



**Barton Springs/Edwards Aquifer
Conservation District**
1124 Regal Row Austin, TX 78748
(512) 282-8441

Historical Production Permit

Permit No: M024-18-02

Owner: Needmore Water, LLC

System: Needmore Water, LLC (Well D)

Mail Address: 3900 N. Coll Road
McAllen, TX 78501

Management Zone: Middle Trinity

Number of Wells: 01

State Well No(s): **68-08-306**



Terms: Expires August 31 following the date of issuance. Failure to pay fees, report pumpage, or abide by Rules, Bylaws, or Special Provisions of issuance, will subject this agreement to revocation. Permittee is subject to the enforcement mechanisms available to the District including but not limited to those set out in Rules 3-1.11, 3-1.13, 3-7.11, 3-8.5, 3-8.9 for noncompliance with District Drought Rules including but not limited to mandatory reduction goals.

Authorized Groundwater Withdrawal: Only that amount of water which is required without being wasteful during the term of this agreement, but not to exceed 289,080,000 gallons.

Special Provision: See attached

This Permit is hereby issued this 12th day of December, 2019.

By: *Melina Pimentel-Martinez*, General Manager

PERMIT CONDITIONS AND REQUIREMENTS.

All permits are granted subject to the Rules, regulations, Orders, special provisions, and other requirements of the Board, and the laws of the State of Texas. In addition, each permit issued shall be subject to the following conditions and requirements:

1. The permit is granted in accordance with the provisions of S.B. 988 of the 70th Texas Legislature in conjunction with Chapter 36, Texas Water Code, and the Rules, regulations and Orders of the District as may be in effect from time to time, and acceptance of the permit constitutes an acknowledgment and agreement that the permittee will comply with all the terms, provisions, conditions, requirements, limitations, and restrictions embodied in the permit and with the Rules, regulations, and Orders of the District.
2. The permit confers no vested rights in the holder and the permit is non-transferable. Written notice must be given to the District by the permittee prior to any sale or lease of the well covered by the permit. The permit may be revoked or suspended for failure to comply with its terms, which may be modified or amended pursuant to the requirements of the Act and any applicable Rules, regulations and Orders of the District.
3. A permit shall be subject to amendment by the District of the amount of water authorized for pumpage based upon a review of the District's sustainable yield model and a determination by the District that an amendment is necessary after considering adequate water levels in water supply wells and degradation of water quality that could result from low water levels and low spring discharge.
4. The drilling and operation of the well for the authorized use shall be conducted in such a manner as to avoid waste, pollution, or harm to the aquifer.
5. The permittee shall keep accurate records and meter readings, on a monthly basis, of the amount of groundwater withdrawn, the purpose of the withdrawal, and, for any transporting of water outside the District, the amount of water transported and the identity and location of the recipients. Such records shall be submitted to the District office on a monthly basis, unless some other reporting period is specified in the permit, even if there is zero pumpage or transport for the time period and shall also be available for inspection at the permittee's principal place of business by District representatives. Immediate written notice shall be given to the District in the event a withdrawal or transporting of water exceeds the quantity authorized by the permit or Rules. Unless the permittee can present evidence that the pumpage or transport which exceeded the permitted amount is due to an isolated incident that is not likely to be repeated and/or would not result in continued higher demands, the permittee must immediately submit an application to increase the permitted pumpage or transport volume based on the amount of pumpage or transport which exceeded the permitted amount projected for the remainder of the fiscal year.
6. The well site or transport facilities shall be accessible to District representatives for inspection during normal business hours and during emergencies. The permittee agrees to cooperate fully in any reasonable inspection of the well site or transport facilities and related monitoring or sampling by District representatives. The well owner shall provide a 24-hour emergency contact to the District.
7. The application pursuant to which a permit has been issued is incorporated therein, and the permit is granted on the basis of and contingent upon the accuracy of the information supplied in that application and in any amendments thereof. A finding that false information has been supplied shall be grounds for immediate revocation of a permit. In the event of conflict between the provisions of the permit and the contents of the application, the provisions of the permit shall prevail.
8. Driller's logs must be submitted within 60 days of the drilling of a well.

