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**GONZALES COUNTY  
UNDERGROUND WATER CONSERVATION DISTRICT**

# **Rules of the District**



**Original Adopted: November 26, 1997**

**Revision 1.0 Adopted: November 14, 2000**

**Revision 2.0 Adopted: April 13, 2004**

**Revision 3.0 Adopted: November 9, 2005**

**Revision 4.0 Adopted: April 18, 2008**

**Revision 5.0 Adopted: March 16, 2010**

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## 1.0 INTRODUCTION

The Gonzales County Underground Water Conservation District (GCUWCD) was created by order of the Texas Commission on Environmental Quality (TCEQ), formerly the Texas Natural Resource Conservation Commission (TNRCC), on November 19, 1993. GCUWCD serves the areas of Gonzales County and the southeast portion of Caldwell County

These rules are adopted pursuant to the authority of Section 36.101, Texas Water Code, for the purpose of conserving, preserving, protecting, and recharging of the groundwater resources of the District, and these rules are adopted under the District's statutory authority to prevent waste and to protect rights of owners of interest in groundwater. These rules are used by the District as a guide in the exercise of powers conferred by law and in the accomplishment of the purposes of the law creating the District. They may not be construed as a limitation or restriction on the exercise of any discretion, nor may they be construed to deprive the District or board of the exercise of any powers, duties or jurisdiction conferred by law, nor may they be construed to limit or restrict the amount and the character of data or information that may be required to be collected for the proper administration of the law creating the District.

The rules of the GCUWCD are used to guide, define, and achieve the District's goals of water conservation and pollution prevention in an effort to preserve, protect, and enhance the groundwater within the District's jurisdictional boundaries.

## 2.0 DEFINITION OF TERMS

The definitions contained in the Texas Water Code, Chapter 36, shall apply to these Rules. The following words and terms, when used in these Rules, shall have the following meanings, unless the context clearly indicates otherwise.

**“Abandoned Well”** shall mean a well that has not been used for six consecutive months. A well is considered to be in use in the following cases: (a) a non-deteriorated well which contains the casing, pump, and pump column in good condition; or (b) a non-deteriorated well that has been capped.

**“Acre-foot”** means the amount of water necessary to cover one acre of land to a depth of one-foot, or 325,851 U.S. gallons of water.

**“Authorized Well Site”** shall be:

1. The location of a proposed well on an application duly filed until such application is denied, canceled, or expires; or
2. The location of a proposed well on a valid permit

**“Aquifer”** shall mean a geologic formation, group of formations or part of a formation capable of storing and yielding water in usable quantities.

**“Artesian Pressure”** shall mean the pressure in a confined aquifer created by the overlying and underlying confining units.

**“Artesian Well”** shall mean an artificial water well in which the water, when properly cased, will rise by natural pressure above the first impervious stratum below the surface of the ground.

**“Board”** shall mean the Board of Directors of the Gonzales County Underground Water Conservation District.

**“Borehole”** shall mean a hole in the earth drilled to a depth sufficient to penetrate or endanger water-bearing sands to pollution.

**“Brackish Water”** shall mean water containing greater than one thousand (1,000) parts per million total dissolved solids.

**“Capped Well”** shall mean a well that is closed or capped with a covering capable of preventing surface pollutants from entering the well and sustaining weight of at least 400 pounds. A well cap must be constructed in such a way that the covering cannot be easily removed by hand.

**“Chemigation”** shall mean a process whereby pesticides, fertilizers or other chemicals, or effluent from animal or human wastes are added to irrigation water applied to land or crops, or both, through an irrigation distribution system.

**“Commission”** shall mean the Texas Commission on Environmental Quality.

**“Dam”** shall mean any barrier across the bottom chord of the pipe which is of sufficient height to back water into the low-pressure drain outlet and prevent any flow (check valve seepage) back into the water supply.

**“Deteriorated Well”** shall mean a well, the condition of which will cause, or is likely to cause, pollution of any groundwater in the District.

**“District”** shall mean the Gonzales County Underground Water Conservation District, maintaining its principal office in Gonzales, Texas. The District’s headquarters is at 920 Saint Joseph, Room 129, P.O. Box 1919, Gonzales, Texas 78629, Phone 830-672-1047 where applications, reports and other papers are required to be filed or sent to the District. The District shall also be known by the acronym “GCUWCD”.

**“Easy Access”** shall mean access is not obstructed by other equipment and the fitting can be removed and replaced with a minimum of tools without risk of breakage of the attachment parts.

**“Exempt Well”** shall mean a well that is exempt from the requirement to obtain a permit from the District under Rule 5.

**“Flapper”** shall mean the clapper, closing, or checking device within the body of the check valve.

**“Foreign Substance”** shall mean any element or combination of elements in excess of that naturally occurring in the groundwater including re-used or re-claimed water, tailwater and may also include instances where open-ditch water is treated when a pump discharge pipe is submerged in the ditch.

**“General Manager”** shall mean the duly appointed General Manager of the District.

**“Groundwater”** shall mean water percolating below the surface of the earth.

**“Groundwater Reservoir”** shall mean a specific subsurface water-bearing reservoir having ascertainable boundaries containing groundwater.

**“Hearing Body”** shall mean the Board, any committee of the Board, or a Hearings Examiner at any hearing held under the authority of Chapter 36, Texas Water Code.

**“Hearings Examiner”** shall mean a person appointed by the Board of Directors to conduct a hearing or other proceedings including but not limited to an administrative law judge employed by the State Office of Administrative Hearings.

**“Irrigation Distribution System”** shall mean a device or combination of devices having a hose, pipe or other conduit which connects directly to any water well through which water or a mixture of water and chemicals is drawn and applied to land. The term does not include any hand held hose sprayer or other similar device which is constructed so that an interruption in water flow automatically prevents any backflow to the water source.

**“Monitoring Well”** shall mean an existing well designated by the District or artificial excavation constructed to measure or monitor the water level, water quality or quantity or movement of substances, elements, chemicals, or fluids beneath the surface of the ground. The term shall not include any monitoring well which is used in conjunction with the production of oil, gas, or any other minerals.

**“Open or Uncovered Well”** shall mean an artificial excavation at least 10 feet deep that is dug or drilled for the purpose of producing groundwater, or for injection, monitoring, or de-watering, or an oil and gas well converted to produce groundwater, and is not capped or covered.

**“Owner”** shall mean and include any person or other entity, public or private, that has the right to produce water from the land either by ownership, contract, lease, easement or any other estate in the land or water.

**“Permit”** shall mean either an authorization to drill and produce a well, an authorization to transport groundwater outside the District’s boundaries, an authorization to install and operate a recharge facility, or an authorization to install and operate a brackish water facility.

**“Permit Holder”** shall mean a person with a well permitted or registered by the District, or person holding a District issued transportation permit, or a person holding a recharge facility permit, or a person holding a brackish water facility permit.

**“Permitted Well”** shall mean a well that has received a permit from the District and has remained in substantial compliance with the Rules of the District. A permitted well is considered registered with the District.

**“Person”** shall mean any individual, partnership, corporation, organization, government, government subdivision or agency, business trust, estate or any other legal entity or association.

**“Plug or Plugging”** shall mean an absolute sealing of the well bore so that the well is closed permanently.

**“Pollution”** shall mean the alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, water in the District that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property or to public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

**“Presiding Officer”** shall mean the President of the Board or any other Board Member designated by the Board to preside at any hearing or other proceeding or a Hearings Examiner conducting any hearing or other proceeding.

**“Re-equip”** shall mean to replace any portion of the water producing equipment in a well.

**“Recharge Well”** shall mean a well used to allow or cause water to flow out of the well into the aquifer either under a gravity head or a head maintained by an injection pump in order to replenish the groundwater.

**“Registered Well”** shall mean a permitted well or a non-exempt or exempt well that has been registered by the District on a form provided by the General Manager.

Registered wells include:

1. Any well in the Sparta, Queen City, Carrizo, or Wilcox Aquifer in existence in the District at the time the District’s rules were first adopted and registered with the District by June 1, 2010.
2. Any non-exempt well in the Sparta, Queen City, Carrizo, or Wilcox Aquifer in existence in an annexed area at the time of annexation and registered with the District by June 1, 2010.
3. Any exempt well in the Sparta, Queen City, Carrizo, or Wilcox Aquifer drilled after the time the District rules were first adopted or after an area was annexed into the District and registered with the District by June 1, 2010.
4. Any wells permitted for drilling and production by the District.
5. Any exempt well in the Sparta, Queen City, Carrizo, or Wilcox Aquifer drilled after June 1, 2010 and registered with the District within sixty (60) days of completion of the well.

**“Replacement Well”** shall mean a well that is drilled to replace an existing well where (a) the existing well that is being replaced is permanently closed; (b) the replacement well is drilled within 250 feet from the closed well; and (c) the well will be used to produce the same amount of groundwater and for the same purpose of use of the original well.

**“Rework”** shall mean to accomplish by any mechanical or chemical means the alteration of a well.

**“Saturated Thickness”** shall mean the vertical distance between the water table and the base of the groundwater reservoir, and the pores between the solid particles that are filled with water.

**“Specific Yield”** shall mean the measurement of the water removed from the aquifer by the force of gravity to wells. It is defined as the ratio of the volume of water which an aquifer, after being saturated, will yield by gravity to the volume of the aquifer drained. The ratio is usually expressed as a percentage.

**“Transportation Facility”** shall mean any system for transporting water, which may include a pipeline, channel, ditch, watercourse or other natural or artificial facilities, or any combination of such facilities, if such water is produced from a well or wells located or to be located within the District, and if all or any part of such water is used or is intended for use outside of the boundaries of the District.

**“Underground Water”** is used synonymously with groundwater.

**“Waste”** as defined by Chapter 36 of Texas Water Code means any one or more of the following:

1. 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. Escape of groundwater from a groundwater reservoir to any other reservoir or geologic strata that does not contain groundwater;

4. Pollution or harmful alteration of groundwater in a groundwater reservoir by saltwater or by other deleterious matter admitted from another stratum or from the surface of the ground;
5. Willfully or negligently causing, suffering, or allowing groundwater to escape into any river, creek, natural watercourse, depression, lake, reservoir, drain, sewer, street, highway, road or 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 of the Texas Water Code;
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; or
7. For water produced from an artesian well “waste” has the meaning assigned by Section 11.205 of the Texas Water Code.

**“Water”** is used synonymously with groundwater and underground water.

**“Water Rights”** shall mean a defined number of surface acres, within each tract of land, which a person has acquired the right to capture the groundwater from beneath, subject to the Rules of this District.

**“Water Well”** shall mean any artificial excavation constructed for the purpose of exploring for or producing groundwater. The term, however, shall not include any test or blast holes in quarries or mines, or any well or excavation for the purpose of exploring for, or producing oil, gas, or any other minerals unless the holes are used to produce groundwater. The term shall include any injection water source well regulated by the Railroad Commission of Texas.

**“Well”** shall mean a water well, injection well, recharge well, dewatering well or monitoring well.

**“Well Field”** shall mean two or more permitted wells connected to a common piping or gathering system that are operated by one or more persons or entities for delivery to an end use point. The extent of the well field shall be defined as a radial distance of 6,000 feet from the peripheral wells in a well field.

### **3.0 RULES**

#### **RULE 1 – PROCEDURES FOR ADOPTION AND REVISION OF DISTRICT RULES AND MANAGEMENT PLAN**

##### **A. Rulemaking**

After notice and hearing, the Board shall adopt and enforce rules to implement Chapter 36 of the Texas Water Code, including rules governing procedure before the Board.

1. Not later than the 20<sup>th</sup> day before the date of a rulemaking hearing, the General Manager or Board shall:
  - a. post notice in a place readily accessible to the public at the District Office;
  - b. provide notice to the Gonzales and Caldwell County Clerk;

- c. publish notice in one or more newspapers of general circulation in Gonzales and Caldwell County;
  - d. provide notice by mail, facsimile, or electronic mail to any person who has submitted a written request for notice of a rulemaking hearing.; and
  - e. make available to the public a copy of all proposed rules at the District Office during normal business hours.
2. The notice provided must include:
    - a. the time, date and location of the hearing;
    - b. a brief explanation of the subject of the rulemaking hearing; and
    - c. a location at which a copy of the proposed rules may be reviewed or copied.
  3. Interested persons are encouraged to submit written comments on the rulemaking to the General Manager ten (10) days prior to the hearing. However, written and oral comments will be accepted and considered by the Board at the rulemaking hearing.
  4. The presiding officer shall conduct a rulemaking hearing in the manner the presiding officer determines to be most appropriate to obtain information and testimony relating to the proposed rule as conveniently and expeditiously as possible without prejudicing the rights of any person at the hearing. The presiding officer may hold the record open after the conclusion of the hearing to receive additional written comments. The Board may require participants in a rulemaking hearing to submit a registration form stating the person's name, address and representation capacity.
  5. The presiding officer shall prepare and keep a record of each rulemaking hearing in the form of an audio recording.
  6. A person may submit to the General Manager a written request for notice of a rulemaking hearing. A written request for notice of a rulemaking hearing is effective for the remainder of the calendar year in which the request is received by the General Manager. To receive notice of a hearing in a later year, a person must submit a new request.
  7. Failure to provide notice under Subsection 6 does not invalidate any action taken by the District at the hearing.
  8. The District may use an informal conference or consultation to obtain the opinions and advice of interested persons about contemplated rules and may appoint advisory committees of experts, interested persons, or public representatives to advise the District about contemplated rules.
  9. The Board may adopt emergency rules without prior notice or hearing in accordance with § 36.1011 of the Texas Water Code.
  10. The Board shall have the right to revise or restructure, after due public notice and hearing, any portion of these Rules it deems necessary.



