some proposals a consensus recommendation was reached, for others consensus was not reached and the various perspectives are reported for the Board's consideration.

Section 2: Stakeholder Committee Recommendations

This section provides an abbreviated summary of the topics considered, and the Stakeholder Committee's recommendations. Greater detail on the SC discussion and perspectives on each topic is provided in the Meeting Notes included in Section 4 of this report. Next to each topic is the meeting number of the meeting at which the topic was discussed so that the notes for that topic can be easily located within this report.

- 1) **Substantial Alteration/Permit Amendment when volume of water withdrawn increased by more than 5%** (District Rules §§ 1.01 (66), 3.63(a), 3.71(c)(3)) - Meetings 2 and 4

¹ The presentations on proposals for revising topics are not attached to this report but can be provided on request to the Facilitator or General Manager.

This topic was initially discussed at Meeting 2, and then re-addressed at Meeting 4. Please refer to both sets of Meeting Notes for the full discussion and perspectives.

The SC considered at Meeting 2 a proposal to modify the definition of a substantially altered well to include a well that changes its volume of pumping by more than 5% without a physical change to the well or pump. In the Meeting 2 discussion, it was preliminarily decided that the SC would like to see an alternative/hybrid approach to alternative presented. The GM's alternative proposal was presented at Meeting 4:

“Require hydrogeologic investigation of permitted large wells (50+gpm or >10-acre feet) when an application is made for a permit amendment to increase the annual permitted volume by more than 5%; the permit amendment application would be grandfathered from application of spacing and tract size requirements.”

SC Recommendation: There was strong support for this proposal by the SC, with 5 of 7 members present at Meeting 4 supporting the proposal. The perspective of a member not supporting this proposal was that these wells should not be grandfathered from spacing and tract size requirements; another member's perspective was that a management zone type of water allocation structure would be preferred to the current water allocation system.

2) Contiguous Controlled Acres (District Rules §§1.01(13), 3.21, 5.02)) – Meeting 2

The SC discussed the existing rule regarding contiguous controlled acres, with particular emphasis on the minimum common boundary required in order for the acreage on the separate tracts to be considered contiguous to the well:

“Separate tracts of land must share a common boundary of at least one-eighth of the length of the total tract perimeter of the tract without the well or at least 500 linear feet, whichever is shorter, in order for the acreage on the separate tracts to be considered contiguous to the well.”

SC Recommendation: There was support for keeping the rule “as is” with most of the SC present finding the existing rule to be sufficient with no reason to modify the rule. Some members thought the rule could be improved. There was the suggestion of a removing the common boundary option of 500-linear feet, so that a common boundary is defined by 1/8 of total tract perimeter without the well. Another suggestion was to provide a variance procedure where a well owner can show the 1/8th total tract perimeter cannot reasonably be obtained. In responding to the variance proposal members stated it would be hard to determine what was sufficient evidence the landowner could use as demonstration the acreage to establish the common boundary needed could not be reasonably obtained; and it would be difficult to define the factors the Board would consider and evaluate that would be equitable and fair. In a follow up communication a stakeholder offered that the committee would have benefited from a more in-depth explanation of the rule and the history of the rule in operation within the District.

3) Spacing and Tract Size (Appendix A) – Meeting 3

Spacing and tract size apply to new wells drilled on tracts platted after September 1, 2009. The current tract size requirements from Appendix A of the District Rules are: Trinity Aquifer – 2 acre minimum; All other aquifers – 1 acre minimum. An increase in minimum tract size could decrease dense concentrations of tracts depending on individual wells, which have increased along with rural subdivision development within the District. Increased minimum tract size could prevent excessive drawdown caused by cumulative pumping of wells. This approach aims to reduce the well density to address the issue. The SC

was asked to consider if the minimum tract sizes should be larger, and to which aquifers the larger tract sizes would apply.

SC Recommendation: There was a diversity of viewpoints from the group on this issue and not full support for any single option. There was support from many members of the group for the District to research using management zones to establish tract sizes and/or gallons per day per acre based on known hydrogeology and aquifer impacts. There was support for both reducing minimum tract size where it was supported by science, and for increasing minimum tract size where necessary to achieve conservation.

3A) Management Zones (District Rules, Chapter 4)– Meeting 5

Two stakeholders presented position statements on the use of management objectives and management zones. Management zones were described as recognizing the hydrogeological differences in aquifers and water availability within CTGCD Management zones would allow for areas of low or problematic groundwater availability within the District to be managed based on the needs of that particular area, for example an area with a shallow zone that experiences significant drawdown would be treated differently than an area that does not respond the same way to withdrawal pressure. One of the stakeholders stated the spacing and tract size as convenient and easy rules, but transitioning to management zones could allow for managing wells based on aquifer health, groundwater availability, sustainability and future water availability. Another stakeholder would identify maximum allowable impact based on aquifer yield and use these parameters as “speed limits” within a particular management zone, using ongoing management and tweaking to respond to identified aquifer impacts.

The General Manager added that CTGCD has been looking into utilizing Management Zones under Chapter 4 of its rules The CTGCD Management Plan, Section 8, describes District authority to establish management zones and the how the district could develop total production in a management zone and manage in relation to sustainable yield.

- There was full support of the Stakeholders present to: Recommend the District assess available data and identify data gaps for needed data with a goal of utilizing its authority to establish management zones under Chapter 4 of the District Rules, in order to manage sustainable yield based on aquifer impacts and hydrogeology.

