

**TCEQ DOCKET NO. 2024-1872-DIS**

|                                     |          |                              |
|-------------------------------------|----------|------------------------------|
| <b>APPLICATION OF CRYSTAL CLEAR</b> | <b>§</b> | <b>BEFORE THE</b>            |
| <b>SPECIAL UTILITY DISTRICT FOR</b> | <b>§</b> |                              |
| <b>APPROVAL OF AN IMPACT FEE IN</b> | <b>§</b> | <b>TEXAS COMMISSION ON</b>   |
| <b>COMAL, HAYS, AND GUADALUPE</b>   | <b>§</b> |                              |
| <b>COUNTIES, TEXAS</b>              | <b>§</b> | <b>ENVIRONMENTAL QUALITY</b> |

**Executive Director's Response to Hearing Requests**

The Executive Director (ED) of the Texas Commission on Environmental Quality (Commission or TCEQ) files the Executive Director's Response to Hearing Requests concerning Crystal Clear Special Utility District's (District) application for approval to increase its water impact fees in Comal, Guadalupe, and Hays Counties, Texas. For the reasons set forth below, the ED recommends the Commission grant the hearing requests of Austin Mark Ventures, LLC (Austin Mark) and Joseph Benavides.

Attached for the Commission's consideration are the following documents:

Attachment A –Staff's Technical Memorandum

Attachment B – TCEQ-Generated Map of the District Service Area and Hearing Requesters

**I. Background**

The District is requesting Commission approval to levy an impact fee for water capacity of \$5,163 per standard residential connection. The District was created in 2013 by an act of the Texas Legislature under Texas Special District Local Laws Code Chapter 7206, which converted the Crystal Clear Water Supply Corporation to a Special Utility District. The District's impact fee has remained at \$2,500 since prior to its conversion. The District provides retail water service to approximately 6,510 active equivalent single-family connections within its service area of approximately 206 square miles located in Comal, Hays, and Guadalupe Counties. The District has indicated that the requested revised impact fee is necessary because its service area is experiencing growth that is taxing the District's existing aged infrastructure, which is either overcapacity, leaky, or does not reach the new developing areas.

The District's application has been reviewed by staff in the TCEQ Districts Section, Water Supply Division. Based on a review of the application and supporting documents, the proposed water distribution impact fee of \$5,163 per connection appears to be reasonable, equitable and necessary as a mechanism to finance improvements which serve the designated service area, and is within the limits allowed by applicable statutes and TCEQ rules. See Attachment A (September 30, 2024, Technical Memorandum).

## **II. Procedural History**

On March 12, 2024, the Districts Section received an application requesting approval of its water impact fee. The District's application was declared administratively complete on March 12, 2024. Notice of the application was published in the following newspapers: on August 25 and September 1, 2024, in *The Daily Record*, a newspaper regularly published or circulated in Hays County; on August 25 and September 1, 2024, in the *Sequin Gazette*, a newspaper regularly published or circulated in Guadalupe County; and on August 18 and September 4, 2024, in the *Herald-Zeitung*, a newspaper regularly published or circulated in Comal County. These are the three counties in which the District intends to levy the impact fee.

Pursuant to 30 TAC § 293.173, the District requested a limited waiver of the notice requirements, asserting that since the service area consists of 175 square miles and tens of thousands of individual landowners, written mailed notice would be prohibitively expensive; and thus, this constitutes good cause for the waiver. This waiver was approved by the TCEQ Districts section. The chief clerk's office received the affidavit of mailing, evidencing that on September 4, 2024, the notice was mailed to all landowners and developers who expressed an interest in service during the past five years. The affidavit also evidenced that the District included a mailing insert to all of its customers in its September 2024 billings. The comment period ended on October 4, 2024.

## **III. Legal Background**

### **1. Impact Fees**

Chapter 395 of the Texas Local Government Code and Chapter 49 of the Texas Water Code allow Texas districts to assess an impact fee in a district if approved by the Commission. See Tex. Loc. Gov't Code § 395.080(b); Tex. Water Code § 49.212(d). The Commission reviews impact fee applications in accordance with Sections 293.171-176 of the Commission rules. See 30 Texas Administrative Code ("TAC") §§ 293.171-176.

