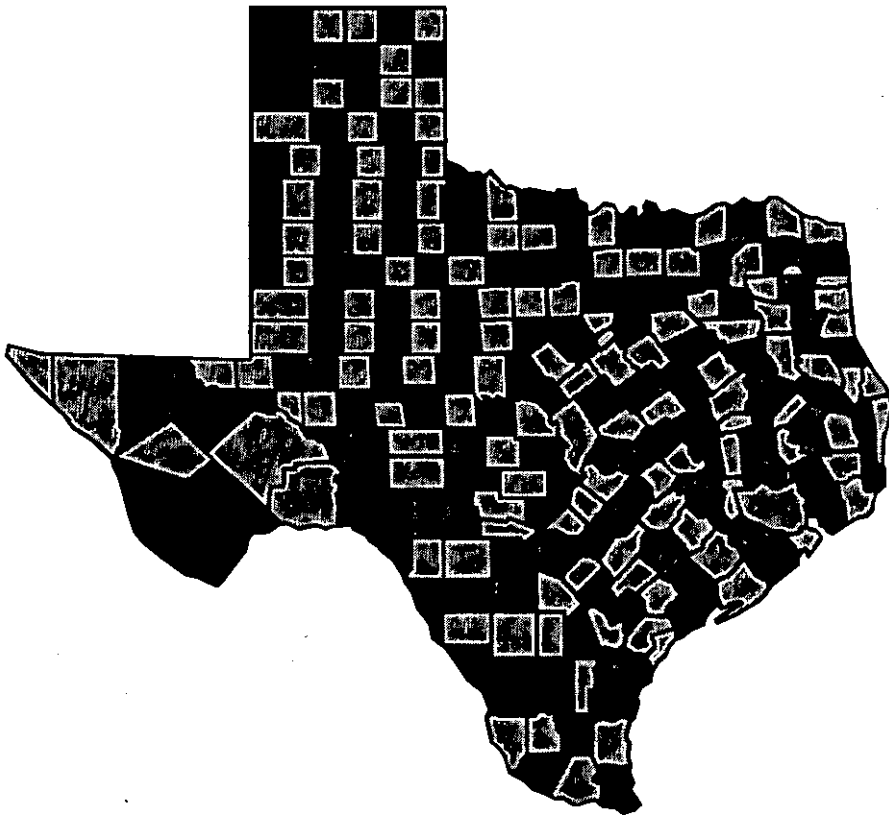


LIVE OAK

Underground Water Conservation District



RULES

**LIVE OAK
UNDERGROUND WATER CONSERVATION DISTRICT**

The Rules of the Live Oak Underground Water Conservation District are hereby published as of the 11TH day of June, 1998.

In accordance with Section 59 of Article XVI of the Texas Constitution and with Acts of the 71st Legislature (1989), Ch. 673, S.B. 1777 and Chapters 35 and 36 of the Texas Water Code, the following rules are hereby ratified and adopted as the rules of the District by its Board.

Each rule as worded herein has been in effect since the date of passage and as may be hereafter amended.

The rules, regulation, and modes of procedure herein contained are and have been adopted for the purpose of simplifying procedure, avoiding delays, saving expense, and facilitating the administration of the water laws of the State and the rules of the District. To the end that these objectives be attained, these rules shall be so construed.

These rules may be used as guides in the exercise of discretion, where discretion is vested. However, under no circumstances and in no particular case shall they, or any of them be construed as a limitation or restriction upon the exercise of powers, duties, and jurisdiction conferred by law, nor to limit or restrict the amount and accuracy of data or information which may be required for the proper administration of the law.

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RULE 1 - DEFINITIONS

Definitions of Terms: In the administration of its duties, the Live Oak Underground Water Conservation District follows the definitions of terms set forth in Chapter 36, Water Code, and other definitions as follows:

- (a) "District" shall mean the Live Oak Underground Water Conservation District, maintaining its principal office in George West, Texas. Where applications, reports and other papers are required to be file with or sent to "the District", this means the District headquarters in George West, Texas.
- (b) The "Board" shall mean the Board of Directors of the Underground Water Conservation District, consisting of five (5) duly elected members.
- (c) "Groundwater" means water percolating below the surface.
- (d) "Groundwater reservoir" means a specific subsurface water-bearing reservoir having ascertainable boundaries and containing groundwater.
- (e) "Water" shall mean groundwater.
- (f) The term "Well" or "Water Well" shall mean and include any artificial excavation constructed to produce more than 25,000 gallons of water per day.
- (g) "Exempt Well" - any artificial excavation constructed to produce or which produces less than 25,000 gallons of water/day. For all purposes herein, an "Exempt Well" shall be exempt from the rules created hereunder, but shall not be exempt from registration/validation requirements created hereunder.
- (h) "Open or Uncovered Well" - any artificial excavation drilled or dug for the purpose of exploring for or producing water from the underground reservoir, not capped, covered or plugged as required by these rules.

- (I) "Owner" shall mean and include any person, firm, partnership or corporation that has the right to produce water from the land either by ownership, contract, lease, easement, or any other estate in the land.
- (j) "Person" shall mean any individual, partnership, firm or corporation.
- (k) "Party-at-interest" shall mean any person, whether as an owner, lessor, lessee, tenant or operator, within the boundaries of the District, who is or may be affected by the proceedings of a hearing.
- (l) "Plugging" shall mean an absolute sealing of the well bore.
- (m) "Pollution" shall mean the alteration or the physical, thermal, chemical, or biological quality of, or the contamination of, any 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.
- (n) "Undesirable Water" shall mean water that is injurious to vegetation, to land, or to fresh water, or water that can cause pollution.
- (o) "Waste" 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) wilfully 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;
- (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.

(p) An "Authorized Well Site" shall be:

- (1) The location of a proposed well on an application duly filed until such application is denied, or
- (2) The location of a proposed well on a valid permit.
(An authorized well site is not a permit to drill).

(q) "Exploratory Hole" - any hole drilled to a depth below the top of any stratum containing groundwater, as groundwater is defined in the Texas Water Code.

(r) "Cement" - as defined by the General Provisions, Chapter 287.2, of the Texas Administrative Code.

(s) "Aquifer" shall mean a geologic formation, group of formations, or part of a formation that is capable of yielding a significant amount of water to a well or spring.