4) Non-Exempt Permit by Rule Wells (District Rule § 3.67) – Meeting 3

The District requested SC feedback on additional requirements for Permit by Rule wells. Input from stakeholders was requested on additional requirements including:

- Reduced well pumping capacity, currently maxed at 25,000 gpd (17.36 gpm)
- Require an annual permitted amount
- Require a meter
- Require different pump capacities such as column pump size, horsepower, etc.
- Require hydrogeologic investigation

SC Recommendation: There was strong support for requiring permit by rule wells on tracts of 10 acres or less to comply with metering, annual permitted volume, relaxed posting (posting notice of application for General Manager approval), and not requiring hydrogeologic investigation for small wells; in regard to

implementation there was strong support for applying any changes to permit by well rules into the future, but not established wells.

5) **Spacing Variance Procedure** (District Rule §6.03(d)) – Meeting 4

At Meeting 4, the General Manager (GM) presented a concept of changing the procedure from Board to General Manager approval for approval of a spacing variance when “absence of objection letters” are obtained by the applicant in compliance with District Rule § 6.03(d) (absence of objection is obtained from the property or well owner whose property or well is located within the applicable minimum distance require by rule).

SC Recommendation: There was full support from all members present for changing from Board to General Manager approval when “absence of objection letters” are received as described in 6.03(d).

6) **Conversion of Exempt to Non-Exempt Wells** – Meeting 4

The General Manager presented a proposal to add a rule Section 3.68 “Permits for Exempt Wells Converted to Non-Exempt Wells” that would require exempt wells that are converted to non-exempt wells to obtain a permit and comply with District Rules sections 3.60-3.64 as determined applicable by the General Manager or Board. The example provided for discussion was an existing domestic well that is converted to non-exempt irrigation well would be required to obtain a permit and comply with applicable District Rules.

SC Recommendation: This proposal received nearly full support of the SC members present. One member shared the perspective that they do not support the proposal because it perpetuates the existing permit and water allocation system and instead would favor a system where, in the example given, the well would be allowed to convert to an irrigation use and the volume of water withdrawn from the well would be determined based on a management objective or management zone specifically designated to manage water levels in its designated zone. This member also thought spacing and tract size minimums should not be applicable because the well was already existing prior to the District.

7) **Well Completion Standards** (District Rule § 6.04)– Meeting 4

The General Manager presented a proposal that would change the requirement for the annular seal in a well to be filled from a minimum of 10 feet to 50 feet or to the top of the first potable water bearing strata above 50 feet, if the well is targeting that interval for production. The new requirement would only apply to new wells drilled after adoption of the rule or wells that are re-drilled or re-cased.

SC Recommendation: This proposal had full support of all the Stakeholder Committee members present.

8) **Petition for Rule Change** – Meeting 4

The General Manager presented a new Rule § 7.83 which would implement new legislation requiring groundwater districts to adopt a rule providing a process for petition for adoption or modification of rules.

SC Recommendation: This proposal had full support of all the Stakeholder Committee members present.

9) **Aggregate Wells** (District Rules §1.01 (37), (64) – Meeting 4

The General Manager proposed a change to the Definition of Large Well § 1.01(37) that would add to the definition “An aggregate system that operates in such a manner that the wells’ combined production produces more than 10 acre-feet per year, or that will have a maximum capacity of more than 50 gallons per minute will be considered a Large Well; and add to the definition of Small Well 1.01(64) to provide

that “An aggregate system that operates in such a manner that the wells’ combined production produces 10 acre-feet of water per year or less, and that will have a maximum capacity of 50 gallons per minute or less will be considered a Small Well.”

The purpose of the change is to capture scenarios when individual wells are pumping water below applicable thresholds (such as Large Well) but more than one well is pumping for the same enterprise or operation such as a subdivision, facility, or irrigated acreage.

SC Recommendation: This proposal had the full support of the Stakeholder Committee member present with a request to consider clarifying the language used in the definition (e.g. “Large Well means a well or wells ...”) and to review whether the mixing of rates on maximum capacity is accurately reflective of District Goals.

10) **Civil Penalties** (Appendix C) - Meeting 4

A Stakeholder suggested that the Stakeholder Committee review the District’s Civil Penalty Schedule for Major and Minor Violations contained in Appendix C of the District Rules. Minor violation penalties are currently \$50-\$100 and Major violation penalties are currently \$250.00 to \$500.00. Additional civil penalties could be sought if a civil suit for injunction and damages were pursued. Water well construction, Completion and sealing requirement violations carry penalties of \$250.00 - \$500.00 plus costs of remediation.

The SC discussed whether the current penalties are providing a deterrent to potential violators and are “enough to get someone’s attention.”

SC Recommendation: There was nearly full support of the SC members present to recommend that the Board review the penalties to see if they recover the District’s administrative costs and staff time in assessing rule compliance and pursuing enforcement, and to look into increasing penalties to a level that would recoup the District’s costs. One member recommended the Board leave the penalties as they are.

11) **Rainwater Collection Incentive** – Meeting 5

A Stakeholder presented a concept to incentivize rainwater collection, or alternative supply to groundwater. Under this proposal new well permits would pay a \$1,500 fee/deposit to the District. The fee would be returned if within two years of the permit being issued the permit holder installs a 2,000 gallon or larger rainwater collection tank with a minimum 1,000 square foot rainwater collection area (or proportionally appropriate collection area to tank size). If the permit holder chooses not to collect the rainwater collection system the funds would be used by the CTGCD for water conservation programs. The purpose of this proposal is to incentivize conservation of groundwater, to educate the water users in the district on the need to conserve and prevent waste.

SC Recommendation: The SC did not support recommending this specific proposal, but does encourage the District to continue to collaborate with other entities such as the Burnet County on water conservation and to educate water users on the need for water conservation and to be a clearinghouse of information in regard to drought tolerant landscaping, alternative supply options such as rainwater collection, and other water conservation programs.

