Central Texas Groundwater Conservation District

District Rules

As Revised August 25, 2026

Central Texas Groundwater Conservation District

District Rules

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Central Texas
Groundwater Conservation District

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Central Texas
Groundwater Conservation District

District Rules

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PREAMBLE

The Central Texas Groundwater Conservation District ("District") was created in 2005 by the 79th Legislature with a directive to conserve, preserve, protect, and recharge the groundwater resources of Burnet County, and to prevent waste and degradation of quality of those groundwater resources. The boundaries of the District are coextensive with the boundaries of Burnet County. The citizens of Burnet County confirmed creation of the District by an election held on September 21, 2005.

The District is committed to manage and protect the groundwater resources of Burnet County and to work with others to ensure a sustainable, adequate, high-quality and cost-effective supply of water, now and in the future. The District will strive to develop, promote, and implement water conservation, augmentation, and management strategies to protect water resources for the benefit of the citizens, economy, and environment of Burnet County. The preservation of this most valuable resource can be managed in a prudent and cost-effective manner through conservation, education, management, and permitting. Any action taken by the District shall only be after full consideration and respect has been afforded to the individual property rights of the citizens of Burnet County.

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Procedural History of Rules Adoption

These rules of the Central Texas Groundwater Conservation District were initially adopted by the Board of Directors on August 31, 2009, and made initially effective on September 1, 2009, after numerous properly noticed public meetings and hearings. The rules were subsequently revised after proper notice and hearing on May 17, 2010, on August 13, 2010, on November 12, 2010, on May 16, 2014 to be effective on June 1, 2014, on April 22, 2016, on January 29, 2018 on October 15, 2018, on September 9, 2019, on December 19, 2019, on November 17, 2023 on March 27, 2024, on September 23, 2025, on January 23, 2026, and again on August 25, 2026. In accordance with Section 59, Article XVI of the Texas Constitution, the District Act, and Chapter 36 of the Texas Water Code, the following rules are hereby ratified and are effective as the rules of the District as of August 25, 2026.

CHAPTER 1
GENERAL PROVISIONS

SUBCHAPTER A.
DEFINITIONS

§ 1.01 Definition of Terms

In the administration of its duties, the District follows the definitions of terms set forth in Chapter 36 and other definitions as follows:

(1) "Abandoned well" means a well that is not in use. A well is considered to be in use if:

(A) the well is not a deteriorated well and contains the casing, pump, and pump column in good condition;

(B) the well is not a deteriorated well and has been capped;

(C) the water from the well is being put to a beneficial use;

(D) the well is used in the normal course and scope and with the intensity and frequency of other similar users in the general community; or

(E) the landowner is participating in a federal conservation program as defined by Chapter 36, Texas Water Code.

(2) "Acre-foot" means 325,851 U.S. gallons of water.

(3) "Administrative Law Judge" or "ALJ" means a person from the State Office of Administrative Hearings assigned to preside over a contested case.

(4) "Affected person" means, for any application, a person who has 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.

(5) "Aggregate Well System" two or more wells that are owned and operated by the same permittee that operate in such a manner that the wells' combined production capacity is greater than 25,000 gallons per day and the wells are used to provide water to the same enterprise or operation such as a subdivision, facility, or irrigated acreage.

(6) "Aquifer" means any water bearing geologic formation located in whole or in part within the boundaries of the District.

(7) "Available Sustainable Yield" is calculated by subtracting Current Permitted Production from Sustainable Yield.

(8) "Beneficial use" or "beneficial purpose" means use of groundwater for:

(A) agricultural, gardening, domestic (including lawn-watering), stock raising, municipal, mining, manufacturing, industrial, commercial, or recreational purposes;

(B) exploring for, producing, handling, or treating oil, gas, sulfur, lignite, or other minerals;

(C) or any other purpose that is useful and beneficial to the user that does not constitute waste.

(9) "Board" means the Board of Directors of the District.

(10) "Casing" means a tubular, watertight structure installed in the excavated or drilled hole to maintain the well opening and, along with cementing, to confine groundwater to its zone of origin and to prevent the entrance of surface pollutants.

(11) "Cement" means a neat Portland or construction cement mixture of not more than 7 gallons of water per 94 pound sack of dry cement, creating a cement slurry in which bentonite, gypsum, or other additives may be included.