B. Management Plan

The above cited procedures are equally applicable to Board consideration of revisions to the District's management plan.

**RULE 2 – GENERAL RULES**

A. Regular Board Meeting

The Board's regular monthly meeting is convened the second Tuesday of every month at 5:30 p.m. at Gonzales County Commissioner's Court, unless a different location is noticed in the posted Board meeting agenda.

B. General Manager

The person employed by the Board as General Manager is the Chief Administrative Officer of the District and shall have full authority to manage and operate the affairs of the District, subject to Board orders. The General Manager, with approval of the Board, may employ all persons necessary for the proper handling and operation of the District and their salaries and compensation will be set by the Board. The Board will determine the salary and review the position of the General Manager each year during the last quarter of the fiscal year.

C. Major and Minor Permit Amendments

A major amendment is an amendment that changes a substantive term, provision, requirement, or limiting parameter of a permit. Major amendments include, but are not limited to, production of a water well exceeding that authorized by the permit, transportation of an amount of water exceeding that authorized by a permit, or an addition of wells to a permitted transportation facility. Major amendments require notice and hearings applicable to permit applications. A minor amendment includes any changes to a permit issued by the District that will not cause a substantive change to a standard or criterion in the permit. The General Manager is authorized to issue minor amendments to permits without notice or hearing.

D. Computing Time

In computing any period of time prescribed or allowed by these Rules, by Order of the Board, or by any applicable statute, the period shall begin on the day after the act or event of default in question and shall conclude on the last day of that period, unless it be a Saturday, Sunday or legal holiday on which the District office is closed, in which event the period runs until the end of the next day which is neither a Saturday, Sunday, nor a legal holiday on which the District office is closed.

E. Time Limit

Applications, requests, or other papers or documents required or permitted to be filed under these Rules or by law must be received for filing at the District Office at Gonzales, Texas, within the time limit, if any, for such filing. The date of receipt and not the date of posting is determinative.

F. Show Cause Orders and Complaints

The Board, either on its own motion or upon receipt of sufficient written protest or complaint, may at any time, after due notice to all interested parties, cite any person operating within the District to appear before it and require him to show cause why his operating authority or permit should not be suspended,

canceled, revoked or otherwise restricted and or limited, for failure to comply with the Rules or Orders of the Board or the relevant statutes of the State.

G. Severability and Savings Clause

If any section, sentence, paragraph, clause, or part of these Rules should be held or declared invalid, illegal or unenforceable for any reason by a final judgment of the courts of this state or of the United States, such decision or holding shall not affect the validity of the remaining portions of these Rules and these Rules shall be construed as if such invalid, illegal or unenforceable rules or provisions had never been contained in these Rules.

H. Ownership of Groundwater

The ownership and rights of the owners of the land and their lessees and assigns in groundwater are hereby recognized, and nothing in these rules shall be construed as depriving or divesting the owners or their lessees and assigns of the ownership or rights, except as those rights may be limited or altered by rules promulgated by the Gonzales County Underground Water Conservation District.

### **RULE 3 – WASTE OR POLLUTION**

A. Water shall not be produced or used within the District in such a manner or under such conditions as to constitute waste as defined in Section 2.0 hereof. Water shall not be produced or allowed to flow from an abandoned or deteriorated well.

B. Any person producing or using underground water shall use every reasonable precaution, in accordance with approved methods, to cease and prevent waste of such water.

C. A well identified as an abandoned or deteriorated well, or an open or uncovered well, or a borehole, must be plugged, covered, or reworked in accordance with the requirements of the District and any statewide agency or political subdivision having jurisdiction including, but not limited, to the Texas Department of Licensing and Regulation, and the Texas Commission on Environmental Quality.

D. No person shall pollute or harmfully alter the character of the groundwater of the District by causing or allowing the introduction of pollutants or other deleterious matter from another stratum, from the surface of the ground, or from the operation of a well.

E. No person shall pollute or harmfully alter the character of the groundwater of the District by activities on the surface of the ground that will cause or allow pollutants to enter the reservoir through recharge features, whether natural or manmade.

### **RULE 4 – REGISTRATION OF WELLS**

The District shall designate a unique registration number for each registered well located within the District Boundaries. All registered wells shall be equipped and maintained in accordance with these Rules as to drilling, installation of casing, completion, pipe and fittings to prevent the escape of groundwater from a groundwater reservoir to any reservoir not containing groundwater and to prevent the pollution or harmful alteration of the character of the water in any groundwater reservoir.

All wells drilled subsequent to December 31, 2001 shall not be considered registered until a completed copy of the State of Texas Well Report is received, unless such well is exempt from the State of

Texas Well Report requirement or the well owner can show good cause as to why the well report is not available.

A. Non-Exempt Wells

Non-exempt wells within the District must be registered with the District on forms provided by the General Manager in order to receive protection under the District's spacing and mitigation rules.

B. Exempt Wells

Even though exempt by law from permitting under Chapter 36.117 of the Texas Water Code and amendments thereto, all exempt wells must be registered with the District on a form provided by the General Manager in order to receive protection under the District's spacing and mitigation rules. All agricultural exempt wells, as defined in Rule 5, must be registered with the District on a form provided by the General Manager. The driller of an exempt well shall file the drilling log with the District.

C. Permitted wells

All permitted wells are considered registered with the District.

D. Monitoring wells and drilling rig supply wells shall be registered with the District.

A copy of the form for Well Registration is available at the District office.

## **RULE 5 – EXEMPTIONS FROM PERMITTING**

The following wells are not required to have a permit from the District:

A. A well exempt by law from permitting under Chapter 36.117 of the Texas Water Code which is used solely for domestic use or for providing water for livestock or poultry that is either drilled, completed, or equipped so that it is incapable of producing more than 25,000 gallons of groundwater per day (17.5 gpm).

B. A well used for agriculture purpose (agricultural well) that produces between 28 acre feet (17.5 gpm) and 161 acre feet (100 gpm) of water per year. In order to determine if a well is exempt under this provision, the District may require the well owner or operator to submit information verifying the amount of annual production from the well. Even though exempt from permitting, an agricultural well must be registered with the District and report water usage annually.

C. A 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 Railroad Commission of Texas provided that the person holding the Railroad Commission permit is responsible for drilling and operating the water well and the well is located on the same lease or field associated with the drilling rig. Water wells drilled after September 1, 1997, to supply water for hydrocarbon production must meet the spacing requirements of the District unless no space is available within 300 feet of the production well or the central injection station or as exempted by § 36.117 of the Texas Water Code.

D. A monitoring well used to monitor groundwater levels or groundwater quality.

E. A well that is exempt under this Rule will lose its exempt status and the well owner or operator must obtain a permit to continue operating the well if the well is subsequently used for purposes or in a manner that is not stipulated under this Rule.

## **RULE 6 – ANNEXATION INTO DISTRICT BOUNDARIES**

A. Any water wells located in an area annexed into the District's boundaries, and which water wells are in existence on March 18, 2008, are exempt from permitting, spacing, and production requirements in the District's rules. A water well must be drilled and cased in conformance with applicable design criteria promulgated by the Texas Commission on Environmental Quality for public supply wells or the Texas Department of Licensing and Regulation for livestock or domestic wells, in effect at the time the well was drilled, to be considered an existing water well.

B. Transportation of water outside the District from public water supply wells constructed in accordance with TCEQ design criteria, existing on March 18, 2008, located in an area annexed into the District's boundaries shall be limited to 5,000 acre feet of water per year in the aggregate. The District shall assess an export fee of 2.5 cents per thousand gallons of water for water transported outside the District's boundaries associated with wells existing on March 18, 2008, in area annexed into the District's boundaries.

C. All non-exempt wells capable of producing greater than 25,000 gallons per day that are not considered livestock, agricultural, or domestic wells existing on March 18, 2008, in an area annexed into the District's boundaries shall be registered with the District by June 1, 2010 and the owner of any non-exempt well(s) capable of producing greater than 25,000 gallons of water per day shall report annually to the District the total amount of water withdrawn.

D. An exempt well in existence at the time of annexation must be registered with the District by June 1, 2010 in order to receive protection under the District's spacing and mitigation rules.

E. Any change in use of water from wells in an area annexed into the District's boundaries shall be subject to the District's rules.

F. A water well that qualifies for an exemption under this section shall be afforded the same rights as any other permitted or registered well in the District.

## **RULE 7 – REQUIREMENTS FOR PERMIT APPLICATIONS**

A. Persons who wish to obtain a permit, or other approval from the District, shall submit a written or typed application to the District on a form prescribed by the District.

B. The District shall furnish, at no charge, forms and instructions for the preparation of any application, or other document, required to be filed by the District. Supplements may be attached if there is insufficient space on the form.

C. Prior to filing an application, applicants are encouraged to confer with District staff on any questions concerning the preparation of an application.

## **RULE 8 – APPLICATION FOR HISTORIC USE STATUS**

A. Purpose

The District seeks to manage the groundwater resources in the District and ensure drawdown limitations set forth in Rule 18 are not exceeded while protecting existing water wells and historic users to the maximum extent practicable.

B. Designation of Historic Use Status

Authorization issued by the District for groundwater withdrawals for a specified amount and type of use from a registered non-exempt well, permitted non-exempt well, or registered agricultural exempt well existing and operational prior to or on January 1, 2009, shall be designated under a historic use status certification and subject to any and all applicable rules, regulations, protection, and requirements set forth by the District.

C. Transfer of Historic Use Status

Historic use status is not a vested right of the permittee or well owner. The District may transfer a historic use status designation upon receiving an administratively complete approved Permit Application Form stating a request for a permit amendment specific to a request in Change of Ownership, provided the amendment does not change the type or place of use. Said application shall comply with all appropriate District rules and regulations relating to permit amendments relative to change in ownership status.

D. Historical Period

The historical period is designated as the period between January 1, 2000 and January 1, 2009 and use will be determined based on the highest use in any calendar year during this period.

E. Declaration of Historical Use

Any person who declares historic use in the District shall complete, sign and submit an application to the General Manager according to the provisions of this rule by June 30, 2010. Failure to submit an administratively complete application, 30 days after written notice by the General Manager listing the application's deficiencies, shall render the application void. A Form for Historic Use Declaration will be made available by the General Manager. Each application for Historic Use shall include the following, if applicable:

1. The total amount of water from the aquifer that the applicant or his contract user, or prior user, withdrew and beneficially used without waste during each calendar year of the historical period. The amount may be based on meter readings, pump size, size of column pipe, meter readings from center pivots, electric meter readings from pumps, or any other pertinent information establishing water use.
2. The maximum number of acres irrigated during any calendar year of the historical period and the type of crops irrigated per acre.
3. The purpose(s) for which the groundwater was used during each year of the historical period.
4. The amount of groundwater the applicant claims as the maximum beneficial use of water without waste during any one calendar year of the historical period.
5. The number and location of each well owned by the applicant and for which the applicant claims groundwater from the aquifer was withdrawn and placed to beneficial use during the historical period.
6. The place and use of groundwater withdrawn from each well.
7. If the groundwater was withdrawn from the well or placed to a beneficial use by a prior user or former existing user, then the name, address, and telephone number of each prior user or former existing user, the year of withdrawals, purpose of use, place of use and amount of

withdrawals, including copies of the legal documents establishing the legal rights of the user to withdraw and/or place groundwater from the aquifer to beneficial use.

8. Any facts on which the applicant requests equitable adjustment on the grounds that the applicant's historic use was affected by a requirement of or participation in a federal program.
9. Any other information that the District may require.

F. Groundwater Production Limits

The District may preserve groundwater use by historic status to the maximum extent practicable with respect to its rules limiting groundwater production.