Section 3: Individual Stakeholder Statements

Stakeholders were invited, but not required, to submit a statement of no more than 200 words for inclusion in the Stakeholder Committee Report. Below are the statements that were submitted to the Facilitator, appearing in alphabetical order.

John Branigan:

I wanted to thank the district for allowing us to have input into these future changes.

These are my feelings regarding our time together. I feel like there are some members of our group that are against any growth in the county. I felt that attitude is and will be counterproductive to the desired results of the groundwater district and overall groundwater management. I don't see the logic in that thought process because the available aquifer data does not support that type of drastic actions. I felt that the overall consensus of the group were that management zones would be beneficial to the district and those should be implemented sooner rather than later. There are already monitor wells and water studies that can be utilized to gather starting data for those zones. This should outweigh our time discussing spacing and pumping limitations.

It is callous to state this fact, but the reality is that some wells are going to go dry and cost people money no matter what the district does. All decisions and future decisions from the district should be based on science and studies rather than blanket restrictions. In this case one size does not fit all.

Mike Brown:

The CTGCD (Central Texas Groundwater Conservation District) and its stakeholders should focus on establishing an Aquifer management plan.

The management plan should include enough monitoring wells for each management zone.

There must be clear justification and appropriate costs incurred by those management zones that do not have adequate groundwater to meet their demands and there must be clear justification along with appropriate benefits received for those management zones that do have excess groundwater.

The infrastructure to convey water from one management zone to another should also be considered in the management plan.

There must be clear justifications and the opportunity for appeals by stakeholders for any proposed water rights restrictions.

Karen Bruett:

Manage Water, not Wells

Many CTGCD “rules” we were asked to review, appear to lack a strong scientific basis but have served as a useful and convenient means for regulating wells. These include rules regarding Spacing and Tract Size, Contiguously Controlled Acres, and Minimum Acreage Requirements. The goal of CTGCD should be to move away from these somewhat arbitrary rules and begin managing water based on the best available aquifer data.

Consensus of our group was to move (quickly) to aquifer management, groundwater management zones, and to utilize hydrogeologic data to ensure adequate water availability for current and future residents (DFC). This marks a shift from managing wells to managing water – and will require data on water availability, aquifer drawdowns, aquifer recharge, and the forecasting of future conditions. It will likely also involve adjusting the maximum gpd limits on existing wells (based on zone and acreage), establishing new annual permitted amounts, and installing meters. Should a property owner wish to pull more than the allotted gpd or acre feet per year than the new zoning allows, they would need to initiate a hydrogeologic investigation. The district also needs a mechanism for the transfer of water from one zone to another.

Darrel Peckham:

Our focus should be on addressing the root causes of groundwater management challenges. This entails shifting from Planning Desired Future Conditions to Maximum Allowable Impacts (DFCs), ensuring clear justifications for restrictions, and harnessing the benefits of Management Zones.

Addressing Issues and Proposing Solutions:

1. Understanding Aquifer Limitations (science):
 - Aquifers are self-limiting, constrained by factors like water movement through rock, inflow, and storage.
 - Landowners' pumping capacity is determined by aquifer conditions and economic factors.
2. Justifying Restrictive Groundwater Management (management objective):
 - Clear and concise justifications are essential when imposing restrictive management measures.
 - Critical is identifying the conditions requiring restrictions and determining the impact limit that aligns with the management purpose.
3. Replacing Planning DFCs with Maximum Allowable Impacts DFCs:
 - Shifting from planning estimates to management objectives.
 - Establishing guiding principles for effective management.
4. Effective Management (by Zones):
 - Each aquifer subdivision, similar to speed zones on a road, should have its set of management tools tailored to its unique characteristics (scientific understanding).
 - Monitoring conditions influencing our management goals is crucial.
 - Success relies on having observable triggers that activate restrictive management.
 - Middle Pecos GCD's MZ1 serves as an excellent model using index wells.

Section 4: Meeting Notes

MEETING 1 NOTES (June 21, 2023):

Challenges

The Stakeholders were asked “In your experience, what are the challenges to managing groundwater in manner that protects the long-term interests of the community?”

- A stakeholder raised the question: How do we define community? Permittees, developers, well owners, all water consumers in county, businesses, emergency services.
- In group discussion, the Stakeholders Identified the following challenges:
 - **Data and information gaps**
 - Need to predict water demand and availability in order to allocate withdrawals to ensure sufficient supply.
 - Need information on household water usage
 - Pre-2009 grandfathered wells creates a gap.
 - **Need for education and communication around water supply**
 - Help community understand groundwater
 - You can't see groundwater supply because its underground; need education similar level to San Antonio and monitor wells on news.
 - Do developers/subdividers understand water availability when they make decisions
 - Do homebuyers understand water availability when they purchase
 - How to give groundwater users guidance and understand their responsibilities
 - Municipalities are switching to automatic metering and able to track per household use more carefully, can the GCD do anything like this?
 - How can GCD contribute to community understanding of water supply issues and encourage and facilitate more efficient water use and conservation?
 - **Balancing conservation of groundwater supply with development and population growth**
 - Population Growth within Burnet County is putting pressure on water supplies.
 - New subdivisions using groundwater and accelerating drawdown.
 - Municipalities seeking to stretch water supplies but also looking for additional water rights to serve incoming residents
 - Incoming residents without knowledge of water resource issues.

