

RULES OF

PECAN VALLEY

GROUNDWATER

CONSERVATION DISTRICT

RULES FIRST ADOPTED: 02/16/04

RULE REVISION ADOPTED AND EFFECTIVE: 09/07/04

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The initial rules of the Pecan Valley Groundwater Conservation District were adopted on February 16, 2004. The Rules were revised and adopted on September 7, 2004, September 22, 2009, October 15, 2013, December 15, 2015 and February 19, 2020.

In accordance with Section 59 of Article XVI of the Texas Constitution, H.B. 3231, 76th Legislature, and Chapter 36 of the Texas Water Code, the following rules are hereby ratified and adopted as the rules of this District by its Board. Each rule as worded herein has been in effect since the date of passage and as may be hereafter amended.

The rules, regulations, and modes of procedure herein contained are and have been adopted to simplify procedures, avoid delays, and facilitate the administration of the water laws of the State and the rules of this District. To the end that these objectives are attained, these rules will be so construed.

These rules may be used as guidelines in the exercise of discretion, where discretion is vested. However, under no circumstances and in no particular case may these rules be construed as a limitation or restriction upon the exercise of powers, duties, and jurisdiction conferred by law. These rules will not limit or restrict the amount and accuracy of data or information that may be required for the proper administration of the law.

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SECTION 1 - DEFINITIONS AND CONCEPTS

RULE 1.1 DEFINITIONS OF TERMS:

In the administration of its duties, the Pecan Valley Groundwater Conservation District follows the definitions of terms set forth in The District Act, Chapter 36 of the Texas Water Code, and other definitions as follow:

Abandoned Well – means a well or borehole that condition of which is causing, or is likely to cause, pollution of groundwater in the District. The following are not considered abandoned wells or deteriorated wells under this definition:

1. a non-deteriorated well which contains the casing, pump, and pump column in good condition; or
2. a non-deteriorated well which has been capped; or
3. a non-deteriorated free-flowing artesian well used for a beneficial purpose

Acre-foot – means the amount of water necessary to cover one acre of land one foot deep, or 325,851 U.S. gallons of water.

Aggregate Withdrawal – means the amount of water withdrawn from two or more wells which are permitted in the same aquifer formation for a total pumping volume of all wells in the aggregate.

Agricultural crop – means food or fiber commodities grown for resale or commercial purposes that provide food, clothing, or animal feed.

Agricultural Use – means any use or activity involving agriculture as defined in Texas Water Code Section 36.001, including but not limited to aquaculture; irrigation to cultivate the soil to produce crops; the practice of floriculture, viticulture, silviculture, and horticulture, including nursery grower operations; raising, feeding, or keeping animals for breeding or production of food or fiber or other products with a tangible value; planting cover crops, wildlife management; or raising or keeping equine animals.

Alter – see definition of “Modify”.

Applicant – means a person or entity that submits the required forms to the District and pays the required fees for authorization to 1) drill and operate a groundwater well, or 2) transport groundwater, either by registration or by permit.

Aquifer means a geologic formation, or group of formations capable of yielding a significant amount of water to a well or spring.

Artesian Well – means a well drilled through impermeable strata to reach water capable of rising to the surface by internal hydrostatic pressure as defined by the Texas Water Code Chapter 11, Section 205

Authorized Annular Space Sealant – means a material that will:

1. Create a seal against the borehole wall preventing the leaking of fluids into the

borehole;
2. Create a seal against the well casing preventing the development of liquid flow paths along the outside of the casing; and
3. Fills and sets up to fill the voids between the outside of the casing and the borehole wall having a structural integrity and porosity that prevents the migration of fluids through the sealant. Authorized materials include: neat cement grout, bentonite-cement grout, high-solids bentonite grout, bentonite slurry, and properly hydrated bentonite chips/pellets/granules.

Authorized Groundwater Production Amount – means the quantity of groundwater that the District has authorized to be produced from a non-exempt water well

Authorized Operator – means any person who has the right to operate a well and produce water from the land, either by ownership, contract, lease, easement, or any other estate in the land.

Authorized Well Site – means:

1. The location of a proposed well on an application duly filed with the District until such application is denied; or
2. The location of a proposed well on a valid permit. (An authorized well site is not a permit to drill); or
3. a well which has a casing size of 5" or larger and is capable of producing in excess of 43,200 gallons (30 gpm) of water per day and which was in existence at the time the District was created or at the time the area was annexed into the District and is not considered to be an abandoned well or deteriorated well; or
4. A well drilled after the District was created or after an area was annexed into the District that has a properly completed Well Registration on file in the District office and such well has not been "abandoned" by the well owner.

Beneficial Use – means:

1. the use of groundwater for agricultural, gardening, domestic, stock raising, municipal, mining, manufacturing, industrial, commercial, recreational, or pleasure purposes;
2. the use of groundwater for exploring for, producing, handling, or treating oil, gas, Sulphur, or other minerals; or
3. The use of groundwater for any other purpose that is useful and does not constitute waste.

Board – means the Board of Directors of the District.

Brackish Groundwater – means groundwater that contains 1,000 milligrams per liter or greater of total dissolved solids.

Capacity – means the maximum rate of withdrawal that the well can produce during a specific time period (in gallons per minute) as determined by the pumping capability of the pump installed on the well or as measured by the District.

Capped well – shall mean a well that is closed or capped with a covering capable of

preventing surface pollutants from entering the well and able to sustain the weight of at least 400 pounds and constructed in such a way that the covering cannot be easily removed by hand.

Casing – a tubular watertight structure installed in the excavated or drilled hole to maintain the well opening and, along with cementing, to isolate the groundwater to their zones of origin, prevent contamination of fresh water aquifers and prevent the entrance of surface pollutants.

Commercial Use – use from a water well to supply water to properties or establishments which are in business to provide goods, services and/or repairs and which use water in those processes or incidental to the maintenance of the property or establishment including landscape irrigation; and/or use from a water well to supply water to a business establishment primarily for employee and customer sanitary purposes (i.e. flushing of toilets, sanitary purposes, or limited landscape watering). (A non-exempt well.)

Commission – refers to the Texas Commission on Environmental Quality.

Completed water well – shall mean a water well which has sealed off access of undesirable water or constituents to the well bore by utilizing proper casing and annular space positive displacement or pressure tremie tube grouting or cementing (sealing) methods.

Conservation – means those water saving practices, techniques, and technologies that will reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water, or increase the recycling and reuse of water so that a water supply is made available for future or alternative uses.

Contiguous – means a continuous perimeter boundary situated within the District. The term also refers to property that is divided by a publicly owned road or highway or other easements if the property would otherwise have a continuous perimeter boundary if such road, highway, or easement were not in place.

"Desired Future Conditions" means a quantitative description, adopted in accordance with Section 36.108 of the Texas Water Code, of the desired condition of the groundwater resources at one or more specified future times.

Deteriorated well - a water well that, because of its condition, will cause or is likely to cause pollution of any water in this state, including groundwater.

De-watering well - a water well used to remove water from a construction site or excavation, or to relieve hydrostatic uplift on permanent structures.

District - means the Pecan Valley Groundwater Conservation District.

District Act - means H.B. 3231, 76th Legislature and the non-conflicting provisions of Chapter 36, Water Code.

District office - means the office of the District as established by resolution of the Board.

Domestic Use – means the use of groundwater, from a well drilled, completed, or equipped with a casing size 5" or smaller, and incapable of producing over 43,200 gallons of water per day (30 gpm) used to support domestic activity. Such use may include water for drinking, bathing, sanitation, washing, or culinary purposes; for filling a pond and/or swimming pool which is entirely lined with permanent (non-degradable) man-made materials which stop and prevent leakage of water; for irrigation of single- family household lawns, or of a family garden and/or orchard; and for watering of domestic animals. Household lawns, family gardens, and/or orchards to be irrigated by a "domestic use" well shall not exceed two contiguous acres in the aggregate. Domestic use does not include water used to support activities for which payment or other consideration is given or received, or for which the product of the activity is sold. Domestic use does not include use by or for a public water system, use for any commercial use or purpose or at any commercial establishment, or use at any commercial establishment with a single-family household; water use activities for which consideration is given or for which the product is to be sold; filling or refilling ponds, depressions, lakes, tanks, reservoirs or other confinements that have a capacity greater than 50,000 gallons; and non-closed loop well system geothermal heating/cooling systems.

Drilling Permit – a permit for a water well issued or to be issued by the District allowing a water well to be drilled.

Exempt Well – means a well exempted under these rules for which the owner is not required to obtain an operating permit but for which the owner is able to obtain a registration number by registering the well's use and location with the District.

Existing Well – means a water well that existed prior to the original adoption of the rules of the District.

Fees – means charges imposed by the District pursuant to Texas Water Code Chapter 36.

General Manager – means the person employed by the District assigned the responsibility of managing the District office and completing duties, actions and tasks as directed by the Board.

Grandfathered – means to exclude all wells drilled before the initial adoption of these rules (2/16/04), unless the use or production amount changes to the well, including changes that would modify the well to increase its production capacity.

Groundwater – means water percolating beneath the earth's surface within the District, but does not include water produced with oil in the production of oil and gas.

Groundwater Production – means all water withdrawn from the ground, measured at the wellhead.

Hearing body – means the Board, any committee of the Board, or a Hearing Examiner at any hearing held under the authority of the District Act.

Hearing Examiner – means a person appointed by the Board of Directors to conduct a hearing or other proceeding.

Industrial Use – means the use of water integral to the production of primary goods or services provided by industrial or manufacturing facilities and used primarily in the building, production, manufacturing, or alteration of a product or goods, or a water well used to wash, cleanse, cool, or heat such goods or products. Industrial use includes the use of water in the generation of electricity by means other than hydroelectric, including the use of water for cooling purposes, uses associated with plant personnel, fire protection at the facility, and in maintaining associated property and facilities including mitigation and habitat areas. Industrial use does not include agricultural use.

Injection well means –

- An air conditioning return flow well used to return water used for heating or cooling in a heat pump to the aquifer that supplied the water;
- A cooling water return flow well used to inject water previously used for cooling;
- A drainage well used to drain surface fluid into a subsurface formation;
- A recharge well used to replenish the water in an aquifer;
- A saltwater intrusion barrier well used to inject water into a freshwater aquifer to prevent the intrusion of salt water into the freshwater;
- A sand backfill well used to inject a mixture of water and sand, mill tailings, or other solids into subsurface mines;
- A subsidence control well used to inject fluids into a non-oil or gas producing zone to reduce or eliminate subsidence associated with the overdraft of fresh water; or
- A closed system geothermal well used to circulate water, other fluids, or gases through the earth as a heat source or heat sink.

Landowner – means the person who bears ownership of the land surface.

Leachate well – means a water well used to remove contamination from soil or groundwater.

Livestock – shall mean domesticated horses, cattle, goats, sheep, swine, poultry, ostriches, emus, rheas, deer and antelope, and other similar animals involved in farming or ranching operations on land recorded and taxed in the County as an agricultural land use. Dogs, cats, birds, fish, reptiles, small mammals, potbellied pigs, and other animals typically kept as pets are not considered livestock. Livestock-type animals kept as pets or in a pet-like environment are not considered livestock.

Modeled available groundwater – shall mean the amount of water that may be permitted by the District for beneficial use on a long term basis to achieve the desired future condition of the aquifer(s).

Modify – means to alter the physical or mechanical characteristics of a well, its equipment, or production capabilities. This does not include repair of well equipment, well houses or enclosures, or replacement with comparable equipment

Monitoring well – means a well installed to measure some property of the groundwater or aquifer it penetrates, and does not produce more than 5,000 gallons of groundwater per

year.

Municipal Use – means the use of water for a public water system for residential, commercial, or public and institutional uses, including the application of potable water for the irrigation of golf courses, parks and recreational uses; it does not include water for industrial uses when the industrial user is receiving potable water from the municipality.

