

RULES OF THE MID-EAST TEXAS GROUNDWATER CONSERVATION DISTRICT

Effective September 23, 2008

RULE REVISION RECORD

The history of each specific Rule is noted following that Rule.

Date Adopted/Repealed	Effective Date	Affected Rules
September 1, 2005	September 1, 2005	Original Adoption
August 28, 2008	September 23, 2008	Repeal of September 1, 2005 Rules
August 28, 2008	September 23, 2008	Original Adoption

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Rule 1: GENERAL PROVISIONS

1.1 Authority to Promulgate Rules

The Mid-East Texas Groundwater Conservation District (the District) is a political subdivision of the State of Texas. The District was created by the 77th Legislature (2001) through Senate Bill 2 [Act of May 27, 2001, 77th Leg., R.S., ch. 967, 2001 Tex. Gen. Laws 1991, 2055] and House Bill 1784 [Act of May 28, 2001, 77th Leg., R.S., ch. 1307, 2001 Tex. Gen. Laws 3199, 3205], subject to voter approval. Both Senate Bill 2 and House Bill 1784 give the District all of the rights, powers, privileges, authority, functions and duties provided under the general law of this state, including Texas Water Code Chapter 36, applicable to groundwater conservation districts created under Section 59, Article XVI, of the Texas Constitution. To the extent of any conflicts between the legislation creating the District, as the bill enacted later in time, House Bill 1784 prevails.

In an election held on November 1, 2002, District voters confirmed the creation of the District. As a duly created and confirmed groundwater conservation district, the District may exercise any and all statutory authority or power conferred under its Enabling Legislation and under Chapter 36 of the Texas Water Code, including the adoption and enforcement of rules under Section 36.101 Rule Making Power. All references to statutory provisions in these Rules are to those provisions as may be amended from time to time.

The District is located within Groundwater Management Area 12 and the Regional Water Planning Areas (C) and (H).

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

1.2 District Boundaries

The District includes all territory located within Leon, Madison, and Freestone counties.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

1.3 Purpose of the Rules

The District Rules are promulgated under its Enabling Legislation and the Texas Water Code Chapter 36 authority to make and enforce rules to provide for the conservation, preservation, protection, and recharge of

groundwater and aquifers within the District, while recognizing the ownership and rights of the owners of the land and their lessees and assigns in groundwater.

These Rules, and any orders, requirements, resolutions, policies, directives, standards, guidelines, groundwater management plan, or other regulatory measures implemented by the Board, have been promulgated to fulfill these objectives. These Rules may not be construed to limit, restrict, or deprive the District or Board of any exercise of any power, duty, or jurisdiction conferred by the District's Enabling Legislation, Texas Water Code Chapter 36, or any other applicable law or statute.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

1.4 Effective Date

These Rules and any amendment are effective on the effective dates indicated following each subsection.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

1.5 Action on Rules

A. The Board may from time to time, following notice and public hearing, amend or revoke these Rules or adopt new Rules following the procedures of Rule 8.1.

B. The Board may adopt an emergency Rule without prior notice or hearing, or with an abbreviated notice and hearing, according to Rule 8.2.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

1.6 Regulatory Compliance

All wells located within the District, owners of those wells, and others under the jurisdiction of the District, shall comply with all applicable Rules, orders, regulations, requirements, resolutions, policies, directives, standards, guidelines, or any other regulatory measures implemented by the District.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

1.7 Variances

Any exceptions or variances to the requirements imposed by District Rules shall be considered on a case-by-case basis and may apply to one or more wells. A request for variance shall be submitted in writing and include the reasons for the request. This Rule 1.7 is not applicable to a request for a variance from an operating permit requirement. A variance from any requirements contained in an operating permit requires an application for an amendment pursuant to Rule **8.10**.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

Rule 2: DEFINITIONS

In the administration of its duties, the District follows the definition of terms set forth in its Enabling Legislation, Texas Water Code Chapter 36, and the following, unless the context indicates a contrary meaning:

Abandoned Well - a well that has not been used for six consecutive months. A well is considered to be in use in the following cases:

- (1) a non-deteriorated well containing the casing, pump, and pump column in good condition; or
- (2) a non-deteriorated well which has been capped.

Acre-foot – the amount of water necessary to cover one acre of land one foot deep, or about 325,000 gallons.

Administratively Complete Application – a permit application received by the District that includes all documentation and fees required by Texas Water Code Sections 36.113 and 36.1131 and District Rules. In order for an application to be deemed administratively complete, it must include all administrative and technical information required by the District and there must be no unresolved compliance issues.

Agent – one who is authorized to act for or in place of another; a representative. For purposes of these Rules, this includes a person who reasonably appears to have authority to act for another, regardless of whether actual authority has been conferred.

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

Agricultural Use or Purpose – means the use of groundwater for:

- (1) cultivating the soil to produce crops for human food, animal feed, or planting seed or for the production of fibers;
- (2) practicing floriculture, viticulture, silviculture, and horticulture, including the cultivation of plants in containers or non-soil media, by a nursery grower;

- (3) raising, feeding, or keeping animals for breeding purposes or for the production of food or fiber, leather, pelts, or other tangible products having a commercial value;
- (4) planting cover crops, including cover crops cultivated for transplantation, or leaving land idle for the purpose of participating in any governmental program or normal crop or livestock rotation procedure;
- (5) engaging in wildlife management as defined in Texas Tax Code Section 23.51(7); and,
- (6) raising or keeping equine animals.

Annular Space – the space between the casing and borehole wall.

Aquifer – a geologic formation that will yield water to a well in sufficient quantities to make the production of water from this formation feasible for beneficial use.

Aquifer Mining or Groundwater Mining – a condition where the average available recharge of an aquifer or portion of an aquifer is less than the annual production from that aquifer or that portion of that aquifer. For purposes of these Rules, the terms “aquifer overdrafting,” “reduction of artesian pressure,” “subsidence,” and the “drawdown of the water table or aquifer” shall mean aquifer mining.

Artesian Pressure – where water is confined in an aquifer under pressure so that the water will rise in the well casing or drilled hole above the bottom of the confining bed overlying the aquifer.

Beneficial Use – the use of groundwater for:

- (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.

Board – the Board of Directors of the Mid-East Texas Groundwater Conservation District.

Cap – covering on a well capable of preventing surface pollutants from entering the well and sustaining a weight of at least 400 pounds and constructed in such a way that the covering cannot be easily removed by hand.

Casing – a watertight pipe installed in an excavated or drilled hole, temporarily or permanently, to maintain the hole sidewalls against caving; to advance the borehole; in conjunction with cementing and/or bentonite grouting, to confine groundwater to its respective zones of origin; and to prevent surface contaminant infiltration.

- (1) Plastic casing--National Sanitation Foundation (NSF-WC) or American Society of Testing Material (ASTM) F-480 minimum SDR 26 approved water well casing.
- (2) Steel Casing--New ASTM A-53 Grade B or better with a minimum weight and thickness of American National Standards Institute (ANSI) schedule 10.
- (3) Monitoring wells may use other materials, such as fluoropolymer (Teflon), glass-fiber-reinforced epoxy, or various stainless steel alloys.

Certificate of Registration – the certificate issued under Rules 8.1 and 8.2 by the District to show that an existing exempt well has been registered and is authorized to operate or to authorize the drilling and operation of a new exempt well.

Chapter 36 – means Chapter 36 of the Texas Water Code, as amended.

Closed Loop Geothermal Well – a vertical closed system well used to circulate water and other fluids or gases through the earth as a heat source or heat sink.

Commercial Use or Purpose – the use of groundwater to supply water to properties or establishments that are in business to build, supply or sell products, or provide goods, services or repairs and that use water in those processes, or to supply water to the business establishment primarily for employee and customer conveniences (i.e. flushing of toilets, sanitary purposes, or limited landscape watering).

Community Water System – a public water system that has the potential to serve at least 15 residential connections on a year-round basis or serves at least 25 residents on a year-round basis.

Complaint Under Texas Water Code § 36.119 – a written complaint filed pursuant to Rule 7.1 by an aggrieved party citing to Texas Water Code §36.119 alleging drilling or operating a well without a required permit or producing groundwater in violation of a District Rule adopted under Texas Water Code §36.116(a)(2).

Completion or Complete – sealing 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. Same as surface completion.

Conservation – 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.

Contested Case Hearing – a permit hearing requested as authorized by Rule 14.5.I, which is noticed and conducted according to the procedures of Rule 14.6.

Dewatering well – an artificial excavation that is constructed to produce groundwater to lower the water table or potentiometric surface and that is not used to produce or to facilitate the production of minerals under a state regulatory program.

Deteriorated Well – a well that, because of its condition, will cause or is likely to cause pollution of any water in the State, including groundwater.

Director – an appointed member of the Board of Directors of the District.

Discharge – the volume of water that passes a given point within a given period of time. The amount of water that leaves an aquifer by natural or artificial means.

District – the Mid-East Texas Groundwater Conservation District (METGCD) or one of its authorized representatives.

District Office – the office of the District as established by resolution of the Board.

Domestic and Livestock Public Water Supply System – for purposes of setting production limits under Rule 6.3.E, a community water system, retail water utility, or retail public water utility providing water service solely or substantially solely for domestic use and/or for consumption by livestock or poultry.

Domestic Use or Purpose – use of groundwater by a residence (not a business or other commercial structure) to support essential domestic activity, including but not limited to: uses inside the residence; irrigation of lawns, flower beds, shrubs, trees shading the residence, or of a garden or orchard that produces vegetables and fruit for consumption within the residence and not for sale; and protection of foundations.

Drill – drilling, equipping, completing wells, or modifying the size of wells or well pumps/motors (resulting in an increase in production volume capability) whereby a drilling or service rig must be on location to perform the activity.

Emergency Rule – a rule adopted under Rule 14.3.

Enabling Legislation – special law enactments that created the District, as summarized in Rule 1.1, and as may be amended from time to time.

Enforcement Action – an action taken by the District to enforce District Rules, orders, or permits, or any other law within its enforcement authority.

Enforcement Hearing – a hearing held under Rule 14.7.

Exempt Well – a well exempted under Rule 8.9 for which the owner is not required to obtain an operating permit.

Existing Water Well – a water well located within the District that was drilled and properly completed on or before September 23, 2008.