G. Revocation of Historic Use Status

Historical user status may be revoked by the Board for violation of any terms or conditions of the certificate, obtaining the certificate by misrepresentation or failure to disclose relevant facts, or failure to comply with any applicable rules, regulations, fee schedule, special provisions, requirements, or orders of the District. A change in use shall invalidate the historic user status certificate.

H. Issuance of Historic Use Designation Certificates

Applications for Historic Use Designation Certificates will be presented to the Board for consideration at a regular Board meeting. The General Manager may refer an application for Historic Use Designation to a Board hearing. Any Board hearing on a Historic Use Designation is not subject to the contested case procedures of Rule 25. When the Board issues a Historic Use Designation Certificate, the Certificate will state the amount of historic use water and the acreage encompassed in the historic use designation.

- I. Each application for historic use status shall be accompanied by an application fee of one hundred dollars (\$100.00), by certified check or postal money order only, payable to the District which shall be delivered to the District office.

A copy of the form for application for Historic Use Status is available at the District office.

## **RULE 9 – NOTICE OF INTENT TO DRILL TEST WELLS**

- A. A person wishing to explore for groundwater must, prior to commencement of drilling, file with the District a notice of intent to drill a test well. The notice of intent to drill a test well shall include the following information:

1. A legal description of the tract upon which the test well is proposed to be drilled.
2. The proposed date for commencing drilling of the test well.
3. The name and address of the driller or contractor.
4. An acknowledgment that the persons responsible for the drilling of the test well will provide drilling logs and/or plugging reports to the District upon completion of the test well operation.

5. An acknowledgment that the test well will be properly plugged or, if the test well will be converted to a water well, the test well will be capped with a covering capable of sustaining a weight of at least 400 pounds until the test well is converted to a water well.
6. A declaration of whether the drilling and operation of the test well is restricted to a geophysical exploration or will include pumping tests and the short-term production of groundwater for testing purposes only.
7. Any other information deemed necessary by the General Manager subject to the approval of the Board.

B. No person may commence drilling a test well prior to District approval. The General Manager is delegated approval authority for test wells restricted to geophysical exploration absent pumping tests. Authorization to drill a test well which will include pumping tests and the production of groundwater is subject to Board approval as an uncontested matter.

C. Each notice of intent to drill a test well shall be accompanied by an application fee of one hundred dollars (\$100.00), by certified check or postal money order only, payable to the District which shall be delivered to the District office.

D. Authorization for drilling and production evaluation of a test well will expire one (1) year from the date of approval by either the General Manager or the Board.

A copy of the form for an application for a Notice of Intent to Drill a Test Well is available at the District office.

## **RULE 10 – APPLICATION FOR DRILLING AND PRODUCTION PERMITS**

A. No person shall begin to drill a well, or perforate an existing well, or increase the size of a well, or a pump therein, or produce groundwater from a well so that the well could reasonably be expected to produce in excess of 25,000 gallons of water per day, without having first applied to the District and received a permit or a permit amendment to do so, unless the drilling and operation of the well is exempt by law or by these Rules. An applicant may commence the drilling of a well when his application has been approved and a permit issued by the District.

B. An application for a well permit or a permit amendment is subject to spacing and production limitations relative to any approved or pending well permit or existing registered well.

C. Any person who is required to obtain a drilling and production permit, or who requests an amendment or modification of a permit, shall complete, sign and submit an application to the General Manager according to the provisions of this rule. Failure to submit an administratively complete application, 30 days after written notice by the General Manager listing the application's deficiencies, shall render the application void.

D. Forms for a drilling and production permit application will be made available by the General Manager. Each application for a permit shall include the following:

1. Name and mailing address of the applicant and the owner of land on which the well will be located.
2. If the applicant is other than the owner of the property, documentation establishing the applicable authority to construct and operate a well for the proposed use.

3. The location of the well expressed in Latitude and Longitude in degrees of arc and minutes of arc and seconds of arc to the first decimal place.
4. The current landowner as listed on the tax roles with the Gonzales County Deed Records and the number of feet to the nearest public road, property line or other legal description and a survey in which the land is located.
5. A statement of the nature and purpose of the proposed use and the amount of water to be used for each purpose.
6. The proposed maximum rate at which water will be withdrawn.
7. The number of contiguous surface acres owned by the applicant or the amount of contiguous surface acres for which the applicant has groundwater rights.
8. The name and address of the driller or contractor, if known.
9. The date proposed drilling operations are to commence.
10. The name and address of adjacent property owners as shown on the County Tax Rolls as of the date the application is filed.
11. The name and address of all existing and registered and permitted well owners within one-half mile of the proposed well as shown in the records of the District.
12. An acknowledgment by the applicant that required information will be furnished to the District by the applicant upon completion of the well and prior to production of water therefrom.
13. A drought contingency plan if the application involves a public water system as defined at 30 Texas Administrative Code § 290.38.
14. A water conservation plan or a declaration that the applicant will comply with the District's management plan.
15. A water well closure plan or a declaration that the applicant will comply with well plugging guidelines and report closure to the TCEQ and the District.
16. A map of the property upon which the well is located and an indication of all other wells on the property or a map of the city limits of any incorporated city in Gonzales County in which a well is proposed to be drilled.
17. Any other additional information deemed necessary by the General Manager.

E. Additional requirements for permit applications from the same producer or producers connected or to be connected to a common gathering/transportation piping system capable of producing greater than or equal to 3,000 acre-feet of groundwater per calendar year.

1. Include in the application a public-domain numerical groundwater availability model accepted by the General Manager of the District. The model shall demonstrate the effects of the proposed groundwater development upon the water table or artesian pressure of the Carrizo, Wilcox, Queen City and Sparta aquifers, as applicable, within and outside of the proposed well field over a 50 year modeling period. Applicants subject to this requirement shall, prior to submission of the model, contact the General Manager to obtain the District



designation of specific data to be included in the model. The model results will be reviewed by a qualified third party selected by the General Manager of the District to assess whether the applicant has properly input the specified data required by the General Manager.

The modeling results do not guarantee that the applicant will receive the full permitted amount of groundwater over the permit period. The District will use actual groundwater level measurements in the field to assess the effects of pumping on the aquifers.

2. Include in the application a monitoring plan to assess the effects of the project on the aquifer(s). This shall be accomplished by installing a sufficient number of groundwater monitoring wells in the permitted aquifer to monitor water levels and water quality around the well field. Applicants subject to this requirement shall, prior to submission of the application, contact the General Manager to discuss the number and locations of the monitoring wells. Each monitoring well shall be equipped with an electronic water level recording device. In addition, water quality sampling and analysis may be conducted on any monitoring well to assess any changes in water quality that may be attributed to large-scale pumping. Applicants subject to this requirement shall, prior to submission of the application, contact the General Manager to obtain the District designation of specific water quality sampling data required. The monitoring plan, at permit issuance, shall be incorporated into a binding agreement between the permittee and the District.
3. In order to ensure no unreasonable effects on existing groundwater and surface water resources or existing permit holders, the District shall require a mitigation plan, acceptable to the General Manager, to be included in the application to mitigate the effects of the drawdown of artesian pressure or the level of the water table upon the registered or permitted well owners potentially affected by that well or wells. The mitigation plan, at permit issuance, shall be incorporated into a binding agreement between the permittee and the District. The plan shall include but not be limited to:
  - a. The actions and procedures to be taken by the holder of the drilling and production permit in the event that pumping causes the water level in a registered or permitted well to drop to an unacceptable level.
  - b. The actions and procedures to be taken by the holder of the drilling and production permit in the event that the pumping from the permitted well causes the water to become objectionable or renders the water unusable to a registered or permitted well owner.
  - c. The actions and procedures to be taken by the holder of the drilling and production permit in the event that pumping causes the well casing or equipment to be damaged so that the recorded quality or quantity of water cannot be produced by the registered or permitted well owner.
  - d. The plan shall also include measures to be taken in cases where the reduction of artesian pressure causes an emergency to arise which may threaten human or animal health safety or welfare.
  - e. The plan shall also contain a specifically enumerated time schedule for the execution of the mitigation plan.

All wells in existence as of December 31, 2009 and registered as of June 1, 2010, not including wells connected or to be connected to a common gathering/transportation piping system capable of producing greater than or equal to 3,000 acre-feet of groundwater per calendar year, receive protection under the District's mitigation rules. Wells in existence as of

December 31, 2009 and registered prior to June 1, 2010 that are not part of the leased or owned land in a well field but are located inside a well field producing greater than or equal to 3,000 acre-feet of groundwater per calendar year shall also be accorded protection under the District's mitigation rules. The District shall assist in identifying wells that require mitigation and ensuring that mitigation is conducted in a timely manner but shall bear no costs for mitigation activities.

4. Include in the application:

- a. A demonstration that the proposed well field is consistent with the District's approved management plan.
- b. A map indicating the proposed area in which the other wells in the proposed well field will be drilled.
- c. The existing or proposed general route of the pipeline transporting the water.
- d. A demonstration that the proposed water to be produced is consistent with the regional water plan that has been approved by the TWDB at the time the permit application is submitted.
- e. The proposed ultimate production of the wells connected to the well field for which a permit application has been filed.

F. It shall be considered to be a fraud upon the District and on the adjacent landowners and or owners of water rights for any person to knowingly and willfully give erroneous information on a well permit application.

G. Each application for a drilling and production permit shall be accompanied by a check, certified check or postal money order in the amount of \$1.00 per acre/foot proposed to be produced annually payable to the District for the permit application processing fee. This fee is in addition to the fee the applicant paid for an application fee pursuant to Rule 9 for a test well to be converted to a permanent well.

A form for an application for a Water Well Drilling and Production Permit is available at the District office.

## **RULE 11 – ISSUANCE OF DRILLING AND PRODUCTION PERMITS**

A. The General Manager shall provide to the applicant mailed notice of the General Manager's determination of administrative completeness of the application and pursuant to Rule 24.A instructions on the publication and mailing procedures of the Notice of Permit Application. The notice shall reference the District's Rules applicable to permit hearing procedures. Failure of the applicant to timely comply with Rule 24.A may result in the General Manager returning the application as void.

B. Before granting or denying a permit or permit amendment, the District shall consider whether:

1. The application contains all the information required to be submitted to the District in Rule 10 and is accompanied by the prescribed fees.
2. The permit application is in conformance with the spacing requirements of Rule 18.A and production requirements of Rule 18.C.

3. The modeling results do not significantly deviate from the production limitations of Rule 18.D
4. The proposed use of water unreasonably affects existing groundwater or surface water resources or existing Permit Holders.
5. The proposed use of water is dedicated to a beneficial use.
6. The proposed use of water is consistent with District's approved water management plan.
7. The applicant has agreed to avoid waste and achieve water conservation.
8. The proposed use of the water will result in significant subsidence.
9. The applicant has agreed that reasonable diligence will be used to protect groundwater quality and that the applicant will follow well plugging guidelines at the time of well closure.

C. The Board shall consider the impact of a well field when taking up the matter of an individual well permit that is proposed to be part of a well field.

D. After the application for a drilling and production permit has been granted, the well, when drilled, must be within fifty feet of the location specified in the application and permit. If the well should be commenced or drilled at a different location, the drilling or operation of such well is prohibited and may be enjoined by the Board pursuant to Chapter 36.102 Texas Water Code and District Rules.

E. A drilling or production permit may be transferred to another person through change of ownership of the well provided all permit conditions remain in compliance with District Rules and the District is notified, in advance, of the proposed change in ownership. The General Manager is authorized to effectuate the permit transfer.

#### F. Permit Terms and Conditions

1. A drilling and production permit may include:
  - a. The name and address of the person to whom the permit is issued.
  - b. The location of the well.
  - c. The date the permit will expire.
  - d. A statement of the purpose for which the well is to be used.
  - e. A requirement that the water withdrawn under the permit be put to beneficial use at all times.
  - f. The location of the use of the water from the well.
  - g. A water well closure plan provision that the permittee will comply with the well plugging guidelines and report closure to the Texas Department of Licensing and Regulation.
  - h. The conditions and restrictions on the rate and amount of withdrawal.
  - i. Any conservation-oriented methods of drilling and operating prescribed by the District.