New Well – means a water well that did not exist prior to the original adoption of the rules of the District

New well application – means an application for a permit for a water well that has not yet been drilled.

Non-exempt Well – means a well required to obtain a permit authorizing the production of groundwater from an existing or a new well.

Open meeting law – means Chapter 551, Texas Government Code.

Operating Permit – means the permit authorization issued by the District to an owner, operator or lessee of the property, allowing a specific amount of groundwater to be withdrawn from a non-exempt well for a designated period.

Overproduction – means to produce water from a well in excess of the amount authorized to be withdrawn under an operating permit issued by the District; or to produce water in excess of 43,200 gallons per day from an exempt well.

Overpumping – see overproduction definition.

Permit Amendment – means a District approved change in a permit. Permit amendments that request a reduction in volume of production and/or capacity of well may be approved by the General Manager.

Person – includes corporation, individual, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, or any other legal entity.

Plugged Well – means a well that has been properly plugged by filling the inside of the casing with cement or bentonite and the top two (2) feet of the inside of the casing with cement.

Plugging – shall mean an absolute sealing of the well bore.

Presiding officer – means the President, Vice-President, Secretary, or other Board member presiding at any hearing or other proceeding or a Hearing Examiner conducting any hearing or other proceeding.

Production Zone – means the water bearing stratum or strata that a well is completed in from which groundwater is released into the water well.

Public Information Act – means Chapter 552, Texas Government Code.

Recharge – means the process of replenishment of groundwater by infiltration of water from sources such as precipitation, streams, rivers, and reservoirs.

Registered Well – means a well registered with the District in accordance with the District Rules.

Remediation Use – means to use a well to either extract or inject materials for the purpose of remediating or removing a subsurface contaminant.

Replacement Well – shall mean a well that is drilled to replace an existing well where (a) the existing well that is being replaced is plugged, and (b) the replacement well is drilled within 100 yards from the plugged well and the capacity of the well is the same or less than the well being replaced.

Rules – means the rules of the District compiled in this document and as may be supplemented or amended from time to time.

Seal – means an official seal, tag, or label placed on a well or its equipment, or the act of placing the tag or label, to indicate that further pumping of groundwater, or operation of the well, or continuing with other District regulated activities is not permitted by the District, shall be in violation of District Rules, and may subject the well owner or authorized producer to civil suit and/or penalties.

Section – means the number section of a survey or block as shown in "Texas Country Farm Plats," 1996 Edition, (Smith Publishing Co.).

Special Provisions – means conditions or requirements added to a permit, which may be more or less restrictive than the rules as a result of circumstances unique to a particular situation.

Texas Rule of Civil Procedure and Texas Rules of Civil Evidence – means the civil procedure and evidence rules as amended and in effect at the time of the action or proceeding. Except as modified by the rules of the District, the rights, duties, and responsibilities of the presiding officer acting under the Texas Rules of Civil Procedure or the Texas Rules of Evidence are the same as a court acting under those rules.

Total Dissolved Solids (TDS) – a measurement of the quantity of minerals, chemicals, elements, or other matter contained in a state of solution by water.

Transport Permit – means an authorization issued by the District allowing the transfer or transporting of a specific amount of groundwater out of the District's boundaries for a designated period of time.

Transport of Groundwater – means pumping, transferring, or moving groundwater out of the District.

Undesirable Water – means water that is injurious to vegetation, to land, or to fresh water, or water that can cause pollution.

Water Bearing Strata – means geologic formations capable of producing groundwater.

Waste – means Texas Water Code § 36.001(8) Definitions and Section 13 herein.

Water meter – means a water flow measuring device that can accurately record the amount of groundwater produced

Water Use Fee – means a fee based upon total annual pumpage imposed by the District on each well or aggregate system for which a permit is issued. The terms "user fee," “production fee,” and "pumpage fee" are synonymous and used interchangeably with "water use fee".

Well – means any facility, device, or method used to withdraw groundwater from the groundwater supply within the District.

Well Log – an accurately kept record made during the process of drilling of a well, recorded on forms prescribed by the Texas Department of Licensing and Registration (TDLR), showing the depth of the well bore, the depth and thickness of the geological formations, the setting depth and character of casing(s) installed, together with any other data or information required by the Water Well Drillers Team; or any other special purpose well log that may be available for a given well, such as a gamma ray log, a temperature log, an electric log, or a caliper log.

Well Operator – means the person who operates a water well or a water distribution system supplied by a water well.

Well Owner – means the person who owns the land upon which a water well is located or is to be located.

Well Registration – a record of a water well, its purpose of use, geographic location and well identification number.

Well system – means a well *or* group of wells tied to the same distribution system.

Withdraw – means extracting groundwater by pumping or by another method.

Windmill – means a wind-driven or hand-driven device that uses a piston pump to remove groundwater.

RULE 1.2 PURPOSE OF RULES:
These rules are adopted to achieve the provisions of the District Act and accomplish its purposes.

RULE 1.3 USE AND EFFECT OF RULES:
The District uses these rules as guides in the exercise of the powers conferred by law and in the accomplishment of the purposes of the District Act. They may not be construed as a limitation or restriction on the exercise of any discretion nor be construed to deprive the District or Board of the exercise of any powers, duties or jurisdiction conferred by law, nor be construed to limit or restrict the amount and character of data or information that may be required to be collected for the proper administration of the District Act.

RULE 1.4 AMENDING OF RULES:
The Board may, following notice and hearing, amend these rules or adopt new rules from time to time.

RULE 1.5 PETITION TO CHANGE RULES

(a) A person with a real property interest in groundwater in the District may file a petition with the District to request the adoption or modification of a rule.
(b) Petitions must be submitted in writing to the District office and must comply with the following requirements:
    (1) Each petition must be signed and dated and state the name and address of each person signing the petition;
    (2) Each petition must include:
        A. a brief description of the petitioner's real property interest in groundwater in the District;
        B. the text of the proposed rule prepared in a manner to show the words to be added or deleted from the text of a current rule, if any; and
        C. explanation of the purpose and necessity of the proposed rule or modification to the current rule.
    (3) The General Manager may reject any petition for failure to comply with the requirements of Subsection (b) of this section and shall provide notice to the petitioner of the reason for rejection.
    (4) Within 90 days after submission of a petition that complies with this rule, the Board shall either deny the petition and provide a written explanation for the denial, or initiate rulemaking proceedings related to the petition as provided by Section 36.101, Water Code.

RULE 1.6 HEADINGS AND CAPTIONS:
The section and other headings and captions contained in these rules are for reference purposes only. They do not affect the meaning or interpretation of these rules in any way.

RULE 1.7 CONSTRUCTION:
A reference to a title, chapter or section without further identification is a reference to a title, chapter or section of the Water Code. Construction of words and phrases are governed by the Code Construction Act, Subchapter B, Chapter 311, Texas Government Code.

RULE 1.8 METHODS OF SERVICE UNDER THE RULES:
Except as otherwise expressly provided in these rules, any notice or documents required by these rules to be served or delivered may be delivered to the recipient, or the recipient's authorized representative, in person, by agent, by courier receipted delivery, by certified mail sent to the recipient's last known address, or by telephonic document transfer to the recipient's current telecopier number. Service by mail is complete upon deposit in a post office or other official depository of the United States Postal Service. Service by telephonic document transfer is complete upon transfer, except that any transfer occurring after 5:00 p.m. will be deemed complete on the following business day. If service or delivery is by mail, and the recipient has the right, or is required to do some act within a prescribed time after service, three days will be added to the prescribed period. Where service by one of more methods has been attempted and failed, the service is complete upon notice publication in a general circulated newspaper in Dewitt County.

RULE 1.9 SEVERABILITY:
If any one or more of the provisions contained in these rules are for any reason held to be invalid, illegal, or unenforceable in any respect, the invalidity, illegality, or unenforceability may not affect any other rules or provisions of these rules, and these rules must be construed as if such invalid, illegal or unenforceable rules or provision had never been contained in these rules.

SECTION 2. BOARD

RULE 2.1 PURPOSE OF BOARD:
The Board was created to determine policy and regulate the withdrawal of groundwater within the boundaries of the District for conserving, preserving, protecting and recharging the groundwater within the District, and to exercise its rights, powers, and duties in a way that will effectively and expeditiously accomplish the purposes of the District Act. The Board's responsibilities include, but are not limited to, the adoption and enforcement of reasonable rules and other orders.

RULE 2.2 BOARD STRUCTURE, OFFICERS:
The Board consists of the members elected and qualified as required by the District Act. The Board will elect one of its members to serve as President, to preside over Board meetings and proceedings; one to serve as Vice President to preside in the absence of the President; and one to serve as Secretary to keep a true and complete account of all meetings and proceedings of the Board. The Board may elect officers annually, but must elect officers at the first meeting following the election of board members. Members and officers serve until their successors are elected or appointed and sworn in accordance with the District Act and these rules.

RULE 2.3 MEETINGS:
The Board will hold a regular meeting once each quarter as the Board may establish from time to time by resolution. At the request of the President, or by written request of at least three members, the Board may hold special meetings. All Board meetings will be held according to the Texas Open Meetings Law.

RULE 2.4 COMMITTEES:
The President may establish committees for formulation of policy recommendations to the Board, and appoint the chair and membership of the committees. Committee members serve at the pleasure of the President.

RULE 2.5 EX PARTE COMMUNICATIONS:
Board members may not communicate, directly or indirectly, about any issue of fact or law in any contested case before the board, with any agency, person, party or their representatives, except on notice and opportunity for all parties to participate. A Board member may communicate ex parte with other members of the Board. This rule does not apply to a Board member who abstains from voting on any matter in which ex parte communications have occurred.

SECTION 3. DISTRICT STAFF

RULE 3.1 GENERAL MANAGER:
The Board may employ or contract for a person to manage the District, and title this person general manager. The general manager will have no power, duty, or responsibility other than gathering information and performing Water District functions as determined by the Board. The Board will determine the salary and review the position of general manager each year at the beginning of the third quarter of every fiscal year. The general manager, with approval of the Board, may employ all persons necessary for the proper handling of business and operation of the District and their salaries will be set by the Board.

SECTION 4 DISTRICT RECORDS

RULE 4.1 MINUTES AND RECORDS OF THE DISTRICT:

All documents, reports, records, and minutes of the District are available for public inspection and copying following the Texas Public Information Act. Upon written application of any person, the District will furnish copies of its public records. A copying charge may be assessed pursuant to policies established by the District. A list of the charges for copies will be furnished by the District.

RULE 4.2 CERTIFIED COPIES:

Requests for certified copies must be in writing. Certified copies will be made under the direction of the Board of Directors. A certification charge and copying charge may be assessed, pursuant to policies established by the Board of directors.

SECTION 5 REGISTRATION OF WELLS

RULE 5.1 REGISTRATION OF WELLS:

All grandfathered wells within the district may be registered on a voluntary basis and no fee will be assessed. All new water wells, whether exempt or non-exempt from permitting, must be registered by the well owner, or well operator, prior to being drilled, and are required to comply with the District's registration requirements in these rules.

The District staff will review the application for registration and make a preliminary determination on whether the well is exempt or non-exempt from permitting. Providing the preliminary determination is that the well is exempt from permitting, the registrant may begin drilling immediately upon receiving the approved registration.

All wells registered with the District shall be classified, by the District, according to purpose(s) of use. Purpose of use classifications include:

- agricultural use;
- commercial use;
- domestic use;
- monitoring use;
- industrial use;
- injection use;
- irrigation use;
- livestock use;
- manufacturing use;
- mining use; and
- municipal use.

In the event of an emergency, as determined by the well driller, a well may be reworked or replaced prior to registration. Upon determination of an emergency event, the well driller or owner shall give immediate verbal notification to the District of the emergency rework or redrill. The registration requirement will be waived for a 48-hour period.