Export of Groundwater – see definition of Transport of Groundwater.

Fees – charges imposed by the District pursuant to Texas Water Code Chapter 36 and the District's Enabling Legislation.

Groundwater or Underground Water – water percolating beneath the earth's surface.

Groundwater Management Plan – a management plan developed by the District pursuant to Texas Water Code Section 36.1071.

Groundwater Production Rights – right by contract, lease or ownership to produce water from an identified surface acreage.

Groundwater Reservoir – a specific subsurface water-bearing reservoir having ascertainable boundaries and containing groundwater.

Hearings Body or Hearings Board - the Board, any committee of the Board, or a Hearings Officer at any hearing held under District Rules.

Hearings Officer – a person appointed by the Board to conduct a hearing on a permit, rule, or enforcement action.

Industrial Use or Purpose – use of groundwater primarily in the building, production, manufacturing, or alteration of a product or goods, or to wash, cleanse, cool, or heat such goods or products.

Investigation Report – a report prepared by the District summarizing its investigation of a possible violation of law and making a recommendation to the Board regarding any further action.

Irrigation Use or Purpose – use of groundwater to supply water for application to plants or land in order to promote growth of plants, turf, or trees, other than for domestic use or purpose.

Livestock Use or Purpose – use of groundwater to provide water to domesticated horses, cattle, goats, sheep, swine, poultry, ostriches, emus, rheas, exotic deer and antelope, and other similar animals involved in farming or ranching operations. 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 although providing water to such pets may be considered domestic use when associated with a residence.

Meter – a water flow measuring device that can accurately record the amount of water produced during a measured time.

Monitor or Monitoring Well – an artificial excavation constructed to measure or monitor the quality and/or quantity or movement of substances, elements, chemicals, or fluids beneath the surface of the ground. Included within this definition are piezometer wells, observation wells, and recovery wells. The term shall not include any well that is used in conjunction with the production of oil, gas, coal, lignite, or other minerals.

New Water Well – a well that is drilled or properly completed after September 23, 2008 or an existing well that has been substantially altered after September 23, 2008.

Non-exempt Well – all wells that are not exempt under Rule 8.9 from obtaining an operating permit. The owner of a non-exempt well is required to obtain an operating permit under Rule 8.2.

Notice of Violation (NOV) – written correspondence from the District notifying a person that they are in violation of law, including violation of a District Rule, Order, or permit or other law within the District's enforcement authority.

Open Meetings Act – chapter 551, Texas Government Code.

Open Well - a non-deteriorated well that is open at the surface. This includes a well that is left unattended without a pump installed or with the pump removed.

Operating Permit – authorization issued under Rule 8.4, which is required to drill and operate within the District a non-exempt well, as defined in this Rule 2.

Owner – a person who has the right to produce groundwater from the land, either by ownership, contract, lease, easement, or any other estate in the land.

Party in Contested Case Hearing – an applicant or other person defined under Rule 14.5.I.

Permit Amendment – a District approved change in an operating permit under Rule 8.10.E.

Permitted Well – a well for which an operating permit under Rule 8.4 has been issued by the District.

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

Piezometer Well – a well of a temporary nature constructed to monitor well standards for the purpose of measuring water levels or used for the installation of a piezometer (a device constructed and sealed to measure

hydraulic head at a point in the subsurface) resulting in the determination of locations and depths of permanent monitor wells.

Plugging – an absolute sealing of the well bore, resulting in the permanent closure of a well in accordance with approved State and District standards.

Pollution – the alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water that renders the water harmful, detrimental, or injurious to humans, animals, vegetation, or property, or to public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any reasonable purpose.

Pollution Source – a person, business, corporation, industry, operation, activity, or event, whether intentional or unintentional that causes, allows, or enables contaminants to be discharged to the environment, thereby causing pollution.

Potable Water – water that is suitable for human consumption, or can be made suitable for human consumption by primary filtration or chemical disinfection. Potable water must comply with Maximum Contaminant Levels (MCL) or Secondary Constituent Levels, as defined in Title 30 Texas Administrative Code Chapter 290.

Presiding Officer – The individual designated to preside during a meeting or during a hearing on a permit, rule, or enforcement action. See also Hearings Board and Hearings Officer.

Production Capability – the volume of water a well can produce as determined by either the rated pumping capability of the installed pump or as determined by the District.

Production Fee – same as Water Use Fee.

Public Water Supply Well – A well that produces the majority of its water for use by a public water system as defined in 30 Texas Administrative Code §290.38(47).

Public Water System – a system as defined in 30 Texas Administrative Code Chapter 290 for providing water for human consumption to the public.

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

Recharge– the amount of water that infiltrates to the water table of an aquifer.

Recovery Well – a well constructed for the purpose of recovering undesirable groundwater for treatment or removal of contamination.

Respondent – an individual who receives a Notice of Violation or other correspondence from the District regarding the individual’s non-compliance with District Rules or other law within the District’s enforcement authority.

Retail Water Utility or Retail Public Water Utility – as defined by Texas Water Code Section 13.002 and 30 Texas Administrative Code Section 291.3, any person, corporation, public utility, water supply corporation, municipality, political subdivision or agency operating, maintaining, or controlling within the District facilities for providing potable water service for compensation.

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

Sealing a well – placing an official seal, tag, or label on a well or its equipment, to indicate that further pumping of groundwater, or operation of the well is unauthorized and will be in violation of District Rules.

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

State of Texas Plugging Report - the report that a person who plugs a well is required to complete under 16 Texas Administrative Code Section 76.700(2).

State of Texas Well Report – the report that every well driller who drills, completes, deepens, or alters a well is required to complete under the Texas Department of Licensing and Regulation Rules, as defined in 16 Texas Administrative Code Sections 76.10 and 76.700(1). Also commonly referred to as the driller’s log.

Subdivision – a tract or parcel of land for which a plat is required in accordance with Chapter 232 of the Texas Local Government Code.

Substantial Alteration of a Well – to change the physical or mechanical characteristics of a well, its equipment, production capabilities, or its purpose or location of use of the water produced in a way that may impact the level of fees the well is subject to or may impact whether an

operating permit or amendment to an operating permit is required. This does not include repair of well equipment, well houses or enclosures, or replacement with comparable equipment.

Test Well – a well drilled to explore for groundwater.

Transfer of Groundwater – see definition of Transport of Groundwater.

Transport of Groundwater – transferring or moving water outside the District without regard to the manner the water is transferred or moved, including but not limited to discharges into water courses. The same as transfer or export of groundwater.

Transport Permit – an authorization issued by the District allowing the transport of a specific quantity of groundwater outside the District for a designated time period. All applicable permit rules apply to transport permits.

Variance – an exception to requirements or provisions of the Rules granted by the District as authorized under District Rules.

Waste –

- (1) The withdrawal of groundwater from a groundwater reservoir at a rate and in an amount that causes or threatens to cause intrusion into the reservoir of water unsuitable for agricultural, gardening, domestic, or stock raising purposes.
- (2) The flowing or producing of wells from a groundwater reservoir if the water produced is not used for a beneficial purpose.
- (3) The escape of groundwater from one groundwater reservoir to any other reservoir or geologic strata that does not contain groundwater.
- (4) The 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 road 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 "Water Quality Control".

- (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) Unless the water from an artesian well is used for a purpose and in a manner in which it may be lawfully used on the owner's land, it is waste and unlawful to willfully cause or knowingly permit the water to run off the owner's land or to percolate through the stratum above which the water is found.
- (8) Drilling or operating a well or wells without a required permit or producing groundwater in violation of a District Rule adopted under Texas Water Code § 36.116(a)(2).

Water Table – the upper boundary of the saturated zone in an unconfined aquifer.

Water Use Fee – a fee authorized under the District's Enabling Legislation and required under Rule 9.1. Also referred to as Production Fee.

Well – an excavation drilled or dug into the ground that may intercept or penetrate a water-bearing stratum or formation.

Well Pumps and Equipment – devices and materials used to obtain water from a well, including the seals and safeguards necessary to protect the water from contamination.

Well Owner or Well Operator – the person who owns the land where a well is located or is to be located or the person who operates a well or a water distribution system supplied by a well.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

Rule 3: REPORTING AND RECORDKEEPING

3.1 Well Drilling, Completion, and Water Data Reporting

- A.** Within 60 days from (1) the cessation of drilling, for a well that will not be completed; (2) completion; (3) deepening; or (4) otherwise altering a well, a copy of the State of Texas Well Report to the District shall be submitted to the District by the water well driller.
- B.** All geophysical or lithological well logs shall be submitted to the District within 60 days from the date the log is run.
- C.** All pump test data, water level data, water quality data, or any other data pertinent to a well shall be submitted to the District within 60 days after the data are compiled.
- D.** The well owner and the well owner's agent, such as the water well driller or hydrologist, are equally responsible for compliance with this Rule 3.1.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

3.2 Annual Water Use Report

The production from all wells required under Rule 8.2 to obtain an operating permit must be metered using a device or an approved method that is within plus or minus 5% of accuracy, installed at the well owner's expense. The well owner shall keep a record of monthly water production. Calendar year annual water use shall be reported to the District prior to March 1st of the following year, unless the District imposes alternate recordkeeping and reporting requirements in the operating permit for the well.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

3.3 Water Transported Out of the District

When water from a well is being transported out of the District under a transport permit, the annual water use report required by Rule 3.2 must show the amount of water transported out of the District and the amount of water used inside the District.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

3.4 Plugging Report

Within 30 days after plugging the well, the person plugging the well shall submit to the District a copy of the State of Texas Plugging Report. The well owner and the well owner's agent are equally responsible for compliance with this requirement.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

3.5 Monitoring Well Report

The following water quality data shall be obtained for each monitoring well and submitted to the District:

A. Semi-annually, a water analysis for chloride, conductivity, fluoride, iron, nitrate (as nitrogen), manganese, pH, sulfate, total hardness, total dissolved solids, total coliform bacteria, calcium, carbonate/bicarbonate, and magnesium. Conductivity and pH values may be measured in the field. The other constituents shall be analyzed in a State approved laboratory. The data from the analysis performed during January are due on March 1st and the data from the analysis performed during July are due on September 1st.

B. Semi-annually, one depth to water measurement. This report is due at the same time as the report required in Rule 3.5.A.