9. For all new public water supply wells, a 150-foot radius sanitary control easement around the well must be recorded with county of record and evidence of said easement or a variance from TCEQ shall be provided to the District 60 days upon completion of the well.
10. Monitoring of groundwater pumpage is to be accomplished in the manner specified in the District's metering policy and any modifications thereto.
11. Violation of the permit's terms, conditions, requirements, or special provisions, including pumping amounts in excess of authorized withdrawal or transporting amounts outside of the District in excess of the amount authorized for transport, shall be punishable by civil penalties as provided by the Act and these Rules.
12. If special provisions are inconsistent with other provisions or regulations of the District, the Special Provisions shall prevail.
13. A Transport Permit may contain any term, condition, or limitation determined to be warranted by the District's Board based on the factors set forth in Rule 3-1. 6(A), and Section 36.122(d) of the Act.
14. Permittees will notify the District upon filing an application with the TCEQ to obtain or modify CCN to provide water or wastewater service in a service area that lies wholly or partly within the District or for which water shall be supplied from a well located inside the District.
15. Upon request of the District, permittees that are water utilities and that are not in compliance with their permit conditions concerning water use, are required to furnish the District the individual monthly water usage of all end-user customers that exceed the presumptive excessive-use criteria set forth in Section 3-3.7(C) of these Rules.
16. Permittees holding Class B or Class C Conditional Production Permits under Rule 3-1.24(D)(E) must maintain at all times the certain ability and binding commitment to switch from the to-be-permitted volume of groundwater to some alternative water supply source(s) on a 100% basis, including (a) all necessary physical infrastructure and supporting agreements, rates, and tariffs required for such substitution, and (b) the commitment to use the alternative supply as warranted by District-declared drought conditions.
17. A Permit does not authorize use on property within the District other than the well owner's property without prior approval from the District for Multi-user Wells. For Permits approved for Multi-user Wells, the well owner shall be considered the sole permittee and shall be solely responsible for compliance with all applicable rules, permit conditions, and requirements including the multi-user well metering and reporting requirements pursuant to District Rule 3-2.
18. After notice and an opportunity for a hearing, the Permit may be reduced if the authorized withdrawal volume is deemed to be no longer commensurate with reasonable non-speculative demand or if actual production from a well is substantially less than the authorized permit amount for multiple years without any rationale that reasonably relates to efforts to utilize alternative water supplies, conserve, or improve water use efficiency.
19. After notice and an opportunity for a hearing, the Permit may be reduced or curtailed if the authorized withdrawal volume is determined to cause unreasonable impacts or failure to achieve the applicable DFC of the aquifers.
20. Wells must be maintained in good non-deteriorated condition and in compliance with Rule 5 related to District Well Construction Standards.
21. After receiving official notification from the District, the permittee shall implement the approved mitigation plan.

**Needmore Water LLC, Well D Permit Application
Special Provisions**

**Board Action on Permit 7/29/19
Final and Appealable Board Order Granting Permit on 12/12/19**

**Rule 11 Agreement - Executed 10/31/17
Supplement to Rule 11 Agreement - Executed 7/29/2019**

SPECIAL PROVISIONS

SECTION 1. DEFINITION OF TERMS

“Baseline Curtailment Rate (BCR)” - is a calculated annual volume based on the actual metered and reported monthly pumping volumes of the previous 12 months. The previous 12-month total is used to establish an annual volume rate referred to as the Baseline Curtailment Rate (BCR). All required temporary curtailments specified in these special provisions are applied to the BCR on a monthly basis until the drawdown in the index well recovers to the specified water level threshold. The BCR is further described in Section 4 of these provisions.

“Index Well(s)” – is a designated observation or monitoring well that is used to measure the water level and/or quality of water within the aquifer. For the purpose of these provisions, “Amos Index Well” and “Catfish Index Well” are designated as compliance index wells; “Amos Index Well” is the primary index well and “Catfish Index Well” is the secondary index well. Details describing these index wells are found in Section 3 of these provisions.

“Response Action(s)” – is a mandatory measure that the Permittee must comply with and implement per the terms and conditions of this permit and its special provisions. Specific response actions are described in Section 4 of these provisions.

“Trigger” – is a designated water level that prompts a response action once the measured water level is reached. For compliance purposes, the measured water level shall be calculated as a 30-day rolling average of the minimum daily water level (measured depth to water, in feet, from land surface) measurements. Once a Trigger has been reached, the Permittee must implement the appropriate response action. Specific Triggers are described in Section 4 of these provisions.

“Mitigation” – for the purpose of these provisions, this term means any proactive or reactive measures taken by a designated party to prevent, reduce, or remedy actual unreasonable impacts on an operational and adequate well that are unanticipated and unavoidable through reasonable avoidance measures.