- j. A drought contingency plan.
2. Acceptance of the permit by the person to whom it is issued constitutes acknowledgment of and agreement to comply with all of the terms, provisions, conditions, limitations, and restrictions of these rules including, but not limited to, the following:
- a. Permits are granted in accordance with the provisions of the Texas Water Code and the Rules, Management Plan and Orders of the District, and acceptance of the permit constitutes an acknowledgment and agreement that the permittee will comply with the Texas Water Code, the District Rules, Management Plan, Orders of the District Board, and all the terms, provisions, conditions, requirements, limitations and restrictions embodied in a permit.
  - b. A permit confers no vested rights in the holder, and it may be revoked or suspended, or its terms may be modified or amended pursuant to the provisions of the District's Rules.
  - c. The operation of a well for the authorized withdrawal must be conducted in a non-wasteful manner. In the event the groundwater is to be transported a distance greater than one-half mile from the well, it must be transported by pipeline to prevent waste caused by evaporation and percolation.
  - d. The permittee must keep records of the amount of groundwater produced and the purpose of the production and such records shall be available for inspection by District representatives. Immediate written notice must be given to the District in the event production exceeds the quantity authorized by a permit, or the well is either polluted or causing pollution of the aquifer.
  - e. A well site must be accessible to District representatives for inspection, and the permittee agrees to fully cooperate in any reasonable inspection of the well and well site by District representatives.
  - f. Applications for which a permit is issued are incorporated in the permit and thus permits are granted on the basis of and contingent upon the accuracy of the information supplied in the application and any amendments to the application. A finding that false information has been supplied is grounds for immediate revocation of a permit. In the event of conflict between the provisions of a permit and the contents of the application, the provisions of the permit shall control.
  - g. Suspension or revocation of a permit may require immediate cessation of all activities granted by the permit.
  - h. Violation of a permit's terms, conditions, requirements or special provisions is punishable by civil penalties provided by the District's Rules.
  - i. Where ever special provisions in a permit are inconsistent with other provisions or District Rules, the special provisions prevail.
  - j. Changes in the withdrawal and use of groundwater during the term of a permit may not be made without the prior approval of a permit amendment authorizing the change issued by the District.

G. Permit Term

1. On approval of an application, the District shall issue a drilling and production permit to an applicant. The permittee's right to drill and produce shall be limited to the extent and purposes stated in the permit. The permit shall remain valid for a period of five years, at which time a new permit may be issued.
2. The permittee must provide the General Manager evidence of the drilling and completion of the well within two hundred and forty (240) days from the issuance date of the permit. Failure of the permittee to provide evidence of the drilling and completion of the permitted well within this designated time frame will render the permit void and production is strictly prohibited. Provided, however, that the Board, for good cause, may extend the time for drilling and completion for a period up to one hundred and twenty (120) days. If an extension is granted and the permittee fails to provide the General Manager evidence of drilling and completion within the allowable period designated by the Board, the permit is void and production therefrom is strictly prohibited. Large capacity well fields permitted to produce greater than or equal to 3,000 acre-feet of groundwater per year may be provided special consideration for timing of completion of wells.
3. A permittee holding a drilling and production permit due to expire shall file a written request to reissue the permit to the General Manager no later than 30 days prior to the expiration date of the permit. The permit shall remain effective until final Board action on the reissue of the permit. Requests to reissue a permit shall be subject to review for substantial compliance with the rules of the District by the General Manager.
4. Any permit subject to reissue shall after due consideration and an affirmative vote by the Board of directors be reissued for a period of five years in accordance to the rules in effect at the time of reissue.

**RULE 12 – REWORK OR REPLACEMENT WELL PERMITS**

A. No person shall re-work, re-drill, replace, or re-equip an existing registered non-exempt well that increases the rate of production without receiving a permit from the District. All replacement wells must produce from the same water-bearing formation.

B. A replacement well, in order to be considered as such must be drilled in the same water-bearing formation and within 250 feet of the existing well to be replaced and not elsewhere. It must not be located toward any other authorized or registered well site unless the new location complies with the spacing requirements set out in Rule 18; otherwise, the replacement well shall be considered to be a new well for which an application must be made under Rule 10.

Immediately upon completion of a replacement well, the existing well to be replaced shall be:

1. Plugged and abandoned.
  2. Properly equipped in such a manner that it cannot produce more than 25,000 gallons of water per day.
- C. An application to re-work, re-drill, replace, or re-equip an existing well that increases the rate of production but does not raise the well classification, change the original use, or exceed the acreage production limitation may be granted by the General Manager without notice or hearing.

D. An application to re-work, re-drill, replace, or re-equip an existing well that will result in a higher well classification (For example, changed from a “C” classification to a “D” classification as set out in Rule 18) may be granted by the Board without notice or hearing, provided that:

1. There is no change in the original use.
2. The acreage production limitation is not exceeded.
3. The higher well classification does not violate the spacing requirements based on authorized well sites or existing wells.

E. An application to re-work, re-drill, replace, or re-equip an existing well that will result in a higher well classification and violates the spacing requirements of Rule 18.A based on authorized well sites or existing wells may be granted by the Board after public notice and hearing, provided that:

1. There is no change in the original use.
2. The acreage production limitation is not exceeded.
3. Such a change will not cause unreasonable interference between wells.
4. The affected adjacent property owners indicate in writing that they have no objection to the proposed change.

F. A replacement well, upon completion, will retain the seniority of the previously registered well.

### **RULE 13 – RECHARGE FACILITY PERMITS**

A Applications shall be made to and permits must be obtained from the Board before installing and/or operating a recharge facility. Applications shall be on forms provided by the District and shall contain the information called for in the form. Failure to submit an administratively complete application, 30 days after written notice by the General Manager of the application’s deficiencies, shall render the application void.

The General Manager shall provide the applicant mailed notice of the General Manager’s determination of administrative completeness and pursuant to Rule 24.A instructions on the publication and mailing procedures of the Notice of Permit Application. The notice shall reference the District rules applicable to permit hearing procedures. Failure of the applicant to timely comply with Rule 24.A may result in the General Manager returning the application as void.

B. The following information shall be provided in or be submitted with the application:

1. The name and address of the applicant.
2. The name and address of the water right owner or owners of the land upon which the recharge facility will be located.
3. The legal description of the exact proposed location of the recharge facility.
4. The time schedule for construction and/or operation of the facility.
5. The names and addresses of the property owners within one-half (1/2) mile of the proposed recharge facility location, and the location of any wells on those properties.

6. A complete construction and operations plan that will include, but is not limited to, information as to:
    - a. A technical description of the facility to be used for recharge.
    - b. The source of the water to be recharged.
    - c. The quality of water to be recharged.
    - d. The volume of water to be recharged.
    - e. The rate at which the water will be recharged.
    - f. The formation into which waters will be recharged.
  7. Scientific evidence demonstrating that the proposed operation will not:
    - a. Endanger the structural characteristics of the formation receiving the recharged water.
    - b. Cause waste.
  8. Any additional information that may be required by the General Manager.
- C. The Board, in considering the application for a recharge facility, shall consider:
1. Whether operations of the recharge facility will result in waste.
  2. Whether operations of the recharge facility will result in pollution.
  3. Whether operations of the recharge facility will result in significant subsidence.
  4. Whether the recharge facility will endanger the structural characteristics of the formation
- D. The operator of a recharge facility shall be required to keep records and make reports to the District as to the operation of the recharge facility. Reports to the District shall be made on a monthly basis, beginning at the time a permit is issued to operate. Such reports shall include but are not limited to:
1. Volumes of water recharged through the recharge facility.
  2. The source of the water recharged through the recharge facility.
  3. The quality of the water recharged through the recharge facility.
  4. Additional information as may be specifically required by a permit to operate a recharge facility.
- E. The owner of a recharge facility shall assume and shall be charged with liability for the prevention of pollution and waste from such facility as well as, damage to the recharged formation by reason of the operations of said facility.
- F. The term of a permit for a recharge facility is five (5) years. If a written request is filed prior to permit expiration to reissue the current permit, the permit will remain in effect until Board action on the

reissuing of the permit. Requests to reissue a permit shall be subject to review for substantial compliance with the rules of the District.

G. Any permit subject to reissue shall after due consideration and an affirmative vote by the Board of Directors be reissued for a period of five years in accordance to the rules in effect at the time of reissue.

H. Recharge wells shall be completed and equipped in such a manner as to protect human life and prevent pollution. The owner of such wells shall assume and shall be charged with full responsibility for the prevention of personal injury, property damage, or pollution from such wells or activities.

I. It shall be considered to be a fraud upon the District and on the adjacent landowners and or owners of water rights for any person to willfully give erroneous information on a recharge facility permit application.

J. An application for a recharge facility permit shall be accompanied by a cashier's check or postal money order in the amount of \$1,000 payable to the District for a permit application processing fee.

A form for an application for a recharge Facility Permit is available at the District office.

#### **RULE 14 – BRACKISH WATER PERMITS**

A. Applications shall be made to and permits must be obtained from the Board before drilling brackish water supply wells. Applications shall be on forms provided by the District and shall contain the information called for in the form.

B. The following information shall be provided in or be submitted with the application:

1. The name and address of the applicant;
2. The name and address of the water right owner or owners of the land upon which the brackish water wells will be located.
3. The legal description of the exact proposed location of the brackish water wells and treatment facility.
4. The time schedule for construction and/or operation of the brackish water wells and treatment facility.
5. The names and addresses of the property owners within one-half (1/2) mile of the proposed brackish water wells and treatment facility location, and the location of any wells on those properties.
6. A complete construction and operations plan that will include, but is not limited to, information as to:
  - a. A technical description of the facility to be used for brackish water.
  - b. A disposal plan detailing how and where the concentrated brine reject will be disposed and evidence that the plan meets all applicable State laws for brine disposal.
  - c. Exact coordinates of the proposed production and brine injections well locations.



- d. Well construction details for both the brackish water production wells and the brine water injections wells.
  7. Scientific evidence demonstrating the current conditions of the proposed brackish water production zone and the overlying fresh water zone and that the proposed operation will not have an adverse effect on any fresh groundwater zone, including but not limited to:
    - a. Electric logs showing an adequate confining layer(s) between the brackish water production zone and the overlying fresh water zone.
    - b. Cross-sections showing the absence of faulting in the proposed brackish water production area.
    - c. Water quality analyses from the brackish water zone and the overlying fresh water zone.
  8. A groundwater monitoring plan that will include:
    - a. The exact coordinates of at least two fresh water monitoring wells – one located within 100 feet of the production well field and one located within 100 feet of the injection well.
    - b. Monitoring well construction details.
    - c. Installation, monitoring, and maintenance of dedicated water level data loggers and specific conductivity meters.
    - d. Conductance of a fluorescent dye tracer study using the production wells and monitoring wells to evaluate possible hydrologic communication between the brackish water zone and the overlying fresh water zone.
    - e. Annual water quality sampling for major cations and anions from both the brackish water production wells and the monitoring wells.
  9. Any additional information that may be required by the General Manager, including but not limited to a computer model, acceptable to the District, evidencing drawdown attributable to the brackish water well in the subject aquifer over a fifty (50) year time period.
- C. The Board, in considering the application for a brackish water well permit, shall consider:
1. Whether the operation of the brackish water well facility will result in waste.
  2. Whether the operation of the brackish water well facility will result in pollution.
  3. Whether the operation of the brackish water well facility will result in subsidence.
  4. Whether the operation of the brackish water well facility will result in degradation of groundwater quality; and
  5. Any other additional factors set forth in Rule 11.
- D. The operator of the brackish water well and treatment facility shall be required to keep records and make reports to the District as to the operations of the brackish water well and treatment facility. Reports to the District shall be made on a monthly basis, beginning at the time a permit is issued to operate. Such reports shall include but are not limited to:

1. Volumes of brackish water removed from the aquifer.
2. Volumes of concentrated brine reject water.
3. Documentation showing proper disposal of the concentrated brine reject water.
4. Results of a mechanical integrity test of the well, every five years, to ensure there is no significant leakage in the casing and there is no significant fluid movement into an underground source of drinking water through vertical channels adjacent to the well bore.
5. Results of the annual water quality sampling from both the brackish water production well and the monitoring wells.

E. The term of a permit for a brackish water well permit is five (5) years. If a written request is filed prior to permit expiration to reissue the current permit, the permit will remain in effect until Board action on the reissuing of the permit. Requests to reissue a permit shall be subject to review for substantial compliance with the rules of the District.

F. Any permit subject to reissue shall after due consideration and an affirmative vote by the Board of Directors be reissued for a period of five years in accordance to the rules in effect at the time of reissue.

G. It shall be considered to be a fraud upon the District and on the adjacent landowners and or owners of water rights for any person to willfully give erroneous information on a brackish water permit application.

H. An application for a brackish water permit shall be accompanied by a cashier's check or postal money order in the amount of \$1.00 per acre foot to be transported payable to the District for a permit application processing fee.

A form for an application for a Brackish Water Permit is available at the District office.

## **RULE 15 – TRANSPORTATION OF GROUNDWATER FROM THE DISTRICT**

A. In accordance with Chapter 36.122 of the Texas Water Code, if the proposed use of a water well or wells is for transportation of water outside the District additional information shall be required and a transportation permit must be obtained from the Board before operating a transportation facility. Such applications shall be on forms provided by the District and shall be in accordance with and contain the information called for in the transportation permit application form. Failure to submit an administratively complete application, 30 days after written notice by the General Manager listing the application's deficiencies, shall render the application void.