C. Copies of all water quality sampling results done for any purpose. These data are due within 60 days after the results are compiled.

D. The well owner and the well owner's agent, such as the person performing the sampling, are equally responsible for compliance with this Rule 3.5.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

3.6 Water Wells Used in Oil & Gas Exploration and Drilling

The production from all wells exempted under Rule 8.9.B from obtaining an operating permit shall be recorded using a meter or other reliable water measuring device. The meter or device shall be installed at the operator's expense. Exceptions to this requirement may be granted through the variance process as long as the operator can demonstrate an alternate method of determining and recording monthly water

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production. The operator shall keep a record of monthly water production. The monthly water production records shall be submitted to the District on an annual basis on January 15th of each year for the previous 12 months, or within 15 days of discontinuation of the well for this use, whichever is earlier. For purposes of this Rule 3.6, the well operator is the person holding the Railroad Commission oil or gas permit as described in Texas Water Code §36.117(b)(2).

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

Rule 4: WATER WELLS ASSOCIATED WITH OIL, GAS, AND MINING ACTIVITIES

4.1 District Jurisdiction Over Water Wells Associated with Oil, Gas, and Mining Activities

The District has authority over water wells used to supply water for activities related to the exploration or production of hydrocarbons or minerals.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

4.2 District Jurisdiction Over Water Wells Permitted by the Railroad Commission of Texas

A. Under § 4.07(a) of the District Enabling Legislation, a water well drilled or operated under a permit issued by the Railroad Commission of Texas is under the exclusive jurisdiction of the Railroad Commission and is exempt from regulation by the district, except as provided in Rules 4.2.B – D. The following wells require a permit issued by the Railroad Commission:

- (1) All wells associated with surface coal mining.
- (2) An injection water source well associated with oil and gas activities that penetrate the base of usable quality water.

B. Groundwater produced in an amount authorized by a Railroad Commission permit may be used within or exported from the District without obtaining an operating permit under Rule 8.2 or transfer permit under Rule 10.1.

C. To the extent groundwater is produced in excess of Railroad Commission authorization, the holder of the Railroad Commission permit must apply to the District for the appropriate permit for the excess production and is subject to the applicable regulatory fees.

D. Groundwater produced from a well under the jurisdiction of the Railroad Commission is generally exempt from District fees. However, the District may impose either a water use fee or an export fee on groundwater produced from an otherwise exempt mine well that is used for municipal purposes or by a public utility. Any fee imposed by the District under this subsection may not exceed the fee imposed on other groundwater producers in the District.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

4.3 Water Wells Associated With Oil And Gas Activities

A. Temporary Rig Supply Wells

- (1) No permit is required for the drilling of a water well used solely to supply water for a rig that is actively engaged in drilling or exploration operations for an oil or gas well permitted by the RRC if:
 - (a) Person holding RRC permit for the drilling rig is responsible for drilling and operating the water well.
 - (b) The water well is located on the same lease or field associated with the drilling rig.
- (2) In this Rule 4.3, a rig that is actively engaged in drilling or exploration operations for an oil or gas well permitted by the Railroad Commission includes a drilling or workover rig. Exploration operations include well completion and workover, including hydraulic fracturing operations.
- (3) A well described in Rule 4.3.A.1 and 2 is referred to as a temporary rig supply well.
- (4) A temporary rig supply well must register with the District as provided in Rule 8.1.
- (5) A temporary rig supply well must comply with the well construction standards as provided in Rule 12.
- (6) The driller of a temporary rig supply well must submit to the District the drilling log as provided in Rule 3.1.A.

- (7) The production from a temporary rig supply well shall be recorded using a meter or other reliable water measuring device, installed at the operator's expense. Exceptions to this requirement may be granted through the variance process as long as the well owner can demonstrate an alternate method of determining and recording monthly water production. Monthly water use shall be reported annually to the District as provided in Rule 3.2.
- (8) A temporary rig supply well shall be plugged in accordance with Rule 7.1.

B. Injection Water Source Well Permitted by Railroad Commission

- (1) A permit from the Railroad Commission is required for an injection water source well associated with oil and gas activities that penetrates the base of usable quality water.
- (2) As provided in Rule 4.2.A, the District has no authority over an injection water source well permitted by the Railroad Commission.

C. Other Water Wells Associated with Oil and Gas Activities

- (1) A rig supply well that does not fall or no longer falls under the definition of a temporary rig supply well in this Rule 4.3.A, must comply with all District Rules and must obtain an operating permit under Rule 8.
- (2) An injection water supply well drilled for hydrocarbon activities associated with an oil or gas well drilled after September 1, 1985 that does not penetrate the base of usable quality water must comply with all District Rules and must obtain an operating permit under Rule 8.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

4.4 Water Wells Associated With Coal Mining Activities

The District has no authority over a water well associated with the mining of coal under Texas Natural Resources Code chapter 134, except to the extent provided in Rule 4.2, because such wells are drilled and operated under a permit issued by the Railroad Commission of Texas

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

Rule 5: WELL LOCATION AND SPACING

5.1 Preamble

The purpose of these well spacing requirements is to promote groundwater conservation, provide for long-term availability of groundwater resources, reduce localized depletion of groundwater, prevent interference between wells, and prevent the degradation of groundwater quality.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

5.2 Applicability

The requirements of this Rule 5 apply to all wells drilled within the District unless specifically noted. As authorized by Texas Water Code Section 36.116, some of the required distances are more stringent than those required by 16 Texas Administrative Code Section 76.1000, as amended.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

5.3 Authorized Well Location

After a certificate of registration or an operating permit has been issued, the well must be drilled within 10 yards (30 feet) of the location specified in the certificate of registration or operating 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.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

5.4 Determining Distances of a Tract Bordered By a Public Roadway

In determining the minimum distances set out in this Rule 5, it is permissible to use the centerline of a public roadway to calculate the distance required for the setback of a tract bordered by such a roadway.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

5.5 Spacing from Potential Sources of Pollution

A. All wells must comply with the location standards of 16 Texas Administrative Code § 76.1000 and with the minimum required separation distance for on-site sewage facilities of 30 Texas Administrative Code §285.91(10), which dictate horizontal distance from potential sources of pollution. Section 76.1000 excludes monitoring wells, environmental soil borings, dewatering wells, piezometer wells, and recovery wells from these requirements. Such wells may be located where necessity dictates.

B. Public Water Supply Wells must comply with the 150-foot sanitary control easements as required by Title 30 Texas Administrative Code Chapter 290.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

5.6 Spacing From Property Lines and Other Wells

A. All new wells shall be located a minimum horizontal distance from existing wells and property lines as required by 16 Texas Administrative Code Section 76.1000, unless covered by the more stringent spacing requirements of this Rule 5.6.

B. All new water wells shall be located a minimum horizontal distance from existing water wells as specified in 5.6.D.

C. Except as provided in Rule 5.7, the following spacing restrictions apply for a new well.

- (1) No closer than 50 feet from the property line of any adjoining landowner.
- (2) Non-exempt wells capable of producing at a rate up to and including 500 gpm and completed in the Carrizo-Wilcox, Queen City-Sparta, or Yegua-Jackson sands shall be spaced a minimum of 1,000 feet from any other well completed in the same sands.
- (3) Non-exempt wells capable of producing at a rate in excess of 500 gpm and completed in the Carrizo-Wilcox, Queen City-Sparta, or Yegua-Jackson sands shall be spaced a minimum of 1,500 feet from any other well completed in the same sands.

- (4) The required spacing for all other non-exempt wells completed in other aquifers in the District will be considered on a case-by-case basis.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

5.7 Variance to Spacing Requirements

A. The owner of a proposed new water well who, due to the peculiarities of the property shape or the local geology or hydrology, may need to locate a well closer than the spacing requirements of Rule 5.6 may apply for a variance.

B. The spacing required by Rule 5.6.C (2) and (3) may be reduced or increased by the Board as provided in this Rule 5.7, upon demonstration either that such spacing is overly protective of neighboring wells or is insufficiently protective of neighboring wells.

C. If the applicant presents waivers signed by the adjoining landowner(s) stating that they have no objection to the proposed location of the well site, the spacing requirements of 5.6.C will not apply to the new well location. Copies shall be submitted with the application for a variance to the District office prior to drilling the proposed water well. Such a waiver or easement will affect drilling options on the property of the owner granting it by causing the distance requirements from property lines and between water wells to be adjusted inward on the property for which the waiver is granted. The District shall not accept reciprocal waivers or easements from adjoining property owners if the waivers or easements would involve the same portion of the adjoining properties.

D. Providing an applicant can show good cause why a new well should be allowed to be drilled closer than the required spacing of Rule 5.6.C (2) and (3), the issue of spacing requirements will be considered at a contested case hearing. If the Board chooses to grant an operating permit for a well location that does not meet the spacing requirements, the Board may limit the production of the well to ensure no injury is done to the adjoining landowners or the aquifer.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

Rule 6: PRODUCTION LIMITS

6.1 Preamble

Rule 6 limits the production of groundwater as authorized by the District's Enabling Legislation and Texas Water Code Sections 36.101 and 36.116. This method of limiting groundwater is appropriate based on the hydrogeologic conditions of the aquifers in the District and is consistent with the District's comprehensive Groundwater Management Plan developed and adopted under Texas Water Code Section 36.1071.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

6.2 Production Limits for All Wells Requiring an Operating Permit

The District shall set production limits on all wells requiring an operating permit under Rule 8 on a case-by-case basis during the permitting process set out in Rule 8. These production limits shall be established on the basis provided in Rule 6.3.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

6.3 Setting Production Limits

A. To minimize as far as practicable the drawdown of the water table or the reduction of artesian pressure, to prevent interference between wells, to prevent degradation of water quality, or to prevent waste, the district by rule will regulate the production of groundwater.

B. The production limit for a well requiring an operating permit shall be set at an annual amount that the District determines does not unreasonably affect existing groundwater and surface water resources or existing permit holders.

C. In no event will the annual production amount exceed three acre feet per year per acre of surface area designated in the application as production area for the well.

- (1) The production area designated in the application must be owned by the applicant or must be area in which the applicant has acquired groundwater production rights.

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- (2) The production area may not include the production area assigned to any other well.