An "impact fee" is a charge or assessment imposed by a political subdivision against new development in order to generate revenue for funding or recouping the costs of capital improvements or facility expansions necessitated by and attributable to the new development. Tex. Loc. Gov't Code § 395.001(4); see also 30 TAC § 293.171(1). "New development" is defined as the subdivision of land; the construction, reconstruction, redevelopment, conversion, structural alteration, relocation, or enlargement of any structure; or any use or extension of the use of land; any of which increases the number of service units. Tex. Loc. Gov't Code § 395.001(6).

A "capital improvement plan" is a plan that identifies capital improvements or facility expansions pursuant to which impact fees may be assessed. See 30 TAC § 293.171(2); see also Tex. Loc. Gov't Code § 395.001(2).

Capital improvements mean water supply, treatment, and distribution facilities, wastewater collection and treatment facilities, stormwater, and drainage, and flood control facilities, including facility expansions, whether or not located within the service area, with a life expectancy of three or more years, owned and operated by or on behalf of a district with authorization to finance and construct such facilities, but

such term does not include materials and devices for making connections to or measuring services provided by such facilities to district customers. 30 TAC § 293.171(3); see also Tex. Loc. Gov't Code § 395.001(1). Service area is defined as an area within or without the boundaries of a district to be served by the capital improvements specified in the capital improvements plan. 30 TAC § 293.171(5); see Tex. Loc. Gov't Code § 395.001(9). The service area may include all or part of the land within a district or land outside a district served by the facilities identified in the capital improvements plan. *Id.*

Notice of an impact fee application must be published and mailed as provided in section 293.173 of the Commission's rules, unless waived by the Executive Director. See 30 TAC § 293.173(c)(2). The Commission may act on an impact fee application without holding a public hearing if a public hearing is not requested by the Commission, the Executive Director, or an affected person in the manner prescribed by Commission rule during the 30 days following the final publication of notice of the impact fee application. 30 TAC § 293.173(d). If the Commission determines that a public hearing is necessary, the Chief Clerk shall advise all parties of the time and place of the hearing. *Id.*

If the Commission finds that a requested impact fee is reasonable, equitable and necessary as a mechanism for a district to finance improvements to serve the designated service area, the Commission shall approve the capital improvements plan and impact fee. 30 TAC § 293.174(a). The Commission may approve an impact fee amount that is different than the impact fee amount requested in the application for approval; however, in no event shall the Commission approve an impact fee amount higher than the impact fee amount contained in the notice required under 30 TAC § 293.173(b). *Id.*

## 2. *Standard for Hearing Request*

The District's application was declared administratively complete after September 1, 1999, and does not fall under any of the statutory provisions listed in section 55.250 of the Commission's rules; therefore, as provided in that rule section, the application is subject to Chapter 55, Subchapter G.

A request for a contested case hearing by an affected person must be in writing and be filed by United States mail, facsimile, or hand delivery with the Chief Clerk within the time period specified in the notice. 30 TAC § 55.251(b), (d). Additionally, a hearing request must substantially comply with the following:

- (1) give the name, address, and daytime telephone number of the person who files the request. If the request is made by a group or association, the request must identify one person by name, address, daytime telephone number and, where possible, fax number, who shall be responsible for receiving all official communications and documents for the group.
- (2) identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the

activity that is the subject of the application and how and why the requestor believes he or she will be affected by the activity in a manner not common to members of the general public;

- (3) request a contested case hearing; and
- (4) provide any other information specified in the public notice of application.

30 TAC § 55.251(c)(1)–(4).

A request for a contested case hearing made by an affected person (see below) will be granted if the request:

- (A) complies with the requirements of § 55.251 of this title (relating to Requests for Contested Case Hearing, Public Comment);
- (B) is timely filed with the chief clerk; and
- (C) is pursuant to a right to hearing authorized by law.

30 TAC § 55.255(b)(2).

An “affected person” is one with a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. 30 TAC § 55.256(a). An interest common to members of the general public does not qualify as a personal justiciable interest. *Id.* In evaluating whether a person requesting a hearing is an “affected person,” the Commission will weigh all relevant factors, including but not limited to:

- (1) whether the interest claimed is one protected by the law under which the application will be considered;
- (2) distance restrictions or other limitations imposed by law on the affected interest;
- (3) whether a reasonable relationship exists between the interest claimed and the activity regulated;
- (4) likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person;
- (5) likely impact of the regulated activity on use of the impacted natural resource by the person; and
- (6) for governmental entities, their statutory authority over or interest in the issues relevant to the application.