The General Manager shall provide to the applicant mailed notice of the General Manager's determination of administrative completeness of the application and pursuant to Rule 24.A instructions on the publication and mailing procedures of the Notice of Permit Application. The notice shall reference the District rules applicable to permit hearing procedures. Failure of the applicant to timely comply with this Rule 24.A may result in the General Manager returning the application as void.

B. Exceptions:

1. A transportation facility permit, as provided for herein, shall not be required if:
  - a. The transportation of water commenced prior to the November 26, 1997;

- b. The maximum volume of water to be transported is less than 100,000 gallons per day; and
    - c. The registered pumping capacity of the facility on the November 26, 1997 date of these rules does not increase.
  - 2. If a transportation facility is excepted from permitting, as provided herein above, a registration of such a transportation facility shall be required.
- C. The following information will be provided to the General Manager with a registration of an existing facility or an application for a permit to transport water:
- 1. The name and address of the owner and/or operator of the transportation facility.
  - 2. The legal description of the location of the well or wells from which water to be transported is to be produced.
  - 3. The name and address of the water right owner of the proposed or existing well or wells used to produce water to be transported.
  - 4. The permit number or registration number of the well or wells used to produce water to be transported.
  - 5. A technical description of the well or wells that are producing water for transportation and the formation they are producing from including, but not limited to:
    - a. A copy of the driller's log.
    - b. A completion record showing the depth of the well, the casing diameter, type and setting, and the perforated interval.
    - c. The size of the pump or pumps used to produce water to be transported.
    - d. The date the well was drilled.
    - e. Electric logs including a spontaneous potential log and a resistivity log.
  - 6. The use of water transported.
  - 7. The volume of water transported during the previous calendar year.
  - 8. A technical description of the facilities used to transport water.
  - 9. The proposed volumes of water to be transported outside the District, on a per annum basis for a thirty (30) year period commencing upon (expected) permit issuance.
  - 10. The availability of water in the District and in the proposed receiving area during the period for which the water supply is requested.
  - 11. 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.
  - 12. Additional information that may be required by the General Manager.

D. Factors for Board Consideration of Transportation Permits.

In reviewing a proposed transfer of groundwater outside the District, the Board shall consider:

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; and
3. The approved regional water plan and certified District management plan.

E. Permit Conditions

1. The transportation permit, if issued, after notice and hearing may include the following terms and provisions:
  - a. The name and address of the person to whom the permit is issued.
  - b. The location of the pipeline facility.
  - c. A statement of the purpose for which the transportation facility will be used.
  - d. A requirement that the water transported under the permit will be put to a beneficial use at all times.
  - e. The location of the use of the water from the transportation facility.
  - f. Conditions and restrictions, if any, placed on the rate and amount of water transported.
  - g. Any conservation-oriented methods of constructing and operating the transportation facility.
  - h. A drought contingency plan prescribed by the District.
  - i. The amount of water that may be transferred out of the District.
  - j. The period for which the water may be transferred, in accordance with Rule 15.J.
  - k. The specific wells from which water to be transported is to be produced.
2. Acceptance of the permit by the person to whom it is issued constitutes acknowledgment of an agreement to comply with all of the terms, provisions, conditions, limitations and restrictions of these rules including but not limited to the following:
  - a. Permits are granted in accordance with the provisions of the Texas Water Code and the Rules, Management Plan and Orders of the District and acceptance of the permit constitutes an acknowledgment and agreement that the permittee will comply with the Texas Water Code, the District Rules, Management Plan, Orders of the District Board, and all the terms, provisions, conditions, requirements, limitations and restrictions embodied in the permit.
  - b. A permit confers no vested rights in the holder and it may be revoked or suspended or its terms may be modified or amended pursuant to the provisions of the District's rules.

- c. The operation of the transportation facility must be conducted in a non-wasteful manner.
  - d. The permittee must keep records of the amount of groundwater produced and transported and such records shall be available for inspection by District representatives. Immediate written notice must be given to the District in the event transportation exceeds the quantity authorized by a permit.
  - e. A transportation site must be accessible to District representatives for inspection and the permittee agrees to fully cooperate in any reasonable inspection of the transportation facility by District representatives.
  - f. Applications for which a permit is issued are incorporated in the permit and thus permits are granted on the basis of and contingent upon the accuracy of the information supplied in the application and any amendments to the application. A finding that false information has been supplied is grounds for immediate revocation of a permit. In the event of conflict between the provisions of a permit and the contents of the application, the provisions of the permit shall control.
  - g. Suspension or revocation of a permit may require immediate cessation of all activities granted by the permit.
  - h. Violation of the permits terms, conditions, requirements or special provisions is punishable by civil penalties provided by the District rules.
  - i. Wherever special provisions in a permit are inconsistent with other provisions or District rules, the special provisions prevail.
  - j. Changes in the amount of water transported or the wells associated with the transportation facility may not be made without the prior approval of a permit amendment issued by the District.
- F. All transportation facilities subject to registration or permitting shall be equipped with flow monitoring devices approved by the District and shall be available at all reasonable times for inspection by District personnel. The operator of a transportation facility shall be required to keep records and make reports to the District as to the operation of the transportation facility.
- 1. Permitted transportation facilities shall submit reports to the District on a monthly basis, beginning at the time a permit is issued to operate. Monthly reports are due in the District office by the 15<sup>th</sup> day of the following month.
  - 2. Such reports shall include the volume of water transported during the preceding month and the production for each well associated with the transportation facility.
  - 3. Permitted transportation facilities shall pay a fee to the District equal to 2.5 cents per one thousand gallons for the water transported from the District in the preceding month. Monthly fees are due by the 15<sup>th</sup> day of the following month in the District office.
- G. The owner of a transportation facility shall be responsible for the prevention of pollution and waste, and with guarding the public's health in relation to water produced from such facility as required by these rules, and by reason of operations of said facility.

H. All transportation facilities, unless exempted by these rules, shall reimburse the District for expenses incurred by the District for administration in connection with the facility as outlined in Chapter 36, Texas Water Code.

I. Permit Term: The term for a transportation permit shall be three years if construction of a conveyance system has not been initiated prior to permit issuance. If construction of a conveyance system is begun before the expiration of the permit, the term will be extended to a 30 year term from initial permit issuance. If construction of a conveyance system has been initiated prior to permit issuance, the term of the transportation permit shall be 30 years.

J. The District may, every five years, review the amount of water that may be transferred out of the District under a permit and may limit the amount of water which may be transferred, after a consideration of the factors set forth in Rule 15.D. and all relevant and current data for conservation of groundwater resources in the District. At any time during the term of a transportation permit, the District may revise or amend the permit if the use of water unreasonably affects existing groundwater and surface water resources or existing Permit Holders.

K. A permittee holding a transportation permit shall submit an application to reissue the permit to the General Manager no later than thirty (30) days prior to the expiration of the permit. The permit shall remain effective until final Board action on the reissue of the permit. In its determination whether to reissue the transportation permit, the Board shall consider relevant and current data for the conservation of groundwater. Requests to reissue a permit shall be subject to the notice and hearing requirements applicable to permit applications.

L. An application for a transportation permit may be considered by the Board contemporaneously and in conjunction with Board consideration of related water well drilling and production permit applications.

M. It shall be considered to be a fraud upon the District and on the adjacent landowners and or owners of water rights for any person to willfully give erroneous information on a transportation permit application.

N. An application for a transportation permit shall be accompanied by a certified check or postal money order in the amount of \$1.00 per acre/foot requested to be transported in a year payable to the District for a permit application processing fee.

A form for an application for a Transportation Permit is available at the District office.

## **RULE 16 – REQUIREMENTS FOR DRILLING, COMPLETING, EQUIPPING AND REWORKING WELLS**

### **A. Artesian/Confined Aquifer Wells**

All wells that are to be completed in the artesian or confined portion of an aquifer shall be completed so that water from other strata or zones are not allowed to co-mingle through the borehole-casing annulus. The annular space between the borehole and casing shall be filled from the top of the water bearing surface to ground surface with cement, palletized bentonite, or a cement-bentonite slurry.

### **B. Outcrop Wells**

All wells that are to be completed in the outcrop portion of an aquifer shall be completed so that surface pollution is not allowed to enter the borehole-casing annulus. The annular space between the

borehole and casing shall be filled from the ground surface to a minimum depth of twenty (20) feet with cement, palletized bentonite, or a cement-bentonite slurry

C. Surface Completions

A concrete slab or sealing block shall be placed around the well casing at the surface and shall extend at least two (2) feet from the well in all directions. The surface of the slab shall be sloped to drain away from the well casing.

D. If a well penetrates any undesirable water zones, or zones containing waters that differ significantly in chemical quality, the undesirable water zone shall be sealed off and confined to its zone of origin.

1. When undesirable water is encountered in a zone overlying fresh water, a surface casing shall be installed across the undesirable water zone and cemented to the land surface. The well shall be installed inside the surface casing and completed as indicated above for artesian/confined aquifers.
2. When undesirable water is encountered in a zone underlying a fresh water zone, the portion of the well bore opposite the undesirable water zone shall be filled with cement to a height that will prevent the entrance of the undesirable water into the well.

E. Complete records shall be kept and reports thereof made to the District concerning the drilling, equipping and completion of all wells drilled or reworked. Such records shall include an accurate Driller's log, any electric log that has been made and such additional data concerning the description and completion of the well, its pumping capacity, and its equipment as may be required by the Board. Such records shall be filed with the District, within thirty (30) days after completion of the well.

F. No person shall produce water from any well hereafter drilled and equipped within the District, except that necessary for the testing and equipping of such well and equipment, unless or until the District has been furnished the information required by the Board on the form furnished by the District.

G. No person shall drill, complete, equip or rework a well or borehole without having a current Texas Water Well Driller's license and/or Texas Pump Installer's license. Any person who drills, completes, equips or reworks a well or borehole shall comply with the Rules and Regulations of the District, state or federal agencies or political subdivisions having jurisdiction, including but not limited to the Texas Water Well Driller's Act, and the statutes creating the Texas Commission on Environmental Quality, all of which are incorporated herein by reference for all purposes.

H. If a conflict between the requirements of District Rule 16 and the requirements of the Texas Commission on Environmental Quality (TCEQ) Rules occur, the requirements of the TCEQ Rule shall prevail.

## **RULE 17 – REQUIRED EQUIPMENT ON WELLS FOR PROTECTION OF GROUNDWATER**

The following equipment must be installed when a pump is installed or repaired on existing wells or when a new well is drilled, and on all wells having a chemical injection, chemigation or foreign substance unit in the water delivery system

A. An in-line, automatic quick-closing check valve capable of preventing pollution or harmful alteration of the groundwater. The type of check valve installed shall meet the following specifications:

1. The body of the check valve shall be constructed of cast iron, stainless steel, cast aluminum, cast steel, steel or of a material and design that provides a sturdy integrity to the unit and is resistant to the foreign substance being injected. All materials shall be corrosion resistant or coated to prevent corrosion. The valve working pressure rating shall exceed the highest pressure to which the valve will be subjected.
2. The check valve shall contain a suitable automatic, quick-closing and tight-sealing mechanism designed to close at the moment water ceases to flow in the downstream direction. The device shall, by a mechanical force greater than the weight of the closing device, or hydraulic backpressure from the system and provide drip-tight closure against reverse flow.
3. The check valve construction should allow for easy access for internal and external inspection and maintenance. All internal parts shall be corrosion resistant. All moving parts shall be designed to operate without binding, distortion, or misalignment.
4. The check valve shall be installed in accordance with the manufacturer's specifications and maintained in a working condition during all times in which any fertilizer, pesticide, chemical, animal or human waste or other foreign substance is injected into the water system. The check valve shall be installed between the pump discharge and the point of chemical or foreign substance injection.

B. A vacuum-relief device shall be installed between the pump discharge and the check valve in such a position and in such a manner that insects, animals, floodwater, or other pollutants cannot enter the well through the vacuum-relief device. The vacuum-relief device may be mounted on the inspection port as long as it does not interfere with the inspection of other anti-pollution devices.

C. An automatic low pressure drain shall also be installed between the pump discharge and the check valve in such a position and in such a manner that any fluid which may seep toward the well around the flapper will automatically drain out of the pipe. The drain must discharge away from rather than flow toward the water supply. The drain must not collect on the ground surface or seep into the soil around the well casing.

1. The drain shall be at least three-quarter inch in diameter and shall be located on the bottom of the horizontal pipe between the pump discharge and the check valve.
2. The drain must not extend beyond the inside surface of the bottom of the pipe unless special provisions, such as a dam made upstream of the drain, forces seepage to flow into the drain.
3. The outside opening of the drain shall be at least two inches above the grade.