(12) "Chapter 36" means Chapter 36, Texas Water Code.

(13) "Contiguous Controlled Acre" means an acre of land upon which a well that is the subject of an Operating Permit or permit application is located, and each additional acre of land:

(A) for which the applicant has a legal right to produce groundwater;

(B) believed to be located over the same aquifer as the aquifer from which the well will be producing groundwater, and

(C) either:

(i) located within the perimeter of the same surface estate plat, deed, or other legally recognized surface estate property description filed in the deed records of Burnet County as the acre on which the well is located (including tracts of land listed in a single deed all of which adjoin each other and are within the same perimeter);

(ii) located within the perimeter of a tract of land on which the well is located that is under the same right to produce and use groundwater, as established by deed, lease, or otherwise as the land upon which the well is located, although the property may be described in separate plats or deeds; or

(iii) contiguous to acreage described under (A) and (B), but on a different tract of land that does not meet the description of acreage under (C)(i) or (C)(ii).

Acreage on separate tracts of land that would otherwise be contiguous under this definition but for the need to cross over to the other side of a strip or easement for roads, railroads, pipelines, or utilities or similar long, but narrow, strips shall be considered contiguous for the purposes of this definition. Separate tracts of land must share a common boundary of

at least one-eighth of the length of the total tract perimeter of the tract without the well or at least 500 linear feet, whichever is shorter, in order for the acreage on the separate tracts to be considered contiguous to the well. The acreage of the strip or easement for roads, railroads, pipelines, or utilities or similar long, but narrow, strips itself shall not be included for purposes of calculating the amount of total contiguous acreage unless the permit applicant has the right to produce groundwater from the strip or easement for roads, railroads, pipelines, or utilities or similar long, but narrow, strips. However, acreage on two otherwise non-contiguous tracts of land shall not be considered contiguous simply because they are joined by the length of a strip or easement for roads, railroads, pipelines, or utilities or similar long, but narrow, strips. An acre of land may not be assigned as Contiguous Controlled Acreage to more than one well, well system, or permit holder.

(14) "Current Permitted Production" means the total volume of groundwater, expressed in terms of acre-feet per year, that the District has authorized through Operating Permits and Grandfathered Use Permits to be withdrawn from a single formation, or formation subdivision, within the management zone.

(15) "Desired future condition" or "DFC" means a quantitative description of the desired condition of groundwater resources, developed for a specific aquifer or aquifers, at a specified time in the future, as defined by the groundwater conservation districts participating in Groundwater Management Area No. 8, including the District, as part of the joint planning process described under Chapter 36.

(16) "Deteriorated well" means a well, the condition of which will cause or is likely to cause pollution of groundwater in the District.

(17) "Dewatering well" means a well that is constructed to produce groundwater for the purpose of lowering the water table or potentiometric surface, or to relieve hydrostatic uplift, for mining, quarrying, or excavation purposes.

(18) "Director" means a person who is elected and qualified to serve on the Board of Directors of the District as established by the District Act.

(19) "District" means the Central Texas Groundwater Conservation District created in accordance with Section 59, Article XVI, Texas Constitution, Chapter 36, and the District Act.

(20) "District Act" means Act of May 25, 2005, 79th Leg. R.S., ch. 855, 2005 Tex. Gen. Laws 2899 (now codified as Chapter 8810 Special District Local Laws Code), as may be amended from time to time.

(21) "District office" means the office of the District located in Burnet, Burnet County, Texas. The location of the District office may be changed from time to time by the Board.

(22) "Domestic use" means the use of groundwater by an individual, a household, a small business, a church, or any other user to support reasonable domestic-type beneficial use. For purposes of §3.52 and §3.66, use in excess of the reasonable volume of beneficial

domestic-type use will not be considered domestic-type use entitling the well owner to the benefits of §3.52 and §3.66, and another permit will be required.

(23) "Drilling Permit" means a permit required by the District prior to October 15, 2018 to drill a well to conduct a pumping test as set forth in District rules existing before October 15, 2018. Drilling Permits were required only for proposed wells with a maximum capacity as equipped of more than 50 gallons per minute or if the authorization to produce will be for 10 acre-feet or more per year.

(24) "Emergency Permit" means a permit required by the District for emergency needs, as set forth under Section 3.65.

(25) "Exempt well" means a new or an existing well that is exempt from permitting under Section 3.40.