30 TAC § 55.256(c).

#### **IV. Analysis of Hearing Requests**

##### Austin Mark Venture, LLC

Austin Mark filed a letter with the TCEQ Chief Clerk’s Office on September 24, 2024. Austin Mark’s letter provided: 1) its attorney’s contact information; 2) a brief identification of their interest; and 3) requested a contested case hearing. The

comment period ended on October 4, 2024; therefore, their hearing request was timely filed. The Executive Director concludes that Austin Mark's hearing request substantially complies with 30 TAC § 55.251(c)(1)-(4).

Austin Mark is a limited liability company which states that it owns approximately 180 acres within the District's service area. Austin Mark explains that it plans to develop its land into 855 single family homes and will potentially develop multifamily and commercial connections also. Therefore, since Austin Mark's property is within the District's service area, the ED concludes that it could potentially be subject to the requested impact fee, and therefore has a personal justiciable interest related to a legal right affected by the application. See 30 TAC 55.256(a)(1).

Under 30 Texas Administrative Code Section 55.256(c): 1) Austin Mark's claimed interest is protected by the law under which the application is being considered; 2) a reasonable relationship exists between their interest and the activity regulated; and 3) the imposition of the impact fee will likely impact Austin Mark's use of their property. Here, the regulated activity is the imposition of the impact fee. For the Commission to grant the impact fee, it must be reasonable, equitable, and necessary as a mechanism for a district to finance improvements to serve the designated service area. 30 TAC § 293.174(a). Accordingly, Austin Mark's claimed interest is one that is protected by the law under which the application is being considered. See 30 TAC § 55.256(c)(1). In addition, a reasonable relationship exists between Austin Mark's interest in their property and the imposition of the impact fee. See 30 TAC § 55.256(c)(3). Finally, the imposition of the impact fee will likely impact the use of Austin Mark's property. See 30 TAC § 55.256(c)(4) and (c)(5). Therefore, the ED recommends that the Commission find that Austin Mark is an affected person and that their request for a contested case hearing be granted.

#### Joseph Benavides

Joseph Benavides filed a letter with the TCEQ Chief Clerk's Office on September 12, 2024. Mr. Benavides' email provided: 1) contact information; 2) a brief identification of his interest; and 3) requested a contested case hearing. The comment period ended on October 4, 2024; therefore his hearing request was timely filed. The Executive Director concludes that Mr. Benavides' hearing request substantially complies with 30 TAC § 55.251(c)(1)-(4).

Joseph Benavides claims to own properties within the District, "mostly" in the northern part of the District's service area along State Highway 123. Mr. Benavides states that he plans to add more meters on several of his properties, and that the proposed impact fee would adversely affect his property because it would be detrimental to customers wishing to add meters. If Mr. Benavides constructs or subdivides his property and increases the number of service units, this would be "new development" for purposes of Texas Local Government Code Section 395.001(6). Therefore, the ED concludes that Mr. Benavides owns property within the District that would be subject to the requested impact fee; therefore, he has a personal justiciable interest related to a legal right affected by the application. See 30 TAC § 55.256(a)(1).

Under 30 Texas Administrative Code Section 55.256(c): 1) Mr. Benavides's claimed interest is protected by the law under which the application is being

considered; 2) a reasonable relationship exists between his interest and the activity regulated; and 3) the imposition of the impact fee will likely impact Mr. Benavides's use of his property. Here, the regulated activity is the imposition of the impact fee. For the Commission to grant the impact fee, it must be reasonable, equitable, and necessary as a mechanism for a district to finance improvements to serve the designated service area. 30 TAC § 293.174(a). Accordingly, Mr. Benavides's claimed interest is one that is protected by the law under which the application is being considered. *See* 30 TAC § 55.256(c)(1). In addition, a reasonable relationship exists between Mr. Benavides's interests in his property and the imposition of the impact fee. *See* 30 TAC § 55.256(c)(3). Finally, the imposition of the impact fee will likely impact the use of Mr. Benavides's property. *See* 30 TAC § 55.256(c)(4) and (c)(5). Therefore, the ED recommends that the Commission find that Mr. Benavides is an affected person and that his request for a contested case hearing be granted.