- (t) "ASR" shall mean Aquifer Storage and Retrieval Project, which is a project with two phases that anticipates the use of a class V aquifer storage well for injection into a geologic formation, group of formations, or part of a formation that is capable of underground storage of appropriated surface water for subsequent retrieval and beneficial use.
- (u) "Aquifer Storage Well" shall mean a class V injection well designed and used expressly for the injection of water into a geologic formation, group of formations, or part of a formation that is capable of underground storage of water for later retrieval and beneficial use.
- (v) "Artesian Well" shall mean a water well completed in the confined portion of an aquifer such that, when properly cased, water will rise in the well, by natural pressure, above an overlying impermeable stratum.
- (w) "Beneficial Use" or "Beneficial Purpose" shall mean use for:
 - (1) agricultural, gardening, domestic, stock raising, municipal, mining, manufacturing, industrial, commercial, recreational or pleasure purposes;
 - (2) exploring for, producing, handling, or treating oil, gas, sulfur, or other minerals; or
 - (3) any other purpose that is useful and beneficial to the users that does not commit waste as defined in section (o) of this rule.

RULE 2 - WASTE

- (a) Groundwater shall not be produced within, or used within or without the District, in such a manner as to constitute waste as defined in Rule 1, Section (o) hereof.
- (b) Any person producing or using groundwater shall use every possible precaution, in accordance with the latest approved methods, to stop and prevent waste of such water.
- (c) No person shall pollute or harmfully alter the character of the groundwater reservoir of the District by means of

salt water or other deleterious matter admitted from some other stratum or strata or from the surface of the ground.

(d) No person shall commit waste as that term is defined in Section (o), Rule 1 of the Rules of the Live Oak Underground Water Conservation District.

(e) Water shall not be produced or used within the District in such a manner or in under such conditions as to constitute waste as defined by Rule 1 hereof. Water shall not be produced from an abandoned or deteriorated well.

RULE 3 - WELL REGISTRATION

Registration is required for all existing and future wells in the District and shall be filed with the District on a form and in a manner required by the District.

Registration includes all wells:

- (a) that produce less than 25,000 gallons of water per day;
- (b) that produce or will produce water used for Irrigation and/or Agricultural purposes;
- (c) that produce or will produce water from the well to be used to supply the domestic needs of ten or fewer households and a person who is a member of each household is either the owner of the well or a person related to the owner or member or the owner's household within the second degree by consanguinity, or an employee of the owner;
- (d) that supply of water for hydrocarbon production activities, regardless of whether those wells are producing, that are associated with any well permitted by the Railroad Commission of Texas drilled before or after the effective date of S.B. 1777, Acts of the 71st Legislature, Regular Session 1989, or
- (e) that produce or will produce water used for domestic use;
- (f) that produce or will produce water used for Industrial and/or Manufacturing purposes;

- (g) that produce or will produce water used for Commercial and/or Municipal purposes;
- (h) that produce or will produce water for all other uses.

RULE 4 - DEPOSITS

Each application for a permit to drill a well shall be accompanied by a **\$25.00 deposit** which shall be accepted by the Manager of the District or authorized personnel in the office of the District. Said deposit shall be returned to the applicant by the District if (1) the application is denied, or (2) if the application is granted, upon the receipt of correctly completed registration and log of the well, or (3) if said permit location is abandoned without having been drilled, upon return and surrender of said Permit marked "abandoned" by the applicant.

In event neither the registration and log of the well nor permit marked abandoned is returned to the District office within three (3) months after approval date of the permit or the extension date thereof, the said deposit shall become the property of the District.

RULE 5 - PERMIT REQUIRED

- (a) No person shall hereafter begin to drill or drill a well, or increase the size of a well, or pump therein, which well could reasonably be expected to produce, or a pump designed to produce, in excess of 25,000 gallons of water per day, without having first applied to the Board, and had issued a permit to do so, unless the drilling and operations of the well is exempted by the law or by these rules. Provided that, as set out in Rule 5 (e) hereof, and under certain conditions, an applicant may commence the drilling of a well when his application therefor has been recommended by three directors of the board.
- (b) No permit shall be required for the drilling of temporary wells exempt by of the Texas Water Code (being generally wells used for the production of oil, gas, or other minerals and water wells used in conjunction therewith).

- (c) Applications for permits to drill wells shall be made at the office of the District in George West, Texas.
- (d) The manager will approve the application using criteria developed by the Board of Directors. If a permit is denied by the manager, then the application will automatically be reviewed by the board at the next regular scheduled meeting.
- (e) The signatures of three Directors of the District on an application shall constitute a recommendation that the permit be granted. The refusal of three or more Directors to sign the application shall constitute a recommendation or rejection of the application.
- (f) If before the Board officially approves an application to drill a well, a contest shall arise over the application, then the Board may conduct a hearing, upon due notice to both parties, to hear and determine the contest or to determine which of the applications should, in its judgment, be granted.

In the event of a contest, or such conflicting application, no well shall be commenced until the matter is passed upon by the Board. A contest shall be deemed filed when written notification is filed with the Board at its office and the Manager or other authorized personnel shall receive the same. Thereafter, both applicants, or the applicant and the contestant or contestant, after due notice, shall be entitled to a hearing before the board. At such hearing, all parties may introduce pertinent evidence as to why the particular application should be granted or denied, including evidence as to the effect on the water reservoir, the conservation and preservation of water, the prevention of waste, the protection of property rights, and other pertinent matters, which evidence shall be taken into consideration by the Board. The Board shall also take into consideration which of the applicants duly filed his application first.

- (g) If any application is not favorably recommended by three of the Directors, the applicant shall have the right to appeal to the Board. Such appeal must be filed with the Manager of the District or written notice by registered mail given fifteen (15) days, from the time that the third Director declined to sign the application. If no such appeal is taken, the application shall be deemed to have been abandoned by the applicant. Upon receipt of

such appeal the Board shall fix a time and place for such hearing and notify the necessary parties thereof. At least 72 hours notice shall be given by the Board to the necessary parties for said hearing.

RULE 6 - ISSUANCE OF PERMITS

- (a) The Board shall issue or cause to be issued a drilling permit for a well upon proper application executed and filed by the owner containing the matters specified below. An application shall be considered filed when properly made out, completed, signed, tendered and accompanied by the required deposit to the District by the applicant.