(26) "Existing well" means a well that was in existence or for which drilling commenced prior to September 1, 2009.

(27) "Effective date" means the original effective date of these rules, September 1, 2009.

(28) "General Manager" means the person employed by the Board to manage the employees and day-to-day operations and affairs of the District and whose title is "General Manager".

(29) "Grandfathered Use Permit" means a permit issued by the District that authorizes, under certain conditions, groundwater production based on groundwater use during the Grandfathered Use Period.

(30) "Grandfathered Use Period" means any time prior to September 1, 2009.

(31) "Grandfathered Use Balance" is calculated by subtracting the annual amount of groundwater that a permittee is originally authorized by the District to produce from an existing well under the terms of an Operating Permit from the permittee's Maximum Grandfathered Use.

(32) "Groundwater" means water percolating below the surface of the earth.

(33) "Hearing Body" means the Board, a committee of the Board, and/or a Hearing Examiner serving in a quasi-judicial capacity at a hearing held under Chapter 36 and/or these Rules.

(34) "Hearing Examiner" means a person appointed in writing by the Board to conduct a hearing or other proceeding and who has the authority granted to a Presiding Officer under these rules, except as that authority may be limited by the Board or pursuant to the appointment. The term also includes an administrative law judge (ALJ) at the State Office of Administrative Hearings (SOAH).

(35) "Hydrogeologic Report" means a report detailing the results of a hydrogeologic investigation conducted pursuant to Section 3.63 that identifies the availability and quality of groundwater in a particular area and formation and the observed impacts of groundwater production on the surrounding environment, including impacts to nearby or adjacent wells.

(36) “Landowner” means the person who holds possessory rights to the land surface or to the withdrawal of groundwater from wells located on the land surface.

(37) “Large Well” means a well that is proposed to produce or produces more than 10 acre-feet per year, or that will have a maximum capacity of more than 50 gallons per minute. An aggregate system that operates in such a manner that the wells’ combined production produces more than 10 acre-feet per year, or that will have a maximum capacity of more than 50 gallons per minute will be considered a Large Well.

(38) “Leachate well” means a well used to remove contamination from soil or groundwater. The term does not include a dewatering well.

(39) “Livestock use” means the use of groundwater for the open-range watering of livestock, exotic livestock, game animals or fur-bearing animals. For purposes of this definition, the terms "livestock" and "exotic livestock" are to be used as defined in § 1.003 and § 142.00 1 of the Agriculture Code, respectively, and the terms “game animals” and “fur-bearing animals” are to be used as defined in §63.001 and §71.001, respectively, of the Parks and Wildlife Code. Livestock use does not include use by or for a public water system.

(40) “Managed Available Groundwater” means, for purposes of the “Historical and Administrative Notes in Chapter 5 of these Rules, the amount of water that may, to the extent possible, be permitted by the District for beneficial use in accordance with the desired future conditions of the aquifers as determined under earlier versions of Section 36.108, Texas Water Code, after taking into consideration the amount of water used by exempt wells and other non-permitted discharges.

(41) “Management Plan” means the District Management Plan required under Section 36.1071, Texas Water Code, and as further described in these rules.

(42) “Management zone” means one or more of the zones into which the Board may divide the District, as set forth under Section 4 of these rules.

(43) “Maximum Grandfathered Use” means the largest volume of groundwater produced from an aquifer and beneficially used for an existing well during a calendar year in the Grandfathered Use Period. Where the beneficial use of water did not commence until less than one calendar year before the end of the Grandfathered Use Period, the term means the calculated amount of groundwater that would in all reasonable likelihood have been beneficially used during the entire final calendar year of the Grandfathered Use Period for the applied-for purpose, had the activities that required the groundwater production commenced on the first day of the final calendar year of the Grandfathered Use Period.

(44) “Meter” or “measurement device” means a water flow measuring device that can measure within +/- 5% of accuracy the instantaneous rate of flow and record the amount of groundwater produced or transferred from a well or well system during a measure of time.

(45) Modeled Available Groundwater” means the amount of water that the executive administrator of the Texas Water Development Board determines may be produced on an

average annual basis to achieve a desired future condition established under Section 36.108 Texas Water Code.

(46) "Monitoring well" means a well installed to measure some property of the groundwater or the aquifer that it penetrates, and does not produce more than 5,000 gallons per year.