D. Production limits shall apply in applications for new wells and applications to increase production from existing wells.

E. In determining the annual production limit for a Domestic and Livestock Public Water Supply System well, the service area of the community water system or utility is considered the production area.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

Rule 7: PLUGGING, CAPPING, AND SEALING OF WELLS

7.1 Plugging Wells

A. Not later than the 180th day after the date a landowner or other person who possesses a deteriorated or abandoned well learns of its condition and location, the well shall be plugged in accordance with the Rules of the Texas Department of Licensing and Regulation, 16 Texas Administrative Code, Chapter 76, as amended. It is the responsibility of the landowner to ensure that such a well is plugged in order to prevent pollution of the groundwater and to prevent injury to persons. Not later than the 30th day after the date the well is plugged, a State of Texas Plugging Report shall be submitted to the District as required by Rule 3.4.

B. If the owner fails to plug the well in compliance with State law, the District may:

- (1) following the procedures of Rule 15.6, go on the land and plug the well. Reasonable expenses incurred by the District in plugging a well constitute a lien on the land on which the well is located pursuant to Texas Water Code Section 36.118; or
- (2) as authorized by Texas Occupations Code, Section 1901.256, otherwise enforce Texas Occupations Code Section 1901.255 related to landowners having an abandoned or deteriorated well located on their property.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

7.2 Capping Wells

A well that is open at the surface in a non-deteriorated condition must be capped to prevent waste, pollution, or prevent deterioration. The well shall remain capped until conditions that led to the capping are eliminated. If the owner fails to cap the well in compliance with District Rules, the District may do so. Reasonable expenses incurred by the District in capping a well constitute a lien on the land on which the well is located pursuant to Texas Water Code Section 36.118.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

7.3 Sealing Wells

A. Following the procedure of Rule 14.7, the District may require the sealing of a well that is in violation of District Rules or that the District has prohibited from producing groundwater.

B. If the District believes that continued operation of a well may cause a threat of imminent endangerment to human health, safety, or the environment, the District may require the sealing of a well on an emergency basis. In such a case, the District shall provide an opportunity for notice and hearing under Rule 14.7 no later than the next regularly scheduled Board meeting.

C. If the District requires the sealing of a well and the owner fails to seal the well, the District may seal the well following the procedures of Texas Water Code Section 36.123 and Rule 15.6.

D. A well shall be sealed by physical means and tagged to indicate that the well has been sealed as required by the District. The seal is intended to preclude operation of the well and identify unauthorized operation of the well.

E. Tampering with, altering, damaging, removing, or violating the seal of a sealed well in any way, or pumping groundwater from a well that has been sealed constitutes a violation of District Rules and subjects the person who performs that action, as well as the well owner to enforcement under District Rules.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

Rule 8: REGISTRATION AND PERMITTING

8.1 Registration of Exempt Wells

A. Existing Water Wells

- (1) An existing water well is a well located within the District that was drilled and properly completed on or before September 23, 2008.
- (2) All existing water wells, as defined in Rule 2, which are exempt under District Rule 8.9 from the requirement of obtaining an operating permit shall be registered with the District.
- (3) The well owner shall file with the district on a form obtained from the District an application for a certificate of registration.
- (4) After review and the determination by the General Manager that the well qualifies as an exempt well, the District will issue a certificate of registration.
- (5) Changes to the well or its operation may change the status of the well under Rule 8.9.

B. New Water Wells

- (1) A new water well is a water well that is drilled or properly completed after September 23, 2008 or an existing well that has been substantially altered after September 23, 2008.
- (2) All new water wells, as defined in Rule 2, which are exempt under District Rule 8.9 from the requirement of obtaining an operating permit, shall be registered with the District.
- (3) Prior to drilling the well, the owner shall apply for a certificate of registration on a form obtained from the District.
- (4) After review and the determination by the General Manager that the well qualifies as an exempt well and that its proposed location complies with the minimum spacing distances of Rule 5, the District will issue a certificate of registration, which will allow the owner to commence drilling and production.

- (5) Changes to the well or its operation may change the status of the well under Rule 8.9, requiring the owner to obtain an operating permit under Rule 8.2.B.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

8.2 Operating Permits for Non-Exempt Wells

A. Operating Permits for Existing Wells

- (1) All existing non-exempt wells, as defined in Rule 2, shall obtain an operating permit as described in this Rule 8.2.A.
- (2) The owner shall submit to the District an operating permit application on a form obtained from the District.
- (3) Once the owner has submitted the application and all required information and the General Manager has deemed the application administratively complete, the application will be referred to the Board for consideration.
- (4) An operating permit shall require installation of a meter or other reliable water measuring device. It shall specify the authorized annual maximum groundwater production from the well as provided by Rule 6 and the expiration date as provided in Rule 8.5. It shall identify the owner of the well, the state or temporary well number, and the purpose of use permitted. It shall include the water use fee, if required under Rule 9.1, and any other special conditions.

B. Operating Permits for New Wells

- (1) Prior to drilling, all new non-exempt wells, as defined in Rule 2, shall obtain an operating permit as described in this Rule 8.2.B.
- (2) The owner shall submit to the District an operating permit application on a form obtained from the District, which shall include the information listed in Rule 8.3.
- (3) Once the owner has submitted the application and all required information and the General Manager has deemed the application administratively complete, the application will

be referred to the Board for consideration, as provided in Rule 14.4.

- (4) An operating permit shall require installation of a meter or other reliable water measuring device. It shall specify the authorized annual maximum groundwater production from the well as provided by Rule 6 and the expiration date, as provided in Rule 8.5. It shall identify the owner of the well, the state or temporary well number, and the purpose of use permitted. It shall include the water use fee, if required under Rule 9.1, and any other special conditions.
- (5) Unless otherwise specified by the Board, drilling must commence within 180 days after issuance of the operating permit, unless an extension is granted for good cause.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

8.3 Applications for Operating Permits for New Wells

A. An application for an operating permit for a new well shall be submitted to the District on a form obtained from the District. There shall be one application for each well.

B. An application shall be in writing and sworn and shall include:

- (1) The name and mailing address of the applicant and the name and address of the owner of the land, if different from the applicant, on which the well is to be located;
- (2) If the applicant is not the owner of the property, documentation establishing the applicable authority to construct and operate a well on the owner's property for the proposed use;
- (3) A statement of the nature and purpose of the proposed use and the amount of water to be used for each purpose;
- (4) The availability of feasible and practicable alternative supplies;
- (5) Except for wells not capable of producing more than 250 gallons per minute, the projected effect of the proposed withdrawal on the aquifer or any other aquifer conditions,

depletion, subsidence, or effects on existing permit holders or other groundwater users in the district; in the case of wells capable of producing over 500 gallons per minute, a report by a professional engineer shall be submitted to evaluate these factors;

- (6) The proposed location of the well(s) and the estimated rate at which water will be withdrawn and where the water is proposed to be used;
- (7) A declaration that the applicant will comply with well plugging guidelines and report closure to the applicable authorities, including the district;
- (8) The name and contact information of the well driller, including the well driller's license number; and,
- (9) The requested annual production amount as provided in Rule 6 and acceptable evidence that supports issuance of an operating permit authorizing that production amount.
- (10) The name and address of adjacent landowners and proof that notice of the application was mailed to them by certified mail, return receipt requested. The notice must be approved by the District prior to mailing.

C. Administrative Completeness of Application

- (1) In order to adequately address the purposes and requirements of Texas Water Code Chapter 36 and District Rules, the District may require further clarification or additional documentation from the applicant.
- (2) The applicant shall be notified when the application is reviewed by the General Manager and deemed administratively complete.
- (3) No application shall be deemed administratively complete if the applicant has unpaid fees or has unresolved compliance issues with the District.
- (4) If an application remains administratively incomplete for more than 180 days following either the original application date or the date that the District notified the applicant of the

need to submit additional clarification or documentation, the application shall expire.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

8.4 Decision and Issuance of Operating Permits

A. The District shall promptly act on each administratively complete application for an operating permit.

B. Within 60 days after the date an operating permit application or application to amend an operating permit is determined to be administratively complete, the application shall be referred to the Board in accordance with the provisions of Rule 14.4.

C. The Board shall be guided by the District Enabling Legislation, these Rules and Chapter 36, Texas Water Code, in consideration of each application. The Board shall consider the following, which include the considerations required by Texas Water Code Section 36.113(d):

- (1) Does the application conform to the requirements of Chapter 36 and these Rules?
- (2) Does the proposed use of water unreasonably affect existing groundwater and surface water resources or existing permit holders?
- (3) Is the proposed use of water considered "beneficial use"?
- (4) Is the proposed use of water consistent with the District's approved water management plan?
- (5) Has the applicant agreed to avoid waste and achieve water conservation?
- (6) Will the conditions and limitations in the permit prevent waste, achieve water conservation, minimize as far as practicable the drawdown of the water table or the reduction of artesian pressure, or lessen interference between wells?
- (7) Has the applicant agreed to use reasonable diligence to protect groundwater quality?

- (8) Has the applicant agreed to follow the District's rules on well plugging at the time of well closure?
- (9) Are the applicant and the well in compliance with all District rules and have all required fees been paid?
- (10) Does the application support authorization of the requested annual production amount?
- (11) What is the quality, quantity, and availability of alternative water supplies?