Such applications shall be on forms provided by the District and shall be in writing and shall be prepared in accordance with and contain the information called for in the form of application, if any, prescribed by the Board, and all instructions which may have been issued by the Board with respect to the filing of an application. Otherwise, the application will not be considered.

- (b) Rules for the filing of applications:

- (1) If the applicant is an individual, the application shall be signed by the applicant or his duly appointed agent. The agent may be requested to present satisfactory evidence of his authority to represent the applicant.
- (2) If the application is by a partnership, the applicant shall be designated by the firm name followed by the words "a Partnership", and the application shall be signed by at least one of the general partners who is duly authorized to bind all of the partners.
- (3) In the case of a corporation, public district, county or municipality, the application shall be signed by a duly authorized official. A copy of the resolution of other authorization to make the application may be required by the officer or agent receiving the application.

- (4) In the case of an estate or guardianship, the application shall be signed by the duly appointed guardian or representative of the estate.

(c) Such applications shall set forth the following:

- (1) The name and address of the fee owner of the land upon which the location is made.
- (2) A map showing the proposed location of the well to be drilled as provided in the application including the County, the section, block, survey and township; labor and league; and exact number of yards to the nearest nonparallel property lines; or other adequate legal description.
- (3) The proposed use of the well to be drilled, whether municipal, industrial, irrigation, or other.
- (4) The size of the pump.
- (5) The approximate date drilling operation is to begin.
- (6) The location of all wells within a quarter of a mile on the proposed location, if any.
- (7) An agreement by the applicant that a complete well registration and log will be furnished to the District (on forms furnished by it) by the applicant upon completion of this well and prior to the production of water therefrom (except for such production as may be necessary to the drilling and testing of such well).
- (8) Any additional data as may be required by the Board.
- (9) A water conservation plan or a declaration that the applicant will comply with the district's management plan.

- (d) Time during which a permit shall remain valid. Any permit granted hereunder shall be valid if the work permitted shall have been completed within two (2) months from the filing date of the application. It shall thereafter be void. Provided, however, that the Board, for good cause, may extend the life of such permit for an additional two (2) months if an application for such extension shall have been made known to the District during the first two (2) month period. Provided, further, that when it is made known to the Board that a proposed project will take more time to complete, the Board, upon receiving written application may grant such time as is reasonably necessary to complete such project.

RULE 7 - REQUIREMENTS OF DRILLER'S LOG,
CASING AND PUMP DATA

- (a) Complete records shall be kept and reports thereof made to the District concerning the drilling, maximum production potential, equipping and completion of all wells drilled. Such records shall include an accurate driller's log, any electric log which shall have been made and such additional data concerning the description of the well, its potential, hereinafter referred to as "maximum rate of production" and its actual equipment and rate of discharge permitted by said equipment as may be required by the Board. Such records shall be filed with the District Board within 90 days after completion of the well.
- (b) No person shall produce water from any well hereinafter drilled and equipped within the District, except that necessary to the drilling and testing of such well and equipment, unless or until the District has been furnished an accurate driller's log, any electric log which shall have been made, and a registration of the well correctly furnishing all available information required on the forms furnished by the District.

RULE 8 - WELL CONSTRUCTION

- (a) A well to be drilled subsequent to the date of enactment of this rule shall be drilled in accordance as follows:

A well must be drilled, equipped, and completed so as to comply with the standards set by the Texas Natural Resource Commission and additional rules established by this district.

RULE 9- RADIOACTIVE WASTES, TOXIC AND HAZARDOUS SUBSTANCES AND POLYCHLORINATED BIPHENYLS

- (a) None of the following materials or substances may be imported outside the District to a point within the District, nor moved within the District from point to point, for the purpose of temporarily or permanently disposing of such material or substances within the District:

- (1) Radioactive Wastes.
- (2) Toxic Substances.
- (3) Hazardous Substances
- (4) Polychlorinated Biphenyls.
- (5) Soil, fluids or other materials or substances contaminated with any of the above.

- (b) Exclusions: The following are excluded from the Rule and Order: agricultural insecticides, herbicides, or other agri-chemicals.

- (c) The following activities are prohibited:

- (1) Construction, operation, maintenance or use of waste disposal wells for any of the materials enumerated above.
- (2) Construction, operation, maintenance or use of tanks, reservoirs, pits, depressions, sites, landfills or any other manner of storage of the materials or substances enumerated above on either a temporary or a permanent basis within the District.

(d) All persons, firms, corporations, associations of persons or other entities having in their possession or under their care, custody or control within the District any of the materials or substances enumerated above shall report by sworn inventory to the District Office in Live Oak County, Texas within ten (10) days of acquisition. The report shall include a description of the materials or substances possessed, amount, location, status and whether a plan or schedule has been formulated for the ultimate disposal of the materials or substances.

Within sixty (60) days after the receipt of such report, the Board of Directors shall either approve the report or set the matter down for hearing according to the notice provisions and procedure outlined in Rule 20.

RULE 10 - WELL LOCATION AND COMPLETION

(a) Responsibility

After an application for a well permit has been granted, the well, if drilled, must be drilled within **thirty (30) feet** of the location specified in the permit, and not elsewhere. If the well should be commenced or drilled at a different location, the drilling or operation of such well may be enjoined by the Board pursuant to Chapter 36, Texas Water Code.

All well drillers and persons having a well drilled, deepened, or otherwise altered shall adhere to the provisions of this Rule prescribing the location of wells and proper completion pursuant to Texas Civil Statutes, Article 7621e, titled the Water Well Drillers Act.

RULE 11- SPACING AND PRODUCTION REQUIREMENTS

- (a) No well shall be drilled such that said well shall be located closer than one hundred (100) feet to the property line. Spacing of new wells from an existing well shall be one foot per one gallon per minute of production from the new well to maximum of one thousand (1000) gallons per minute. In addition to this maximum, a well producing over one thousand (1000) gallons per minute will be spaced one-half (1/2) foot

per one gallon per minute of production in excess of one thousand gallons per minute from an existing well.

EXAMPLES

500 gpm=500 feet
750 gpm=750 feet
1000 gpm=1000 feet
1250 gpm=1125 feet
1500 gpm=1250 feet
1750 gpm=1375 feet

The board may grant exceptions to permit drilling within shorter distances than above described when the Board shall determine that such exceptions are necessary either prevent waste or to prevent confiscation of property.