RULE 5.2 WELL ACTIVITY:

No person shall drill, modify, complete, operate, change type of use, plug, abandon, or alter the size of a well within the District without first registering the well with the District on a form approved by the District, even though the well may be exempt from the requirement of a permit under these rules. Registration may be accomplished either in person, by mail, by facsimile, or email.

A registration amendment is required prior to deviation in the purpose of use, change in ownership of the well, or any expansion in the size of the well or pump, even if the well retains its exempt status.

It shall be unlawful for any person to act as, or to offer to perform services as a well driller or pump installer without first obtaining a license pursuant to the Texas Administrative Code Title 16. Only a licensed well driller or licensed pump installer may install, service or alter a well within the boundaries of the Pecan Valley Groundwater Conservation District, unless a person chooses to drill or service his own water well on his own property for his own use. All persons drilling a well or having a well drilled, deepened, or altered shall adhere to the provisions of Title 16 Texas Administrative Code and Chapter 76 TX Occupations Code, prescribing the location of wells and proper drilling, completion, capping, and plugging.

RULE 5.3 REGISTRATION AND APPLICATION FORMS:
Registration shall include any or all of the following information, submitted on forms provided by the District, and any other information the General Manager may determine necessary, including:

1. the exact location of the well to be drilled, as provided in the application, and the exact number of feet to the nearest public road and property line;
2. the proposed purpose/use;
3. the size of the pump and the estimated gallons per minute production;
4. an agreement by the applicant that a completed Well Completion report and drillers log will be furnished to the District, upon completion of this well;
5. the latitude and longitude of the water well;
6. for non-exempt wells, the number of contiguous acres;
7. the name and address of the Applicant and owner of the land upon which the well is or will be located; and documentation establishing the authority of the Applicant to drill or operate the well if the Applicant is not the owner of the land; and
8. The name and address of the well driller or contractor, if applicable.

RULE 5.4 – EXEMPT WELLS:
An “Exempt Well” is a well that is:

1. used solely for domestic purposes or for providing water for livestock or poultry that is drilled and completed with casing with an inside diameter of five inches (5.0) or smaller, completed, or equipped so that it is incapable of producing more than 43,200 (30 gpm) gallons of groundwater per day;
2. a well otherwise exempt under the provisions of Section 36.117, Water Code (See Rule 5.5 for reporting requirements for these exempt wells); or
3. an existing well that is operational and is not an abandoned or deteriorated, and was in existence prior to February 16, 2004, is considered to be grandfathered and will retain its grandfathered status unless its use or production amount changes. Proof of any changes to the use or production amount of a grandfathered well may be obtained through District investigation, including a review by the General Manager of available historical documents and information related to the well.

An exempt well does not require an operating permit.

RULE 5.5 REPORTING REQUIREMENT FOR OTHER EXEMPT WELLS:
An entity holding a permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code, that authorizes the drilling of a water well shall report monthly to the district:

1. the total amount of water withdrawn during the month;
2. the quantity of water necessary for mining activities; and
3. the quantity of water withdrawn for other purposes.

SECTION 6 - PERMITS

RULE 6.1 GENERAL PERMITTING POLICIES AND PROCEDURES:

1. All permits are granted subject to these rules, the district management plan, orders of the board, and the laws of the State of Texas
2. The District reserves the authority, to the extent allowed by law, to adopt, revise, and supersede its rules applicable to wells subject to registration and permitting.
3. Registration of a well, issuance of a drilling permit, operating permit, or permit to substantially alter a well does not limit the District's authority to regulate a well or the production of water from a well.
4. Each application for a water well drilling permit, operating permit, transport permit, operating permit renewal, transport permit renewal, or permit ownership transfer requires a separate application. Application forms will be provided by the District and furnished to the applicant upon request.
5. Once the District has received a completed application for a non-exempt well drilling permit, operating permit, or transport permit the General Manager will issue written notice indicating a date and time for a hearing on the application in accordance with these rules. The District may schedule a hearing and action on as many applications at one hearing as deemed necessary and appropriate.
6. In deciding whether or not to issue a permit, and in setting the terms of the permit, the Board will consider the district management plan and rules, and all other relevant factors. The Board will also consider additional information and data provided by the Applicant and other interested parties. If no person or the General Manager contests the application, the General Manager will issue the permit as authorized by Rule 15.4 or present the application directly to the Board for a final decision. The Board may issue the permit or refer the application to a hearing examiner for a hearing.
7. A permit's terms may be modified or amended pursuant to the provisions of these rules. Each permit application must be accompanied by an administration fee.
8. The application pursuant to which this permit has been issued is incorporated in this permit, and this permit is granted on the basis of and contingent upon the accuracy of the information supplied in that application. A finding that false information has been supplied is grounds for immediate revocation of the permit.
9. The District may conduct well and well site inspections during the registration, application, drilling, or completion process to confirm well location, status, production capability, measure water levels, take water samples, or conduct other appropriate well-related investigations and inspection activities deemed necessary by the District. All well and well site access shall be conducted in accordance with subsection (10) of this rule.
10. The well site must be accessible to District representatives for inspection, and the permittee agrees to cooperate fully in any reasonable inspection of the well and well site by the District representatives. Prior to entering upon property for the purpose of conducting an investigation, the District representative must give notice in writing or in person or by telephone to the landowner, lessee, or operator, agent, or employee

of the well owner or operator. Notice is not required if prior permission is granted to enter without notice.

11. Violation of this permit's terms, conditions, requirements, or special provisions, including pumping amounts in excess of authorized withdrawal, is punishable by civil penalties as provided by the District Rule 16.4.
12. A Drilling Permit confers only the right to drill, construct, and complete a water well to the specifications and provisions of the drilling permit.
13. An operating permit confers only the authority to operate the well under the provisions of these rules and according to its terms.
14. To protect the permit holder from the illegal use of a new landowner, within 10 business days after the date of sale, the operating permit holder must notify the District in writing of the name of the new owner. Any person who becomes the owner of a currently permitted well must, within 20 calendar days from the date of the change in ownership, file an application for transfer of ownership.
15. Withdrawals from all non-exempt wells must be measured or estimated by the owner or operator using a device or method that is within plus or minus 10% of accuracy. Measured water use shall be reported to the District on a quarterly basis using the District's quarterly water user form. The annual reporting period for groundwater production reporting for non-exempt use is January 1 to December 31 of each year. Grandfathered wells are not subject to these reporting requirements.
16. Acceptance of the permit by the applicant constitutes acknowledgment of an agreement to comply with all of the terms, provisions, conditions, limitations, and restrictions in the permit. Failure to appeal the District's decision constitutes acceptance of the permit.
17. Permits are granted in accordance with the provisions of the rules of the District, and acceptance of this permit constitutes an acknowledgment and agreement that the permittee, applicant, landowner, and/or authorized operator will comply with these rules.
18. The operation of the well for the authorized withdrawal must be conducted in a non-wasteful manner. An incorporated municipality may consider all contiguous land within its corporate limits and any other public water supply entity may consider all contiguous land within the boundary of its certificate of convenience and necessity (CCN) that is located within the District to be under its control or as an aggregation area. The boundary of the contiguous land within the incorporated area or CCN inside the District's boundary may serve as the applicant's property line. The evaluation shall be based upon a minimum of two years of simulated continuous pumping. Upon request by the Board, computer modeling shall use a model accepted by the Board indicating the compliance with this condition.

RULE 6.2 DRILLING PERMITS:

1. The well owner, well operator, or any other person acting on behalf of the well owner, must file a completed application for registration or permitting before a well may be drilled.
2. The application for a Non-Exempt Drilling Permit shall meet all the guidelines of

these rules and include a location map or property plat drawn on a scale that adequately details:

a. The well site;
b. The property lines;
c. The location of other existing wells and their use(s) on the subject tract;
d. The location of any existing or proposed on-site wastewater system; and
e. The location of any other potential source of contamination within 100 feet of the existing well.

3. Unless specified otherwise by the Board or these rules, Exempt and Non-Exempt Drilling permits are effective for a term ending 180 calendar days after the date the Permit was approved. However:
    a. Provided that the circumstances and conditions under which the drilling permit was originally approved have not changed and drilling has commenced, the General Manager may extend the drilling permit term up to an additional 180 days upon written request from the applicant.
    b. The Board, for good cause, may extend the time for drilling and completion.
4. Failure of the well owner, well operator, or any other person acting on behalf of the well owner, to provide evidence of the drilling and completion of the permitted well within the designated time frame will render the permit void and production is strictly prohibited.
5. Applicants for drilling permits for a non-exempt well may pre-apply for an operating permit at the time of applying for a drilling permit. Applications that are requested by the applicant to be processed concurrently will be processed and considered by the District concurrently according to the standards and rules applicable to each application, unless specific information can only be determined at the time of drilling or after completing the well. In this case, the well shall be estimated and the District may grant a conditional approval to the Operating Permit Application.
6. Applicants for drilling permits for a well with a pump capacity equal to or greater than 360,000 gallons per day must submit the following information:
    a. on the application:
        i. all known existing, abandoned, and inoperative wells within 1500 feet of the well site,
        ii. a location map or property plat drawn on a scale that adequately details:
            1. the well site;
            2. the property lines;
            3. the location of other existing wells on the subject tract;
            4. the location of the existing use(s) on the subject tract;
            5. the location of any existing or proposed on-site wastewater system;
            6. the location of any other potential source of contamination within

100 feet of the existing well;

7. any other information deemed necessary by the General Manager in order to review and evaluate the application.

b. Upon completion of the well:

i. Location of permitted wells, and monitoring wells, depth, and screened intervals.

ii. Aquifer identification,

iii. stratigraphy of geologic formations,

iv. lithology of the geologic strata,

v. geologic structure,

vi. characteristics of the aquifer and their hydraulic relationships,

vii. recharge to the aquifer, and

viii. movement and discharge of groundwater from aquifer,

ix. and the ambient quality of water in the aquifer.

7. New wells or well systems producing equal to or more than 360,000 gallons of water per day (gpd) must provide monthly water levels from a minimum of two monitoring wells in the same aquifer or aquifers located at a distance not greater than 700 feet nor less than 100 feet from the permitted well or well system.
   a. This monitoring well information will be submitted by the permittee with the quarterly water use report.
   b. Any required monitoring wells must be completed as provided for in the terms and conditions in the Operating Permit for the producing well or well system.
8. New wells or well systems producing equal to or more than 360,000 gpd must also provide annual data on the following water quality parameters: Alkalinity, Ammonia, Arsenic, Calcium, Chloride, Coliform, Conductivity, Iron, Lead, Magnesium, Mercury, Molybdenum, Nitrate, Nitrite, pH, Potassium, Selenium, Sodium, Sulfate, Sulfite, Temperature, Total Dissolved Solids, Total Hardness, Total Phosphorus, Total Organic Carbon, Total Suspended Solids, Turbidity, and Uranium. These data will be collected from any monitoring wells required in the permit. These water quality measurements shall be reported annually to the District in September.
9. Providing the applicant can show good cause why a permit application requirement is unnecessary, the District may waive the application requirement.

RULE 6.3 OPERATING PERMITS:

1. A completed operating permit application must be approved by the District prior to operating the well.
2. In addition to the information required on the District's application form, the applicant may be required to provide other information including a water conservation plan, drought management plan, and determination of groundwater availability.
3. Operating permits issued by the District may be limited or be considered violated under the following circumstances:

a. It is a violation of these rules to pump any amount of water over the amount authorized (authorized groundwater production) by the operating permit.

b. It is violation of these rules to pump a non-exempt well without an operating permit application being filed with the District and approved by the Board of Directors.