- Example of 1,000 acre ranch being divided into 210 4-5 acre lots, each with individual wells. Groundwater availability study shows new individual wells will have to be very deep. New groundwater withdrawals from those wells will accelerate drawdown of nearby shallow wells.
- County regulates subdivisions, since 2019 County has required water availability certification since 2019, GCDs review and give technical opinion
- **Value of water relative to the cost of water**
 - CTGCD does not charge pumpage fees.
 - Traditional culture of green lawns and swimming pools less viable given population growth and demand on water supply
 - CTGCD definition of waste too vague?
- **Groundwater and surface water nexus**
 - Complex surface water and groundwater supply in Burnet County
 - How can groundwater and surface water and different jurisdictions work together to understand future water demand and supply holistically
- **Alternative supply**
 - Water reuse – how can this be incorporated to stretch existing supply
 - How can new development be incentivized to incorporate rainwater catchment, stormwater catchment and re-irrigation, more integrated water planning.

Legal and Technical Questions

The Stakeholders were asked “Are there technical or legal aspects of the District’s Rules that you would like to learn more about to prepare for discussions?”

Legal Questions:

- What is GCD authority to consider impact to surrounding wells in permitting and providing water availability certification to county.
- What is GCD authority to regulate choices made by developers or subdividers for water supply for new development?
- What is GCD role in authorizing new individual wells on 4-5 acre lots, and what are considerations GCD may include?
- What GCD rules are apply to this type of situation (example 1,000 acre ranch subdivided into 4-5 acre lots)?
- What are GCD options to incentive and/or require alternative supply as part of a permit? I.e. surface water, water reuse, etc.
- What is the district authority to require meters?

- ❑ What is GCD authority to define waste? How does it relate to beneficial use? Can GCD regulate groundwater used for stock ponds, vanity ponds, swimming pools, irrigating large lawns?
- ❑ Can GCD regulate maximum allowable use per household?

Technical Questions:

- ❖ What is the location and type of information the District has for monitor wells? How is that used?
- ❖ How is recharge accounted for in groundwater availability monitoring? How much does drought and lack of rainfall affect groundwater availability?

MEETING 2 NOTES (July 21, 2023):

Substantially Altered Well Rule:

The Stakeholders reviewed a proposed redline that would:

- Change the definition of substantially altered well to include wells that increase the pumpage volume by 5% or more even without physically altering the well. The change would require these wells to be treated like new wells with regard to spacing and the requirements for hydrogeologic investigation.

The Stakeholder Committee identified the following challenges that could be addressed by the proposal:

- Data and information gaps: The rule change would provide opportunity to evaluate changed conditions of groundwater by requiring hydrogeologic investigations for wells increasing the water volume by 5% or more.
- Balancing conservation and development: The effect on adjacent wells and surrounding landowners through a hydrogeologic investigation could be evaluated.
- A member noted that from his perspective the proposed change does not help protect the long-term interests of the community.

Discussion identified strengths of the proposed rule change:

- It is a relatively small change in the rules, in terms of the number and extensiveness of changes required, to achieve the desired result.
- This change in the rules can catch many scenarios.
- Well owners that may be affected can weigh their options and adjust their planning accordingly.
- Addresses challenges related to data and information gaps; and balancing conservation and development.

Weaknesses or vulnerabilities of the proposed rule change:

- A member highlighted:
 - Other components of the definition are physical changes to a well but this change in total volume did not address a physical change to the well and did not fit in with the other components of the definition from this member's perspective.

- Because non-exempt wells that are not physically changed may be treated as a new well under this proposed change, owners of wells that do not meet spacing requirements triggered by the change to the withdrawal volume may not be able to achieve the desired groundwater withdrawal volume without acquisition of real property or groundwater rights.
- In proposing a solution for municipal wells, a member asked if municipal wells could be considered differently? Legal counsel advised it is not a viable option to treat municipal wells differently.
- A member noted issues with the wording and asked why regulate land owners total production on a well if it falls below their annual acre-foot capacity?

An alternative proposal was suggested in which a hydrogeologic investigation is required for existing wells that change their withdrawal volume by more than 5%, but the well would not be treated as a new well in regard to spacing requirements. This alternative addresses the perceived weakness of the difficulty of existing wells complying with spacing requirements that were not required when the well was developed.

- The CTGCD General Manager will consider drafting a redline of the alternate proposal for further consideration by the Stakeholder Committee.

A committee member suggested another alternative proposal in which the change in volume is addressed in the well permit and a rule is developed for “substantially altered permits.”

- The CTGCD General Manager will attempt to draft a proposal following this suggestion for consideration by the group along with the other alternative proposal described above (related to change being a substantial alteration to the well but not requiring spacing to be met).

Contiguous Controlled Acres

The Stakeholder Committee discussed the existing rule regarding contiguous controlled acres, with particular emphasis on the minimum common boundary required in order for the acreage on the separate tracts to be considered contiguous to the well:

- “Separate tracts of land must share a common boundary of at least one-eighth of the length of the total tract perimeter of the tract without the well or at least 500 linear feet, whichever is shorter, in order for the acreage on the separate tracts to be considered contiguous to the well.”
- The language “or at least 500 linear feet, whichever is shorter” was added in 2019 to give more flexibility to landowners in creating contiguous tracts.

Stakeholder Committee members were asked to reflect on 1) the challenges addressed by the existing rule, 2) the strengths and weaknesses of the existing rule, and 3) any suggestions committee members may have for revisions to the rule.

The Stakeholder Committee identified as strengths of the existing rule:

- A committee member identified that the 2019 change addressed a lot of problems.
- Another member stated the rule is working.

- A member recognized that when a city needed to acquire acreage and water rights quickly in order to meet their water needs, they were able to do so quickly because of the 500-foot common boundary allowance.

The Stakeholder Committee identified weaknesses of the existing rule:

- A committee member found the rule to be confusing.
- Members felt the use of 1/8 of the length of total perimeter or 500-feet to determine contiguous acreage was not scientific and was not protective of correlative rights.
- A committee member expressed concern that longer, skinnier tracts are more likely to be adjacent to other wells that could be affected.
- Committee members expressed concern that a small lot well owner could see impacts to a well from adjacent well owners that acquire a large contiguous tract using the contiguously controlled acres criteria.