- (b) For the purpose of preventing waste or confiscation of property, the Board reserves the right in particular subterranean water zones and/or reservoirs to enter special orders increasing or decreasing distances provided by this requirement.
- (c) In applying this requirement, no subdivision of property subsequent to the adoption of the original spacing requirement will be considered in determining whether or not any property is being confiscated within the terms of such spacing requirement.
- (d) A well or well system may only be permitted to be drilled and equipped for production of a cumulative total of ten (10) gallons per contiguous acre owned or operated.
- (e) In no event may a well or well system be operated such that the total annual production exceeds eight (8) acre feet of water per acre owned or operated within the same Section.

RULE 12 - EXCEPTION TO SPACING AND PRODUCTION RULE

- (a) In order to protect vested property rights, to prevent waste, or confiscation of property, the Board may grant exception to the above spacing and production rules. This rule shall not be construed so as to limit the power of the Board, and the

powers stated are cumulative only of all other powers possessed by the Board.

- (b) If an exception to the spacing or production rule is desired, the application shall be submitted by the applicant in writing to the District office on forms furnished by the District. The application shall be accompanied by a plat or sketch, drawn to scale of one (1) inch equaling two thousand (2000) feet. The plat or sketch shall show thereon the property lines in the immediate area and shall show accurately to scale the location of the three (3) nearest wells within one-half (1/2) mile of the proposed well location. The application shall also contain the names and addresses of all property owners adjoining the tract on which the well is to be located, within one-half (1/2) mile, and the owners of the three (3) nearest wells within one-half (1/2) mile of the proposed well location. Such application and plat shall be certified by some person actually acquainted with the facts who shall state that all the facts therein are true and correct.
- (c) Hearing notices shall state that the application does not meet spacing requirements of the District, and an exception is requested by the applicant.

RULE 13 - REWORKING OR REPLACING OF WELL

- (a) An existing well may be reworked, redrilled, or re-equipped in a manner that will not change the existing that such exceptions are necessary either prevent waste or to prevent confiscation of property.
- (b) No person shall rework, redrill, or reequip a well in a manner that would increase the rate of production of such well as established by Rule 3 above without first having made an application to the Board, and having been granted a permit by the Board to do so; nor shall any person replace a well without a permit by the Board.
- (c) The rate of production of a well shall not be hereafter changed to a larger capacity so as to increase the rate of production greater than 25,000 gallons per day of a well without a permit from the Board.

- (d) In the event that application meets all requirements, the Board may grant such application without further notice.

RULE 14 - CHANGED CONDITIONS

The decision of the Board on any matter contained herein may be reconsidered by it of its own motion or upon motion showing changed conditions, or upon the discovery of new and different conditions or facts after the hearing or decision of 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 an 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 therefor within fifteen days from the date of the mailing of such notice.

RULE 15 - FINAL ORDERS OF THE BOARD

The orders of the Board in any non-contested application of proceeding shall become the final order of the Board on the day it is entered by the Board. All orders of the Board in contested applications, appeals or other proceedings shall contain a statement that the same was contested. In such event the order will become final after fifteen (15) days from the entry thereof and be binding on the parties thereto unless a motion for rehearing is filed under Rule 17 hereof.

RULE 16 - RIGHT TO INSPECT AND TEST WELLS

Upon written approval by well owner, any authorized officer, employee, agent, or representative of the District shall have the right at all reasonable times to enter upon the lands which a well or wells may be located within the boundaries of the District, to inspect such well or wells and to read, or interpret any meter, weir box or other instrument for the purpose of measuring production of water from said well or wells or for determining the pumping capacity of said well or wells; and any authorized officer, employee, agent, or representative of the District shall have the right at reasonable times to enter upon

any land upon which a well or wells may be located within the boundaries of the District for the purposes of testing the pump and the power unit of the well or wells and of making any other reasonable and necessary inspections and tests that may be required or necessary for the information or enforcement of the rules and regulations of the District.

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RULE 17 - AQUIFER STORAGE AND RECOVERY (ASR)

No ASR project may be operated within the District.

RULE 18 - OPEN WELLS TO BE CAPPED

Every owner or operator of any land within the District upon which is located any open or uncovered well is, and shall be, required to close or cap and seal the same **permanently** with a covering capable of sustaining weight of not less than **four hundred (400) pounds**, except when said well is in actual use by the owner or operator thereof; and no such owner or operator shall permit or allow any open or uncovered well to exist in violation of this requirement. Officers, agents and employees of the District are authorized to serve or cause to be served written notice upon any owner or operator of a well in violation of this rule, thereby requesting such owner and/or operator to close or cap such well permanently with a covering in compliance herewith. In the event any owner or operator fails to comply with such request within **ten (10) days** after such written notice, any officer, agent, or employee of the District may go upon said land and close or cap said well in a manner complying with this rule and all expenditures thereby incurred shall constitute a lien upon the land where such well is located, provided, however, no such lien shall exceed **\$500** for any single closing. Any officer, agent, or employee of the District, is authorized to perfect said lien by filing of the affidavit by the Texas Water Code as amended. All of the powers and authority granted in such section are hereby adopted by the District, and its officers, agents, and employees are hereby bestowed with all of such powers and authority.

RULE 19 - RULES GOVERNING PROTESTS

(a) **NOTICE OF PROTEST.** In the event anyone should desire to protest or oppose any pending matter before the Board, a written notice of protest or opposition shall be filed with the Board on or before the date on which such application or

matter has been set for hearing. For the convenience of the Board, it is urgent that protests be filed at least **five (5) days** before the hearing date.

(b) **PROTEST REQUIREMENTS:** Protests shall be submitted in writing with a duplicate copy to the opposite parties and shall comply in substance with the following requirements:

- (1) Each protest shall show the name and address of the protestant and show that protestant had read either the application or a notice relative thereto published by the Board.
- (2) There shall be an allegation of injury to protestant which will result from the proposed action or matter to be considered by the Board.
- (3) If the protest is based upon claim of interference with some present right of protestant, it shall include a statement of the basis of protestant's claim of right.
- (4) Protestant should call attention to any amendment of the application or adjustment which, if made, would result in withdrawal of the protest.