#### **V. Executive Director's Recommendation**


The Executive Director recommends that the Commission find that Austin Mark Ventures, LLC and Joseph Benavides are affected persons, grant their hearing requests, and refer the impact fee application to SOAH for a contested case hearing. The Executive Director also recommends a concurrent referral to TCEQ's ADR program.

Respectfully submitted,

TEXAS COMMISSION ON ENVIRONMENTAL  
QUALITY

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REPRESENTING THE EXECUTIVE DIRECTOR OF  
THE TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

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Crystal Clear Special Utility District  
DOCKET NO. 2024-1872-DIS; INTERNAL CONTROL NO. D-03122024-020

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# Attachment A



# **Texas Commission on Environmental Quality**

## TECHNICAL MEMORANDUM

**To:** Justin P. Taack, Manager  
Districts Section

**Date:** September 30, 2024

**Through:** Daniel J. Finnegan, Team Lead  
Districts Bond Team

**From:** Daniel Harrison, Technical Reviewer  
Districts Bond Team

**Subject:** Crystal Clear Special Utility District; Application for Approval to Levy Impact Fees; Pursuant to Local Government Code Chapter 395 and 30 Texas Administrative Code Sections 293.171 through 293.176.  
TCEQ Internal Control No. D-03122024-020 (TC)  
CN: 604553909 RN: 107210270

### **A. GENERAL INFORMATION**

Crystal Clear Special Utility District (District) submitted an application requesting Texas Commission on Environmental Quality (TCEQ) approval to levy an amended impact fee for water capacity of \$5,163 per standard residential connection.

The District provided retail water service to approximately 6,510 active equivalent single-family connections (ESFCs) as of 2021 within its service area of approximately 206 square miles located in Comal, Hays and Guadalupe Counties. The District is located in an area that overlaps the extra-territorial jurisdictions of the cities of New Braunfels, San Marcos and Seguin, and is generally bounded on the north by the city of San Marcos, on the east by the cities of Seguin and New Braunfels, to the south by Interstate I-10 and to the west by the San Marcos Highway. The District has indicated that the requested revised impact fee is necessary because its service area is experiencing growth that is taxing the District's existing aged infrastructure, which is either overcapacity, leaky, or does not reach the newly developing areas.

The District was created in 2013 by an act of the Texas Legislature under Texas Special District Local Laws Code Chapter 7206, which converted the Crystal Clear Water Supply Corporation to a Special Utility District. The District's impact fee has remained at \$2,500 since prior to its conversion.

### **Notice Requirements**

In regard to the requirements of 30 Texas Administrative Code (TAC) Section 293.173(c) concerning public notice for a district request for an impact fee, the District requested, and the TCEQ approved, a limited waiver of the notice requirements based on the evidence of good cause related to the large number of landowners in the District and the resulting prohibitive expense of mailing notice to each one. The District has subsequently provided evidence that on September 4, 2024 it mailed notice of the application for approval of the amended impact fee to all landowners and developers who expressed an interest in service within the last five years, and that in the utility bills sent in September to all its customers it included a website address for a copy of the notice of the impact fee application. In addition, on August 25 and September 1, 2024, proper notice of the application was published in *The Daily Record*, a newspaper regularly published or circulated in Hays County, on August 25 and September 1, 2024, in *The Seguin Gazette* a newspaper regularly published or circulated in Guadalupe County and on August 18 and September 4, 2024, in the *Herald-Zeitung* a

newspaper regularly published or circulated in Comal County, which include the counties in which the District intends to levy the impact fee. The comment period ended October 4, 2024. Accordingly, the notice requirements pursuant to 30 TAC Section 293.173(c) have been satisfied.

## **B. CAPITAL IMPROVEMENTS PLAN/IMPACT FEE CALCULATIONS**

The District is located in a developing area in between the cities of San Marcos, New Braunfels and Seguin. The District obtains its water supply from three sources: groundwater wells drawing from the Edwards Aquifer, surface water from the Hays Caldwell interconnect and surface water from Lake Dunlap. The District water system serves an estimated 7,791 ESFCs as of 2023, and its distribution system consists of eight pressure zones, eight pump stations and 14 water storage tanks.