Additional Thoughts:

- A member felt it is important to give municipalities the ability to gain additional acreage for production through land leases with willing owners and to connect those resources with permitted easements.
- As rural development becomes more common there will be a larger demand to connect permitted acreage for production.
- Some committee members thought the rule could be improved. One stakeholder strongly encourages the removal of the common boundary option of 500-linear feet that was added in 2019, so that a common boundary is defined by 1/8 of total tract perimeter without the well. This stakeholder also recommended adding a variance options that could allow for allocation of water on a per acre basis where a well owner shows the 1/8th total tract perimeter cannot reasonably be obtained.
 - In responding to the variance idea, stakeholders felt that it would be hard to determine what was sufficient evidence the landowner could use as demonstration the acreage to establish the common boundary needed could not be obtained; and it would be difficult to define the factors the Board would consider and evaluate that would be equitable and fair.
- The Committee member suggesting a change to the rule will provide additional language for the Committee's consideration.
- A stakeholder offered the perspective that it is important for well owners to be able to gain additional acreage for production through agreements (not necessarily leases) with adjacent owners, and if the District moved to regulating the amount of water allowed per acre (not per well) based on the management zone, and established a permitting process that allowed multiple land owners to pool their properties for additional water capacity, this might be a solution.
- When asked if the rule was working and the Stakeholder Committee saw any need to change the rule, most of the Committee found the existing rule to be sufficient as is.

MEETING 3 NOTES (August 15, 2023):

Spacing and Tract Size

The Stakeholder Committee discussed Spacing and Tract Size. Spacing and Tract Size apply to new wells drilled on tracts platted after September 1, 2009.

The District is exploring increasing tract size for all aquifers and requested Stakeholder Committee feedback. The District has experienced a significant increase in rural subdivisions, resulting in dense concentration of tracts that depend on individual wells. As the District evaluates the sustainability of long-term groundwater supplies and seeks to prevent excessive drawdown caused by the cumulative pumping of wells, they are seeking feedback on a possible increase to the minimum tract size. This approach aims to reduce the well density to address the issue.

The General Manager reviewed the current tract size requirements from Appendix A of the District Rules:

Trinity Aquifer – 2 acre minimum

All other aquifers – 1 acre minimum

The General Manager gave examples of tract size minimums for other hill country GCDs², noting that GCDs within a PGMA (Priority Groundwater Management Area) Texas Water Code, Chapter 35) where the GCD has aligned tract size minimums with county subdivision regulations were to be viewed somewhat differently because Burnet County is not in a PGMA.

The Stakeholder Committee worked through a set of discussion prompts:

- What are some potential issues with raising the tract size?
- What is a reasonable tract size minimum for the Trinity Aquifer?
- What is a reasonable tract size minimum for other aquifers?
- Should it be the same across the District aquifers?
- Should the rule allow for exceptions when subdividing a tract without meeting minimum tract size?

Stakeholder member identified issues with raising the tract size:

- Affordability: A member identified that raising the minimum tract size on which a new well could be located would raise the cost of acquiring land that meets the District permitting requirements for a groundwater allocation.
 - A member stated that this may happen in the short term but in the long term the price of a larger tract could come down as those would be the tract sizes available based on the regulatory conditions.

²Minimum tract size to drill a well on a tract that was subdivided:

- Headwaters GCD, Kerr Co – 10 acres
- Cow Creek GCD, Kendall Co – 6 acres
- Prairielands, Clearwater, Upper Trinity GCDs – 2 acres

Other counties in Priority Groundwater Management Areas have county regulations for larger minimum tract sizes in accordance with ch 35:

- Blanco – 5 acres
- Travis – 3 to 5 acres
- Gillespie - 3 acres

- Other members had a different perspective that land value will continue to increase over time and the cost of a tract of land over 2 acres will keep people from being able to obtain acreage sufficient to meet the minimum tract size.
- Reasonable Tract Size Minimums:
 - A member stated that it is arbitrary to use tract size across all aquifers and even across one aquifer if that aquifer has differing hydrogeologic conditions. An example of was pointed out using a slide from the Technical Presentation showing Trinity Aquifer drawdown contours. In one area where drawdown had stayed stable, that area could be treated differently than an area such as Spicewood where increased drawdown was demonstrated.
 - A member suggested reducing tract size to 1-acre minimum tract sizes where it is supported by water availability studies. This member did not see justification for increasing tract size without scientific justification if existing tract minimums would be supported by water availability science.
 - A member expressed support for larger minimum tract sizes with an exception for individually held properties, so that an individual with a small house on 2 acres or so could get a permit. This member's perspective was that the rules needed to "protect the little guy", rather than developers subdividing lots.
 - Members discussed subdivision of tracts which places multiple individual wells close together, and if there was any way the District rules could prohibit this and require developers to create a public water supply.
 - Well spacing was identified as the tool that would govern well density on multiple lots.
 - Burnet County subdivision rules allow a 1 acre minimum for lots with a well and septic system.
 - A member shared their perspective that the priority is to conserve water and prevent waste. This member had interviewed residents and believed this perspective was shared by others. To achieve conservation, the District should use all tools and authority needed to conserve water.
 - Raising tract size would support conservation.
 - This member expressed concern with a 2-acre minimum lot size providing sufficient long-term sustainability of water supplies.
 - This member suggested that the tools should be utilized to their fullest extent and the District should establish the largest minimum tract size as allowed by law.
 - A concern was raised as to how municipalities would be affected by a change in minimum lot size or spacing and how to keep current water customers that are dissatisfied with watering restrictions from using private wells.
 - The suggestion was made that municipalities could ban private wells.
 - A comment was made that these changes would be proposed for newly subdivided tracts only and would not affect existing tracts.
 - Management Objectives: A member asked what is the management objective of tract size minimums and spacing?
 - The management objective of spacing was described as a tool to limit close well spacing in dense subdivisions and to limit drawdown and impacts to nearby wells.
 - The suggestion was made to determine unreasonable impacts to wells and then determine appropriate rules and tools required to achieve that objective, possibly through management zones.