(c) **CONTESTED APPLICATIONS OR PROCEEDINGS DEFINED:** An application, appeal, motion, or proceeding before the Board is considered contested when either protestants or intervenor, or both, files the notice of protest as above set out and appears at the hearing held on the application, motion or proceeding and present testimony of evidence in support of their contentions, or present a question or questions of law with regard to the application, motion or proceedings. Where neither protestants nor intervenors so appear and offer testimony or evidence in support of their contentions, or raise a question of law with reference to any pending application, motion or proceeding, the same shall be considered as non-contested.

(d) In the event of a contested hearing, each party shall furnish other parties to the proceeding with a copy of all motions, amendments or briefs filed by him with the Board.

RULE 20 - GENERAL RULES OF PROCEDURE FOR HEARING

(a) **HEARINGS.** Hearings will be conducted in such a manner as the Board deems most suitable to the particular case, and technical rules of legal and court procedure need not be applied. It is the purpose of the Board to obtain all the relevant information and testimony pertaining to the issue before it as conveniently, inexpensively and expeditiously as possible without prejudicing the rights of either applicants or protestants.

(b) **WHO MAY APPEAR:** Any party-at-interest in a proceeding may appear either in person or by attorney or both in such proceedings. At the discretion of the Board, anyone not a party at interest in a proceeding may appear.

(c) **ADMISSIBILITY:** Evidence will be admitted if it is of that quality upon which reasonable persons are accustomed to rely in the conduct of serious affairs. It is intended that needful and proper evidence shall be conveniently, inexpensively, and speedily produced while preserving the substantial rights of the parties to the proceedings.

(d) **TESTIMONY SHALL BE PERTINENT:** The testimony shall be confined to the subject matter contained in the application or contest. In the event that any party at a hearing shall pursue a line of testimony or interrogation of a witness that is clearly irrelevant, incompetent or immaterial, the person conducting the hearing may forthwith terminate such line of interrogation.

(e) **A STIPULATION:** Evidence may be stipulated by agreement of all parties at interest.

(f) **LIMITING NUMBER OF WITNESSES:** The right is reserved to the Board in any proceeding to limit the number of witnesses appearing whose testimony may be merely cumulative.

RULE 21 - REHEARING

(a) Any person whose application is denied, whose contest is overruled, or who is not granted the relief desired, may file with the Board a motion for rehearing within **fifteen (15) days** from the announcement by the Board of its decision or action.

The Board shall act thereon within a reasonable time. If such a motion for rehearing is filed and is overruled, the order of the Board shall be final on the date the motion is overruled.

(b) The Board may, in a proper case, find that an emergency exists and that substantial injustice will result from delay. In that event, and upon recitation of such finding, the order of the Board will become final on the date of the announcement of the order by the Board, and no motion for rehearing will be considered thereon.

(c) If an application or contest is denied by the Board, and if the applicant or contestant shall not have had and shall not have been afforded an opportunity for a hearing before the Board, as elsewhere provided by the rules, the applicant or contestant shall be entitled to a hearing before the Board. A written request to the Board for such a hearing, stating such facts, must be filed with the Board within the above fifteen (15) day period. If such motion is in order and is duly filed, the Board shall give notice to the applicant and all proper and necessary parties of the time and place of such hearing, and shall proceed to conduct such a hearing.

RULE 22 - TRANSPORTATION OF WATER FROM THE DISTRICT

(1) Every person must obtain a permit from the District for the transporting of water by pipeline, channel, ditch, water-course or other natural or artificial facilities, or any combination of such facilities, if such water is produced from 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. However, the requirement for a permit hereunder shall not apply to any well currently in operation located within the District prior to the effective date of this Rule.

(a) The permit provided for herein must be applied for and filed with the District in the form or forms promulgated by the District hereunder and such permit must be obtained from the District Prior to the proposed transporting of water, all in accordance with the provisions of this rule.

(b) An application for the transportation of water for which a permit is required under this Rule must:

- (1) be in writing and sworn to;
- (2) contain the name, post-office address and place of residence or principal office of the applicant;
- (3) identify the location of the well from which the water to be transported is produced or to be produced;
- (4) describe specifically the proposed transportation facilities;
- (5) state the nature and purposes of the proposed use and the amount of water to be used for each purpose;
- (6) state the time within which the proposed construction or alteration is to begin;
- (7) state the length of time required for the proposed use of water, and the amount of water to be used;
- (8) provide information showing the effect of the proposed transportation on the quantity and quality of water available within the District;
- (9) identify any other possible sources which could be used for the state purposes, including quality and quantity of such alternate sources;
- (10) identify any other liquids that could be substituted for the fresh ground water and possible sources of such liquid including quantity and quality;
- (11) transportation of water from the District requires a permit as stated in the district rules. The District shall assess fees of

one dollar (\$1.00) per acre foot for water used in agriculture, and seventeen cents (\$0.17) per thousand (1000) gallons for all other uses, as chapter 36 of the Texas Water Code. Fees are due the first of each month, and are to be included with the monthly-pumping report.

- (c) The application must be accompanied by a map or plat drawn to a scale not less than one inch equals 4,000 feet, showing substantially:
 - (1) the location of the existing or proposed well; and
 - (2) the location of the proposed or increased use or uses.
- (d) The application must be accompanied by an application fee in the amount of \$10,000.00.
- (e) The District shall determine whether the application, maps, and other materials comply with the requirements of this Act. The District may require amendment of the application, maps, or other materials to achieve necessary compliance.
- (f) The District shall conduct a public hearing on each application within ninety (90) days of the filing of the complete application.
- (g) The District shall give notice of the public hearing on the application as prescribed by this Rule, stating:
 - (1) the name and address of the applicant;
 - (2) the date the application was filed;
 - (3) the location and purpose of the well from which the water to be transported is produced or to be produced;
 - (4) the time and place of the hearing; and