4. An operating permit shall specify and authorize the following conditions: annual maximum groundwater production from the well (in gallons per year or acre feet per year), the date the operating permit is issued by the District, the term of the operating permit, the person or entity receiving the operating permit, permit and well number, the type of use permitted, the maximum rate of withdrawal in gallons per minute and any special operating conditions.

5. Operating permits issued by the District shall be valid for a term set by the District, which shall not exceed three years from the date of issuance.

6. Providing the applicant can show good cause why a permit application requirement is unnecessary, the District can waive the application requirement.

7. Applications for operating permits for individual wells with a pump capacity equal to or greater than 360,000 gallons per day and to a well field/groundwater development project with an aggregate size of more than 500 acres must contain the information demonstrating achievement of the following performance conditions:

    a. Condition 1. The maximum calculated drawdown of the water table or artesian pressure in the aquifer shall not be greater than five (5) feet at the property line.

    b. Condition 2. Water flow gradients must be demonstrated to be maintained during drought conditions in the water bodies designated by the district. Such demonstration shall show the relationship of water levels declines in the aquifer within a project area relative to surface elevations and the relationship of any such declines to the continued viability of seeps and springs.

    c. Condition 3. Surface water and groundwater exchanges must be demonstrated to not be adversely affected. Such demonstrations shall show the relationship, through modeling or otherwise, of water levels to surface water bodies.

    d. Condition 4. Groundwater quality must be demonstrated to not be adversely affected. Such demonstrations shall show, through modeling or otherwise, the relationship between pumping and total dissolved solid (TDS) levels. The applicant must demonstrate that the impact of the proposed pumping will not:

        i. result in an increase the TDS concentration beyond 1,500 mg/l at the property line if the historical average TDS concentration calculated for the well site is below 1,300 mg/l; or

        ii. result in an increase of TDS concentration above 1,700 mg/l at the property line if the historical average TDS concentration calculated for the well site is below 1,500 mg/l; or

        iii. result in an increase of TDS concentration above 2,000 mg/l at the property line if the historical average TDS concentration calculated for the well site is below 1,700 mg/l; or

iv. result in an increase of TDS concentration above 2,500 mg/l at the property line.

8. To the extent available, the applicant shall provide the following aquifer parameters:
    a. Determination of groundwater availability,
    b. rate of yield and drawdown,
    c. specific capacity,
    d. efficiency of the pumped (test) well,
    e. transmissivity,
    f. coefficient of storage,
    g. hydraulic conductivity,
    h. recharge or barrier boundaries, if any are present,
    i. thickness of the aquifer,
    j. Time-drawdown - The amount drawdown predicted at the non-exempt use well or wells and at the property boundaries for the time frames of ten (10) and thirty (30) years.
    k. Distance-drawdown - The distance(s) from the pumped well(s) to the outer edges of the cone(s)-of-depression shall be determined for the time frames of ten (10) and thirty (30) years.
    l. Well interference - For multiple wells in a well field, calculations shall be made to determine how production from multiple wells will affect drawdown in individual wells for the time frames of ten (10) and thirty (30) years.
9. Based upon the information developed and the water quality examination as documented in these rules, permit conditions for groundwater availability and quality may be imposed by the District.
10. Each operating permit for each well with a capacity greater than 360,000 gallons per day and each well field/groundwater development project covering an area greater than 500 acres shall include provisions requiring that compliance with the performance conditions identified in these rules be demonstrated through the utilization of field monitoring wells as required by the District to ensure compliance with the performance conditions set forth in these rules and the operating permit. The monitoring required by these rules may, at the discretion of the District, be utilized to prove compliance with the performance conditions set out in these rules and the operating permit. If the monitoring data indicates a violation of the performance conditions set out in these rules, and or the operating permit, then the operating permit authorized groundwater production or maximum rate of withdrawal shall be modified to bring the permitted well into compliance with the appropriate performance condition.

RULE 6.4 OPERATING PERMIT RENEWALS:

1. Operating permit renewal applications, provided by the District upon request, shall be submitted to the District no later than sixty (60) days prior to the date of expiration of the Permit.

2. The District will renew an operating permit, without a hearing provided:
    a. the application is submitted in a timely manner and accompanied by any required fees;
    b. the permit holder is not requesting a change related to the renewal that would require a permit amendment under District rules
    c. The permit holder is not delinquent in paying a fee required by the District
    d. The permit holder is not subject to a pending enforcement action for a substantive violation of a district permit, order or rule; and
    e. The permit holder has not paid a civil penalty or has otherwise failed to comply with an order resulting from a final adjudication of a violation of a district permit, order or rule.
3. Except as provided in Section 6.4.2, the General Manager may rule on any renewal application without notice, hearing, or further action by the Board, or with such notice and hearing as the General Manager deems desirable or necessary under the circumstances.
    a. The General Manager may deny an operating permit renewal application, as provided above, including upon a determination that the applicant is currently in violation of these rules or Chapter 36, Texas Water Code, or
    b. that the Applicant has a previously unresolved violation on record with the District.
4. The General Manager must provide written notice of the application denial within fifteen (15) calendar days.
5. Any applicant may appeal the General Manager's ruling by filing, within forty-five (45) calendar days of the General Manager's ruling, a written request for a hearing before the Board. The Board will hear the applicant's appeal at the next available regular Board meeting.
6. The General Manager shall inform the Board of any renewal applications granted on behalf of the District.
7. The Board may overrule the action of the General Manager.
8. The General Manager shall authorize an applicant for a permit renewal to continue operating under the conditions of the prior permit, subject to any changes necessary under these rules, or the District's management plan, for any period in which the renewal application is the subject of a contested case hearing.

RULE 6.5 AGGREGATION OF GROUNDWATER PRODUCTION:

1. When two or more wells are owned and operated by the same authorized producer or well owner as a multi-well system of wells completed in the same aquifer formation, the District may issue an operating permit for an aggregate withdrawal. Wells that produce from different aquifer formations are not aggregated for purposes of authorized production.
2. An operating permit for an aggregate withdrawal shall allow groundwater to be produced from any well of the aggregate system up to the permitted aggregate rate

and volume.

3. The number, location and designation of the aggregate wells shall be listed on the permit, and the District's spacing and production limitation rules shall apply to all aggregated production.

RULE 6.6 EXCLUSIONS AND EXEMPTIONS:

The permit requirements in this section do not apply to wells exempt under Rule 5.4, which include:

1. Wells used solely for domestic use or for providing water for livestock or poultry completed with casing with an inside diameter of five inches (5.0") or smaller or equipped such that it is incapable of producing more than 43,200 (30 gpm) gallons of groundwater per day; or
2. A well otherwise exempt under the provisions of Section 36.117, Texas Water Code; or
3. Wells that were fully completed before February 16, 2004, which includes Grandfathered wells for which the intended use or production amount has not changed.

RULE 6.7 WATER TABLE DRAWDOWN WELLS:

1. A system of two or more new wells tied together in order to supply water must provide two or more monitoring wells as required in these rules.
2. One of the monitoring wells may be designated in the operating permit as a water table drawdown well.
3. When the water level in a water table drawdown well reaches a depth designated in the permit, production from the well system must be reduced or cease until the water level in the water table drawdown well again reaches the drawdown depth designated in the permit.
4. Providing the applicant can show good cause why monitoring wells and/or drawdown wells are unnecessary, the District may waive the monitoring well requirement.

SECTION 7. SPACING REQUIREMENTS

RULE 7.1 REQUIRED SPACING:

1. In order to minimize the drawdown of the water table or the reduction in artesian pressure, to prevent interference between wells, to prevent degradation of water quality, or to prevent waste, the District may regulate the spacing of water wells.
2. For the purposes of these rules and the consideration of the associated limitations or requirements, an incorporated municipality may consider all contiguous land within its corporate limits and any other public water supply entity may consider all contiguous land within the boundary of its certificate of convenience and necessity (CCN) that is located within the District to be under its control or as an aggregation area. The boundary of the contiguous land within the incorporated area or CCN inside the District's boundary may serve as the applicant's property line. For other wells located within the municipality's corporate limits or public water supply entity's CCN, the contiguous property on which the well is located shall be subtracted from the overall amount that the municipality or public water supply entity may use to comply with this section.
3. The distance for placement of a new exempt well shall be a minimum distance of 50 feet from the property line or water rights line of any adjoining landowner.
4. Minimum distance from any existing or proposed septic system, whether on owner's property or adjacent property, must meet county and state standards.
5. Spacing requirements for non-exempt wells is 2 foot for every gallon per minute (gpm) of the permitted groundwater production from nearest registered well or authorized well site on property owned or controlled by an entity other than the applicant.
6. Any subdivision of existing tracts of land that creates new property lines may affect existing or proposed water well.

RULE 7.2 EXCEPTIONS TO SPACING REQUIREMENTS:

1. If the applicant presents waivers signed by the adjoining landowner(s) where the spacing requirement cannot be met, stating that they have no objection to the proposed location of the well site, the district may waive the spacing requirements and approve the drilling permit for the new proposed well location.
2. Providing an applicant can show why a new non-exempt well should be allowed to be drilled closer than the minimum spacing requirements of these rules, the issue of spacing requirements will be considered during the permit process. If the Board chooses to grant a permit to drill a well that does not meet the spacing requirements, the Board may limit the production of the well to ensure no injury is done to adjoining landowners or the aquifer.
3. The Board may, if good cause is shown by clear and convincing evidence, enter special orders or add special permit conditions increasing or decreasing spacing requirements.

SECTION 8. PRODUCTION LIMITATIONS

RULE 8.1 GROUNDWATER PRODUCTION LIMITS:

New Operating Permits for non-exempt wells may be limited by the following restrictions:

1. For the purposes of this rule and the consideration of the associated limitations or requirements, an incorporated municipality may consider all contiguous land within its corporate limits and any other public water supply entity may consider all contiguous land within the boundary of its certificate of convenience and necessity (CCN) that is located within the District to be under its control or as an aggregation area. The boundary of the contiguous land within the incorporated area or CCN inside the District's boundary may serve as the applicant's property line. For other wells located within the municipality's corporate limits or public water supply entity's CCN, the contiguous property on which the well is located shall be subtracted from the overall amount that the municipality or public water supply entity may use to comply with this section.
2. A well or well system may only be permitted to be drilled and equipped for the maximum production capacity of a cumulative total of 10 gallons per minute (g.p.m.) per contiguous acre owned or operated.
3. The total amount of the annual maximum groundwater production specified in the operating permit for a non-exempt well or well field, issued under these rules, shall not exceed one-half (1/2) acre-foot per contiguous surface acre owned or controlled by the applicant. An applicant shall qualify for increased production volumes only if the following conditions are met:

Well Depth	Screen Depth	Total Dissolved Solids (TDS) Limitation	Acre Feet Authorized for Production
Greater than 700 feet	Set at 500 feet or greater	No limitation; automatically applicable regardless of TDS level	1 acre foot per contiguous acre
Greater than 700 feet	Set at 500 feet or greater	1,000 to 4,999 parts per million (ppm) per liter	2 acre feet per contiguous acre
Greater than 700 feet	Set at 500 feet or greater	5,000 to 10,000 parts per million (ppm)per liter	5 acre feet per contiguous acre
Greater than 700 feet	Set at 500 feet or greater	10,000 feet or more parts per million (ppm) per liter	10 acre feet per contiguous acre

4. The water from wells permitted with maximum groundwater production in excess of one-half (1/2) acre foot per contiguous surface acre shall be tested on an annual basis and the results of the lab test submitted to the District office. As a minimum, the water shall be tested for Total Dissolved Solids (TDS). The annual maximum groundwater production is subject to change (increase of decrease) depending on the laboratory results and the above production limits criteria. Multiple wells on the same contiguous property that are authorized to produce different production amounts under this rule shall be permitted separately, and production amounts authorized for one well may not be used for another separately permitted well that has a different authorized production volume.
5. A person's right to continue to produce groundwater from a well or wells under this rule is dependent upon maintaining the ownership or control of water rights sufficient to produce the volume of groundwater specified in the permit or permits, and the rules of the District. A conveyance of any portion of the water rights could result in non-compliance with these rules.
6. Operating permit applications for new wells shall be accompanied by well registration application(s) for any unregistered exempt well(s), and/or operating permit application(s) for any non-exempt, un-permitted well(s) that currently exist on the same tract of land or adjoining tracts of land owned by the applicant for the new permit(s).
7. The Board may, if good cause is shown, authorize increased groundwater production amounts. Operating permits authorizing amounts of production in excess of one-half acre-foot per surface acre per annum shall contain specific monitoring and performance criteria, and the operating permit, appropriate to demonstrating that such well or well field can be operated so as not to (1) cause well interference on adjoining properties; (2) impact the usability of the groundwater; or (3) otherwise have a negative impact on groundwater availability and use outside the applicant's property.