“Unreasonable Impacts” – The District interprets unreasonable impacts to mean significant drawdown of the water table or reduction of artesian pressure as a result of pumping from a well or well field, which contributes to, causes, or will cause:

1. well interference related to one or more water wells ceasing to yield water at the ground surface;
2. well interference related to a significant decrease in well yields that results in one or more water wells being unable to obtain either an authorized, historic, or usable volume or rate from a reasonably efficient water well;
3. well interference related to the lowering of water levels below an economically feasible pumping lift or reasonable pump intake level; or
4. the Desired Future Condition (DFC) to not be achieved.

SECTION 2. GENERAL

1. In response to the District's review of the submitted Hydrogeological Report and the subsequent preliminary finding identifying unreasonable impacts resulting from permitted pumping (289,080,000 gallons/yr) of Needmore Well D, the District requires permit-specific Response Actions to be implemented in order to avoid unreasonable impacts. These actions are identified in Section 4 of these provisions. The Permittee must comply with the Response Actions associated with Permit Compliance Level (defined in Section 4 below).
2. These provisions designate the use of a primary index well for which Permit Compliance Levels, Triggers and mandatory Response Actions will be established and monitored for compliance. Section 3 of these provisions further describes the details of each index well. In the event that the primary index well is no longer an adequate well for compliance purposes, the permit may be amended to designate the secondary index well (Catfish Well) to serve as the primary index well.
3. As drawdown in the primary index well approaches each Permit Compliance Level, the District will coordinate an evaluation of the data to assess the actual impacts as compared to the modeled impacts of pumping. The District will coordinate with the permittee to schedule a meeting and to review the data. This meeting will also serve to communicate details about the relevant Response Actions in place, as well as to communicate the need for the Permittee to prepare for the upcoming Response Actions that will be required if subsequent Compliance Levels are reached.
4. When the water level in the primary index well reaches a designated Trigger, the District will notify the Permittee via certified mail within ten business days ("Mailed Notification Letter"). This notification will include a revised pumping chart that reflects the BCR and the mandatory temporary curtailments applied to that volume. Upon receipt of the notification and the revised pumping chart, the Permittee must comply with the curtailed monthly pumping allocation to begin on the first day of the month following notification.
5. The Permittee may submit an amendment application to request revisions or modifications to the permit volume or the permit special provisions. The Board will consider such requests as major amendments and will be processed in accordance with District Rule 3-1.4 B(1) and Rule 3-1.4 C(2) related to notification, Board action, and public hearings.
6. If the District determines through its own coordinated evaluation and investigation that production from the permitted well is causing actual unreasonable impacts (as defined in Section 1 of these Special Provisions) to either the index wells or any other operational well that is adequately equipped, maintained, and completed, then the District may require temporary cessation of pumping until the Board, after notice and opportunity of a hearing, approves a staff-initiated amendment to partially reduce the full permit volume to a rate that will reasonably avoid recurrence of unreasonable impacts.
7. In lieu of permit reductions required by provision No. 6, the District may consider voluntary Mitigation measures pursuant to any agreement in effect between the District and the Permittee related to Mitigation to remedy the unreasonable impacts. Such Mitigation measures shall be reserved only after all reasonable preemptive avoidance measures have been exhausted, and shall serve as a contingency for the occurrence of unreasonable impacts that were unanticipated and unavoidable through reasonable measures.

8. If the District determines that new pumping centers or large-scale groundwater production within the area of influence are significantly affecting drawdown relative to the permit Compliance Levels, then the District shall consider revision of these permit provisions and permit Compliance Levels. For drawdown significantly affected by production located outside of the jurisdiction of the District, the District's General Manager, with Needmore Water LLC's input, will determine the amount of drawdown not related to Well D and, as appropriate, the General Manager will recommend to the Board adjustment to the permit conditions relative to the amount of draw down. Any permit revisions must be approved by the Board through a permit amendment.
9. Data collected from the index wells that have been determined by the District to be inaccurate shall not be used to determine compliance with these permit provisions.
10. Needmore shall pay the District \$2,500 within 60 days of December 12, 2019, which is the date that the Order granting this Permit became final and appealable and thereafter pay the District \$2,500 on or before September 1st beginning September 1, 2020 and every September 1st thereafter for so long as the Permit continues in effect consistent with terms of the Settlement Agreement as memorialized in the October 31, 2017, Rule 11 Agreement, as supplemented August 1, 2019 unless the Permit is otherwise amended.