- (5) any additional information the District considers necessary.
- (h) At the time and place stated in the notice, the District shall hold a public hearing on the application. The hearing may be held in conjunction with any regular or special meeting of the District or a special meeting may be called for the purpose of holding a hearing. Any person may appear at the hearing, in person or by attorney, or may enter his appearance in writing. Any person who appears may present objections to the issuance of the permit. The District may receive evidence, orally or by affidavit, in support or in opposition to the issuance of the permit, and it may hear arguments.
- (i) After the hearing, the District shall make a written decision granting or denying the application. The application may be granted in whole or in part. Any decision to grant a permit, in whole or in part, shall require a majority vote of Directors present.
- (j) Such application shall not be approved unless the Board of Directors finds and determines that the transporting of water for use outside the District applied for will not substantially affect the quantity and quality of water available to any person or property within the District; that all other feasible sources of water available to the person requesting a permit have been developed and used to the fullest; that no other liquid could be feasibly substituted for the use of fresh groundwater; and that the proposed use, or any part of the proposed use, will not constitute waste as defined under the laws of the State of Texas. In evaluating the application, the District shall consider the quantity of water proposed to be transported; the term for which transporting is requested; the safety of the proposed transportation facilities with respect to the contamination of the aquifer; the nature of the proposed use; the effect of the proposed use of the water to be transported on District residents, taking into account all beneficial use of District residents, including municipal, agricultural, industrial, recreational and other categories; and such other factors as are consistent with the purposes of the District.

- (k) On approval of an application, the District shall issue a permit to the applicant. The applicant's right to transport shall be limited to the extent and purposes stated in the permit. A permit shall not be transferable except as provided in Paragraph (o).
- (l) The permit shall be in writing and attested by the seal of the District and it shall contain substantially the following information:
 - (1) the name of the person whom the permit is issued;
 - (2) the date the permit is issued;
 - (3) the term for which the permit is issued;
 - (4) the date the original application was filed;
 - (5) the destination and use or purpose for which the water is to be transported;
 - (6) the maximum quantity of water to be transported annually;
 - (7) any other information the District prescribes.
- (m) The permittee shall file with the District quarterly reports describing the amount of water transported and used for the permitted purpose. Such report shall be filed on the appropriate form or forms provided by the District within ten (10) days of the March 31, June 30, September 30, and December 31 next following the commencement of transporting of water, and within ten (10) days of each such quarterly date thereafter.
- (n) All transporting facilities for wells subject to the requirements of this Subsection shall be equipped with flow monitoring devices approved by the District and available for District inspection at any time.
- (o) A permittee may apply for an extension of any permit granted under this Subsection, or for transfer of a permit to another person. The District shall consider

and grant or deny such application for extension or transfer or a permit in the same manner as is provided herein for the application for a permit.

- (p) Any permit granted under this Subsection shall be subject to revocation for nonuse or waste by the permittee, or for substantial deviation from the purposes or other terms stated in the permit. Revocation of a permit for nonuse shall require that no water is transported under the permit for a period of five years.

- (2) Any person transporting water produced from wells located within the District for use outside of the District, regardless of the amount of water so transported, must register such transporting with the District. Such registration shall be made within one hundred eighty (180) days after the effective date of this Rule.

- (a) Any person subject to the requirements of this Subsection (2) shall file with the District quarterly reports describing the amount of water transported, the destination and use of such water. Such report shall be filed on the appropriate form or forms provided by the District within ten (10) days of the March 31, June 30, September 30, and December 31 next following the commencement of transporting of water and within ten (10) days of each such quarterly date thereafter.
 - (b) All transporting facilities for wells subject to the requirements of this Subsection shall be equipped with flow monitoring devices approved by the District and available for District inspection at any time.

RULE 23 - REQUEST FOR INJUNCTIVE RELIEF AND ASSESSMENT OF PENALTIES

If it appears that a person has violated, is violating, or is threatening to violate any provision of the District Act or any Board order, rule or permit, the Board may authorize the General Manager to institute and conduct a suit in the name of the District for injunctive relief, or to recover a civil penalty of up to five thousand dollars (5,000) for each violation, or for both injunctive relief and civil penalties.

RULE 24 - GENERAL RULES

(a) **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 day of the act, event or default from which the designated period of time begins to run, is not to be included, but the last day of the period so computed is to be included, unless it be a Sunday or legal holiday, in which event the period runs until the end of the next day which is neither a Sunday or a legal holiday.

(b) **TIME LIMIT:** Applications, requests, or other paper or documents required or permitted to be filed under these rules or by law must be received for filing at the Board's offices at George West, Texas, within the time limit, if any, for such filing. The date of receipt and not the date of posting is determinative.

(c) **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 in a public hearing and require him to show cause why operating authority or permit should not be suspended, canceled, or otherwise restricted and limited, for failure to comply with the orders or rules of the board or the relevant of the State, or for failure to abide by the terms and provisions of the permit or operating authority itself. The matter of evidence and all other matters of procedure at any such hearing will be conducted in accordance with these rules of procedures and practice.

REPEAL OF PRIOR REGULATIONS

All of the previous rules and regulations of the District have been revised and amended; and except as they are herein republished, they are repealed. Any previous rule or regulation which conflicts with, or is contrary to, these rules is hereby repealed.

SAVINGS CLAUSE

If any section, sentence, paragraph, clause, or part of these rules and regulations should be held or declared invalid 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 the Board does hereby declare that it would have adopted and promulgated such remaining portions of such rules irrespective of the fact that any other sentence, section, paragraph, clause, or part thereof may be declared invalid.

BY-LAWS OF THE
LIVE OAK UNDERGROUND
WATER CONSERVATION DISTRICT

In accordance with the Legislative act, S.B. 1777, Article XVI, Section 59, of the Texas Constitution and Chapters 50 and 52 of the Texas Water Code, Vernon's Civil Statutes of Texas, the following on the 12TH day of Feb., 1991, were ratified and adopted for guides to be used with discretion and were adopted for the purpose of simplifying procedures and facilitating the administration of the District.

ESTABLISHMENT OF THE DISTRICT

Definitions:

The Board shall mean the Board of Directors of the Live Oak Underground Water Conservation District consisting of five (5) duly elected members, one from each of the four county precincts and one at-large.

The District shall mean the Live Oak Underground Water Conservation District maintaining its office in George West, Texas; where registrations, reports, and other papers are required to be filed with or sent to the District. The district includes Live Oak County in its entirety.

Water shall mean underground water.

Owner shall mean and include any person, firm, partnership or corporation that has the right to produce water from the land either by ownership, contract, lease, easement, or any other estate in the land.

Person shall mean any individual, partnership, firm or

corporation.

The word Waste as used shall have the same meaning as defined by the Legislature and the Texas Water Code.