The District's engineer submitted an Elevated Storage Master Plan dated January 2021 describing the projected growth of the District's water system through the year 2050 and identifying suitable locations for elevated storage tanks (ESTs) to support that growth. Based on a projected 2.8% population growth rate within the District and an average daily demand of 331 gallons per day per ESFC, the plan estimated that the District would have a water supply demand of 4,551 acre-feet per year by 2030 and 6,087 acre-feet per year by 2050 and expand to 12,275 water meters by 2030 and to 16,417 meters by 2050. To supply this increased water supply, the Plan recommended construction of three additional ESTs and the associated additional infrastructure.

The District's engineer also submitted a 2023-2032 Water System Capital Improvement Plan (CIP) to identify and prioritize inadequate infrastructure, support the recommendations in the Elevated Storage Master Plan, develop new water sources and create a plan for implementation. The CIP created, prioritized, budgeted and scheduled the projects that addressed the system's needed improvements over the ten-year period ending in 2032. Projects were scheduled by priority ranking, and with consideration given to the utility district's fiscal year budget, other planned projects that the work might serve to support and the general location of each project, according to the CIP. The specific improvements and projected costs for the period 2023 through 2032 as detailed in the CIP Fiscal Year Budget Schedule are as follows:

### **1. Water Lines**

| <u>Project Name</u> | <u>Description</u>                | <u>Length</u> | <u>Diameter</u> | <u>Cost</u>  |
|---------------------|-----------------------------------|---------------|-----------------|--------------|
| WL-001              | Center Point & Huber Road         | 11,400        | 4 in.           | \$ 1,005,750 |
| WL-002              | FM 3353, FM 1979 & FM 244A        | 14,700        | 6 in.           | 1,948,500    |
| WL-003              | FM 20 & Blyerpool Road            | 24,800        | 6 in.           | 4,032,100    |
| WL-004              | Dreidbrodt Road                   | 13,000        | 12 in.          | 2,167,900    |
| WL-005              | Crest Circle, Park & Ridge Drives | 16,500        | 3, 6 & 8 in     | 4,132,200    |
| WL-006              | FM 3353                           | 11,400        | 6 in            | 1,788,800    |
| WL-007              | FM 621                            | 16,800        | 8 in            | 5,405,600    |
| WL-008              | Old Lehman Road                   | 700           | 12 in           | 155,300      |
| WL-009              | Watts Road                        | 11,250        | 4 in            | 1,230,800    |
| WL-010              | Swanson Road & Huber Road         | 16,300        | 4 in            | 1,760,600    |
| WL-011              | FM 3353 & FM 1339                 | 1,500         | 12 in           | 461,300      |
| WL-012              | Allison Road                      | 13,000        | 6 in            | 1,838,300    |
| WL-013              | Grant Harris                      | 2,100         | 4 in            | 267,700      |
| WL-014              | Birmensdorff Drive                | 2,360         | 8 in            | 581,700      |
| WL-015              | Redwood - Crossover Road          | 2,100         | 8 in            | 546,800      |

|                     |                               |        |            |                |
|---------------------|-------------------------------|--------|------------|----------------|
| WL-016              | Redwood - Emerald Acres       | 1,100  | 4 in       | 249,800        |
| WL-017              | Tschoepe Road                 | 9,500  | 6 in       | 1,491,800      |
| WL-018              | FM 1104                       | 9,500  | 6 in       | 1,047,400      |
| WL-019              | Woodrow Center                | 8,500  | 4 in       | 966,400        |
| WL-020              | FM 2623                       | 6,200  | 6 in       | 943,900        |
| WL-021              | Redwood - FM 1978             | 5,500  | 12 in      | 1,959,800      |
| WL-022              | Redwood - Mesquite Street     | 1,500  | 6 in       | 317,300        |
| WL-023              | Redwood - Fir Street          | 1,700  | 4 in       | 398,300        |
| WL-024              | Country Acres                 | 4,900  | 4 & 6 in   | 983,200        |
| WL-025              | Gravel Pit                    | 28,300 | 4 in       | 2,972,300      |
| WL-026              | Interstate 35 Bore            | 350    | 12 in      | 421,000        |
| WL-027              | Kingsbury Pipeline Phase II   | 3,500  | 8 & 12 in  | 352,200        |
| WL-028              | US Highway 90                 | 37,200 | 12 in      | 10,190,000     |
| WL-029              | Francis Harris - Old Zorn Rd. | 32,900 | 12 in      | 8,506,000      |
| WL-030              | Forcey & Guadalupe Street     | 1,760  | 2,2.5&3 in | 254,200        |
| WL-031              | Redwood Road                  | 5,300  | 4 in       | 635,700        |
| WL-032              | Old Bastrop                   | 16,500 | 16 in      | 5,834,300      |
| WL-033              | Ilka Switch Road              | 8,000  | 8 in       | 1,422,000      |
| WL-034              | Wade Road                     | 4,150  | 4 in       | <u>445,500</u> |
| Water Line Subtotal |                               |        |            | \$66,714,450   |