SECTION 3. INDEX WELLS

The District has designated a primary index well (Amos Well) and secondary index well (Catfish Well) for the purpose of monitoring aquifer conditions in the Middle Trinity Aquifer. These provisions further define the Permit Compliance Levels, Response Actions, and Triggers specific to the primary index well. The secondary index well will be monitored to establish correlated data with the primary index well. In the event that the primary index well is no longer an adequate or accessible well for compliance purposes, the permit may be amended to designate the Catfish Well to serve as the primary index well. The District is responsible for compiling, collecting, and archiving data from the monitor wells. Table 1 describes the two index wells.

The Amos Index Well is part of the Hays Trinity Groundwater Conservation District (HTGCD) well monitoring network. It is a domestic well that is operational and in use as an exempt well. The well is completed as a Middle Trinity well located in Hays County approximately two miles from the permitted Well D. An agreement has been secured between the District and the well owner of the Amos Index well granting access and authority to utilize the well as a monitoring and index well. The Catfish Index Well is located in the HTGCD on the Permittee's property referred to as Needmore Ranch. The well is operational and in use as an exempt livestock well. The well is completed to produce from the Middle Trinity Aquifer and is located in Hays County approximately one mile from the permitted Well D.

Table 1. List of index wells for the Needmore Well D production permit.

Index Well	Well Name & Well Number	Coordinates	Physical Address	Well Owner Contact
Primary Index Well	Amos Well	29.961399, -98.064977	600 Mission Trail Wimberley, TX 78676	Stephen & Sharon Amos
Secondary Index Well	Catfish Well	29.970093, -98.052253	Needmore Ranch	Needmore Water, LLC

Amos Index Well Provisions

1. Within 90 days of the effective date of the permit, the District, in coordination with the Permittee and well owner, shall be responsible for purchasing and ensuring the proper installation of monitoring equipment necessary to collect and transmit water level data to a website accessible to the Permittee and the District for the purpose of evaluating compliance with the Section 4 of these Special Provisions.
2. The District shall be responsible for operating, maintaining, repairing, and replacing all monitoring equipment such as pressure transducers, related telemetry equipment, and cell/web hosting fees. All materials and equipment shall be new, free from defects, and fit for the intended purpose. Any expenses for the above described work will be incurred by the District at no cost to the Permittee.
3. The well owner is solely responsible for normal wear and tear, well maintenance, pump servicing or other repairs resulting from the well owner's normal use of the well.
4. The District may consider cost sharing or incurring cost associated with repairs or replacement of any part of the index well that is reasonably necessary or convenient for the continuous and adequate performance of the well for monitoring purposes.

Catfish Index Well Provisions

1. Within 90 days of the effective date of the permit, Permittee shall convey a binding access agreement acceptable to the District for Catfish Index Well that allows the District access for equipment maintenance and repair, and data collection, if warranted.
2. Within 90 days of the effective date of the permit, Permittee shall install, at its own expense, a one-inch conductor pipe to enable the measurement of water level in the Catfish Index Well. In addition, a pressure transducer capable of storing water level data will be installed and data downloaded and provided to the District quarterly. Alternatively, Permittee may assume the expense for the installation of telemetry equipment hosted by the TWDB (assuming TWDB is interested and available). If telemetry equipment is installed and hosted by the TWDB, prior to the telemetry installation, manually collected monthly water level data shall be provided to the District by the fifth of each month along with the required meter reading.
3. The Permittee bears all responsibility and expenses associated with installation, routine maintenance, replacement, repair, or inspection of the pressure transducers or any related telemetry equipment and cell/web hosting fees not covered by the TWDB. All associated work shall be completed by a contractor or contractors selected by Permittee and approved by the District. All materials and equipment shall be new, free from defects, and fit for the intended purpose.
4. The Permittee shall provide notice to the District at least five days in advance of any installation, routine maintenance, replacement or repair of equipment; and shall maintain and submit, upon request by the District, copies of any or all calibration or repair logs. This notice requirement is for both the pumping well and the Catfish Index Well.
5. The Permittee shall be responsible for repairing and replacing any part of the Catfish Index Well. If repairs or replacement of any part of the index well are reasonably necessary or convenient for the continuous and adequate performance of the well, the District shall provide notice and the Permittee shall make repairs and replacements as soon as practicable.

SECTION 4. PERMIT COMPLIANCE ACTIONS

The following Permit Compliance Levels, Response Actions, and Triggers apply to the Amos Index Well as the designated primary index well.

Permit Compliance Level 1 – Evaluation

Trigger 1 - A 30-day rolling average water level equal to or greater than 525 ft below land surface (bls).