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

8.5 Operating Permit Term

Operating permits issued by the District are valid for a period of 5 years, unless otherwise specified by the District as a special permit condition. Such a special permit condition may include the need for additional data regarding the impact of the well on the aquifer or surrounding wells. The District reserves the authority to adopt, revise, and supersede rules applicable to wells subject to an operating permit.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

8.6 Aggregation of Withdrawal

In issuing an operating permit, the authorized withdrawal for a given well may be aggregated with the authorized withdrawal from other permitted wells designated by the District. Applicable spacing requirements and production allowances will be considered in determining whether or not to allow aggregation of withdrawal. For the purpose of categorizing wells by the amount of groundwater production, where wells are permitted with an aggregate withdrawal, the total authorized withdrawal will be assigned to the wells in aggregate, rather than allocating to each well its pro rata share of production. This will allow a well owner, with a number of water wells that supply a single well system, to apply for an operating permit for the well system without being required to apply for a separate operating permit for each individual well.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

8.7 Operating Permit Provisions

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All operating permits are granted subject to District Rules, orders of the Board, and Chapter 36 of the Texas Water Code. In addition to any special provisions or other requirements included in the operating permit, each operating permit must contain the following standard permit provisions:

- A.** This permit is granted in accordance with District Rules and acceptance of this permit constitutes an acknowledgment and agreement that the permittee will comply with the terms, conditions and limitations set forth in this permit, as well as the District Rules.
- B.** The operation of the well for the authorized withdrawal must be conducted in a non-wasteful manner.
- C.** Withdrawals must be metered by the owner using a device or an approved method that is within plus or minus 5% of accuracy. An annual water use report shall be submitted as required by District Rule 3.2.
- D.** 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, which will be conducted according to District Rule 15.6.
- E.** 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.
- F.** Violation of this permit's terms, conditions, requirements, or special provisions, including pumping amounts in excess of authorized withdrawal may subject the permittee to an enforcement action under District Rule 15.
- G.** The permittee will use reasonable diligence to protect groundwater quality and will follow well plugging guidelines at the time of well closure.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

8.8 Emergency Authorization to Drill and Operate a Well

If necessary to prevent an imminent threat to public health or safety, the General Manager may grant an emergency authorization to drill and operate either an exempt or non-exempt well. The applicant for such authorization must show that there is an imminent threat to public health or safety, that no suitable alternative source is immediately available to the applicant, and that an emergency need for groundwater exists. An emergency authorization may be issued without notice or hearing.

Within 90 days of issuance of an emergency authorization, the well owner shall apply for a certificate of registration or operating permit. Such application will be processed according to Rule 8.1 or 8.2, as applicable. If no registration application (exempt well) or operating permit application (non-exempt well) is received by the District within that 90 day period, the emergency authorization will expire.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

8.9 Wells Exempt From Obtaining an Operating Permit

The following wells are exempt from obtaining an operating permit. If any of the well conditions are changed so that the well no longer qualifies for the exemption, it must obtain an operating permit.

A. A well used solely for domestic use, for providing water to livestock, poultry, or wildlife if the well is drilled, completed, or equipped so that it is incapable of producing more than 50,000 gallons per day, unless the well will be used to supply water for a subdivision of land for which a plat approval is required by Chapter 232, Local Government Code.

B. A well used solely to supply water for a rig that is actively engaged in drilling or exploration operations permitted by the Railroad Commission of Texas:

- (1) Provided that the person holding the permit is responsible for drilling and operating the water well; and
- (2) The well is located on the same lease or field on which the drilling rig is located or is in close proximity to the drilling rig.

C. A well authorized under a permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code, or for production

from such a well to the extent the withdrawals are required for mining purposes regardless of any subsequent use of the water.

D. A well drilled and completed solely for purposes of aquifer testing, including a test well, or for monitoring water levels or water quality, as long as the well is used solely for those purposes.

E. A well whose production is used wholly or substantially wholly for growing plants in a greenhouse operation and/or in a water conservation drip irrigation system in which the water is distributed to the plant in a closed (piped) system and is applied directly to the soil or growing medium at the plant.

F. A well that would otherwise be considered a commercial well if:

(1) the water is used solely for domestic purposes as defined in Rule 2, and

(2) the well is drilled, completed, or equipped so that it is incapable of producing more than 50,000 gallons per day.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

8.10 Change in Well Conditions or Operations, and Permit Renewal, Amendment, and Revocation

A. Change in Well Conditions or Operations

No person shall take any of the following actions related to a well located in the District without notifying and receiving authorization from the District: (1) change the type of use (purpose) for which the well was originally authorized; (2) change the place of use of the water produced from the well; (3) alter the size or depth of a well, the well pump, or its pumping volume; (4) plug a well; or (5) abandon a well. Such changes may be processed administratively, may require an amendment to an existing operating permit, may make an exempt well be required to obtain an operating permit, and may make a well subject to the production limits of Rule 6.

B. Change in Use That Requires a Well to Have an Operating Permit

If the type of use of a well, the production of groundwater from a well, or the capability to produce groundwater from a well is changed and the change means the well no longer qualifies as an exempt well, an operating permit shall be required. It is the responsibility of the owner of such a well to apply for an operating permit no later than 90 days prior to making the changes that render such well subject to this Rule.

C. Change in Ownership

- (1) Within ten (10) days after the date of a change in ownership of a well, the permittee must submit to the District in writing the name and contact information of the new owner.
- (2) A person who becomes the owner of a currently permitted well must, within forty-five (45) calendar days from the date of the change in ownership, file an application for a permit amendment to transfer the permit. The application must be in writing on a form obtained from the District and must include evidence showing the authority for the transfer. While the application is pending, the new owner may continue to operate the well under the terms of the operating permit.
- (3) The General Manager may issue a permit amendment to transfer the ownership of an operating permit without notice or hearing.

D. Renewal of Operating Permits

- (1) An application for renewal of an operating permit shall be submitted no later than 90 days prior to the expiration date of the operating permit.
- (2) The District will normally renew the permit at the end of each permit term unless: (1) the permit holder is not in compliance with permit conditions, the District Management Plan or District Rules; (2) the permit holder has delinquent water use fees or other District fees; or (3) conditions of the aquifer, as reflected in the District's water monitoring program or drought management plan, indicate that a reduction in production is required to prevent aquifer mining.

- (3) In the event of noncompliance or delinquent fees, the District shall notify the permit holder of the conditions preventing the automatic renewal of the permit and allow the permit holder an opportunity to correct any noncompliance or pay delinquent fees.
- (4) Failure of the permit holder to correct any noncompliance or pay delinquent fees within 30 days may result in denial of the renewal application and revocation of the permit.

E. Operating Permit Amendment

- (1) An amendment to an operating permit is required for a substantial alteration of a well, including a change to the operation, use, or condition of a well, the production limit, the type of use of the well, the place of use of the water produced from the well, the size or depth of a well, a well pump, or its pumping volume. No amendment is needed for a repair of well equipment, well houses or enclosures, or replacement with comparable equipment.
- (2) An application for an amendment, on a form obtained from the District shall be submitted at least 90 days prior to the date the change is to take place.
- (3) The applicant shall be notified when the application has been reviewed by the General Manager and deemed administratively complete.
- (4) No amendment application shall be deemed administratively complete if the applicant has unpaid fees or has unresolved compliance issues with the District.
- (5) Within 60 days after the date an operating permit amendment application is determined to be administratively complete, the application shall be referred to the Board in accordance with the provisions of Rule 14.4.
- (6) The amendment shall be considered as provided in Rule 8.4.

F. Operating Permit Involuntary Amendment or Revocation

Operating permits are subject to involuntary amendment or revocation for violation of District Rules; violation of the permit, including special permit conditions imposed by the Board; violation of the provisions of Texas Water Code Chapter 36; waste of groundwater; non-payment of water use fees; or other actions that the Board determines to be detrimental to the groundwater resources within the District.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

Rule 9: FEES

9.1 Water Use Fees

A. Water use fees authorized under the District Enabling Legislation shall be paid to the District for water that may be produced from a well requiring an operating permit (non-exempt well). The water use fee rate shall be established by Board resolution annually. The rate will be applied to prior year's actual or estimated total volume pumped. The District will review the account of any permittee changing the use of a well from non-exempt to exempt to determine if additional water use fees are due.

B. Pursuant to the Enabling Legislation, the water use fee may not exceed:

- (1) \$0.25 per acre-foot for water used for irrigating agricultural crops
- (2) \$0.17 per thousand gallons for water used for any other purpose

C. The District may impose a reasonable fee or surcharge for an export fee using one of the following methods:

- (1) a fee negotiated between the District and the transporter; or
- (2) a combined production and export fee of \$0.17 per thousand gallons of water used.

D. Unless otherwise provided by the Board of Directors, the annual water use fee (production fee) for a well required to obtain an operating permit shall be paid within 60 days following notification by the District. Water use fees of \$50.00 or less may by Board resolution be waived for purposes of administrative convenience.

E. The District is prohibited from using revenues obtained from export fees to prohibit the transfer of groundwater outside of the District, but may use export fees for paying expenses related to enforcement of Chapter 36 the Texas Water Code, or District Rules.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

9.2 Other Administrative Fees

As authorized by Section 36.205, the Board, by resolution, shall establish a schedule of fees for the administrative acts of the District. A copy of the Fee Schedule may be obtained from the District Office. These fees may not unreasonably exceed the costs to the District of providing the administrative function for which the fee is charged.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

9.3 Transport Permit Processing

The Board, by resolution, may adopt a transport permit application fee for transport permits under Rule 10, which will cover all reasonable and necessary costs to the District for processing the application. The application fee for a permit to transport groundwater out of the District may not exceed the fees that the District imposes for processing applications for non-exempt wells for the use of groundwater within the District.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

9.4 Inspection and Plan Review Fees

The Board may, by resolution, establish fees for: inspection activities including the inspection of wells and meters; plan reviews; special inspection services requested by other entities; or other similar services that require significant involvement of District personnel or its agents. Fees may be based on the amount of the District's time and involvement, number of wells, well production, well bore, casing size, size of transporting facilities, or amounts of water transported.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

9.5 Special Fees

Wells drilled in aggregate, such as closed loop heat exchange wells, may qualify for reduced fees for review, registration, and inspection. The fee rate will be based on review and inspection time on a case-by-case basis.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

9.6 Exceptions

If a regulated water utility is unable to pass through to its customers the cost of paying water use fees assessed under Rule 9.1 due to delay in obtaining regulatory approval, or in other unusual instances of hardship, the Board may grant exceptions and establish a payment schedule. Such exceptions shall be applied consistently.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

9.7 Excess Pumpage Fees

The Board may, by resolution, establish additional water use fees for any pumpage exceeding the permitted pumpage volume.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

9.8 Returned Check Fee

The Board may, by resolution, establish a fee for checks returned to the District for insufficient funds, account closed, signature missing, or any other problem causing a check to be returned by the District depository. Such fees will be included in the Fee Schedule, which may be obtained from the District Office.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

9.9 Accounting Fee

The Board may, by resolution, establish a fee for permittee-requested accounting of pumpage reports, water use fee payments, or other accounting matters pertaining to the permittee's account that the District does not routinely maintain in its records. Should a District error be discovered, the accounting fee, if any, will be fully refunded. Permittees may request one review of their account per fiscal year without charge.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

Rule 10: TRANSFER OF GROUNDWATER OUT OF THE DISTRICT

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 an operating permit and a transport permit. The requirements of this rule are applicable without regard to the manner the water is transferred out of the district and specifically includes discharges into watercourses to convey water as well as pipelines and aqueducts.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

10.2 Application

An application for a transport permit must be filed on a form obtained from the District and must include the information required under Rule 8.3 for an operating permit for a new well, plus the following information:

A. The availability of water in the District and in the proposed receiving area during the period for which the water supply is requested, including:

- (1) The location of the proposed receiving area for the transported water;
- (2) Information describing alternate sources of supply that might be utilized by the applicant, and the feasibility and practicability of utilizing such supplies; and
- (3) A description of the amount and purposes of use for which water is needed 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, including:

- (1) A hydrogeologic report by a registered professional engineer assessing the impact of the proposed well on existing wells and the aquifer;
- (2) Information describing the projected effect of the proposed transporting of water on aquifer conditions, depletion,

subsidence, or effects on existing permit holders or other groundwater users within the District;

- (3) The names and addresses of the property owners, and the location of their water wells, within a two (2) mile radius of the location of the well(s); and
- (4) Any proposed plan of the applicant to mitigate adverse hydrogeologic, impacts of the proposed transporting of water from the District.