(47) "New well" means a well for which drilling commenced on or after September 1, 2009.

(48) "Non-exempt well" means an existing or a new well that does not qualify for exempt well status under these Rules.

(49) "Open Meetings Act" means Chapter 551, Texas Government Code, as it may be amended from time to time, also known as the "Texas Open Meetings Act".

(50) "Operating Permit" means a permit that may be issued by the District for equipping, completing, substantially altering, operating, or producing groundwater from any new or existing non-exempt water well.

(51) "Party" means a person who is an automatic participant in a proceeding before the District as set forth under Chapter 7 or a person who has been designated as an affected person and admitted to participate in a contested case before the Board, except where the usage of the term clearly suggests otherwise.

(52) "Person" means an individual, corporation, limited liability company, organization, government, governmental subdivision, agency, business trust, estate, trust, partnership, association, or other legal entity.

(53) "Pollution" means the alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any groundwater in the District that renders the groundwater harmful, detrimental, or injurious to humans, animal life, vegetation, or property or to public health, safety, or welfare or impairs the usefulness or public enjoyment of the water for any lawful or reasonable use.

(54) "Presiding Officer" means the president, vice-president, secretary, or other Board member presiding at any hearing or other proceeding, a Hearing Examiner appointed by the Board, or a SOAH ALJ for hearings conducted by SOAH, to conduct or preside over any hearing or other proceeding.

(55) "Production," "producing," or "produce" means the act of extracting groundwater from an aquifer by pumping or other method, or any act or activity that allows more than 25,000 gallons per day of groundwater to escape from an aquifer by any means.

(56) "Proposal for Decision" has the meaning described in section 36.410, Texas Water Code.

(57) "Public Information Act" means Chapter 552, Texas Government Code, as it may be amended from time to time.

(58) "Public Water System" means a system for the provision to the public of water for human consumption through pipes or other constructed conveyances, which includes all uses

described under the definition for "drinking water" in 30 Texas Administrative Code, Section 290.38. Such a system must have at least 15 service connections or serve at least 25 individuals at least 60 days out of the year. This term includes any collection, treatment, storage, and distribution facilities under the control of the operator of such system and used primarily in connection with such system, and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Two or more systems with each having a potential to serve less than 15 connections or less than 25 individuals but owned by the same person, firm, or corporation and located on adjacent land will be considered a public water system when the total potential service connections in the combined systems are 15 or greater or if the total number of individuals served by the combined systems total 25 or greater at least 60 days out of the year. Without excluding other meanings of the terms "individual" or "served", an individual shall be deemed to be served by a water system if he lives in, uses as his place of employment, or works in a place to which drinking water is supplied from the system.

(59) "Pump" means any facility, device, equipment, materials, or method used to obtain water from a well.

(60) "Registration" means a well owner providing certain information about a well to the District for the District's records, as more particularly described under Section 3.30.

(61) "Retail Public Utility" means any person, corporation, public utility, water supply or sewer service corporation, municipality, political subdivision, or agency operating, maintaining, or controlling in this state facilities, for providing potable water service or sewer service, or both, for compensation, as defined by Section 13.002 of the Texas Water Code.

(62) "Rule" or "Rules" means these District Rules collectively or a particular rule contained within these District Rules, as determined by the context in which the term is used.

(63) "Review period" means the period of time between the date of a Board order publishing a Sustainable Yield calculation and the time identified in the same order when the Board anticipates making a subsequent calculation for the same formation, or formation subdivision, within the same management zone.

(64) "Small Well" means a well proposed to produce or produces 10 acre-feet of water per year or less, and that will have a maximum capacity of 50 gallons per minute or less. An aggregate system that operates in such a manner that the wells' combined production produces 10 acre-feet of water per year or less, and that will have a maximum capacity of 50 gallons per minute or less will be considered a Small Well.

(65) "SOAH means the State Office of Administrative Hearings.

(66) "Substantially alter" or "substantial alteration" with respect to the size or capacity of a well means to increase the inside diameter of the pump discharge column pipe size of the well in any way, to alter or replace the pump to increase its designed production capacity in any way, or to otherwise increase the capacity of the well to produce groundwater so that the maximum production capacity is increased by a factor of five (5) percent or more over the pre-alteration capacity. "Substantially alter" includes increasing the annual permitted

volume of water produced by five (5) percent or more even if the pump or column pipe size or other physical characteristic of the well or equipment are not altered.