D. An easily accessible inspection port shall be located between the pump discharge and the check valve, and situated so the automatic low-pressure drain can be observed through the port and the flapper can be physically manipulated.

1. The port shall allow for visual inspection to determine if leakage occurs past the flapper, seal, seat, and/or any other components of the checking device.
2. The port shall have a minimum four-inch diameter orifice or viewing area. For irrigation distribution systems with pipe lines too small to install a four-inch diameter inspection port, the check valve and other anti-pollution devices shall be mounted with quick disconnects, flange fittings, dresser couplings, or other fittings that allow for easy removal of these devices.



E. Wells under artesian pressure (flowing wells) shall be equipped with a valve in good working order capable of stopping the flow of said well.

## **RULE 18 - CLASSIFICATION, SPACING AND PRODUCTION PROVISIONS**

The following rule establishes production and spacing requirements in order to minimize, as far as practicable, the drawdown of the water table or reduction of artesian pressure, to prevent interference between wells, to prevent degradation of water quality, to encourage conservation and to prevent waste in accordance with Chapter 36.116 of the Texas Water Code.

### **A. Classification and Spacing Provisions**

Wells will be subject to the classification and spacing provisions identified in Table 1 below. Well pumping capacity (permitted production) shall be based on a pumping rate of 0.62 gallons per minute (gpm) per contiguous acre owned or leased and dedicated to the well site. Well classification and spacing is based on the well pumping capacity. (For example, an applicant with 500 contiguous acres would fall under classification B and have a spacing requirement of 3,000 feet for the Carrizo or Wilcox Aquifer).

**Table 1**  
**Gonzales County Underground Water Conservation District**  
**Classification, Spacing and Production Provisions**

<b>Well Pumping Capacity (gpm)</b>	<b>Well Classification</b>	<b>Minimum Distance from Nearest Registered/Authorized Well (feet)</b>	
		<b>Carrizo/Wilcox</b>	<b>Queen City/Sparta</b>
< 17.5	Domestic/Livestock	None	None
17.5 – 100	Exempt Agricultural	None	None
51 – 250	A	1,500	4,850
251 – 500	B	3,000	8,400
501 – 1000	C	6,000	9,600
≥ 1001	D	8,000	> 18,000

1. For any well of class A or larger the distance to the nearest property owned by another person for any well shall be based on the formula (pumping capacity x 0.5 feet + 50 feet) to yield the distance from the adjacent property of another owner. This provision may be waived with the written consent of the adjacent affected property owner.
2. If a proposed well is of the same or larger classification as the nearest existing registered or authorized well site, the proposed well shall be located according to its well classification.
3. If the proposed well is of a smaller size than the size of the nearest existing registered well, authorized well site, or active test well permit, it shall not be drilled closer than the distance allowed for by the larger well.
4. Monitoring wells shall not be subject to any spacing provisions and shall be placed in the most advantageous location for observing aquifer conditions.
5. Water wells drilled after September 1, 1997, to supply water for hydrocarbon production must meet the spacing requirements of the District unless no space is available within 300 feet of the production well or the central injection station or as exempted by § 36.117 of the Texas Water Code.

6. All registered wells and authorized well sites receive protection under the District's spacing rules to the extent allowed by Chapter 36 of the Texas Water Code.

B. Exceptions to Distance and Spacing Requirements

1. The Board may, if good cause is shown, enter special orders or add special permit conditions increasing or decreasing the distance and spacing requirements.

C. Production Allocations

The maximum permitted production for a tract of land shall not exceed a total of one (1) acre/foot of water per surface acre of land owned per year from the Carrizo aquifer or combination of the allowable production from the Queen City and Sparta and Carrizo aquifers. Production from the Queen City Aquifer shall be one (1) acre/foot per surface acre per year and shall be considered part of the one (1) acre/foot per surface acre total production allowed on any tract of land. Production from the Sparta aquifer shall be one half (1/2) acre/foot per surface acre per year and shall be considered part of the one (1) acre/foot per surface acre total production allowed on any tract of land. Production from the Wilcox aquifer shall be one (1) acre/foot per surface acre per year and may be in addition to any other production permitted for any tract of land. Wells previously permitted to produce at a higher rate per surface acre shall be reduced to the rate stated per surface acre in this rule beginning with permits scheduled to be reissued in 2012 and all permits therein after shall be reissued at this rate.

Production for peaking is allowed to exceed the well permitted capacity in any monthly period, however, the actual calendar year production beginning on January 1<sup>st</sup> and ending on December 31<sup>st</sup> shall not exceed the permitted production for that year. The maximum pump size that can be installed in a well shall be based on a pumping rate of 0.93 gpm per contiguous acre owned or operated and dedicated to the well site, except that an irrigation well's maximum pump size in gpm is determined by multiplying the actual irrigated acres by a factor of 7.54. (For example, a public supply well with 500 dedicated contiguous acres would be permitted to install a maximum pump size of 465 gpm or an irrigation well with 100 actual irrigated acres would be permitted to install a maximum pump size of 754 gpm).

1. The determination for the approval of a well drilling and production permit application will be calculated based on the number of acres that are contiguous to that well site and contingent on the ability of the well owner to demonstrate that they have legal ownership or contractual rights on each individual tract of land as recorded in the Gonzales County Deed Records.
2. A person's right to continue to produce a well or wells under this rule is dependent upon maintaining the ownership of water rights sufficient to produce the volume of groundwater specified in the permit or permits and other Rules of the District. A conveyance of any portion of the water rights could result in non-compliance with Rules of the District.
3. On tracts of land that have leased or sold the maximum permitted production amount, no other production, with the exception of an exempt well under Rule 5A, shall be allowed.
4. The District's Rules related to spacing and production do not apply to any well listed as exempt under Rule 5. Permits previously issued to produce water at higher amounts than allowed by Rule 18.C of these rules shall continue until such time as that production ceases or permitted production is modified by Rule 18 or 19. Thereinafter all permits shall be reissued after review and an affirmative vote of the Board every five years. The Board may decline to reissue a permit if the permittee is not in substantial compliance with all other rules of the District in force at the time of reissue.

D. Production Limits

1. Production from an individual well or combination of wells in a well field shall be restricted in order that the maximum drawdown of the water table or artesian pressure shall not be greater than the amount presented in Table 2 below. The maximum drawdown is computed from the historical water level measurements on September 2002 adopted by the Board (Resolution 12-03), or subsequent measurements by District personnel using water wells or monitoring wells. For newly installed monitoring wells or existing wells added to the monitoring well network after December 31, 2001, a groundwater availability model approved by the General Manager may be used to compute the historic water level in the well that would have occurred at the monitoring well location in 2002. Alternatively a comparison of data from a December – January timeframe in both the year in which drawdown is assessed and in the historic period may be used.

**Table 2**  
**Gonzales County Underground Water Conservation District**  
**Aquifer Drawdown Limits**

Wilcox Aquifer		Carrizo Aquifer		Queen City Aquifer		Sparta Aquifer	
Water Table	Artesian Pressure	Water Table	Artesian Pressure	Water Table	Artesian Pressure	Water Table	Artesian Pressure
50 feet	100 feet	50 feet	100 feet	25 feet	50 feet	25 feet	50 feet

2. The District shall monitor water levels in the Carrizo, Wilcox, Queen City, and/or Sparta aquifers three times a year (January, June, and September) to evaluate aquifer conditions. An annual average water level measurement shall be computed from these three measurements from each monitoring well. Water level measurements will be obtained by automatic or manual water level monitoring equipment.
3. The maximum drawdown shall be computed by subtracting the average annual water level measurement from the historical water level measurement in each monitoring well. Monitoring wells that are located within a well field shall not be included in any annual average drawdown calculations.

**RULE 19 – EXCEEDANCE OF DRAWDOWN LIMITS**

A In order to minimize, as far as practicable, the drawdown of the water table or reduction of artesian pressure, to prevent interference between wells, to prevent degradation of water quality, to encourage conservation and to prevent waste in accordance with Chapter 36.116 of the Texas Water Code, the District shall apply a reduction in the allowable permitted production if the Board determines that a well or well field has caused or significantly contributed to an exceedance of the drawdown limits set forth in Rule 18.D. The District may consider a single monitoring well or a series of monitoring wells in making a determination of exceedance of the aquifer drawdown level in an area or areas.

B. The Board shall hold a public hearing to receive comment concerning the intent of the Board to designate specific management area(s) and limit production in the affected management area(s). The Board shall publish a notice not less than 20 days before the actual date of the Board meeting to enact the applicable rules and designate the management area(s). The District shall notify all permit holders in the proposed management area(s) in writing of the hearing to change current production permits.

C. After the public hearing the Board may within thirty (30) days take action on a resolution designating the specific management area(s) and limiting production. Historic use status wells, up to the maximum amount of water certified shall be exempt from reductions in production rates; however such wells will be required to implement water conservation measures. The Board shall apply 10% reductions, based on pro rata share of actual production amounts, on a rolling quarterly basis until the artesian or water table decline in monitoring wells designated by the Board stabilizes at the maximum drawdown limits as stated in Rule 18.D. In areas that have been delineated as specific management areas, production is no longer allowed to exceed the permitted capacity in any monthly reporting period as designated in Rule 18.C. In the specified management area(s), the Board shall limit groundwater production from each non-exempt authorized/permitted well or well field based on the following criteria:

1. Current water usage of each non-exempt authorized/permitted well or well field.
2. Availability of other existing water sources for each non-exempt authorized/permitted well or well field.
3. Special or unusual needs of each non-exempt authorized/permitted well or well field.

D. When the Board delineates a management area or areas to have limited production it may require:

1. All wells located within the designated management area or areas capable of producing 25,000 gallons or more per day, to be equipped with a District approved meter or measuring device.
2. Increased water level monitoring in the affected area(s).

E. The Board shall continue to collect and review information each succeeding year after the Board has delineated a management area(s).

## **RULE 20 – PROTECTION OF GROUNDWATER QUALITY**

The following rules establish procedures for groundwater monitoring, assessment, and actions to prevent degradation of water quality in accordance with Chapter 36.101 of the Texas Water Code. Degradation of water quality shall mean a steady historical increase, over the original measurement, in a water quality parameter(s) in a well or number of wells that are being monitored by the District or by a well field owner/operator. To assist in its determination of water quality degradation, the Board may consult with a third party consultant specialized in groundwater geochemistry if a water quality parameter in a well or number of wells shows a 10 percent or greater increase from the original measurement.

A. In order to preserve and protect the aquifer(s) of the District, wells connected or to be connected to a common gathering/transportation piping system capable of producing greater than or equal to 3,000 acre-feet of groundwater from permitted wells per calendar year, shall be required to assess the effects of the project on the aquifer(s). Water quality sampling and analysis shall be conducted by the well field owner/operator annually in at least two production wells to assess any changes in water quality that may be attributed to the large-scale pumping project. Samples shall be collected and analyzed by a laboratory, acceptable to the District, for major cations (sodium, potassium, calcium, magnesium) and anions (chloride, sulfate, carbonate, bicarbonate) and total dissolved solids. In addition, specific conductance, pH, and temperature measurements shall be made in the field during each annual sampling event. The sampling results shall be submitted to the District annually.

B. Production from an individual well or combination of wells in a well field may be restricted if the District determines, after consultation with a third party consultant specialized in groundwater

geochemistry, that a well or combination of wells in a well field is responsible for degrading the water quality of an aquifer.

C. If the Board determines that degradation of the water quality in a well or well field has occurred it shall notify the permit holders of record with wells in the affected aquifer that are located in the affected area or areas in writing.

D. The Board shall hold a public hearing to receive comment concerning the intent of the Board to designate specific management area(s) and/or limit production in the affected management area(s). The Board shall publish a notice not less than 20 days before the actual date of the Board meeting to enact the applicable rules and designate the management area(s). The District shall notify all permit holders in the proposed management area(s) in writing of the hearing to designate specific management area(s) and/or change current production permits.

E. After the public hearing the Board may within thirty (30) days take action on a resolution designating the specific management area(s) and/or limiting production. Historic use status wells up to the maximum amount of water certified shall be exempt from reductions in production rates; however such wells will be required to implement water conservation measures. In limiting production the Board shall apply 10% reductions, based on pro rata share of actual production amounts, on a rolling quarterly basis until the increase in water quality degradation has ceased.

F. When the Board delineates a management area or areas and/or limits production it may require:

1. All wells located within the designated management area or areas capable of producing 25,000 gallons or more per day, to be equipped with a District approved meter or measuring device.
2. Increased water quality monitoring in the affected area(s).

G. The Board shall continue to collect and review information each succeeding year after the Board has delineated a management area(s).