SECTION 9. OTHER DISTRICT ACTIONS AND DUTIES

RULE 9.1 DISTRICT MANAGEMENT PLAN:

The District Management Plan specifies the acts, procedures, performance and avoidance necessary to prevent waste, the reduction of artesian pressure, or the draw-down of the water table. The District shall use the rules of the District to implement the Management Plan. The Board may amend or adopt a new management plan at any time and will review the plan at least every fifth year. Once adopted, a plan and all amendments thereto remain in effect until amended or the adoption of a new plan.

SECTION 10. TRANSFER OF GROUNDWATER OUT OF THE DISTRICT:

RULE 10.1 PERMIT REQUIRED:

Groundwater produced from within the District may not be transported outside the District's boundaries unless the Board has issued the well owner a transport permit.

RULE 10.2 APPLICABILITY:

A transport permit is not required for: (1) transportation of less than 10 acre-feet per year, (2) transportation of groundwater that is part of a manufactured product manufactured within the District, or (3) groundwater produced from and put to use on property or within a certificate of convenience and necessity (CCN) that straddles the District boundary line as of the adoption of the District rules.

RULE 10.3 APPLICATION:

An application for a Transport Permit must be filed in the District office and must include the following information:

1. The name and mailing address of the applicant;
2. A statement of the nature and purpose of the proposed use and the amount of water be used for each purpose;
3. A statement describing the availability of water in the proposed receiving area;
4. A water-conservation plan for the receiving area;
5. Information on the proposed transportation project including:
    a. Copy of any contracts with entities to whom the water is to be delivered as evidence of demand for the groundwater and beneficial use;
    b. The availability of water in the proposed receiving area during the period for which the water supply is requested, including:
        i. the amount of surface water available for any purpose;
        ii. the amount of groundwater available for any purpose and from any other groundwater source;
        iii. the conservation measures in place or to be implemented in the receiving area; and
        iv. the projected water demand and proposed water sources for the receiving area as listed in the State and Regional Water Plans;
11. The availability of water in the District, including the projected water demand and proposed water sources for the District as listed in the State and Regional Water Plans;
12. The projected effect of the proposed transfer on aquifer conditions, depletion, subsidence, existing permit holders or other groundwater users within the District;
13. Proof of notification (certified mail) of all landowners adjacent to the property where the well or wells are to be located, and all well owners within a 1/2 mile radius of any of the proposed production wells, and notice by U.S. mail to all landowners within a two (2) mile radius of the proposed production well.

14. A specific description of the proposed transportation facilities;
15. A statement giving the time within which the proposed construction is to begin;
16. A statement giving the length of time required for the proposed use of water and the amount of water to be used;
17. Information on the method or methods of transportation; and
18. Identify any other liquids that could be substituted for the fresh groundwater and possible sources for such liquid including quantity and quality.
19. The location of the well(s) and rates of withdrawal; and
20. Any additional information that the Applicant feels is relevant to the District's decision related to the issuance of a Transport Permit.

RULE 10.4 HEARING AND PERMIT ISSUANCE:

1. Applications for transportation permits are subject to the hearing procedures provided by these rules.
2. In determining whether to issue a permit to transfer groundwater out of the District, the Board shall consider:
    a. availability of water in the District and in the proposed receiving area;
    b. the projected effect of the proposed transfer on aquifer conditions, depletion, subsidence, or effects on existing permit holders or other groundwater users within the District; and
    c. whether the proposed transport is consistent with the approved regional and state water plan, and the certified District management plan.
3. A transportation permit issued by the District shall specify the amount of water that may be transferred out of the District and the term for which the water may be transferred.

SECTION 11. REWORKING AND REPLACING A WELL

RULE 11.1 PROCEDURES:

1. An existing well may be reworked, re-drilled, or re-equipped without District authorization if it is conducted in a manner that will not change the existing well status and as long as it will continue to withdraw only from the same water bearing strata from which it initially withdrew.
2. The appropriate applications must be submitted and the District will consider approving the application, if a party wishes to increase the authorized groundwater production of an existing well to the point of increasing the size of the column pipe and gallons per minute rate by reworking, re-equipping, or re-drilling such well.
3. The appropriate applications must be submitted and granted by the District if a well owner or operator wishes to replace an existing permitted well with a replacement well.
4. A replacement well, in order to be considered such must: 1) be drilled within 100 yards of the existing well 2) not be drilled nearer to the property line and 3) be drilled inside the spacing requirements of Rule 7.1, unless the well is grandfathered
5. In the event the application meets spacing and production requirements, the District may grant such application without further notice.
6. An emergency replacement of an existing well may be performed with notice to the District afterward, so long as there is no change to the rate or amount of withdrawal and the new well meets spacing requirements as stated in Rule 7.1. New driller's log and completion log must be filed with the district within the same period of time as the logs are required to be filed with the water well drillers' board, and the well must be registered with the District in accordance with Rule 5.1.

SECTION 12. WELL LOCATION AND COMPLETION

RULE 12.1 RESPONSIBILITY:

After an application for a well permit has been granted, the well, if drilled, must be drilled within ten (10) yards (30 feet) of the location specified in the permit, and not elsewhere. If the well should be commenced or drilled at a different location, the drilling or operation of such well may be enjoined by the Board pursuant to Chapter 36, Texas Water Code. As described in the Texas Water Well Drillers' Rules, all well drillers and persons having a well drilled, deepened, or otherwise altered shall adhere to the provisions of the rule prescribing the location of wells and proper completion.

RULE 12.2 LOCATION OF WATER WELLS:

1. A well must be located a minimum horizontal distance of 100 feet from any water-tight sewage facility and liquid-waste collection facility.
2. A well must be located a minimum horizontal distance of 150 feet from any contamination, such as existing or proposed livestock or poultry yards, privies, and 100 feet from any existing or proposed septic system absorption fields, spray areas or dry litter poultry facility.
3. A well must be located at a site not generally subject to flooding; provided, however, that if a well must be placed in a flood prone area, it must be completed with a watertight sanitary well seal and a steel sleeve extending a minimum of thirty six (36) inches above the ground level and twenty four (24) inches below the ground and the PVC casing extending a minimum of 24 inches above the known flood level.
4. No well may be located within five-hundred (500) feet of a sewage treatment plant, solid waste disposal site, or land irrigated by sewage plant effluent, or within three-hundred (300) feet of a sewage wet well, sewage pumping station, or a drainage ditch that contains industrial waste discharges or wastes from sewage treatment systems.
5. A well must also meet the following requirements:
    a. Drilling and completion of wells must satisfy all applicable requirements of the Texas Commission on Environmental Quality and the Texas Department of Licensing and Regulation.
    b. All wells must be completed in accordance with the well completion standards set forth under the requirements promulgated by the Texas Department of Licensing and Regulation set forth under Title 16, Texas Administrative Code, Chapter 76, Water Well Drillers and Pump Installers Rules.
    c. Violations of the rules adopted by Texas Commission on Environmental Quality, the Texas Department of Licensing and Regulation constitutes a violation of District rules.

RULE 12.3 STANDARDS OF COMPLETION FOR WATER WELLS:

Drilling and completion of wells must satisfy all applicable requirements of the Texas Commission on Environmental Quality and in accordance with the standards set forth under the Texas Water Well Drillers and Pump Installers Administrative Rules, Title 16, Part 4, Chapter 76, Texas Administrative Code. Water well drillers and pump installers are subject

to and must comply with all District rules. A violation of the rules adopted by the Texas Commission on Environmental Quality or the Texas Department of Licensing and Regulation also constitutes a violation of these rules.

RULE 12.4 MAINTENANCE AND RE-COMPLETIONS:

1. The well owner shall have the continuing responsibility of insuring that a well does not allow commingling of undesirable water and fresh water or the unwanted loss of water through the wellbore to other porous strata.
2. If a well is allowing the commingling of undesirable water and fresh water or the unwanted loss of water, and the casing in the well cannot be removed and the well re-completed within the applicable rules, the casing in the well shall be perforated and cemented in a manner that will prevent the commingling or loss of water. If such a well has no casing, then the well shall be cased and cemented, or plugged in a manner that will prevent such commingling or loss of water.
3. The Board may direct the landowner to take steps to prevent the commingling of undesirable water and fresh water, or the unwanted loss of water. The Board may order that an abandoned well be capped, and that any additional action necessary to minimize waste or pollution be taken.
4. Wells shall be operated and maintained in a manner to comply with all applicable laws, rules and regulations. A well that is exempt under Rules 5.4 and 6.6 or that has a permit issued under these rules, and that is not a deteriorated well, may be maintained as a capped well.
5. Abandoned wells shall be capped. An abandoned well may be re-opened or recompleted only in compliance with all applicable laws, rules and regulations.
6. The owner or lessee of an open or uncovered well may be required to keep the well closed or capped as provided in Sec. 36.118, Tex. Water Code and District rule 16.6.

SECTION 13. WASTE AND BENEFICIAL USE

RULE 13.1 WASTE:

As defined in Chapter 36, Texas Water Code, as amended, means any one or more of the following:

1. Withdrawal of groundwater from a groundwater reservoir at a rate in an amount that causes or threatens to cause intrusion into the reservoir of water unsuitable for agricultural, gardening, domestic or stock watering purposes;
2. The flowing or producing of wells from a groundwater reservoir if the water produced is not used for a beneficial purpose;
3. Escape of groundwater from a groundwater reservoir to any other reservoir or geologic strata that does not contain groundwater;
4. Pollution or harmful alteration of groundwater in a groundwater reservoir by saltwater or by other deleterious matter admitted from another stratum or from the surface of the ground;
5. Willfully or negligently causing, suffering, or allowing groundwater to escape into any river, creek, natural watercourse, depression, lake, reservoir, drain, sewer, street, highway, road, or ditch, or onto any land other than that of the owner of the well unless such discharge is authorized by permit, rule, or order issued by the commission under Chapter 26;
6. Groundwater pumped for irrigation that escapes as irrigation tailwater onto land other than that of the owner of the well unless permission has been granted by the occupant of the land receiving the discharge;
7. For water produced from an artesian well, waste has the meaning assigned by Section 11.205 Texas Water Code.

RULE 13.2 WASTE PREVENTION:

1. Groundwater shall not be produced within, or used within or without the District, in such a manner as to constitute waste as defined in Rule 1 hereof. Water shall not be produced from an abandoned or deteriorated well.
2. No person shall pollute or harmfully alter the character of the underground water reservoir of the District by means of salt water of other deleterious matter admitted from some other stratum or strata from the surface of the ground.
3. No person shall commit waste as that term is defined in Section 13.1.

RULE 13.3 USE FOR A BENEFICIAL PURPOSE:

1. agricultural, gardening, domestic, stock raising, municipal, mining, manufacturing, industrial, commercial, recreational, or pleasure purposes;
2. exploring for, producing, handling, or treating oil, gas, sulphur, or other minerals; or
3. any other purpose that is useful and beneficial to the user.