REQUIREMENTS FOR THE BOARD AND PROCEDURES FOR MEETINGS

Candidates:

A person is qualified to serve on the board who has filed an application with the secretary of the board. It must be signed by the applicant or by at least 10 qualified electors of the District, and filed 20 days prior to the election. They must be at least 18 years of age; own land subject to taxation in the District; and is a resident of the county. All procedures for holding the election shall be in accordance with the Texas Election Code Article 6.02 and the act creating the District.

Elections:

Shall be held in even numbered years on one of the uniform election dates (Third Saturday in January, First Saturday in May, Second Saturday in August, or the First Tuesday after the first Monday in November) of the second year after the year in which the District is authorized to be created at a confirmation election, an election shall be held in the district for the election of two directors who shall each serve two-year terms and three directors who shall each serve four-year terms. Thereafter, on the same date in each subsequent second year, the appropriate number of directors shall be elected to the board.

Meetings:

The Board shall hold bimonthly meetings on the 2nd Thursday of month or it may hold other meetings at call of the chairman or at the request of at least two (2) of the directors.

-a quorum is the majority of the Directors.

- the Board may elect its own officers yearly.
- meetings will be held in the District's office.
- the Board will follow the Roberts Rules of Parliamentary Procedures.
- the Board may also act as a hearing Board concerning any disputes concerning the Rules and operations of the District.

Board of Directors:

- (a) The District is governed by a board of directors composed of five members. Each director shall occupy a designated place on the board with the places to be designated as Places 1, 2, 3, 4, and At Large Respectively.
- (b) Except for the initial regular directors each regular director shall serve for a term of four years or until his successor is appointed.
- (c) To be qualified for election as a director, a person must be at least 18 years old and be a resident of the district and the precinct.
- (d) Directors serve a staggered four year term.
- (e) A person serving as director is eligible for reelection.
- (f) A vacancy on the board shall be filled by appointment of the board for the unexpired term.
- (g) The Biannual election for Director shall be the designated date established by law or even numbered years.
- (h) As soon as practicable after a director is elected or appointed, that director shall make the sworn statement prescribed by the constitution for public office.
- (i) As soon as practicable after a director has made the sworn statement, and before beginning to perform duties of office, that director shall take the oath of office prescribed by the constitution for public officers.
- (j) Before beginning to perform the duties of office, each director shall execute a bond for \$10,000 payable to the District and conditioned on the faithful performance of that

director's duties. All bonds of the directors shall be approved by the board and paid for by the District.

- (k) The sworn statement, bond, and oath shall be filed with the District and retained in its records. A duplicate original of the sworn statement and the oath shall also be filed with the Secretary of State within 10 days after their execution and need not be filed before the new director begins to perform the duties of office.

Board Organization:

- (a) The board shall elect one director as president of the board, who shall serve for a term of one year. The president shall preside at meetings of the board and shall perform other duties prescribed by the board.
- (b) The board shall elect another director as vice-president or the board, who shall serve for a term of one year. The vice-president shall perform the duties of the president when the president is not present or is otherwise incapacitated.
- (c) The board shall elect a secretary of the board. The secretary is the official custodian of the minutes, books, records, and seal of the board and shall perform other duties and functions prescribed by the board. The board also shall elect a treasurer of the board who shall perform duties and functions prescribed by the board. The offices of secretary and treasurer may be held by one person, and the holder of either office or both offices is not required to be a director. The board may appoint one or more persons who are not directors to be an assistant secretary of the board, and the assistant secretary may perform any duty or function of the secretary of the board, and should be bonded.
- (d) Any three regular directors constitute a quorum, and all regular directors are entitled to vote on matters before the board. The district shall act and proceed by and through resolutions adopted by the board, and the affirmation vote of at least three of the regular directors is necessary to adopt any resolution.

- (e) The board shall have regular meetings at times specified by resolution of the board, and shall have special meetings whenever called by the president or any three directors.

POWERS AND DUTIES OF THE DISTRICT

The District has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapters 35 and 36, Water Code, applicable to underground water conservation districts created under Article XVI, Section 59, of the Texas Constitution. This act prevails over any provision of general law that is in conflict or inconsistent with this Act. Including authority to:

- (1) Make and enforce rules to provide for conserving, preserving, protecting, recharging, and preventing waste of the water from the underground water reservoirs that may be enforced by injunction, mandatory injunction, or other appropriate remedies in a court of competent jurisdiction, or;
- (2) require permits for the drilling, equipping and completion of wells in the underground water reservoirs and issue permits subject to terms and provisions with reference to the drilling, equipping, and completion of the wells as may be necessary to prevent waste or conserve, preserve and protect underground water;
- (3) provide for the spacing of wells producing from the underground water reservoirs and regulate the production from those wells to minimize as far as practicable the drawdown of the water table or the reduction of the artisan pressure, provided, the owner of the land, his heirs, assigns, and lessees are not denied a permit to drill a well on their land and the right to produce underground water from that well subject to rules adopted under this act;

- (4) require records to be kept and reports to be made of the drilling, equipping, and completion of wells into any underground water reservoir and the taking and use of underground water from those reservoirs and require accurate driller's logs to be kept of those wells and a copy of those logs and of any electric logs that may be made of the wells to be file with the District;
- (5) acquire land for the erection of dams and for the purpose of draining lakes, draws and depressions, and construct dams, drain lakes depressions, draws, and creeks and install pumps and other equipment necessary to recharge any underground water reservoirs;
- (6) have made by registered professional engineers surveys of the underground water of any underground water reservoir and of the facilities for the development, production and use of the underground water, determine the quantity of the underground water available for production and use and the improvements, developments and recharges needed for those underground water reservoirs;
- (7) develop comprehensive plans for the most efficient use of the underground water of any underground water reservoir and for the control and prevention of waste that underground water, with the plans to specify in the amount of detail that may be practicable the acts, procedures, performance, and avoidance that are or may be necessary to effect those plans, including specifications;
- (8) carry out research projects, develop information, and determine limitations, if any, that should be made on the withdrawal of underground water from any underground water reservoir;
- (9) collect and preserve information regarding the use of the underground water and the practicability of recharge of any underground water reservoir;
- (10) publish plans and information. Bringing them to the notice and attention of the users of the underground water within the District, and encourage their adoption and execution;

- (11) contract for, sell and distribute water from a water import authority, or other agency.
- (12) contract with other districts with powers similar to those of the district to achieve common goals.