## 2. Pumps

| <u>Project Name</u>   | <u>Description</u>                 | <u>Cost</u>      |
|-----------------------|------------------------------------|------------------|
| BPS-001               | Ilka Station rehabilitation        | \$ 900,500       |
| BPS-002               | El Camino booster pump replacement | <u>1,012,500</u> |
| Pump Station Subtotal |                                    | \$1,913,000      |

## 3. Storage

| <u>Project Name</u> | <u>Description</u>                               | <u>Cost</u>      |
|---------------------|--|------------------|
| SMP-001             | Zorn elevated storage tank (EST) and fill line   | \$ 7,187,500     |
| SMP-002             | Hays Caldwell EST tank & fill line               | 5,750,000        |
| SMP-003             | Offerman ground storage (GS) tank & pump station | 5,094,500        |
| SMP-004             | Herber EST & fill line                           | 4,312,500        |
| SMP-005             | Flying W EST                                     | <u>2,015,500</u> |
| Storage Subtotal    |  | \$24,360,000     |

## 4. Wells

| <u>Project Name</u> | <u>Description</u>                                 | <u>Cost</u>       |
|---------------------|--|-------------------|
| WS-001A             | Trinity Well Field completion & access             | \$ 3,100,000      |
| WS-001B             | Trinity Well Field development & transmission main | 14,336,460        |
| WS-002              | Wilcox Well Field development & distribution main  | 28,025,592        |
| WS-003              | Wells Ranch Phase III                              | <u>23,158,792</u> |
| Wells Subtotal      |  | \$68,620,844      |

**Year 2023-2032 Total****\$161,608,294**

The District also submitted a Water Supply Acquisition Fee and Impact Fee Study (Study) dated March 2022 prepared by Willdan Financial Services. The purpose of the Study was to provide an analysis on which to develop a maximum water distribution impact fee and a water supply acquisition fee (Acquisition Fee) to provide funds to the District for necessary expansion of the District's water distribution and supply infrastructure over the next decade.

According to the Study, only impact fees for the projects related to the water distribution system are subject to TCEQ approval pursuant to 30 Texas Administrative Code (TAC) Section 293, and the projects related to water supply acquisition are not. Therefore, the District considers the Acquisition Fee levied for such projects not subject to the approval process.

For calculating the water distribution impact fee, the study used a methodology called the "Growth-related Cost Allocation Method" to analyze the pumping and distribution costs to meet new demand from system growth. According to the Study, the District's projected growth in ESFCs over the period 2022 through 2031 will be 6,109 ESFCs, or an average annual increase of approximately 6.5%. The Study stated that a review of the CIP for all the District water projects related to water distribution indicated that these costs totaled \$29,848,546. The Study determined that the growth-related portion of the \$29,848,546 in water distribution projects in the CIP as determined by the portion of each project needed for additional capacity was \$16,893,708. The Study also added to this amount the net present value of the interest expense on the District's outstanding debt for the existing water distribution system in the amount of \$6,264,678 plus \$25,000 for preparation of the impact fee study, resulting in a subtotal of \$23,183,386. From this amount the Study deducted \$5,494,674 for the calculated credit for the portion of the outstanding debt paid by new connections, resulting in a new value of growth-related CIP projects of \$17,688,712. Dividing this amount by the 6,109 ESFCs representing projected growth over the period results in a projected impact fee of \$2,896 per ESFC, which is the maximum impact fee for water distribution according to the Study.