SECTION 14 FEES

RULE 14.1 ADMINISTRATIVE AND APPLICATION FEES:

The Board, by resolution, shall establish a schedule of fees for administrative acts of the District, including the cost of reviewing and processing permits and the cost of hearings for permits, and such administrative fees shall not unreasonably exceed the cost to the District for performing such administrative acts. In addition to such fees, the District may assess a fee against permit applicants in an amount set by Board resolution to help reimburse the District for the costs of publishing notice of a hearing related to a permit matter for each notice published for a particular application. Applications shall not be accepted for filing or processing or hearings scheduled until receipt by the District of all applicable fees established by board resolution. Each fee will be accepted and deposited by District staff.

RULE 14.2 - EXPORT OR TRANSPORT FEE/SURCHARGE:

The District shall impose a reasonable fee or surcharge, established by Board resolution, for transportation of groundwater out of the District.

RULE 14.3 PRODUCTION FEE:

1. A production fee rate schedule shall be established by Board resolution. The rate shall be applied to the total authorized annual production for each operating permit, including amendments.
2. Payment shall be due within thirty (30) days of the issuance of the permit.
3. Each day that a payment remains unpaid after it is due shall constitute a separate violation of these rules. A late payment charge equal to one percent per month following the due date shall be assessed on past due production fees.

RULE 14.4 – WELL REGISTRATION FEES

A well registration fee may be established by Board resolution for new exempt wells. There is no registration fee for grandfathered wells.

SECTION 15. HEARINGS

RULE 15.1 TYPES OF HEARINGS:

The District conducts three general types of hearings: (i) hearings involving permit matters, in which the rights, duties, or privileges of a party are determined after an opportunity for an adjudicative hearing; (ii) rulemaking hearings involving matters of general applicability that implement, interpret, or prescribe the law or District policy, or that describe the procedure or practice requirements of the District; and (iii) hearings on the Desired Future Conditions proposed for the District. A public hearing may be held on any matter within the jurisdiction of the Board, if the Board deems a hearing to be in the public interest, or necessary to effectively carry out the duties and responsibilities of the District. Any matter designated for hearing before the Board may be referred by the Board for hearing before a Hearing Examiner.

1. Permit Hearings:
    a. Permit Applications, Amendments and Revocations: The District will hold hearings on water well drilling permits, operating permits, permit renewals or amendments and permit revocations or suspensions. Hearings involving permit matters may be scheduled before a Hearing Examiner.
    b. Hearings on Motions for Rehearing: Motions for Rehearing will be heard by the Board pursuant to Rule 15.8(2).
2. Rulemaking Hearings:
    a. District Management Plan: The Board shall hold a hearing to consider adoption of a new District Management plan.
    b. Rules Revisions: The Board shall hold a hearing to consider adoption of rules revisions.

RULE 15.2 NOTICE AND SCHEDULING OF HEARINGS:

The General Manager, as instructed by the Board, is responsible for giving notice of all hearings in the following manner:

1. Notice will be given to each person who requests copies of hearing notices pursuant to the procedures set forth in subsection (2) of this rule, and any other person required by law to receive notice or that the Board of Directors deems appropriate. The date of delivery or mailing of notice may not be less than ten calendar days before the date set for the hearing.
2. Notice of hearing will be published at least once in a newspaper of general circulation in the District. The date of publication may not be less than ten calendar days before the date set for the hearing.
3. A copy of the notice will be posted at the county courthouse in the place where notices are usually posted. The date of posting may not be less than ten calendar days before the date of the hearing.
4. In addition to the notices required above, when a hearing involves an operating permit matter, notice of the date, time, and location of the hearing will be given to the applicant at least ten calendar days before the day of the hearing.
5. In addition to the notice required above, when a hearing involves designation of a

Production Limitation Management Area, a copy of the notice must be provided to each landowner, well owner, well operator and known groundwater right holder in the proposed management area.

6. Any person having an interest in the subject matter of a hearing or hearings may receive written notice of such hearing or hearings by submitting a request in writing. The request must identify with as much specificity as possible the hearing or hearings for which written notice is requested. The request remains valid for a period of one year from the date of the request, after which time a new request must be submitted. Failure to provide written notice under this section does not invalidate any action taken by the Board.

7. Hearings may be scheduled during the District's regular business hours, Monday through Friday of each week, except District holidays. All permit hearings will be held at the District Office. However, the Board may from time to time change or schedule additional dates, times, and places for permit hearings by resolution adopted at a regular Board meeting. The General Manager is instructed by the Board to schedule hearings involving permit matters at such dates, times, and places set forth above for permit hearings. Other hearings will be scheduled at the dates, times and locations set at a regular Board meeting.

RULE 15.3 GENERAL PROCEDURES:

1. Authority of Presiding Officer. The presiding officer may conduct the hearing or other proceeding in the manner the presiding officer deems most appropriate for the particular proceeding. The presiding officer has the authority to:
    a. set hearing dates;
    b. convene the hearing at the time and place specified in the notice for public hearing;
    c. establish the jurisdiction of the District concerning the subject matter under consideration;
    d. rule on motions and on the admissibility of evidence and amendments to pleadings;
    e. designate and align parties and establish the order for presentation of evidence;
    f. administer oaths to all persons presenting testimony; examine witnesses;
    g. issue subpoenas when required to compel the attendance of witnesses or the production of papers and documents;
    h. require the taking of depositions and compel other forms of discovery under these rules;
    i. ensure that information and testimony are introduced as conveniently and expeditiously as possible, without prejudicing the rights of any party to the proceeding;
    j. conduct public hearings in an orderly manner in accordance with these rules;
    k. recess any hearing from time to time and place to place;
    l. reopen the record of a hearing for additional evidence when necessary to make the record more complete; and

m. exercise any other appropriate powers necessary or convenient to effectively carry out the responsibilities of presiding officer.

2. Hearing Registration Forms. Each individual attending a hearing or other proceeding of the District must submit a form providing the following information: name; address; whether the person plans to testify; and any other information relevant to the hearing or other proceeding.
3. Appearance; Representative Capacity. Any interested person may appear in person or may be represented by counsel, engineer, or other representative provided the representative is fully authorized to speak and act for the principal. Such person or representative may present evidence, exhibits, or testimony, or make an oral presentation in accordance with the procedures applicable to the particular proceeding. Any partner may appear on behalf of the partnership. A duly authorized officer or agent of a public or private corporation, political subdivision, governmental agency, municipality, association, firm, or other entity may appear for the entity. A fiduciary may appear for a ward, trust, or estate. A person appearing in a representative capacity may be required to prove proper authority.
4. Alignment of Parties; Number of Representatives Heard. Participants in a proceeding may be aligned according to the nature of the proceeding and their relationship to it. The presiding officer may require the participants of an aligned class to select one or more persons to represent them in the proceeding or on any particular matter or ruling and may limit the number of representatives heard, but must allow at least one representative of an aligned class to be heard in the proceeding or on any particular matter or ruling.
5. Appearance by Applicant or Movant. The applicant, movant or party requesting the hearing or other proceeding or a representative should be present at the hearing or other proceeding. Failure to so appear may be grounds for withholding consideration of a matter and dismissal without prejudice or may require the rescheduling or continuance of the hearing or other proceeding if the presiding officer deems it necessary in order to fully develop the record.
6. Reporting. Hearings and other proceedings will be recorded on audio cassette tape or, at the discretion of the presiding officer, may be recorded by a certified shorthand reporter. The District does not prepare transcripts of hearings or other proceedings recorded on audio cassette tape on District equipment for the public, but the District will arrange access to the recording. Subject to availability of space, any party may, at their own expense, arrange for a reporter to report the hearing or other proceeding or for recording of the hearing or other proceeding. The cost of reporting or transcribing a permit hearing may be assessed in accordance with Rule 15.5(7). If a proceeding other than a permit hearing is recorded by a reporter, and a copy of the transcript of testimony is ordered by any person, the testimony will be transcribed and the original transcript filed with the papers of the proceeding at the expense of the person requesting the transcript of testimony. Copies of the transcript of testimony of any hearing or other proceeding thus reported may be purchased from the reporter.
7. Continuance. The presiding officer may continue hearings or other proceedings from time to time and from place to place without the necessity of publishing, serving, mailing or otherwise issuing a new notice. If a hearing or other proceeding is continued and a time and place (other than the District Office) for the hearing or other

proceeding to reconvene are not publicly announced at the hearing or other proceeding by the presiding officer before it is recessed, a notice of any further setting of the hearing or other proceeding will be delivered at a reasonable time to all parties, persons who have requested notice of the hearing pursuant to Rule 15.2(6), and any other person the presiding officer deems appropriate, but it is not necessary to post at the county courthouses or publish a newspaper notice of the new setting.

8. Computing Time. In computing any period of time specified by these rules, by a presiding officer, by Board orders, or by law, the day of the act, event, or default after which the designated period of time begins to run is not included, but the last day of the period computed is included, unless the last day is a Saturday, Sunday or legal holiday as determined by the Board, in which case the period runs until the end of the next day which is neither a Saturday, Sunday nor a legal holiday.
9. Affidavit. Whenever the making of an affidavit by a party to a hearing or other proceeding is necessary, it may be made by the party or the party's representative or counsel. This rule does not dispense with the necessity of an affidavit being made by a party when expressly required by statute.
10. Broadening the Issues. No person will be allowed to appear in any hearing or other proceeding that in the opinion of the presiding officer is for the sole purpose of unduly broadening the issues to be considered in the hearing or other proceeding.
11. Conduct and Decorum. Every person, party, representative, witness, and other participant in a proceeding must conform to ethical standards of conduct and must exhibit courtesy and respect for all other participants. No person may engage in any activity during a proceeding that interferes with the orderly conduct of District business. If in the judgment of the presiding officer, a person is acting in violation of this provision, the presiding officer will first warn the person to refrain from engaging in such conduct. Upon further violation by the same person, the presiding officer may exclude that person from the proceeding for such time and under such conditions as the presiding officer deems necessary.

RULE 15.4 UNCONTESTED PERMIT HEARINGS PROCEDURES:

Action on Uncontested Application. If no notice of intent to contest is received three (3) business days prior to the date of the hearing pursuant to Rule 15.5(1), and the requested rate of production does not exceed 250 gallons per minute and the annual rate of production does not exceed ½ acre-foot for each acre owned or controlled by the applicant, the General Manager may issue the permit without board action provided that: 1) the General Manager has certified that the application is administratively complete; and 2) the well location complies with the spacing rules of the District. The General Manager may approve permit amendments that request only a reduction in the volume of authorized production and/or maximum capacity of the well.

RULE 15.5 CONTESTED PERMIT HEARINGS PROCEDURES:

1. The General Manager, the applicant, or an affected person may request a contested hearing on an application for a permit or permit amendment in accordance with this rule. A request for a contested hearing is distinguished from public comment on an application, and shall be filed not later than three (3) business days before the scheduled hearing date, and shall include the following information:

a. The name, address, telephone number and/or email address of the person filing the request. If the request is made by a group or association, the request must identify the primary contact person responsible for receiving all official communications on behalf of the group or association;
b. The person or entity's personal justiciable interest affected by the application and proposed withdrawal, including a statement demonstrating how that interest is not common to members of the general public; and
c. Specifically request a contested hearing.