Response Action – When drawdown in the Amos Index Well reaches a sustained average water level that is equal to or greater than 525 ft bls, the District will conduct an evaluation of the data to assess the actual impacts of pumping. The evaluation will utilize best available science and methods to consider factors and data including, but not limited to:

- a. Manual confirmation of water level data;
- b. Calibration and drift of pressure transducer;
- c. Actual pumping rate and associated drawdown;
- d. Drought conditions;
- e. New local interference from pumping both inside and outside of District;
- f. Water level trends in monitor wells; and,
- g. Revised aquifer parameters (e.g. transmissivity, storativity).

Permit Compliance Level 2 – Avoidance Measures

Trigger 2 - A 30-day rolling average water level equal to or greater than 558 ft bls.

Response Action A - Establish a Baseline Curtailment Rate (BCR)

When drawdown in the Amos Index Well reaches a sustained average water level that is equal to or greater than 558 ft bls, the District will establish a BCR. The BCR is a calculated annual volume based on the actual monthly pumping volumes of the previous 12 months. The previous 12-month total is used to establish an annual volume rate referred to as the BCR. All mandatory temporary curtailments specified in these special provisions are applied to the BCR on a monthly basis.

Response Action B – When drawdown in the Amos Index Well reaches a water level that is equal to or greater than 558 ft bls, the Permittee shall comply with a mandatory temporary monthly curtailment of 20% off the BCR. When the drawdown in the Amos Index Well recovers to a 30-day rolling average water level that is less than 558 ft bls, the mandatory monthly curtailment of 20% shall be completely relaxed. Upon that recovery, authorization for the full permit volume will be restored provided that drought-triggered curtailments do not apply.

Permit Compliance Level 3 – Maximum Drawdown Allowable

Trigger 3 - A 30-day rolling average water level equal to or greater than 575 ft bls.

Response Action – When drawdown in the Amos Index Well reaches a sustained average water level that is equal to or greater than 575 ft bls, the Permittee shall comply with a temporary monthly curtailment of 40% of the BCR. When the drawdown in the Amos Index Well recovers to a 30-day rolling average water level that is greater than 558 ft bls and less than 575 ft bls, the mandatory temporary monthly curtailment of 40% shall be relaxed to 20%.

Permit Compliance Level 4 – Unreasonable Impacts to Existing Wells

Trigger 4 - A 30-day rolling average water level equal to or greater than 580 ft bls.

Response Action – Continued drawdown of water levels that are equal to or greater than 580 ft bls will be considered by the District as evidence of unreasonable impacts to the Amos Well. When drawdown in the Amos Index Well reaches a sustained average water level that is equal to or greater than 580 ft bls, the Permittee shall comply with a temporary cessation of pumping. When the drawdown in the Amos Index Well recovers to a 30-day rolling average water level that is greater than 575 ft bls and less than 580 ft bls, the mandatory temporary cessation of pumping shall be relaxed to temporary monthly curtailment of 40%.

If the District determines through its own coordinated evaluation and investigation that production from the permitted well is causing actual unreasonable impacts (as defined in Section 1 of these Special Provisions) to either the index wells or any other operational well that is adequately equipped, maintained, or completed, then the District may require temporary cessation of pumping until the Board, after notice and opportunity of a hearing, approves a staff-initiated amendment to partially reduce the full permit volume to a rate that will reasonably avoid recurrence of unreasonable impacts.

SECTION 5. DROUGHT CHART & BCR PUMPING CHART

When drawdown in the primary index well reaches the Compliance Level 2 Trigger (558 ft bls), the District will establish a BCR reflected as an annual volume. The Permittee will be issued a revised pumping chart that reflects an annual volume referred to as the BCR. Once the Compliance Level 2 Trigger is reached, this revised pumping chart shall replace all other previous pumping charts or drought target charts in place. Upon receipt of the Mailed Notification Letter and the pumping chart, the Permittee must comply with the curtailed monthly pumping allocation to begin on the first day of the month following notification.

As the drawdown in the primary index well recovers to a water level less than 558 ft bls, the Permittee will no longer be required to comply with the revised pumping chart and may return to following the initially issued drought curtailment chart.

If at any point during the term of the permit, the water level reaches the Compliance Level 2 Trigger (558 ft bls) again after having previously recovered to less than 558 ft bls, the District will recalculate a new BCR and the Permittee will be issued a new revised pumping chart that reflects an annual volume based on a new BCR. For each occurrence of receding water levels reaching the Compliance Level 2 Trigger, a revised pumping chart reflecting a revised BCR shall replace all other previous pumping charts or drought target charts in place. Upon receipt of the Mailed Notification Letter and the pumping chart, the Permittee must comply with the curtailed monthly pumping allocation to begin on the first day of the month following notification.