POLICIES

- (a) Subject to the law governing the district, the board shall adopt the following in writing:
 - (1) a code of ethics for district directors, officers, employed, and persons who are engaged in handling investments for the district;
 - (2) a policy relating to travel expenditures;
 - (3) a policy relating to district investments that ensures that:
 - (A) purchases and sales of investments are initiated by authorized individuals, conform to investment objectives and regulations, and are properly documented and approved; and
 - (B) periodic review is made of district investments to evaluate investment performance and security;
 - (4) policies and procedures for selection, monitoring, or review and evaluation of professional services;
 - (5) policies that ensure a better use of management information, including:
 - (A) budgets for use in planning and controlling cost;
 - (B) an audit or finance committee of the board, and
 - (C) uniform reporting requirements that use "Audits of State and Local Governmental Units" as a guide on audit working papers and that uses "Governmental Accounting and Financial Reporting Standards."
- (b) The state auditor may audit the financial transactions of any district if the state auditor determines that the audit is necessary.

ADMINISTRATIVE PROCEDURES

Administrator and Employees:

The Board may employ a manager and set his/her salary. The Board may delegate any of its powers and duties (Except those of adopting rules, a dissolution resolution, a dissolution order, and those relating to hearings, taxation and bonds) to the manager who may carry out the powers and duties delegated to him/her by the Board. Employment of personnel is subject to the general law of nepotism. The manager with the approval of the Board may employ employees of the Board and set their salaries and hire legal counsel for the Board.

The manager shall with the approval of the Board develop a management plan for the District as outlined in Chapter 36 Section 1071 of the Texas Water Code, act as official liaison for the Board between the public and governmental agencies, and prepare budgets.

The manager's position shall be reviewed yearly at the beginning of the Fiscal Year.

TAXATION AND BONDS

The tax and bond provisions of Chapter 35 and 36 of the Water Code as amended apply to the District.

The Board may levy and collect property taxes levied on the property in the District that are necessary to enable the Board to perform the powers and functions given it in the Act.

TAX EXEMPTIONS

The District is not required to pay any tax or assessment on its facilities or any part of its facilities, and the bonds issued under this Act and their transfer and the income from

these bonds, including the profits made on the sale of those bonds, are exempt from taxation in this state. The standard county exemptions will be used for local tax purposes.

TAX PROCEDURES

The Live Oak County tax roll as prepared by the Live Oak County Appraisal District constitutes the tax rolls of the district.

The district shall enter into a contract with Live Oak County for the collection of property taxes for the district.

The Live Oak County Appraisal Board Chief may serve as an advisor to the district, without remuneration, for the preparation of the district's budget and the preparation and levying of the district's property taxes.

The board may levy annual taxes not to exceed five (.05) cents on the 100 dollar valuation of all taxable property within the district.

Money of the District shall be deposited in an insured account chosen by the Directors and must be signed by two directors so designated by the board.

ANNEXATION

Additional territory may be added to the District by petition of the landowner under Chapter 35 and 36 of the Texas Water Code, as amended.

AMENDMENT TO BY-LAWS

These by-laws may be altered or amended or the same may be repealed by new by-laws adopted at any regular or special meeting of the Board of Directors of the District, provided that no such action shall be taken at a regular or special meeting unless a copy of proposed new by-laws is submitted in writing to each of the Directors of the District with notice of such meeting, at least ten (10) days before such meeting. No such alterations, amendment or repeal of the by-laws or the adoption of new by-laws

shall be valid unless the same shall be by the affirmative vote of at least a majority of all of the Directors of the District.

DISSOLUTION OF THE DISTRICT

Chapter 36 of the Texas Water Code, as amended, applies to dissolution of the District.

RESOLUTION ADOPTING RULES OF THE LIVE OAK UNDERGROUND WATER
CONSERVATION DISTRICT

WHEREAS, The Rules of the Live Oak Underground Water Conservation District, attached hereto as Attachment A, have been developed for the purpose of conserving, preserving, protecting and recharging that underground water in the District, and this action is taken under the District's statutory authority to prevent waste and protect the rights of owners of interest in groundwater;

WHEREAS, In accordance with Section 59, Article 16 of the Constitution of the State of Texas, and in accordance with the Live Oak Underground water Conservation District Act, 71st Leg, 1967 Tex. Gen. Laws 1676(Vernon); Act of May 30, 1983, 68th Leg, ch.484, 1983 Tex. Gen. Laws 2852(Vernon); and the Act of May 17, 1985, 69th Leg, R.S., ch. 438, 1985 Tex. Gen. Laws 2984(Vernon); the following rules are hereby ratified and adopted as the rules of Live Oak Underground Water Conservation District by its Board of Directors;

WHEREAS, the rules, regulations and modes of procedure contained are adopted for the purpose of simplifying procedure, avoiding delays, saving expense and facilitation the administration of this District and these rules shall be so construed; and

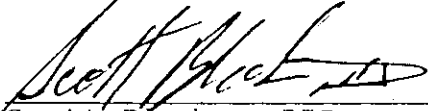
WHEREAS, Under no circumstances, and in no particular case will these Rules, or any part of them, be construed as a limitation or restriction upon the exercise of any discretion, where such exists; nor may they in any event be construed to deprive the Board of an exercise of powers, duties and jurisdiction conferred by law, nor to limit or restrict the amount and character of data or information which may be required for the proper administration of the law.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE LIVE OAK UNDERGROUND WATER CONSERVATION DISTRICT THAT:

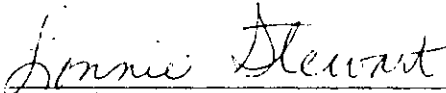
1) The "Rules of the Live Oak Underground Water Conservation District" contained in attachment A are hereby adopted.

- 2) All prior rules are hereby replaced.
 - 3) The General Manager is hereby authorized to take any all action necessary to implement this resolution.
 - 4) These rules take effect June 11, 1998.
- AND IT IS SO ORDERED

PASSED AND ADOPTED ON THIS 11th. DAY OF JUNE, 1998



Scott Bledsoe III
President

Attest to 

Lonnie Stewart
Secretary - Treasurer