H. No person shall operate an existing well that allows cross-contamination to occur between aquifers.

I. Any person filing a water quality complaint with the District against another party must show that the current construction of the affected well is sound and provide sufficient evidence of a change of water quality by supplying the District with:

1. Well completion records.
2. Laboratory analytical data.
3. Any other data the General Manager deems necessary, including but not limited to a camera survey.

## **RULE 21 – PLUGGING AND CAPPING OF WELLS**

Every owner or lessee of land within the District, upon which is located an open, uncovered, abandoned or deteriorated well shall be required to plug or cap the well permanently or temporarily as set forth below and in accordance with standards set forth in the Texas Water Well Drillers and Pump Installers Administrative Rules, Title 16, Chapter 76, Texas Administrative Code.

A. The District may require the owner or lessee of land on which an open, uncovered, abandoned or deteriorated well is located to plug the well permanently in accordance with the rules promulgated by the Texas Department of Licensing and Regulation or cap the well with a covering capable of sustaining a weight of at least 400 pounds.

B. If the owner or lessee of the land fails or refuses to plug or cap the well within 10 days after being requested to do so in writing by an officer, agent, or employee of the District an Enforcement Action will be taken in accordance with Rule 27. The Board shall at a regular or special called meeting take action on the Enforcement of this Rule. The Board shall upon finding that a well is in violation of this Rule instruct District personnel to employ any person, firm, or corporation to enter the land and plug or cap the well.

C. Reasonable expenses incurred by the District in plugging or capping a well constitute a lien on the land on which the well is located. The Board shall consider the availability of state funds to assist in plugging or capping any well and may on its own motion bear some or all of the expense of the plugging or capping of any well.

D. The lien is perfected by filing in the deed records of the county where the well is located an affidavit, executed by any person conversant with the facts, stating the following:

1. The existence of the well.
2. The legal description of the property on which the well is located.
3. The approximate location of the well on the property.
4. The failure or refusal of the owner or lessee, after notification, to plug or cap the well within 10 days after the notification.
5. The plugging or capping of the well by the District, or by an authorized agent, representative, or employee of the District.
6. The expense incurred by the District in closing the well.

Nothing in this Rule affects the enforcement of Subchapter A, Chapter 756, Health and Safety Code.

## **RULE 22 – RIGHT TO INSPECT AND TEST**

A. Any authorized officer, employee, agent or representative of the District shall have the right at all reasonable times and after twenty four (24) hours of advance verbal or written notice to enter lands upon which a well or wells, transportation facilities or recharge facility may be located within the District for the purpose of:

1. Inspecting a well or wells or transportation facility, or a recharge facility.
2. Determining the pumping capacity of well or wells or transportation facility or a recharge facility.
3. Reading or interpreting any meter, weir bow or other instrument for the purpose of measuring production of water from well or wells.
4. Collecting samples to be used in regard to groundwater quality programs.

5. Testing the pump and the power unit of the well or wells.
6. Measure the level of groundwater in the well or wells.
7. Making any other reasonable and necessary inspections and/or tests that may be required for the formulation of groundwater information or the enforcement of the District Rules.

B. If any officer, employee, agent or representative is refused the right to enter lands under this authority, the District may invoke the remedies authorized by Section 36.102 of the Texas Water Code.

## **RULE 23 – EXCEPTION TO DISTRICT RULES**

A. In order to accomplish the purposes set forth in the Management Plan, the Board may grant exceptions to Rules of the District. This Rule, and all other Rules of the District, shall not be construed so as to limit the power of the Board, and the powers stated are cumulative of all other powers possessed by the Board.

B. Procedure:

1. Any person, firm, corporation, association of persons or other entity desiring an exception to any Rule shall file a written, sworn application with the District stating:
  - a. The nature of the exception requested.
  - b. The justification for granting the exception.
  - c. Any information that the applicant deems appropriate in support of the exception.
2. One copy of any application for an exception shall be submitted to the District at its office:

GONZALES COUNTY UNDERGROUND WATER CONSERVATION DISTRICT  
 920 Saint Joseph  
 P. O. Box 1919  
 Gonzales, Texas 78629  
 Phone 830-672-1047

3. All applications for exceptions shall be heard and considered by the Board meeting in regular or special session, within ninety (90) days after submittal. At least thirty (30) days notice of the hearing shall be given to the applicant, to known interested parties, including all governmental agencies having potential concurrent jurisdiction, and notice shall also be published in a newspaper in general circulation in Gonzales and Caldwell County at least thirty(30) days before the date of the hearing.
4. At the hearing the applicant and other interested persons will be given the opportunity to present evidence.
5. The decision of the Board shall be based upon the evidence submitted at the hearing, facts of which the Board may take judicial notice, statements and arguments.
6. The Board shall enter an order granting or denying an application for exception, with such conditions as it shall deem proper, within sixty (60) days after such hearing.

## **RULE 24 – PERMIT NOTICE AND HEARING PROCEDURES**

### **A. Notice of Permit Application**

Upon a determination of administrative completeness of an application for a permit or permit amendment, the General Manager will provide applicant a Notice of Permit Application. The notice will include (1) the name of the applicant; (2) the address or approximate location of the well, proposed well, or other regulated activity; (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; and (4) any other information the General Manager considers relevant and appropriate. The notice shall reference the District Rules applicable to permit hearing procedures and provide for a thirty (30) day period for interested persons to submit comments to the District and/or to request a contested case hearing, if applicable.

The applicant must, upon receipt of the Notice of Permit Application, publish the Notice of Permit Application in the newspaper of largest circulation within Gonzales County and Caldwell County at the earliest available publication date after receipt of the Notice from the General Manager. The applicant must also mail the Notice of Permit Application to landowners and well owners designated in Rule 10.D.10 within seven (7) days of receipt of the notice from the General Manager. The applicant must provide evidence of newspaper publication and mailed notice to the General Manager within twenty-one (21) days of applicant's receipt of the Notice from the General Manager.

The General Manager shall mail the Notice of Permit Application to persons who have requested notice under Rule 24.B.

### **B. Request for Notice of District Hearings**

A person may request notice from the District of a hearing on a permit or a permit amendment application. The request must be in writing and 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. An affidavit of an officer or employee of the District establishing attempted service by first class mail, facsimile, or electronic mail to the person in accordance with the information provided by the person is proof that notice was provided by the District.

### **C. Procedures for Written Public Comment and Request for a Contested Case Hearing in Response to Notice of Permit Application**

#### **1. Public Comment**

Any person may file a written objection to an application for a permit or permit amendment and request the opportunity to address the District Board in an uncontested hearing to comment on the application. Any person may submit either detailed comments or a summary of their comments on an application to the General Manager within thirty (30) days of receipt of the Notice of Permit Application or publication of the Notice of Permit Application in a newspaper of general circulation within Gonzales County. Any interested person will have the opportunity to present their comments to the Board, either in oral or written form, if a hearing is scheduled on an application for permit or permit amendment.

#### **2. Request for Contested Case Hearing**

Any person may file a written objection to an application for permit or permit amendment and request a contested case proceeding. An application for a new well permit or an amendment to an existing well permit, not part of a well field, requesting less than 500 acre feet per year, is not subject to a contested case hearing, if the General Manager considers the application to be in compliance



with the rules of the District. A written request for a contested case proceeding shall be submitted to the General Manager within thirty (30) days of receipt of the Notice of Permit Application or publication of a newspaper of general circulation of a Notice of Permit Application. The request for a contested case hearing shall include evidence of a personal justiciable interest related to a legal right, duty, privilege, power or economic interest affected by the application. An interest common to members of the general public does not qualify as a personal justiciable interest. Any person who requests a contested case hearing by claiming a personal justiciable interest must appear at any District hearing on the permit application to present this evidence directly to the presiding officer or full Board for a determination of a personal justiciable interest.

### 3. Justiciable Interest Factors

In making a determination of whether a person has a personal justiciable interest, the General Manager, presiding officer, or Board shall consider, at a minimum, the following factors:

- a. Likely impact of the regulated activity on the health and safety of the person and on the use of property of the person.
- b. The distance between the regulated activity and the person's property
- c. Whether a reasonable relationship exists between the interest claimed and the regulated activity.
- d. Likely impact of the regulated activity on the use of groundwater or other natural resources of the person.

### D. Scheduling and Notice of Hearings

1. The General Manager may schedule a hearing on a permit or permit amendment applications received by the District.
2. The General Manager may schedule more than one application for consideration at a hearing.
3. On written request by the applicant, the District shall process multiple applications from a single applicant under consolidated notice and hearing procedures if the District requires a separate permit or permit amendment application for:
  - a. Drilling, equipping, operating or completing a well or substantially altering the size of a well or well pump.
  - b. The spacing of water wells or the production of groundwater.
  - c. Transferring groundwater outside the District.
4. The District is not required to use consolidated notice and hearing procedures under this section if the Board cannot adequately evaluate one application until it has acted on another application.
5. In scheduling a hearing, the General Manager shall designate whether requests for a contested case have been submitted to the District. Where the General Manager objects to an application, the hearing shall be designated a contested case hearing. Where no person alleging a personal justiciable interest has timely requested a hearing, but comments are submitted on the application, the General Manager shall designate the hearing an uncontested hearing.

6. Where no requests for a contested case hearing or comments are received by the District and the General Manager determines the application meets all relevant District rules, a public hearing on an application is not required and the Board may act on the application at a Board meeting. This subsection is not applicable to an application under Rule 10.E, Rule 14 or Rule 15.
7. Reissue of a permit in substantial compliance with District rules, as determined by the General Manager, is not subject to a hearing, including a contested case hearing. The Board shall act on such a permit reissue at a regular Board meeting.

E. Prerequisites for a Contested Case Hearing

1. A hearing will be considered a contested case hearing when the General Manager objects to an application and requests a contested case hearing.
2. A hearing will be considered a contested case hearing if the Board finds that a person requesting a contested case hearing has a personal justiciable interest and, in the hearing request, has raised significant issues related to the applicant within the jurisdiction of the District.
3. A quorum of the Board shall meet in regular or called meeting of the Board and vote on whether the pending permit shall be considered a contested case hearing.

F. Notice of Public Hearings on Applications for Permit or Permit Amendments

1. If the General Manager schedules a hearing on an application for a permit or permit amendment, the General Manager shall give notice of the hearing as set forth below.
2. The notice must include:
  - a. The name of the applicant.
  - b. The address or approximate location of the well, proposed well, Transportation Facility or recharge facility.
  - c. 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.
  - d. The time, date, and location of the hearing.
  - e. Any other information the General Manager or Board considers relevant and appropriate.
3. Not later than the 10<sup>th</sup> day before the date of a hearing, the General Manager shall:
  - a. Post notice in a place readily accessible to the public at the District office.
  - b. Provide notice to the Gonzales and Caldwell County Clerk.
  - c. Provide notice by:
    - (1) Regular mail to the applicant.
    - (2) Regular mail, facsimile, or electronic mail to any person who has requested notice under Rule 24.B.

- (3) Regular mail to any adjacent landowners or well owners and all persons who submitted comments or requested a hearing in response to the notice of application.

G. Hearing Registration

The District may require each person who participates in a hearing to submit a hearing registration form stating:

1. The person's name.
2. The person's address.
3. Whom the person represents if the person is not there in the person's individual capacity.

H. Hearing Procedures

1. A hearing must be conducted by:
  - a. A quorum of the Board; or
  - b. An individual to whom the Board has delegated in writing the responsibility to preside as a hearings examiner over the hearing or matters related to the hearing.
2. Except as provided by subsection 3, the Board President or the hearings examiner shall serve as a presiding officer at the hearing.
3. If the hearing is conducted by a quorum of the Board and the Board President is not present, the Directors conducting the hearing may select a director to serve as a presiding officer.
4. The presiding officer may:
  - a. Convene the hearing at the time and place specified in the notice.
  - b. Set any necessary additional hearing dates.
  - c. Establish the order of presentation of evidence.
  - d. Administer oaths to all persons presenting testimony.
  - e. Examine persons presenting testimony.
  - f. Ensure that information and testimony are introduced as conveniently and expeditiously as possible without prejudicing the rights of any party.
  - g. Prescribe reasonable time limits for testimony and the presentation of evidence.
  - h. Exercise the procedural rules adopted by the District.
5. The District may allow any person, including the General Manager or District employee to provide comments at a hearing on an uncontested application.
6. The presiding officer 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, deposition before the hearing, or other reasonable means.