C. The statement of compliance with the approved regional water plan and approved District Management Plan, including:

- (1) A description of how the proposed transport is addressed in any approved regional water plan(s) and the approved District management plan; and
- (2) A technical description of and a construction time schedule for the transportation facilities.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

10.3 Review Of Applications, Permit Terms And Provisions, Periodic Permit Reviews, And Permit Renewals

A. Applications for transport permits will be reviewed under the procedures of Rule 8.4 and this Rule 10.3 and are subject to the hearing procedures provided in Rule 14. 4, 14.5, and 14.6.

B. In determining whether to issue a permit to transfer groundwater out of the District, the Board must be fair, impartial, and nondiscriminatory and shall consider the factors considered when deciding whether to issue an operating permit and the following:

- (1) The availability of water in the District and in the proposed receiving area during the period for which the water supply is requested;
- (2) 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;

- (3) The approved regional water plan and certified district management plan.

C. The District may not deny a permit based on the fact that the applicant seeks to transfer groundwater outside of the District and may not impose more restrictive permit condition on transporters than the District imposes on existing in-District users, unless:

- (1) Such limitations apply to all subsequent new permit applications and increased use by historic users, regardless of type or location of use; and
- (2) Bear a reasonable relationship to the District management plan; and
- (3) Such limitations are reasonably necessary to protect existing use.

D. In addition to conditions provided by Section 36.1131, Texas Water Code, the operating permit for transporting water out of the District shall specify:

- (1) The amount of water that may be transferred out of the District; and
- (2) The period for which the water may be transferred, which shall be:
 - (a) At least three years if construction of a conveyance system has not been initiated prior to the issuance of the permit, and shall be automatically extended to the term of 30 years if construction of a conveyance system is begun before the expiration of the initial term; or
 - (b) At least 30 years if construction of a conveyance system has been initiated prior to the issuance of the permit.

E. The District may periodically review the amount of water that may be transferred under an operating permit to transport water out of the District.

- (1) During such a periodic review, The District may limit the amount if the following factors warrant the limitation:

- (a) The availability of water in the District and in the proposed receiving area during the period for which the water supply is requested;
 - (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;
 - (c) The approved regional water plan and certified District management plan; if adopted
- (2) Such a review may not take place more frequently than the period provided for the renewal of operating permits under Rule 8.5. After the review, more restrictive permit conditions may only be imposed if:
- (a) Such limitations apply to all subsequent new permit applications and increased use by historic users, regardless of type or location of use;
 - (b) Bear a reasonable relationship to the District management plan; if adopted
 - (c) Such limitations are reasonably necessary to protect existing use.
 - (d) Such limitations are necessary after considering the factors provided in Rule 8.10.D for renewal of the underlying operating permit(s).
- (3) In its determination of whether to renew a transport permit at the end of its term, the District shall consider the factors provided in Rule 8.10.D and this Rule 10.E.3.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

10.4 Fees

A. The application must be accompanied by the application processing fee, inspection fee, or other fees as appropriate. Such fees must be paid before notice is published and mailed. Payment of all fees including water use fees remain the responsibility of the landowner.

B. In addition to the water use fees for the underlying operating permits, the District may impose a reasonable fee or surcharge as provided in Rule 9.1.C.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

Rule 11: REWORKING AND REPLACING A WELL

11.1 Reworking a Well

A. No authorization from the District is required to rework, re-drill, or re-equip a well in a manner that will not change the well status under District Rules.

B. Prior to reworking, re-drilling, or re-equipping a well that increases the size of the column pipe or the production rate (gallons per minute), the owner shall apply for an operating permit or permit amendment, whichever is applicable.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

11.2 Replacement Wells

Authorization from the District is required prior to replacing an existing well with a replacement well.

A. A replacement well must be completed in the same aquifer as the well it replaces and shall not be drilled, equipped, or completed so as to increase the rate of production.

B. A replacement well must not be located closer to any other well or authorized well site unless the new location complies with the minimum spacing requirements of Rule 5; otherwise, the well will be considered and processed as a new well under District Rules.

C. If the application meets spacing and production requirements and satisfies the requirements of District Rules, the General Manager may approve the application without notice or opportunity for hearing.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

Rule 12: WELL CONSTRUCTION STANDARDS

12.1 State Standards Applicable

Construction of wells and installation of pumps shall be in accordance with the Texas Occupations Code Chapter 1901, "Water Well Drillers" and Chapter 1902, "Water Well Pump Installers," as amended and the rules of the Texas Department of Licensing and Regulation, 16 Texas Administrative Code, Chapter 76, as amended, and additional standards as required in this Rule. Wells, except for those exempt from obtaining an operating permit under District Rules, must also comply with the construction standards in Rule 12.2.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

12.2 Additional Well Construction Standards

All public water supply wells must be completed using the engineer-designed criteria approved by the Texas Commission on Environmental Quality under 30 Texas Administrative Code Chapter 290.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

12.3 Watertight Sanitary Seal

To prevent pollutants from entering the wellhead, all wells shall be completed with a watertight sanitary seal. Any existing well not meeting this requirement is required to comply with this Rule at the time the well head is next removed. Wells with odd-sized casing or those having well heads for which there is no factory made watertight sanitary seal available shall be completed or modified in such a manner that shall meet the intent of this Rule.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

12.4 Inspection Port

All wells shall be equipped with an inspection port with a diameter of $\frac{3}{4}$ -inch or greater, inspection tube, or some other means that will allow free and clear access to the water table for the purposes of measuring water levels or disinfecting a well. Control boxes, pipes, fittings, or other wellhead equipment shall not hinder access to the inspection port. Any

existing well not meeting this requirement is required to comply with this Rule at the time the well head is next removed.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

12.5 Re-Completions

A. The landowner 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 well bore to other porous strata.

B. 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.

C. 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.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

12.6 Responsibility for Compliance

The well owner and the well owner's agent, such as the water well driller or pump installer, are equally responsible for compliance with Rule 12.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

Rule 13: WASTE

13.1 Waste means any one or more of the following:

- A.** The withdrawal of groundwater from a groundwater reservoir at a rate and in an amount that causes or threatens to cause intrusion into the reservoir of water unsuitable for agricultural, gardening, domestic, or stock raising purposes.
- B.** The flowing or producing of wells from a groundwater reservoir if the water produced is not used for a beneficial purpose.
- C.** The escape of groundwater from one groundwater reservoir to any other reservoir or geologic strata that does not contain groundwater.
- D.** The 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.
- E.** 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 road 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 "Water Quality Control."
- F.** 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.
- G.** Unless the water from an artesian well is used for a purpose and in a manner in which it may be lawfully used on the owner's land, it is waste and unlawful to willfully cause or knowingly permit the water to run off the owner's land or to percolate through the stratum above which the water is found.
- H.** Drilling or operating a well or wells without a required permit or producing groundwater in violation of a District Rule adopted under Texas Water Code § 36.116(a)(2).

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

13.2 Waste Prevention

- A.** Groundwater shall not be produced within, or used within or outside of the District, in such a manner as to constitute waste as defined in these Rules.
- B.** No person shall pollute or harmfully alter the character of the underground water reservoir of the District by means of salt water or other deleterious matter admitted from some other stratum or strata from the surface of the ground.
- C.** No person shall commit waste as that term is defined in Section 13.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

13.3 Emergency Temporary Order To Prevent Waste or Pollution

If the District determines that there exists an imminent threat to public health, safety, or welfare due to groundwater waste or pollution, the Board may issue an emergency temporary order to protect public health, safety, or welfare. Such emergency temporary order may be issued without notice and hearing provided, however, the temporary order shall continue in effect for the lesser of fifteen (15) days or until an enforcement hearing under Rule 14.7 can be conducted. The 10 day notice period of Rule 14.7.C may be suspended in order to meet the 15 day deadline of this Rule 13.3.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

Rule 14: PROCEDURAL RULES

14.1 Actions on Management Plan, Bylaws, Administrative Fee Schedule, and Budget

A. Once the District has developed a proposal involving its Management Plan, bylaws, administrative fee schedule, or budget, the District will decide at which Board meeting the Board will consider the matter. The Board meeting at which the matter is considered under this Rule shall be considered the public hearing on the proposal and fulfills the requirement, if any, for a public hearing.

B. Notice required by the Open Meetings Act shall be provided for the meeting.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

14.2 Hearing on Rules Other Than Emergency Rules

A. Once the District has developed a proposal involving its Rules, other than Emergency Rules, the District will decide at which Board meeting the proposed Rules will be considered for action. The Board meeting at which the proposed Rules are considered under this Rule shall be considered the public hearing on the proposed Rules and fulfills the requirement, if any, for a public hearing.