2. A request for a contested hearing to be conducted by the State Office of Administrative Hearings pursuant to Section 36.416 of the Texas Water Code shall be made not later than three (3) business days before the scheduled hearing date. If timely requested under this section, the District shall contract with the State Office of Administrative Hearings to conduct the hearing on the application.
3. Preliminary Hearing. A preliminary hearing may be held to consider any matter which may expedite the hearing or otherwise facilitate the hearing process.
4. Matters Considered. Matters which may be considered at a preliminary hearing include, but are not limited to: (i) the designation of parties; (ii) the formulation and simplification of issues; (iii) the necessity or desirability of amending applications or other pleadings; (iv) the possibility of making admissions or stipulations; (v) the scheduling of discovery; (vi) the identification of and specification of the number of witnesses; (vii) the filing and exchange of prepared testimony and exhibits; and (viii) the procedure at the hearing.
5. Notice. A preliminary hearing may be held at a date, time, and place stated in a separate notice given in accordance with Rule 15.2, or at the date, time, and place for hearing stated in the notice of public hearing, and may be continued from time to time and place to place, at the discretion of the Hearing Examiner.
6. Conference Action. Action taken at a preliminary hearing may be reduced to writing and made a part of the record or may be stated on the record at the close of the conference.
7. Assessing Reporting and Transcription Costs. Upon the timely request of any party, or at the discretion of the Hearing Examiner, the Hearing Examiner may assess reporting and transcription costs to one or more of the parties. The Hearing Examiner must consider the following factors in assessing reporting and transcription costs:
    a. the party who requested the transcript;
    b. the financial ability of the party to pay the costs;
    c. the extent to which the party participated in the hearing;
    d. the relative benefits to the various parties of having a transcript;
    e. the budgetary constraints of a governmental entity participating in the proceeding;
    f. any other factor that is relevant to a just and reasonable assessment of costs.
    g. In any proceeding where the assessment of reporting or transcription costs is an issue, the Hearing Examiner must provide the parties an opportunity to present evidence and argument on the issue. A recommendation regarding the assessment of costs must be included in the Hearing Examiner's report to the

Board.

8. Designation of Parties. Parties to a hearing will be designated on the first day of hearing or at such other time as the Hearing Examiner determines. The Board of Directors and any person specifically named in a matter are automatically designated parties. Persons other than the automatic parties must, in order to be admitted as a party, appear at the proceeding in person or by representative and seek to be designated. After parties are designated, no other person may be admitted as a party unless, in the judgment of the Hearing Examiner, there exists good cause and the hearing will not be unreasonably delayed.
9. Rights of Designated Parties. Subject to the direction and orders of the Hearing Examiner, parties have the right to conduct discovery, present a direct case, cross-examine witnesses, make oral and written arguments, obtain copies of all documents filed in the proceeding, receive copies of all notices issued by the District concerning the proceeding, and otherwise fully participate in the proceeding.
10. Persons Not Designated Parties. At the discretion of the Hearing Examiner, persons not designated as parties to a proceeding may submit comments or statements, orally or in writing. Comments or statements submitted by non-parties may be included in the record, but may not be considered by the Hearing Examiner as evidence.
11. Furnishing Copies of Pleadings. After parties have been designated, a copy of every pleading, request, motion, or reply filed in the proceeding must be provided by the author to every other party or the party's representative. A certification of this fact must accompany the original instrument when filed with the District. Failure to provide copies may be grounds for withholding consideration of the pleading or the matters set forth therein.
12. Interpreters for Hearing Impaired and Witnesses. If a party or subpoenaed witness in a contested case is deaf, the District must provide an interpreter whose qualifications are approved by the State Commission for the Deaf and Hearing Impaired to interpret the proceedings for that person.
13. Agreements to be in Writing. No agreement between parties or their representatives affecting any pending matter will be considered by the Hearing Examiner unless it is in writing, signed, and filed as part of the record, or unless it is announced at the hearing and entered as record.
14. Discovery. Discovery will be conducted upon such terms and conditions, and at such times and places, as directed by the Hearing Examiner. Unless specifically modified by these rules or by order of the Hearing Examiner, discovery will be governed by, and subject to the limitations set forth in, the Texas Rules of Civil Procedure. In addition to the forms of discovery authorized under the Texas Rules of Civil Procedure, the parties may exchange informal requests for information, either by agreement or by order of the Hearing Examiner.
15. Discovery Sanctions. If the Hearing Examiner finds a party is abusing the discovery process in seeking, responding to, or resisting discovery, the Hearing Examiner may:
    a. suspend processing of the application for a permit if the applicant is the offending party;
    b. disallow any further discovery of any kind or a particular kind by the offending party;

c. rule that particular facts be regarded as established against the offending party for the purposes of the proceeding, in accordance with the claim of the party obtaining the discovery ruling;

d. limit the offending party's participation in the proceeding;

e. disallow the offending party's presentation of evidence on issues that were the subject of the discovery request; and

f. recommend to the Board that the hearing be dismissed with or without prejudice.

16. Ex Parte Communications. The Hearing Examiner may not communicate, directly or indirectly, in connection with any issue of fact or law with any agency, person, party, or their representatives, except on notice and opportunity for all parties to participate. This provision does not prevent communications with staff not directly involved in the hearing to utilize the special skills and knowledge of the agency in evaluating the evidence.

17. Compelling Testimony, Swearing Witnesses and Subpoena Power. The Hearing Examiner may compel the testimony of any person which is necessary, helpful, or appropriate to the hearing. The Hearing Examiner will administer the oath in a manner calculated to impress the witness with the importance and solemnity of the promise to adhere to the truth. The Hearing Examiner may issue subpoenas to compel the testimony of any person and the production of books, papers, documents, or tangible things, in the manner provided in the Texas Rules of Civil Procedure.

18. Evidence. Except as modified by these rules, the Texas Rules of Civil Evidence govern the admissibility and introduction of evidence; however, evidence not admissible under the Texas Rules of Civil Evidence may be admitted if it is of the type commonly relied upon by reasonably prudent persons in the conduct of their affairs. In addition, evidence may be stipulated by agreement of all parties.

19. Written Testimony. When a proceeding will be expedited and the interest of the parties will not be prejudiced substantially, testimony may be received in written form. The written testimony of a witness, either in narrative or question and answer form, may be admitted into evidence upon the witness being sworn and identifying the testimony as a true and accurate record of what the testimony would be if given orally. The witness will be subject to clarifying questions and to cross-examination, and the prepared testimony will be subject to objection.

20. Requirements for Exhibits. Exhibits of a documentary character must be sized to not unduly encumber the files and records of the District. All exhibits must be numbered and, except for maps and drawings, may not exceed 8-1/2 by 11 inches in size.

21. Abstracts of Documents. When documents are numerous, the Hearing Examiner may receive in evidence only those which are representative and may require the abstracting of relevant data from the documents and the presentation of the abstracts in the form of an exhibit. Parties have the right to examine the documents from which the abstracts are made.

22. Introduction and Copies of Exhibits. Each exhibit offered must be tendered for identification and placed in the record. Copies must be furnished to the Hearing Examiner and to each of the parties, unless the Hearing Examiner rules otherwise.

23. Excluding Exhibits. In the event an exhibit has been identified, objected to, and

excluded, it may be withdrawn by the offering party. If withdrawn, the exhibit will be returned and the offering party waives all objections to the exclusion of the exhibit. If not withdrawn, the exhibit will be included in the record for the purpose of preserving the objection to excluding the exhibit.

24. Official Notice. The Hearing Examiner may take official notice of all facts judicially cognizable. In addition, official notice may be taken of generally recognized facts within the area of the District's specialized knowledge.

25. Documents in District Files. Extrinsic evidence of authenticity is not required as a condition precedent to admissibility of documents maintained in the files and records of the District.

26. Oral Argument. At the discretion of the Hearing Examiner, oral arguments may be heard at the conclusion of the presentation of evidence. Reasonable time limits may be prescribed. The Hearing Examiner may require or accept written briefs in lieu of, or in addition to, oral arguments. When the matter is presented to the Board for final decision, further oral arguments may be heard by the Board.

27. Contested Hearings Conducted by the State Office of Administrative Hearings. If timely requested by the applicant or other party to a contested case hearing, the District shall contract with the State Office of Administrative Hearings to conduct the hearing on the application. The Board shall determine whether the hearing held by the State Office of Administrative Hearings will be held in Travis County or at the District office or other regular meeting place of the Board.

    a. The party requesting that the hearing be conducted by the State Office of Administrative Hearings shall pay all costs associated with the contract for the hearing and shall make a deposit with the District in an amount that is sufficient to pay the estimated contract amount before the hearing begins. If the total cost for the contract exceeds the amount deposited by the paying party at the conclusion of the hearing, the party that requested the hearing shall pay the remaining amount due to pay the final price of the contract. If there are unused funds remaining from the deposit at the conclusion of the hearing, the unused funds shall be refunded to the paying party. The District may assess other costs related to hearings conducted under this rule as authorized under Chapter 36, Texas Water Code, or the District rules.

    b. The administrative law judge who conducts a contested case hearing shall consider applicable District rules or policies in conducting the hearing. The District shall provide the administrative law judge with a written statement of applicable rules or policies.

    c. The District Board may change a finding of fact or conclusion of law made by the administrative law judge, or may vacate or modify an order issued by the administrative judge, only if the Board determines:

        i. that the administrative law judge did not properly apply or interpret applicable law, District rules, written policies provided under Section 36.416(e) of the Texas Water Code, or prior administrative decisions;

        ii. that a prior administrative decision on which the administrative law judge relied is incorrect or should be changed; or

        iii. that a technical error in a finding of fact should be changed.

RULE 15.6 CONCLUSION OF THE HEARING; REPORT:

1. Closing the Record; Final Report. At the conclusion of the presentation of evidence and any oral argument, the Hearing Examiner may either close the record or keep it open and allow the submission of additional evidence, exhibits, briefs, or proposed findings and conclusions from one or more of the parties. No additional evidence, exhibits, briefs, or proposed findings and conclusions may be filed unless permitted or requested by the Hearing Examiner. After the record is closed, the Hearing Examiner will prepare a report to the Board. The report must include a summary of the evidence, together with the Hearing Examiner's findings and conclusions and recommendations for action. Upon completion and issuance of the Hearing Examiner's report, a copy must be submitted to the Board and delivered to each party to the proceeding. In a contested case, delivery to the parties must be by certified mail.
2. Exceptions to the Hearing Examiner's Report; Reopening the Record. Prior to Board action any party in a contested case may file written exceptions to the Hearing Examiner's report, and any party in an uncontested case may request an opportunity to make an oral presentation of exceptions to the Board. Upon review of the report and exceptions, the Hearing Examiner may reopen the record for the purpose of developing additional evidence, or may deny the exceptions and submit the report and exceptions to the Board. The Board may, at any time and in any case, remand the matter to the Hearing Examiner for further proceedings.
3. Time for Board Action on Certain Permit Matters. In the case of hearings involving new permit applications, original applications for existing wells, or applications for permit renewals or amendments, the Hearing Examiner's report should be submitted, and the Board should act, within 60 calendar days after the final hearing is concluded. For hearings conducted by the State Office of Administrative Hearings, the Board shall make the final decision on the application within 60 days after the issuance of the proposal for decision by the State Office of Administrative Hearings. In a hearing in which the District has contracted with the State Office of Administrative Hearings to conduct the contested case hearing, the Board has the authority to make a final decision on consideration of a proposal for decision issued by the State Office of Administrative Hearings administrative law judge consistent with Section 2001.058, Texas Government Code.

RULE 15.7 RULE MAKING HEARINGS PROCEDURES:

1. General Procedures. The presiding officer will conduct the rulemaking hearing in the manner the presiding officer deems most appropriate to obtain all relevant information pertaining to the subject of the hearing as conveniently, inexpensively, and expeditiously as possible. The presiding officer may follow the guidelines of "Parliamentary Procedure at a Glance," New Edition, O. Garfield Jones, 1971 revised edition, or as amended.
2. Submission of Documents. Any interested person may submit written statements, protests or comments, briefs, affidavits, exhibits, technical reports, or other documents relating to the subject of the hearing. Such documents must be submitted no later than the time of the hearing, as stated in the notice of hearing given in accordance with Rule 15.2; provided, however, that the presiding officer may grant

additional time for the submission of documents.