7. If the Board has not acted on the application, the presiding officer may allow a person who testifies at the hearing to supplement the testimony given at the hearing by filing additional written materials with the presiding officer not later than the tenth (10<sup>th</sup>) day after the date of the hearing. A person who files additional written material with the presiding officer must also provide the material, not later than the tenth (10<sup>th</sup>) day after the date of the hearing, to any person who provided comments on an uncontested application or any party to a contested hearing. The person who receives additional written material may file a response to the material with the presiding officer not later than the tenth (10<sup>th</sup>) day after the date the material was received.
8. The District may authorize the presiding officer, at the presiding officer's discretion, to issue an order at any time before Board action that:
  - a. Refers parties to a contested hearing to an alternative dispute resolution procedure on any matter at issue in the hearing.
  - b. Determines how the costs of the procedure shall be apportioned among the parties.
  - c. Appoints an impartial third party as provided by Section 2009.053, Government Code, to facilitate that procedure.
  - d. The General Manager will not be assessed costs of alternative dispute resolution.

I. Evidence

1. The presiding officer shall admit evidence that is relevant to an issue at the hearing.
2. The presiding officer may exclude evidence that is irrelevant, immaterial, or unduly repetitious.

J. Recording

1. Except as provided by subsection (2), 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 a contested hearing, the presiding officer shall have the hearing transcribed by a court reporter. If the General Manager is a party, the party requesting the transcript shall provide a copy to the General Manager at no cost. The presiding officer may assess any court reporter transcription costs against the party that requested the transcription or among the parties to the hearing. Transcription costs may not be assessed against the General Manager. Except as provided by this subsection, the presiding officer may exclude a party from further participation in a hearing for failure to pay in a timely manner costs assessed against that party under this subsection. The presiding officer may not exclude a party from further participation in a hearing as provided by this subsection if the parties have agreed the costs assessed against that party will be paid by another party.
2. If a hearing is uncontested, the presiding officer may substitute minutes of the report required under Rule 24.L for a method of recording the hearing provided by subsection (1).

K. Continuance

The presiding officer may continue a hearing from time to time and from place to place without providing notice under rule 24.F. If the presiding officer continues a hearing without announcing at the

hearing the time, date and location of the continued hearing, the presiding officer must provide notice of the continued hearing by regular mail to the parties.

L. Report

1. Except as provided by subsection 5, the presiding officer shall submit a report to the Board not later than the thirtieth (30<sup>th</sup>) day after the date a hearing is concluded.
2. The report must include:
  - a. A summary of the subject matter of the hearing.
  - b. A summary of the evidence or public comments received.
  - c. The presiding officer's recommendations for Board action on the subject matter of the hearing.
3. The presiding officer shall provide a copy of the report to:
  - a. The applicant.
  - b. Each person who provided comments or each designated party.
4. A person who receives a copy of the report under subsection 3 may submit to the Board written exceptions to the report.
5. If the hearing was conducted by a quorum of the Board and if the presiding officer prepared a record of the hearing as provided by Rule 24.J.1, the presiding officer shall determine whether to prepare and submit a report to the Board under this section.

M. Board Action

The Board shall act on a permit or permit amendment application not later than the sixtieth (60<sup>th</sup>) day after the date the final hearing on the application is concluded.

N. Request for Rehearing or Findings and Conclusions

1. An applicant in a contested or uncontested hearing or a party to a contested hearing may administratively appeal a decision of the Board on a permit or permit amendment application by requesting written findings and conclusions or a rehearing before the Board not later than the twentieth (20<sup>th</sup>) day after the date of the Board's decision.
2. On receipt of a timely written request, the Board shall make written findings and conclusions regarding a decision of the Board on a permit or permit amendment application. The Board shall provide certified copies of the findings and conclusions to the person who requested them, and to each person who provided comments or each designated party, not later than the thirty-fifth (35<sup>th</sup>) day after the date the Board receives the request. A person who receives a certified copy of the findings and conclusions from the Board may request a rehearing before the Board not later than the twentieth (20<sup>th</sup>) 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. If the original hearing was a contested hearing, 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 forty-fifth (45<sup>th</sup>) day after the date the request is granted.
5. The failure of the Board to grant or deny a request for rehearing before the ninety-first (91<sup>st</sup>) day after the date the request is submitted is a denial of the request.

O. Decision; When Final

1. A decision by the Board on a permit or permit amendment application is final:
  - a. if a request for rehearing is not timely filed, on the expiration of the period for filing a request for hearing; or
  - b. if a request for rehearing is timely filed, on the date:
    - (1) the Board denies the request for rehearing; or
    - (2) the Board renders a written decision after rehearing.
2. Except as provided by subsection 3, an applicant or a party to a contested case hearing may file a suit against the District under Section 36.251, Texas Water Code, to appeal a decision on a permit or permit amendment application not later than the sixtieth (60<sup>th</sup>) day after the date on which the decision becomes final.
3. An applicant or party to a contested hearing may not file suit against the District under Section 36.251, Texas Water Code, if the request for rehearing was not timely filed.

P. Hearings Conducted by State Office of Administrative Hearings

If the District contracts with the State Office of Administrative Hearings to conduct a hearing, the hearing shall be conducted as provided by Subchapters C, D and F, Chapter 2001, Government Code.

Q. Applicability of Administrative Procedure Act

Unless the District contracts with the State Office of Administrative Hearings to conduct a hearing, Chapter 2001, Government Code, does not apply to a District hearing related to a permit or permit amendment.

## **RULE 25 – CONTESTED PERMIT HEARING PROCEDURES**

A. Prehearing Conference

A prehearing conference may be ordered by the presiding officer to consider any matter which may expedite the contested case hearing or otherwise facilitate the hearing process.

1. Matters Considered

Matters which may be considered at a prehearing conference include but are not limited to:

- a. the formulation and simplification of issues;

- b. the necessity or desirability of amending applications or other pleadings;
- c. the possibility of making admissions or stipulations;
- d. the scheduling of discovery;
- e. the identification of and specification of the number of witnesses;
- f. the filing and exchange of prepared testimony and exhibits;
- g. the procedure at the hearing on the merits;
- h. referral of the matter for alternative dispute resolution.

## 2. Time Limits

The presiding officer shall establish time limits for presentation of evidence and cross-examination for parties.

## 3. Conference Action

Action taken at a prehearing conference may be reduced to writing and made part of the record or may be stated on the record at the close of the conference.

## B. Designation of Parties

Parties to a contested hearing will be designated on the first day of hearing by the Board. The applicant is automatically designated a party. If the General Manager requests to be admitted as a party, the request shall be granted. Persons other than the automatic party must, in order to be admitted as a party, be deemed as having a justiciable interest as provided in Rule 24.C. After parties are designated, no other person may be admitted as a party.

## C. Rights of Designated Parties

Subject to the direction and orders of the presiding officer, parties have the right to conduct discovery, present a direct case, cross examine witnesses, make oral and written arguments, obtain copies of all documents filed in the proceeding and otherwise fully participate in the proceeding.

## D. Ex Parte Communications

The Board and the presiding officer, if appointed, may not communicate, directly or indirectly, in connection with any issue of fact or law with any agency, person, party or representative once a matter is deemed contested, except with notice and opportunity for all parties to participate. This provision does not prevent communications with staff not directly involved in the hearing to utilize its special skills and knowledge of the Board in evaluating the evidence.

## E. Written Testimony

When a proceeding will be expedited and the interest of the parties will not be prejudiced substantially, testimony may be received in written form. The written testimony of a witness, either in narrative or questions and answer, form may be admitted into evidence upon the witness being sworn and identifying the testimony as a true and accurate record of what testimony would be if given orally. The

witness will be subject to clarifying questions and to cross examination, and the prepared testimony will be subject to objection.

F. Furnishing Copies of Pleadings

After parties have been designated, a copy of every pleading, request, motion or reply filed in the proceeding must be provided to every other party. A certification of this fact must accompany the original instrument when filed with the District. Failure to provide copies may be grounds for withholding consideration of the pleading or the matters set forth therein.

G. Discovery

Discovery will be conducted upon such terms and conditions and at such times and place as directed by the presiding officer. In addition, the parties may exchange informal requests for information by agreement.

H. Discovery Sanctions

If the presiding officer finds a party is abusing the discovery process in seeking, responding to, or resisting discovery, the hearings examiner or presiding officer may:

1. Suspend processing of the application for a permit if the applicant is the offending party;
2. Disallowing any further discovery of any kind or a particular kind by the offending party;
3. Rule that particular facts be regarded as established against the offending party for the purpose of the proceeding, in accordance with the claim of the party obtaining the discovery ruling;
4. Limit or terminate the offending party's participation in the proceeding;
5. Disallow the offending party's presentation of evidence on issues that were the subject of the discovery requests; and/or
6. Recommend to the Board that the hearing be dismissed with or without prejudice.

I. Compelling Testimony, Swearing Witnesses and Subpoena Power

The presiding officer may compel the testimony of any person which is necessary, helpful or appropriate to the hearing. The presiding officer may issue subpoenas to compel the testimony of any person and the production of documents in the manner provided in the Texas Rules of Civil Procedure.

J. Evidence

The presiding officer shall admit evidence that is relevant to an issue at the hearing if it is the type commonly relied upon by reasonable prudent persons in the conduct of their affairs. In addition, evidence may be stipulated by agreement of all parties.

K. Introduction and Copies of Exhibits

Each exhibit offered must be tendered for identification and placed in the record. Copies must be furnished to the presiding officer and to each of the parties.



L. Official Notice

The presiding officer may take official notice of all facts judicially cognizable. In addition, official notice may be taken of generally recognized facts within the area of the District's specialized knowledge.

M. Oral Argument

At the discretion of the presiding officer, oral arguments may be heard at the conclusion of the presentation of the evidence. Reasonable time limits may be prescribed. The presiding officer may require or accept written briefs in lieu of or in addition to oral arguments. When the matter is presented to the Board for final decision, further oral arguments may be heard by the Board, if the Board is not the hearing body.

N. Upon approval of all designated parties, a hearing may be conducted under informal procedures agreed to by the parties.

O. Cost for Hearings Examiner

If the District hires a hearings examiner to preside over a contested case hearing, the applicant shall reimburse the District for the fees of the hearings examiner. In its decision on the contested case matter, the Board may reallocate these costs among parties upon recommendation by the hearings examiner. In no event will the General Manager be assessed any costs of the contested case hearing.

P. Contested case hearings are not available to entities seeking to resolve disputes in mitigation agreements with the District or with respect to historic use designations.

## **RULE 26 – CHANGED CONDITIONS**

The decision of the Board on any matter contained herein may be reconsidered on its own motion or upon motion of any person alleging changed conditions, or upon the discovery of new or different conditions or facts after the hearing or decision on such matter. If the Board should decide to reconsider a matter after having announced a ruling or decision, or after having finally granted or denied the application it shall give notice to persons who were proper parties to the original action, and such persons shall be entitled to a hearing thereon if they file a request therefore within fifteen (15) days from the date of the mailing of such notice.

## **RULE 27 – ENFORCEMENT OF RULES**

All Rules duly adopted, promulgated and published by this District shall be enforced as provided for under Chapter 36, Texas Water Code.

A. The District may enforce Chapter 36, Texas Water Code and its Rules by injunction, mandatory injunction, or other appropriate remedy in a court of competent jurisdiction.

B. The Board by rule may set reasonable civil penalties for breach of any rule of the District not to exceed \$10,000 per day per violation, and each day of a continuing violation constitutes a separate violation in accordance with Chapter 36.102 of the Texas Water Code.

C. A penalty under Chapter 36, Texas Water Code or the District's Rules is in addition to any other penalty provided by the law of this state and may be enforced by complaints filed in a court of competent jurisdiction in Gonzales County.

D. If the District prevails in any suit to enforce its Rules, it may, in the same action, recover reasonable fees for attorneys, expert witnesses, and other costs incurred by the District before the court. The amount of the attorney's fees shall be fixed by the court.

E. A public hearing shall be called by the Board before any enforcement action is undertaken.

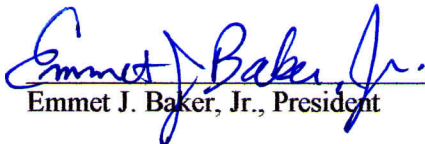
F. The Board shall notify the appropriate person or entity alleged to have committed a violation of the rules of the District by certified mail return receipt requested or by publication in a newspaper of general circulation in the District of the date of the public hearing to hear testimony about the circumstances regarding the enforcement action. Notice must be provided at least ten (10) days prior to the public hearing.

G. Permitted transportation facilities which fail to comply with these rules may be subject to a civil penalty to be determined by the Board not to exceed \$10,000 per day of violation and each day of continued violation constitutes a separate violation.

#### 4.0 EFFECTIVE DATE OF THESE RULES


These Amended Rules shall become effective on March 16 2010 at 12:01 am \_\_\_\_\_.

#### Gonzales County Underground Water Conservation District Board of Directors


  
Emmet J. Baker, Jr., President

Attest:

  
Kurt Trammell, Vice President

  
Jean Peterek, Secretary

  
Link Benson, Director

  
Bruce Patteson, Director