B. Notice required by the Open Meetings Act shall be provided for the hearing.

C. In addition to the notice required by the Open Meetings Act, not later than the 20th day before the date of the hearing, notice shall be provided as follows:

- (1) Post notice in a place readily accessible to the public at the District office;
- (2) Provide notice to the county clerks of Madison, Leon, and Freestone counties;
- (3) Publish notice in one or more newspapers of general circulation in Madison, Leon, and Freestone counties; and

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- (4) Provide notice by mail, facsimile, or electronic mail to any person who has requested notice under Rule 14.2.F. Failure to provide notice under this Rule 14.2.C(4) does not invalidate an action taken by the District at a rulemaking hearing.

D. Notice of the hearing on the proposed Rules required by Rule 14.2.C shall include:

- (1) A brief explanation of the subject of the rulemaking hearing, including a statement that the District's Board of Directors will consider changes to District Rules, which will serve as the public hearing on the matter.
- (2) The time, date, and location of the hearing.
- (3) The agenda of the hearing.
- (4) A statement that the proposed Rules are available to be reviewed or copied at the District Office prior to the hearing.
- (5) A statement that the District will accept written comments and give the deadline for submitting written comments.
- (6) A statement that oral public comment will be taken at the hearing.

E. Copies of the proposed Rules shall be available at the District Office during normal business hours at least 20 days prior to the hearing.

F. A person may submit to the District a written request for notice of a rulemaking hearing. A request is effective for the remainder of the calendar year in which the request is received by the District. To receive notice of a rulemaking hearing in a later year, a person must submit a new request.

G. To ensure that written comments about the proposed Rules will be considered by the Board, such written comments should be submitted to the District at least 5 days prior to the scheduled hearing.

H. Anyone interested in the proposal may attend the hearing and comment on the proposed Rules.

I. The District shall make and keep in its files a court reporter transcription or an audio or video recording of the hearing.

J. The Board shall issue a written order or resolution reflecting its decision. The proposed Rules that the Board has approved shall be an attachment to that written order or resolution.

K. The effective date of the written order or resolution shall be the date on which the President of the District signs the order or resolution. The order or resolution shall include a statement that the proposed Rules become effective and final on that date. Any appeal authorized by Texas Water Code Chapter 36, Subchapter H shall run from the effective date, because it is the date on which all administrative appeals to the district are final.

L. If, in the course of the deliberation during the meeting, the Board decides it wants to substantially change the proposed Rules, the Board shall "continue" or postpone the matter until a future Board meeting. Prior to consideration of the substantially changed proposed Rules, the District shall provide notice and opportunity for comment and hold a hearing under this Rule on the substantially changed proposed Rules. It is solely within the discretion of the Board what constitutes a substantial change to the proposed Rules requiring further notice and hearing.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

14.3 Adoption of Emergency Rules

A. The District may adopt an emergency rule without following the notice and hearing provisions of Rule 14.2, if the Board:

- (1) Finds that a substantial likelihood of imminent peril to the public health, safety, or welfare, or a requirement of state or federal law, requires adoption of a rule on less than 20 days' notice; and
- (2) Prepares a written statement of the reasons for its finding under Rule 14.3.A(1).

B. An emergency rule under this Rule 14.3 must be adopted at a meeting of the Board subject to the requirements of the Open Meetings Act. Notice required by the Open Meetings Act shall be provided.

C. Except as provided by Rule 14.3.D., a rule adopted under this Rule may not be effective for longer than 90 days.

D. If notice of a hearing under Rule 14.2 is given before the emergency rule expires under Rule 14.3.C, the emergency rule is effective for an additional 90 days.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

14.4 Actions on Permits and Other Well Authorizations

A. Within 60 days after the date it is deemed administratively complete by the District, an application under this Rule 14.4 shall be acted on by the District's General Manager or set on a specific date for action at a meeting of the District Board.

B. An application for certificate of registration under Rule 8.1 may be approved by the District's General Manager without further Board action. Denial of a certificate of registration for a new exempt well shall be referred to the Board for action under Rule 14.5.

C. An application for an operating permit for an existing well under Rule 8.2.A; an application for an operating permit for a new well under Rule 8.2.B; and an application for an operating permit amendment under 8.10.E shall be referred to the Board for action under Rule 14.5.

D. The following applications may be approved by the District's General Manager without further Board action. Denial of the application shall be referred to the Board for action under Rule 14.5.

- (1) An application for renewal of an operating permit under Rule 8.10.D.
- (2) An application for an amendment to transfer ownership of operating permit under Rule 8.10.C.
- (3) An application for a replacement well under Rule 11.2.
- (4) An emergency authorization to drill and operate a well under Rule 8.8.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

14.5 Permit Actions by the Board

A. In this Rule, "Applications" refers to applications referred to the Board for action under the requirements of Rule 14.4.

B. Within 60 days of the date on which the District determines that an Application is administratively complete, it shall be set on the agenda for Board action at a Board meeting. Such setting shall be no later than the next regularly scheduled Board meeting that would allow sufficient time for the notice required by Rule 14.5.E.

C. An Application that is referred to the Board shall be considered by the Board within 95 days of the date on which the Application was determined to be administratively complete.

D. Notice required by the Open Meetings Act shall be provided for the meeting and shall include the name of the applicant and the address or approximate location of the well.

E. Notice of the Board meeting at which the Application will be considered shall be mailed to the applicant at least seven days prior to the scheduled meeting date. Such notice may be waived by the applicant.

F. Anyone interested in the Application may attend the meeting and make oral comments at the time designated for comments.

G. The Board, at its sole discretion, may administer an oath to the staff, the applicant, and anyone who makes oral comments on the Application.

H. The Board shall issue a written order or resolution reflecting its decision. If the Board approves the Application, the permit shall be an attachment to that written order or resolution. The Board's decision shall be made within 60 days after the Board meeting at which the Application was considered.

I. A request for contested case hearing, which will be conducted under Rule 14.6, shall be in writing and shall be made within 10 days after the Board's action on the Application. The following individuals may request a contested case hearing:

(1) The applicant; or

(2) A person who (a) has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest that is within the District's regulatory authority, that is not merely an

interest common to members of the public; and (b) is affected by the Board's action on the Application.

J. If the District receives a written request for contested case hearing, the District shall schedule a pre-hearing conference at its next regularly scheduled Board meeting, in no event longer than 35 days after the date of the request. The pre-hearing conference may be held to consider any matter which may expedite the hearing or otherwise facilitate the hearing process, including, but not limited to:

- (1) whether a valid contested case hearing request has been submitted and if so, the designation of parties.
- (2) formulation and simplification of issues.
- (3) the hearing schedule, including any necessary discovery.

K. The effective date of the written order shall be 10 days after the date on which the President of the District signs the order or resolution, if no request for a contested case hearing under Rule 14.5.I. is received by the District. The order or resolution shall include a statement that the order or resolution and its attachment become effective and final within 10 days of that date. Any appeal authorized by Texas Water Code Chapter 36, Subchapter H shall run from the effective date, because it is the date on which all administrative appeals to the district are final, unless there is a request for a contested case hearing.

L. If there is a timely filed request for a contested case hearing, a pre-hearing conference is held under Rule 14.5.J. and the Board determines that there will be no contested case hearing, the effective date of the written order shall be the date on which the Board denies the contested case hearing request.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

14.6 Permit Actions Requiring a Contested Case Hearing

A. Rule 14.6 applies only to Applications for which the District has received a timely filed request for a contested case hearing under Rule 14.5.I.

B. If the District receives a timely filed request for a contested case hearing under Rule 14.5.I, the Application shall be set for the initial hearing no later than the next regularly scheduled Board meeting that would allow sufficient time for the notice required by this Rule 14.6. Setting of a pre-hearing conference under Rule 14.5.J shall be considered the setting of the initial hearing.

C. Notice required by the Open Meetings Act shall be provided for the hearing if conducted by a quorum of the Board.

D. In addition to the notice required by the Open Meetings Act, not later than the 10th day before the date of the hearing, notice shall be provided as follows:

- (1) Post notice in a place readily accessible to the public at the District office;
- (2) Provide notice to the county clerk of Madison, Leon, and Freestone counties;
- (3) Mail notice to the applicant by regular mail;
- (4) Mail notice to the individual requesting a contested case hearing by regular mail; and
- (5) Provide notice by mail, facsimile, or electronic mail to any person who has requested notice under Rule 14.6.F. Failure to provide notice under this Rule 14.6.D(5) does not invalidate an action taken by the District at contested case hearing.

E. Notice of the hearing on the Application shall include the following:

- (1) The name of the applicant;
- (2) The address or approximate location of the well or proposed well;

- (3) A brief explanation of the proposed permit or permit amendment, including any requested amount of groundwater, the purpose of the proposed use, and any change in use;
- (4) The time, date and location of the hearing; and
- (5) Any other information the District considers relevant and appropriate.

F. A person may submit to the District a written request for notice of a hearing on a permit or permit amendment. A request is effective for the remainder of the calendar year in which the request is received by the District. To receive notice of a hearing in a later year, a person must submit a new request.

G. The hearing shall be conducted by a quorum of the Board, or the Board, at its sole discretion, may appoint a Hearings Examiner to preside at and conduct the hearing on the Application. The appointment of a Hearings Examiner shall be made in writing. If the hearing is conducted by a quorum of the Board, the President shall preside. If the President is not present, the Board shall select one of the Directors who are present to preside.

H. The presiding officer has the following authority and obligations:

- (1) May convene the hearing at the time and place specified in the notice;
- (2) May set any necessary additional hearing dates;
- (3) May designate the parties regarding a contested application;
- (4) May establish the order for presentation of evidence;
- (5) May administer oaths to all persons presenting testimony;
- (6) May examine persons presenting testimony;
- (7) May ensure that information and testimony are introduced as conveniently and expeditiously as possible without prejudicing the rights of any party;

- (8) Shall admit relevant evidence and may exclude evidence that is irrelevant, immaterial, or unduly repetitious;
- (9) May prescribe reasonable time limits for testimony and the presentation of evidence.
- (10) May allow testimony to be submitted in writing and may require that written testimony be sworn to. On the motion of a party to the hearing, the presiding officer may exclude written testimony if the person who submits the testimony is not available for cross-examination by phone, a deposition before the hearing, or other reasonable means.
- (11) May refer parties to an alternative dispute resolution (ADR) procedure on any matter at issue in the hearing, apportion costs for ADR, and appoint an impartial third party as provided by Section 2009.053 of the Government Code to facilitate that procedure; and
- (12) May continue a hearing from time to time and from place to place without providing notice under Rule 14.6.D and E. If the continuance is not announced on the record at the hearing, the presiding officer shall provide notice of the continued hearing by regular mail to the parties. In any event, if the hearing is being conducted by a quorum of the Board, Open Meetings notice under Rule 14.6.C shall be provided.