3. Oral Presentations. Any person desiring to testify on the subject of the hearing must so indicate on the registration form provided at the hearing. The presiding officer establishes the order of testimony and may limit the number of times a person may speak, the time period for oral presentations, and the time period for raising questions. In addition, the presiding officer may limit or exclude cumulative, irrelevant, or unduly repetitious presentations.
4. Conclusion of the Hearing; Closing the Record; Hearing Examiner's Report. At the conclusion of the testimony, and after the receipt of all documents, the presiding officer may either close the record, or keep it open to allow the submission of additional information. If the presiding officer is a Hearing Examiner, the Hearing Examiner must, after the record is closed, prepare a report to the Board. The report must include a summary of the subject of the hearing and the public comments received, together with the Hearing Examiner's recommendations for action. Upon completion and issuance of the Hearing Examiner's report, a copy must be submitted to the Board. Any interested person who so requests in writing will be notified when the report is completed, and furnished a copy of the report.
5. Exceptions to the Hearing Examiner's Report; Reopening the Record. Any interested person may make exceptions to the Hearing Examiner's report, and the Board may reopen the record, in the manner prescribed in Rule 15.6(2).

RULE 15.8 FINAL DECISION; APPEAL:

1. Board Action. After the record is closed and the matter is submitted to the Board, the Board may then take the matter under advisement, continue it from day to day, reopen or rest the matter, refuse the action sought or grant the same in whole or part, or take any other appropriate action. The Board action takes effect at the conclusion of the meeting and is not affected by a motion for rehearing.
2. Requests for Rehearing. Any decision of the Board on a matter may be appealed by requesting a rehearing before the Board within 20 calendar days of the Board's decision. Such a rehearing request must be filed at the District Office in writing and must state clear and concise grounds for the request. Such a rehearing request is mandatory with respect to any decision or action of the Board before any appeal may be brought. The Board's decision is final if no request for rehearing is made within the specified time, or upon the Board's denial of the request for rehearing, or upon rendering a decision after rehearing. If the rehearing request is granted by the Board, the date of the rehearing will be within 45 calendar days thereafter, unless otherwise agreed to by the parties to the proceeding. The failure of the Board to grant or deny the request for rehearing within 90 calendar days of submission will be deemed to be a denial of the request.

SECTION 16. INVESTIGATIONS AND ENFORCEMENT

RULE 16.1 NOTICE AND ACCESS TO PROPERTY:

Board Members and District agents and employees are entitled to access to all property within the District to carry out technical and other investigations necessary to the implementation of the District rules. Prior to entering upon property for the purpose of conducting an investigation, the person seeking access must give notice in writing or in person or by telephone to the owner, lessee, or operator, agent, or employee of the well owner or lessee, as determined by information contained in the application or other information on file with the District. Notice is not required if prior permission is granted to enter without notice. Inhibiting or prohibiting access to any Board Member or District agents or employees who are attempting to conduct an investigation under the District rules constitutes a violation and subjects the person who is inhibiting or prohibiting access, as well as any other person who authorizes or allows such action, to the penalties set forth in the Texas Water Code Chapter 36.102.

RULE 16.2 RIGHT TO INSPECT, TEST AND LOCATE WELLS:

Upon notice as provided for in these rules, and in accordance with provisions of these rules:

1. Any authorized officer, employee, agent, or representative of the District shall have the right at all reasonable times to enter upon the lands on which a well or wells may be located within the boundaries of the District to:
    a. inspect such well or wells;
    b. read or interpret any meter, wire box or other instrument for the purpose of measuring production of water from said well or wells;
    c. determine the pumping capacity of said well or wells;
    d. measure the water level or obtain water samples for determining the water quality of said well or wells;
    e. test the pump and the power unit of the well or wells;
    f. determine the coordinates (location) of said well or wells using GPS or other available methods; or
    g. make any other reasonable and necessary inspection and / or test that may be required or necessary for the information or enforcement of the rules and regulations of the District.
2. The operation of any well may be enjoined by the Board immediately upon refusal to allow the gathering of information as provided from such well or wells.

RULE 16.3 - CONDUCT OF INVESTIGATION:

Investigations or inspections that require entrance upon property must be conducted at reasonable times, and must be consistent with the establishment's rules and regulations concerning safety, internal security, and fire protection. The persons conducting such investigations must identify themselves and present credentials upon request of the owner, lessee, operator, or person in charge of the well.

RULE 16.4 RULE ENFORCEMENT:

1. If it appears that a person has violated, is violating, or is threatening to violate any provision of the District rules, the Board of Directors may institute and conduct a suit in the name of the District for enforcement of rules through the provisions of Section 36.102, Texas Water Code.
2. Civil penalties may not exceed $10,000 per day per violation, and each day of a continuing violation constitutes a separate violation.
3. The civil penalty for a violation of any District rule is hereby set at the lower of:
    a. $10,000 per violation; or
    b. a lesser amount based on the severity of the violation as determined by the Board or as set forth in a civil penalty schedule which the Board of Directors may adopt from time to time by resolution.

RULE 16.5 SEALING OF WELLS:

1. Following due-process, the District may, upon orders from the judge of the courts, seal wells that are prohibited from withdrawing groundwater within the District by the District rules to ensure that a well is not operated in violation of the District rules. A well may be sealed when: (1) no application has been made for a permit to drill a new water well which is not excluded or exempted; or (2) no application has been made for an operating permit to withdraw groundwater from an existing well that is not excluded or exempted from the requirement that a permit be obtained in order to lawfully withdraw groundwater; or (3) the Board has denied, canceled or revoked a drilling permit or an operating permit.
2. The well may be sealed by physical means, and tagged to indicate that the well has been sealed by the District, and other appropriate action may be taken as necessary to preclude operation of the well or to identify unauthorized operation of the well.
3. Tampering with, altering, damaging, or removing the seal of a sealed well, or in any other way violating the integrity of the seal, or pumping of groundwater from a well that has been sealed constitutes a violation of these rules and subjects the person performing that action, as well as any well owner or primary operator who authorizes or allows that action, to such penalties as provided by the District rules.

RULE 16.6 CAPPING AND PLUGGING OF WELLS:

1. A well identified as an abandoned or deteriorated well, or a borehole, must be plugged, capped or re-completed in accordance with the requirements of the District and of any statewide law, agency or political subdivision having jurisdiction including, but not limited to, the Texas Water Well Drillers Act, and the Texas Commission on Environmental Quality. The District may require a well to be capped to prevent waste, prevent pollution, or prevent further deterioration of a well casing. The well must remain capped until such time as the conditions that led to the capping requirement are eliminated. If well pump equipment is removed from a well and the well will be re-equipped at a later date, the well must be capped, provided however that the casing is not in a deteriorated condition that would permit co-mingling of water strata, in which case the well must be plugged. The cap must be capable of sustaining a weight of at least four hundred (400) pounds and must be constructed with a water tight seal to prevent entrance of surface pollutants into the well itself, either through the well bore

or well casing.

2. A deteriorated or abandoned well must be plugged in accordance with the Texas Department of License and Regulation, Water Well Drillers and Pump Installers Rules (Title 16, Section 76.1004, Texas Admin. Code). It is the responsibility of the landowner to see that such a well is plugged to prevent pollution of the underground water and to prevent injury to persons and animals. Registration of the well is required prior to, or in conjunction with, well plugging
3. Pursuant to TWC Chapter 36.118, "open or uncovered well" means an artificial excavation dug or drilled for the purpose of exploring or producing water from the groundwater reservoir and is not capped or covered as required by this Chapter.
4. When an open or uncovered, deteriorated, or abandoned well is found by District personnel or brought to the District's attention by a constituent, a letter will be sent to the owner of the property upon which the open or uncovered, deteriorated, or abandoned well exists, notifying the property owner of his responsibility to cap or plug the well. The property owner will also be provided with an information brochure on the proper closing of abandoned wells. (Texas Groundwater Protection Committee, RG-347).
5. The property owner will be given one hundred eighty (180) calendar days in which to comply. The District Manager shall set up a calendaring system which will alert the District when a follow-up is due. The property owner will also be notified that he must file a Well Plugging Form with the Texas Department of Licensing and Regulation within thirty (30) calendar days after the well is plugged. A copy of the completed form must also be sent to the District by the property owner. (Texas Occupations Code, Chapter 1901.255, (c) & (d)).
6. Once the property owner has notified the District that the well has been closed (capped or plugged), the District may inspect that well to insure compliance. District personnel may inspect well closures on a random basis.
7. Should the property owner fail to respond within the one hundred eighty (180) calendar days, refuse to cap or plug the well, or fail to submit the Well Plugging Form within one hundred eighty (180) calendar days, the District Manager shall send a letter notifying the well owner or operator that he is in violation of District rules and is therefore subject to a fine for each day the violation continues. An invoice assessing the cumulative amount of the fine will be sent to the well owner or operator. If the fine is not paid and the well is not closed within thirty (30) calendar days of receipt of the invoice, the District may instruct its attorney to bring legal proceedings to cause the open or uncovered, deteriorated, or abandoned well to be brought into compliance with the District rules, and to seek a judgment for the amount of the unpaid fine, which would place a lien on the land on which the well is located. The lien, if filed, will only be removed upon proper well closure and payment of the assessed fine. (Texas Occupations Code, Chapter 1901.256, (d) & (e) and Texas Water Code Chapter 36.118, (e)).

SECTION 17. AQUIFER STORAGE AND RECOVERY AND ADOPTION OF RULES GOVERNING BRACKISH PRODUCTION ZONES

RULE 17.1 AQUIFER STORAGE AND RECOVERY WELLS.

1. A project operator of an Aquifer Storage and Recovery project shall register the injection and recovery wells associated with the project with the District, and shall provide the District with all reports required to be submitted to TCEQ under Sections 27.155-.156 of the Texas Water Code.

2. No Permit Required. No Water Use Fee Imposed on Authorized Recovery. Except as provided by subsection (3) of this rule, no permit is required for the drilling, equipping, or operation of an Aquifer Storage and Recovery injection or recovery well authorized by TCEQ. Similarly, no water use fee or transport fee will be imposed on the volume of groundwater authorized by TCEQ to be recovered under an Aquifer Storage and Recovery project. The District may, however, assess a well registration fee or other similar administrative fee for an Aquifer Storage and Recovery well.

3. Exceeding Authorized Recovery Volume. If an Aquifer Storage and Recovery project recovers an amount of groundwater that exceeds the volume authorized by the TCEQ to be recovered under the project, the project operator shall immediately report to the District the volume of groundwater recovered that exceeds the volume authorized to be recovered in addition to providing the reports required by subsection (1) of this rule.

4. The recovery wells associated with an Aquifer Storage and Recovery project are subject to the District's spacing, permitting, metering, production and fee payment requirements if the amount of groundwater recovered from the wells exceeds the authorized volume to be recovered under the project. The District's spacing, permitting, metering, production and fee payment requirements only apply to the volume of groundwater recovered that exceeds the recovery volume authorized by the TCEQ.
5. Desired Future Conditions Planning. The District may consider hydrogeologic conditions related to the injection and recovery of water as part of an Aquifer Storage and Recovery project in the planning related to, and monitoring of the achievement of, a Desired Future Condition for the aquifer in which the injection and recovery wells associated with the project are located.

RULE 17.2 ADOPTION OF RULES FOR PERMITS IN BRACKISH GROUNDWATER PRODUCTION ZONES.

Upon receipt of a petition meeting the requirements of Section 36.1015, Texas Water Code, the District shall adopt rules governing the issuance of permits authorizing the completion and operation of a water well used for the withdrawal of brackish groundwater from a brackish groundwater production zone designated by the Texas Water Development Board, or its successor agency.