For calculating the water supply Acquisition Fee, the study used a methodology called "Total Cost Attribution Method" to analyze the water supply acquisition costs to meet new demand from system growth. The differences with the methodology for water distribution have mainly to do with identifying and segregating the costs related to maintaining and repairing the existing system as opposed to those for growth and system expansion. According to the Study, the projected annual increase in ESFCs of 6.5% will result in an increase in needed water capacity of 2,954,231 gallons per day through 2031. To meet this capacity, based on the planned water supply costs in the CIP, the Study determined that the cost for growth-related water supply projects for new ESFCs added in the period 2022 through 2031 is \$8,429,287. This amount was adjusted for principal and interest payments forecast for the fee and adding the cost for the existing system replacement value for growth, resulting in a new value of growth-related water supply projects of \$13,076,851. The Study deducted \$66,160 for a credit for debt service payments that will be paid for new growth through water rates lowering the value of the growth-related projects to \$13,010,690. Dividing this amount by the 6,109 ESFCs representing projected growth over the period results in a projected impact fee of \$2,130 per ESFC. The Study also calculates an existing system impact fee of \$496 based on dividing the existing system asset value of \$8,148,677 by 16,417, which is the total number of ESFCs projected in the District by 2050. The Study proposes summing these to a maximum Acquisition Fee of \$2,626.

The District received approval from the TCEQ to levy a water impact fee of \$2,500 per connection in 2018. The maximum impact fees calculated in the Study are \$2,896 for a water distribution impact fee and \$2,626 for a water supply Acquisition Fee, equating to a maximum impact fee of \$5,522. The District is requesting a revised impact fee of \$5,163 per connection.

**C. FEASIBILITY UPDATE**

Information on file indicates that the District has not levied a tax. The District has relied on revenue from water customers and impact fee revenue to meet debt service requirements for water system infrastructure and operating expenses. The District issued a \$1,000,000 revenue note in 2017 that funded improvements to the water system and water contracts and repair of three ground storage tanks. The District's first revenue bond issued in the amount of \$4,200,000 funded an administration building, a maintenance building and civil site work. The District's second revenue bond issued in 2023 in the amount of \$17,235,000 funded a pump station and transmission main, an elevated storage tank and well field development and site access.

**D. CONCLUSIONS**

1. Based on a review of the application and supporting documents, the proposed revised impact fee of \$5,163 per connection appears to be reasonable, equitable and necessary as a mechanism to finance improvements which serve the designated service area, and is within the limits allowed by applicable statutes and TCEQ rules.
2. The recommendations are made under authority delegated by the Executive Director of the TCEQ.

**E. RECOMMENDATIONS**

1. Approve a revised water distribution impact fee of \$5,163 per standard residential connection for water service within the District's boundary, as identified on the attached service area map.
2. Advise the District that any increase in the amount of the approved impact fee will require TCEQ approval.
3. Upon TCEQ approval of the impact fee, advise the District that:
  - a. all funds collected through the levy of the impact fee shall be deposited in interest-bearing accounts and, combined with the interest earned, shall be utilized for repayment of debt and/or construction of improvements, as indicated in the March 2022 impact fee study report; and
  - b. the records of the accounts into which impact fee revenue is deposited shall be open for public inspection and copying during normal business hours.

**F. ADDITIONAL INFORMATION**

The applicant's president and professional representatives are:

President: Mr. Mike Cox, President - Crystal Clear SUD  
Attorney: Mr. Shan S. Rutherford - Terrill & Waldrop  
Engineer: Mr. Brady Kosub, P.E. - M&S Engineering

Attachment: Service Area Map

# Attachment B



# Crystal Clear SUD Service Area





Map Requested by TCEQ Office of Legal Services  
for Commissioners' Agenda



*Protecting Texas by  
Reducing and  
Preventing Pollution*

Texas Commission on Environmental Quality  
GIS Team (Mail Code 197)  
P.O. Box 13087  
Austin, Texas 78711-3087  
Date: 11/8/2024  
CRF 0112962  
Cartographer: MAttoh



-  Austin Mark
-  Joseph Benavides
-  Service Area
-  Guadalupe County



Source: The location was provided by the TCEQ Office of Legal Services (OLS). OLS obtained the site location information from the applicant and the requestor information from the requestor.

This map was generated by the Information Resources Division of the Texas Commission on Environmental Quality. This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. For more information concerning this map, contact the Information Resource Division at (512) 239-0800.