

Item 7 – Adoption of Negotiated Export Fee Schedule | Settlement Agreement

The Brazos Valley Groundwater Conservation District Enabling Act allows export fees to be assessed as follows:

Sec. 8835.151. FEES. (a) The board by rule may impose a reasonable fee on each well that is not exempt from regulation by the district and for which a permit is issued by the district. The fee may be based on: (1) the size of column pipe used by the well; or (2) the actual, authorized, or anticipated amount of water to be withdrawn from the well.

(c) In addition to the fee authorized under Subsection (b), the district may impose a reasonable fee or surcharge for an export fee using one of the following methods: (1) a fee negotiated between the district and the transporter; or (2) a combined production and export fee not to exceed 17 cents for each thousand gallons for water used.

The District and UW Brazos Valley Farm, LLC have agreed to a negotiated export fee schedule which is attached. The adoption of the schedule is to be done by resolution and following an export fee hearing. The hearing was held Thursday, July 10, 2025.

It is the recommendation by the General Manager and District legal counsels to adopt the agreed upon negotiated export fee schedule as presented.



**A RESOLUTION OF THE
BRAZOS VALLEY GROUNDWATER CONSERVATION DISTRICT
ADOPTING EXPORT FEES
No. 7-10-25.7**

WHEREAS, the Brazos Valley Groundwater Conservation District (“District”) is charged by the Texas Legislature with providing for the conservation, preservation, protection, and prevention of waste of groundwater, and of groundwater resources in Brazos and Robertson counties, Texas, under Texas Water Code § 36.0015;

WHEREAS, the District is authorized to make and enforce fair and impartial rules to manage groundwater resources as scientifically necessary to conserve and protect groundwater resources within the District’s boundaries under Texas Water Code § 36.101;

WHEREAS, pursuant to the District’s Enabling Act, Chapter 8835 of the Texas Special District Local Laws Code, Texas Water Code § 36.122, and District Rule 9.1, the District may impose an export fee on applicable wells, within the legal limits, including a fee negotiated between the District and the exporter;

WHEREAS, the current Schedule of Fees sets forth a two-tier export fee structure with a Tier 1 fee that applies to water authorized for transport but not transported and a Tier 2 fee that applies to water produced, metered, and transported;

WHEREAS, in lieu of the District’s export fee provided for in the District’s Schedule of Fees, the District has negotiated an export fee to apply to Transport Permits BVTP-C001, BVTP-C002, BVTP-C003, BVTP-C004, BVTP-C005, BVTP-C006, BVTP-C007, and BVTP-C008 (“Project Transport Permits”) that (i) aligns with the District’s objectives, (ii) reflects the negotiations achieving a comprehensive settlement in connection with these permits and their related operating permits, (iii) is material consideration for Permittees’ release of claims against the District in the settlement agreement, and (iv) is set forth in the attached “Negotiated Export Fee Schedule”; and

WHEREAS, the District held a public hearing on the Negotiated Export Fee Schedule.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE BRAZOS VALLEY GROUNDWATER CONSERVATION DISTRICT THAT:

The District adopts the attached Negotiated Export Fee Schedule to be applied to the Project Transport Permits.

PASSED AND APPROVED this the 10th day of July 2025.

BRAZOS VALLEY GROUNDWATER CONSERVATION DISTRICT

Jayson Barfknecht, President Date

Jeff Kennedy, Secretary Date

NEGOTIATED EXPORT FEE SCHEDULE
for
BVTP-C001, BVTP-C002, BVTP-C003, BVTP-C004,
BVTP-C005, BVTP-C006, BVTP-C007, and BVTP-C008

Negotiated Tier 1 Rate and Fee:

Authorized Export

Beginning on the date that UW Brazos Valley Farm LLC, or any successor(s), heir(s), representative(s), assign(s), or transferee(s) thereto (collectively, "UWBVF"), first signs a Water Supply Agreement ("WSA") to export water out of the District ("Fee Commencement Date"), under any of Transport Permits BVTP-C001, BVTP-C002, BVTP-C003, BVTP-C004, BVTP-C005, BVTP-C006, BVTP-C007, and BVTP-C008 ("Project Transport Permits"), UWBVF shall pay the Negotiated Tier 1 Fee for each of the first four years following the Fee Commencement Date. The Negotiated Tier 1 Fee due and payable to the District shall be calculated applying the rate of \$0.17/1,000 gallons for water authorized for export under the Project Transport Permits, minus the applicable water production fee rate adopted for FY 2025 (\$0.01465/1,000 gallons permitted), subject to an annual increase of three percent (3%) each calendar year. The Negotiated Tier 1 Fee shall be calculated based on 50,000 AFY, which is the collective annual export volume limitation under the Project Transport Permits, during each of the first four years following the Fee Commencement Date. Full payment of the Negotiated Tier 1 Fee on 50,000 AFY by UWBVF is a mandatory obligation under the Settlement Agreement, effective July 1, 2025, during each of the first four years following the Fee Commencement Date, regardless of whether UWBVF begins exporting water out of the District. If water is exported during the first four years following the Fee Commencement Date, UWBVF shall pay both the Negotiated Tier 1 Fee and the 10-Year Negotiated Tier 2 Fee (defined below) on water exported outside the District. Tier 1 Export Fees shall only be paid for the first four years following the Fee Commencement Date.

10-Year Negotiated Tier 2 Rate and Fee:

Metered Export

Beginning on the Fee Commencement Date and continuing through the end of the day that is the ten-year anniversary of the Fee Commencement Date, for water exported out of the District under any of the Project Transport Permits, the export fee due and payable to the District shall be \$0.206/1,000 gallons exported (the "10-Year Negotiated Tier 2 Fee"). To be clear, the 10-Year Negotiated Tier 2 Fee becomes payable and due once water is actually exported out of the District. The District's Board may increase the 10-Year Negotiated Tier 2 Fee rate by a maximum of three percent (3%) each calendar year after a public hearing.

Remainder of Export Permit Term Tier 2 Rate and Fee:

Metered Export

Beginning the day after the ten-year anniversary of the Fee Commencement Date, the export fee due and payable to the District under any of the Project Transport Permits shall be the District's duly adopted rate and fee for water exported from the District, consistent with applicable law in effect at the time (the "Remainder of Export Permit Term Tier 2 Fee").

Special Provision:

- (a) The payment of the Negotiated Tier 1 Fee shall be made for the full first annual amount due and be remitted to the District within 60 (sixty) calendar days of execution of the Water Supply Agreement. Thereafter, for each of years 2-4, payments of the Negotiated Tier 1 Fee shall be made in accordance with the District's rules on payment timing.