- A member gave the example of the Permian Basin where a GCD uses maximum allowable impact as determined by monitoring at the property line.
 - Hydrogeology based management zones. The group discussed managing groundwater withdrawals on a variable basis and determining tract size within different defined zones based on hydrogeology.
 - Clearwater UWCD in Bell County was given as an example.
- Consistency Across Aquifers:
 - Members stated that tract size over different aquifers should be based on the science related to the characteristics of those aquifers.
- There was a diversity of viewpoints from the group on this issue. There was support from many members of the group for the District to research using management zones to establish tract sizes based on known hydrogeology and aquifer impacts. There was also support for reducing minimum tract size where it was supported by science, and for increasing minimum tract size where necessary to achieve conservation.

Non-Exempt Permit by Rule Wells

District Rule 3.67 provides a permit by rule for certain non-exempt wells located on a tract of land that is 10 acres or less. Eligible wells are authorized to operate without an individual permit. Eligibility criteria includes 1) drilled after October 15, 2018; 2) located on a tract of land that is ten acres or less; 3) meets spacing requirements found in Appendix A; 4) is equipped so that it is incapable of producing more than 25,000 gallons per 24-hour period; and 5) is not a part of an aggregate well system.

The General Manager explained that the District has seen an increase in Permit By Rule wells drilled in the past 5 years. Background information was provided that Permit by Rule wells are mostly centered in new developments with clusters of wells. Cumulative drawdown can pose challenges, especially in areas with a high concentration of this particular type of well. To ensure long term availability of groundwater supplies and to mitigate any unreasonable effects cause by the cumulative pumping, the District is exploring management strategies for this particular well class. Prior to adoption of Rule 3.67 in 2018, all wells that produced under 25,000 gallons per day were exempt, even on tracts less than 10 acres. The original intent of establishing Rule 3.67 was to allow for more management of wells that were on tracts of 10 acres or less, including implementation of drought restrictions.

The District is interested in getting stakeholder feedback on additional requirements for Permit by Rule wells. Input from stakeholders was requested on various options:

Options could include:

- Reduced well pumping capacity, currently maxed at 25,000 gpd (17.36 gpm)
- Require an annual permitted amount.
- Require a meter.
- Require different pump capacities such as column pump size, horsepower, etc.
- Require hydrogeologic investigation.

- Several members shared their perspective that the same rules should apply to these wells as all other non-exempt wells, including metering, annual permitted volume, and posting notice of permit by rule application for General Manager approval. This would apply to all wells on tracts 10 acres or less.
 - The cost and logistics of publishing notice in the newspaper was raised as an issue, and a suggestion was made to relax the publishing requirement for these wells.
- A member suggested not requiring hydrogeologic investigation for small wells.
 - The perspective that “permit by rule” wells should comply with metering, annual permitted volume, relaxed posting, and not requiring hydrogeologic investigation for small wells had strong support among the committee.
 - Members discussed implementation of any rule changes as to established wells or only in the future and building in time for compliance. There was initially strong support applying any changes to permit by well rules into the future, but not established wells. This issue may need further consideration at a subsequent meeting.

MEETING 4 NOTES (September 21, 2023):

Spacing Variance Procedure

The General Manager (GM) presented a concept of changing the procedure for approval or denial of a spacing variance when “absence of objection letters” are obtained by the applicant in compliance with rule 6.03(d) (absence of objection is obtained from the property or well owner whose property or well is located within the applicable minimum distance require by rule) from requiring Board consideration to GM approval.

- All member present supported changing from Board to General Manager approval when “absence of objection letters” are received as described in 6.03(d).

One Working Group member recommended that the Board consider a broader variance procedure that could be applicable to other sections of the District’s rules, for example the contiguous controlled acres requirement. As an example of variance procedures, a committee member suggested looking to municipal zoning laws to see if there were any workable examples for a broad variance procedure.

Conversion of Exempt to Non-Exempt Wells

The General Manager presented a proposal to add a rule Section 3.68 “Permits for Exempt Wells Converted to Non-Exempt Wells” that would require exempt wells that are converted to non-exempt wells to obtain a permit and comply with District Rules sections 3.60-3.64 as determined applicable by the General Manager or Board. The example provided for discussion was an existing domestic well that is converted to non-exempt irrigation well would be required to obtain a permit and comply with applicable District Rules.

- This proposal received nearly full support of the Stakeholder Committee members present. One member shared the perspective that they do not support the proposal because it perpetuates the

existing permit and water allocation system and instead would favor a system where, in the example given, the well would be allowed to convert to an irrigation use and the volume of water withdrawn from the well would be determined based on a management objective or management zone specifically designated to manage water levels in its designated zone. This member also thought spacing and tract size minimums should not be applicable because the well was already existing prior to the District.

Substantial Alteration/Permit Amendment when volume of water withdrawn increased:

The SC has previously considered (at Meeting 2) a proposal that would modify the definition of a substantially altered well to include a well that changes its volume of pumping by more than 5% without a physical change to the well or pump. In the Meeting 2 discussion, it was preliminarily decided that the SC would like to see an alternative to the proposal. The GM's alternative proposal was presented to require hydrogeologic investigation of permitted large wells (50+gpm or >10-acre feet) when an application is made for a permit amendment to increase the annual permitted volume by more than 5%, but this permit amendment application would be grandfathered from application of spacing and tract size requirements.