I. The presiding officer shall prepare and keep a record of each hearing in the form of an audio or video recording or a court reporter transcription. On the request of a party to the contested case hearing and payment of an appropriate deposit, as set by the presiding officer, the hearing shall be transcribed by a court reporter. The costs of such court reporter may be assessed against the party requesting it or among the parties to the hearing. The presiding officer may exclude a party from further participation in the hearing for failure to pay in a timely manner costs assessed against that party under this Rule 14.6.I.

J. If the Board has appointed a hearings examiner to be the presiding officer at the hearing, the hearings examiner shall submit a report to the Board not later than the 30th day after the date the hearing is concluded. A copy shall be provided to the applicant and each party to the hearing. The applicant and other parties to the hearing may submit to the Board

written exceptions to the report within 10 days of issuance of the report. The report shall include:

- (1) A summary of the subject matter of the hearing;
- (2) A summary of the evidence received; and
- (3) The hearing examiner's recommendations for Board action on the subject matter of the hearing.

K. The Board shall issue a written order or resolution reflecting its decision, which shall be made at the hearing or at a meeting subject to the requirements of the Open Meetings Act. A copy of the permit shall be an attachment to that written order or resolution. The Board's decision shall be made within 60 days after the final hearing on the Application is concluded.

L. Request for rehearing or findings and conclusions shall be considered as follows:

- (1) Not later than the 20th day after the date of the Board's decision, an applicant or a party to a contested hearing may administratively appeal a decision of the Board on an Application by requesting written findings and conclusions or a rehearing before the Board.
- (2) On receipt of a timely written request, the Board shall make written findings and conclusions regarding a decision of the Board on an Application. The board shall provide certified copies of the findings and conclusions to the person who requested them, and to each designated party, not later than the 35th day after the date the Board receives the request. The applicant or a party to the contested case hearing may request a rehearing before the Board not later than the 20th day after the date the Board issues the findings and conclusions.
- (3) A request for rehearing must be filed in the District office and must state the grounds for the request. The person requesting a rehearing must provide copies of the request to all parties to the hearing.
- (4) If the Board grants a request for rehearing, the Board shall schedule the rehearing not later than the 45th day after the

date the request is granted. Any action by the Board on a request for rehearing shall be made at a Board meeting subject to the Open Meetings Act.

- (5) The failure of the Board to grant or deny a request for rehearing before the 91st day after the date the request is submitted is a denial of the request.

M. A decision by the Board on an Application is final if:

- (1) A request for rehearing is not filed on time, on the expiration of the period for filing a request for rehearing; or
- (2) A request for rehearing is filed on time, on the date:
 - (a) the Board denies the request for rehearing; or
 - (b) the Board renders a written decision after rehearing.

N. An applicant or a party to a contested hearing may file a suit against the District under Texas Water Code § 36.251 to appeal a decision on an Application not later than the 60th day after the date on which the decision becomes final. A timely filed request for rehearing is a prerequisite to any such suit.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

14.7 Enforcement Hearing

A. If the District receives a timely filed written request for hearing from a Respondent who has received a notice of violation from the District, the District shall decide at which Board meeting the enforcement action will be considered. The Board meeting at which the enforcement action is considered under this Rule shall be considered the public hearing on the matter and fulfills the requirement, if any, for a public hearing.

B. Notice required by the Open Meetings Act shall be provided for the meeting.

C. Notice of the enforcement hearing shall be mailed to the Respondent by certified mail, return receipt requested, at least ten days prior to the scheduled hearing date.

D. Anyone attending the meeting on the enforcement action may make oral comments at the time designated for comments.

E. The Board, at its sole discretion, may administer an oath to the staff, the Respondent, and anyone who makes oral comments on the enforcement action.

F. The Board of Directors may conduct the enforcement hearing or at its sole discretion, it may refer the matter for hearing to a Hearings Board composed of either a single Hearing Officer or committee of the Board of Directors. The Hearings Board shall conduct the enforcement hearing in the same manner as provided in this Rule 14.7. If the matter is referred for hearing, upon completion of the hearing the Hearings Board shall submit a written recommendation to the Board of Directors.

G. At the close of the enforcement hearing, the Board of Directors shall make a decision on the issues before it. If that matter was referred for hearing, the Board of Directors is not required to approve the written recommendation submitted by the Hearings Board. The Board of Directors shall issue a written order or resolution reflecting its decision.

H. The effective date of the written order shall be the date on which the President of the District signs the order or resolution. The order or resolution shall include a statement that the order or resolution becomes effective and final on that date. Any appeal authorized by Texas Water Code Chapter 36, Subchapter H shall run from the effective date, because it is the date on which all administrative appeals to the district are final.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

Rule 15: ENFORCEMENT

15.1 Complaints and Investigations

A. All complaints shall be reflected on a District complaint form. These forms are available at the District office and on its website. If a complaint is made verbally, by telephone, or in person, District personnel will ensure that the information is memorialized on a District complaint form. The complainant must inform the District if they want to qualify as an aggrieved party under the citizen suit provision of Texas Water Code §36.119.

B. For purposes of this Rule 15.1 and § 36.119, an aggrieved party is a landowner or other person who has a right to produce groundwater from land that is adjacent to the land on which the well subject to the complaint is located, or who owns or otherwise has a right to produce groundwater from land that lies within one-half mile of the subject well.

C. A complainant may ask to remain anonymous, unless they want to qualify as an aggrieved party under the citizen suit provision of Texas Water Code § 36.119.

D. A District representative will investigate the complaint promptly and will memorialize his findings in a written investigation report.

E. A copy of the investigation report will be sent to the person about whom the complaint was made. If the complainant has provided his name and address, a copy of the investigation report will be sent to the complainant

F. Board Consideration of Investigation Reports

(1) The investigation reports for all complaints must be presented to the Board for consideration not later than 90 days from the date of receipt of the complaint.

(2) Notice of the date, time, and location of the Board meeting at which the investigation report will be considered and a copy of the investigation report shall be mailed to the person about whom the complaint was made and to the complainant by certified mail, return receipt requested, at least ten days prior to the scheduled Board meeting.

- (3) At the Board meeting, the Board may decide that there was no violation and close the complaint file. If the Board decides that there has been a violation, it may direct the District staff to issue a notice of violation under Rule 15.2 or initiate civil enforcement under Rule 15.7.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

15.2 Notice of Violation

The District will send a notice of violation to a person who is believed to be in violation of law, including violation of a District Rule, order, or permit. The notice shall include a copy of the investigation report. The notice of violation may require remedial action and may include a penalty. The notice shall provide the opportunity for the respondent to take remedial action and to meet with the District regarding the alleged violation. The respondent will also be provided an opportunity for public hearing under Rule 14.7. Nothing in this Rule 15.2 shall be construed to limit the District's enforcement discretion.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

15.3 Penalty Schedule

The District may assess penalties for non-compliance with District Rules including failure to comply with conditions of a permit issued by the District. Penalties will be assessed in accordance with the following schedule.

Schedule of Penalties for Non-Compliance

Non-Compliant Action	Minimum Penalty
Drilling a well without District authorization	\$1,000.00
Producing water from a non-exempt well without an operating permit	\$1,000.00
Violation of District Rule or permit requirement	\$250.00
Exceeding production rate or volume specified in operating permit	\$1,000.00
Substantially altering an existing well prior to obtaining a permit or permit amendment	\$500.00

Penalties may be assessed per day per violation, with each day of a continuing violation constituting a separate violation.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

15.4 Enforcement Fee

In addition to any penalty authorized by Rule 15.3, if the District is required to incur expenses to enforce District Rules, the person responsible for causing the District to incur the expense shall reimburse the District for such expenses within 10 days after receipt of a demand for payment from the District.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

15.5 Failure to Report Pumpage or Transported Volumes and Water Quality Data

The accurate reporting and timely submission of pumpage and transported volumes and water quality data is necessary for the proper management of groundwater resources. Failure to submit complete, accurate, and timely pumpage, transport, and water quality reports as required by Rule 3, may result in the imposition of an enforcement fee under District Rule 15.4.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

15.6 Notice and Access to Property

A. The District has authority under Texas Water Code Section 36.123 to enter any public or private property located within the District at any reasonable time for purposes of inspecting and investigating conditions relating to water quality, wells, or compliance with District Rules, regulations, permits, or orders.

B. The District respects individual property rights and shall endeavor to minimize any inconvenience to property owners while conducting District business. The District shall notify, coordinate, and schedule well and property access in advance with the property owner, his agent, tenant, or other local contact, as determined by information contained in the District well file.

C. Notice is not required if prior written permission to enter land or access wells has been granted by the property owner, his agent, tenant, or other local contact.

D. Investigations or inspections that require entering private property will be conducted at reasonable times. District employees or agents

accessing public or private wells or property shall exhibit proper credentials upon request. District employees or agents acting under this authority shall observe all applicable rules and regulations concerning safety, internal security, and fire protection.

E. Inhibiting or prohibiting access to any Board member or District agency or employee who is attempting to conduct an investigation or inspection under District Rules constitutes a violation and subjects the person who is inhibiting or prohibiting access to the penalties authorized in this Rule 15 and Texas Water Code chapter 36.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.

15.7 Civil Enforcement

A. As authorized by Texas Water Code Section 36.102, the violation of any District Rule shall be subject to a civil penalty not to exceed \$10,000.00 per day per violation, and each day of a continuing violation constitutes a separate violation.

B. The Board may seek enforcement of such civil penalties by injunction, mandatory injunction, or other appropriate remedy through a suit filed in a court of competent jurisdiction in Leon, Madison, or Freestone counties.

C. In addition, the District may seek, and the court shall grant, recovery of attorney's fees, costs for expert witnesses, and any other costs incurred by the District before the court.

D. All civil penalties assessed by a court under this Rule 15.7 shall be paid to the District.

Adopted August 28, 2008 by Board Order; effective September 23, 2008.