- There was strong support for this proposal by the SC, with 5 of 7 members present supporting. The perspectives for not supporting this proposal were that the spacing and tract size requirements should apply to these wells; and another member's perspective was that a management zone type of water allocation structure would be preferred to the current water allocation system.
 - As part of the discussion as to whether existing, currently permitted wells that change the volume of water or pump capacity should have to meet spacing and tract size, the SC asked about the basis for the existing spacing and tract size. The District did not have readily available information as to how the original spacing and tract size rules were developed.
 - The SC discussed that in addition to spacing and tract size, even where not applicable there is the hydrogeologic investigation report that provides additional data and a safety net when it is a required element; other members shared that the hydrogeologic investigation could be used as justification to support additional pumping over current allocations in a management zone type water allocation structure.

Well Completion Standards

The General Manager presented a proposal that would change the requirement for the annular seal in a well to be filled from a minimum of 10 feet to 50 feet or to the top of the first potable water bearing strata above 50 feet, if the well is targeting that interval for production. The new requirement would only apply to new wells drilled after adoption of the rule or wells that are re-drilled or re-cased.

- This proposal had support of all the Stakeholder Committee members present.

Petition for Rule Change

The General Manager presented a new Rule 7.83 which would implement new legislation requiring groundwater districts to adopt a rule providing a process for petition for adoption or modification of rules.

- This proposal had support of all the Stakeholder Committee members present.

Aggregate Wells

This item was not originally scheduled for discussion at Meeting 4 but was raised by a Stakeholder in response to the redline that was sent out prior to Meeting 4. In the redline, the General Manager proposed a change to the Definition of Large Well 1.01(37) that would add to the definition “An aggregate system that operates in such a manner that the wells’ combined production produces more than 10 acre-feet per year, or that will have a maximum capacity of more than 50 gallons per minute will be considered a Large Well; and a change to the definition of Small Well 1.01(64) to provide that “An aggregate system that operates in such a manner that the wells’ combined production produces 10 acre-feet of water per year or less, and that will have a maximum capacity of 50 gallons per minute or less will be considered a Small Well.”

The purpose of the change is to capture scenarios when individual wells are pumping water below applicable thresholds (such as Large Well) but more than one well is pumping for the same enterprise or operation such a subdivision, facility, or irrigated acreage.

- This proposal had the full support of the Stakeholder Committee member present with a request to consider clarifying the language used in the definition (e.g. “Large Well means a well or wells ...”) and to review whether the mixing of rates on maximum capacity is accurately reflective of District Goals.

Civil Penalties

This item was not originally scheduled for discussion at Meeting 4 but was raised by a Stakeholder in as an additional topic for consideration. A Stakeholder suggested that the Stakeholder Committee review the District’s Civil Penalty Schedule contained in Appendix C of the District Rules. Minor violation penalties are currently \$50-\$100 and Major violation penalties are currently \$250.00 to \$500.00. Additional civil penalties could be sought if a civil suit for injunction and damages were pursued. Water well construction, Completion and sealing requirement violations carry penalties of \$250.00 - \$500.00 plus costs of remediation.

The Stakeholder Committee discussed whether the current penalties are providing a deterrent to potential violators and are “enough to get someone’s attention.”

- Most of the Stakeholder Committee present recommended that the Board review the penalties to see if they recover the District’s administrative costs and staff time in assessing violations and look into increasing penalties to a level that would recoup the District’s costs. One member present recommended the Board leave the penalties as they are.

MEETING 5 NOTES (October 17, 2023)

Rainwater Collection Incentive

A Stakeholder presented a concept to incentivize rainwater collection, or alternative supply to groundwater. Under this proposal new well permits would pay a \$1,500 fee/deposit to the district. The fee would be returned if within two years of the permit being issued the permit holder installs a 2,000 gallon

or larger rainwater collection tank with a minimum 1,000 square foot rainwater collection area (or proportionally appropriate collection area to tank size). If the permit holder chooses not to install the rainwater collection system the funds would be used by the CTGCD for water conservation programs. The purpose of this proposal is to incentivize conservation of groundwater, to educate the water users in the district on the need to conserve and prevent waste.

Stakeholders had varying perspectives on this proposal.

- One stakeholder believed that the tax rate charged by the District should be sufficient funds to manage groundwater without additional fees charged to permit holders. Another perspective was that this proposal restricts the use of individual well owners in using their groundwater and that the fee amount is arbitrary.
- Another stakeholder was concerned that the program is voluntary and the District cannot require the use of the rainwater; if a permit holder installed the rainwater system there are not actual groundwater savings achieved unless the rainwater is actually used.
- Other stakeholders suggested that incentivizing water conservation by offsetting costs of rainwater collection could come from Burnet County.
- The SC did not support recommending this specific proposal, but does encourage the District to continue to collaborate with other entities such as the Burnet County on water conservation and to educate water users on the need for water conservation and to be a clearinghouse of information in regard to drought tolerant landscaping, alternative supply options such as rainwater collection, and other water conservation programs.

Raising Minimum Tract Size, Rule Implementation, Extending Water Availability Study Timeframe

The Stakeholder Committee also considered proposals from a stakeholder regarding raising minimum tract size, implementing rule changes as soon as possible to address the current drought, and raising the water availability study requirement to 40 years. The Stakeholders did not form recommendations on these proposals.

Management Zones

Two stakeholders presented position statements on the use of management objectives and management zones. Management zones were described as recognizing the hydrogeological differences in aquifers and water availability within CTGCD and managing groundwater withdrawal based on management objectives defined for unique zones. Management zones would allow for areas of low or problematic groundwater availability within the District to be managed based on the needs of that particular area, for example an area with a shallow zone that experiences significant drawdown would be treated differently than an area that does not respond the same way to withdrawal pressure. One of the stakeholders stated the spacing and tract size as convenient and easy rules, but transitioning to management zones could allow for managing wells based on aquifer health, groundwater availability, sustainability and future water availability. Another stakeholder would identify maximum allowable impact based on aquifer yield and use these parameters as “speed limits” within a particular management zone, using ongoing management and tweaking to respond to identified aquifer impacts.

Stakeholder discussion of management zones reflected:

- Establishing management zones and assigning objectives is complex.
- One stakeholder preferred correlative apportionment of acre feet per year to acreage based on a zone’s total groundwater availability; rather than individual well permitting.

- One stakeholder preferred permitted withdrawals based on maximum allowable impact within a zone. Maximum allowable impact is designed to establish aquifer yield and management objectives.
- It would be very important to communicate what is allowed within a zone.
- Developer groundwater studies and District studies are available to determine groundwater capacity within different parts of the District.
- It is important to include appropriate notice and hearing for proportional adjustments when that is undertaken.
- One stakeholder was interested in the District and County being able to discuss with a potential developer the existing groundwater uses and per capita use within a zone and the potential remaining groundwater availability within a zone, so that developers have an idea of long-term potential of their projects.
- Designation and use of management zones would have to also meet Chapter 36 requirements.

The General Manager added that CTGCD has been looking into utilizing Management Zones under Chapter 4 of its rules. The District started data collection in 2010, and they want to get the science right and ensure they have the data needed to accurately define and manage zones. The CTGCD Management Plan, Section 8, describes the District’s management objectives in establishing management zones and the how the district could develop total production in a management zone and manage in relation to a sustainable yield. The General Manager explained the purposes of spacing and tract size within District rules and how those could still be utilized within a management zone, to accomplish all the goals of groundwater management.

- There was full support of the Stakeholders present to: Recommend the District assess available data and identify data gaps for needed data with a goal of utilizing its authority to establish management zones under Chapter 4 of the District Rules, in order to manage sustainable yield based on aquifer impacts and hydrogeology.

Draft Report

The Stakeholder Committee was provided with a copy of the Draft Stakeholder Report prior to the meeting. The Stakeholders were given an opportunity to discuss the draft recommendations and give the Facilitator direction on finalizing the report.

APPENDIX A

Central Texas Groundwater Conservation District Rule Revision Stakeholder Committee Guidelines

The Central Texas Groundwater Conservation District (“CTGCD” or “District”) Stakeholder Committee (“Stakeholder Committee”) will serve as an important forum for the CTGCD Board to gain stakeholder input and insight on the District’s Rules from a range of perspectives. The Stakeholder Committee purpose is to encourage broader public involvement with CTGCD and to provide independent input to the District Board on the District’s potential revisions to its rules. The Stakeholder Committee will be informed by: Texas Water Code Chapter 36, CTGCD enabling legislation and the CTGCD District Rules.

Desired Outcomes of the Stakeholder Committee Process:

- The insights and perspectives of Stakeholder Committee members have been meaningfully considered.
- Stakeholder Committee input informs the development of the District Rule Revisions.
- The Stakeholder Committee comes away from this work with an understanding that the process was complete, accurate, fair, and transparent.

Stakeholder Committee Operating Guidelines:

- This Stakeholder Committee will be convened for 4-5 meetings.
- To support candid and fluid dialogue during Stakeholder Committee discussions, individual member observations are presumed to reflect their personal, not organizational perspectives. Members can, at any time, specifically indicate that an observation reflects their affiliated organization's official policy or messaging.
- In providing their input, Committee members are encouraged to consider the CTGCD's mission of managing groundwater resources in a manner that protects the long-term interests of the community.
- Members are encouraged to frame observations in terms of needs and interests, not in terms of positions. Opportunities for finding solutions increase dramatically when discussion focuses on needs and interests.
- Members are encouraged to come to the process to work together collaboratively and offer ideas and solutions.
- If a member is unable to attend, they are encouraged to offer thoughts in advance, based on materials distributed prior to the meeting.
- Stakeholder Committee members are specifically requested to refrain from characterizing the views of other Stakeholder Committee members in any public statements.
- Where there are opportunities for consensus recommendations the group may pursue consensus, but members will not be asked to reach consensus on all issues. When consensus is used, the Stakeholder Committee operates under the following definition of consensus:
The group will have reached consensus on an issue when it agrees upon a single alternative and each participant can say:
 - *I believe that other participants understand my point of view.*
 - *I believe I understand other participants' points of view.*
 - *Whether or not I prefer this alternative, I support it because it was arrived at openly and fairly, based on good information, and it is the best decision for us at this time.*

In instances where consensus is not sought and/or cannot be reached, the varying perspectives of members can be presented in a succinct statement.

Technical Support for the Advisory Committee:

- The District may provide technical input or respond to questions or request for analysis from Stakeholder Committee members, depending upon the extent resources are available.

Facilitation

- The Stakeholder Committee is supported by a third-party facilitator. The facilitator is a neutral third party with no stake in the outcome of the discussions.
- The Facilitator will manage any meeting disruptions, as needed.
- Stakeholder Committee members may communicate directly with the third-party facilitator, but the facilitator's ability to provide response and analysis may be limited by resources.
- The final report will be prepared by the third-party facilitator in close consultation with CTGCD staff and with opportunity for review by the Stakeholder Committee membership. This report will be the written record of Committee deliberations.

Public Participation

- Public observers may attend and observe meetings, but they will not be invited to join the discussion.
- Opportunities for written and spoken public input will be provided at District Board meetings.

APPENDIX B – PDF of District, Legal and Technical Presentations

Sent as separate attachment