(67) "Sustainable Yield" means a volume of water, expressed in terms of acre-feet per year, that, when factoring all current estimated exempt uses and additional exempt uses that are anticipated for the review period, can be withdrawn through permitted production within a management zone while achieving applicable desired future conditions within the zone.

(68) "Test Hole" means a drilled hole used to obtain information on geologic and hydrologic conditions for groundwater exploration.

(69) "Transfer" means a change in a permit or application for a permit or a change in a registration as follows, except that the term "transfer" shall have its ordinary meaning as read in context when used in other contexts:

(A) ownership;

(B) the person authorized to exercise the right to make withdrawals and place the groundwater to beneficial use;

(C) point of withdrawal;

(D) purpose of use;

(E) place of use; or

(F) maximum rate of withdrawal.

(70) "Unused well" means a well that has been registered with the District, is not a deteriorated well, and contains the casing, gearhead, pump base, pump, pump column in good condition, as well as if applicable, the power unit, and that:

(A) has not been operated for three (3) or more years; or

(B) has been capped. The term includes a well that has not been operated for three (3) or more years while the real property on which the Well was located was enrolled in a state or federal conservation program such as the Conservation Reserve Program (CRP).

The term does not include a well in which any or all of the equipment has been removed for a reasonable amount of time for repair to the equipment.

(71) "Verification Period" means September 1, 2010, to September 1, 2011.

(72) "Waste" means one or more of the following:

(A) withdrawal of groundwater from an aquifer at a rate and in an amount that causes or threatens to cause an intrusion into the aquifer of water unsuitable for agriculture, gardening, domestic, or stock raising purposes;

(B) the flowing or producing of wells from an aquifer if the water produced is not used for a beneficial purpose;

(C) escape of groundwater from an aquifer to any other reservoir or geologic stratum that does not contain groundwater;

(D) pollution or harmful alteration of groundwater in an aquifer by saltwater or by other deleterious matter admitted from another stratum or from the surface of the ground;

(E) willfully or negligently causing, suffering, or allowing groundwater to escape into any river, creek, natural watercourse, depression, lake, reservoir, drain, sewer, street, highway, road, or road ditch, or onto any land other than that of the owner of the well unless such discharge is authorized by permit, rule, or other order issued by the Texas Commission on Environmental Quality under Chapter 26, Texas Water Code;

(F) groundwater pumped for irrigation that escapes as irrigation tailwater onto land other than that of the owner of the well unless permission has been granted by the occupant of the land receiving the discharge;

(G) for water produced from an artesian well, "waste" has the meaning assigned by Section 11.205, Texas Water Code;

(H) operating a deteriorated well;

(I) operating a nonexempt well within the boundaries of the District without a required permit;

(J) producing groundwater in violation of Chapter 5; or

(K) producing groundwater in violation of any District rule governing the withdrawal of groundwater through production limits on wells, managed depletion, or both.

(73) "Well" means any artificial excavation located within the boundaries of the District dug or drilled for the purpose of exploring for or withdrawing groundwater from an aquifer. The term does not include an aggregate quarry; groundwater use by aggregate quarries is regulated under Chapter 13.

(74) "Well owner" means the person who owns a possessory interest in: (1) the land upon which a well or well system is located or to be located; (2) the well or well system; or (3) the groundwater withdrawn from a well or well system.

(75) "Well system" means a well or group of wells tied to the same distribution system.

(76) "Withdraw" means the act of extracting or producing groundwater by pumping or other method.

(77) "Year" means a calendar year (January 1 through December 31), except where the usage of the term clearly suggests otherwise.

(78) "Zone" means a management zone, except as provided in the definition of "casing".

SUBCHAPTER B
PURPOSE AND GENERAL PROVISIONS

§ 1.02 Authority of District

The Central Texas Groundwater Conservation District is a political subdivision of the State of Texas organized and existing under Section 59, Article XVI, Texas Constitution, Chapter 36, and the District Act.

§ 1.03 Purpose of Rules

These rules are adopted under the authority of Section 36.101, Texas Water Code, and the District Act for the purpose of conserving, preserving, protecting, and recharging groundwater in the District in order to prevent subsidence, prevent degradation of water quality, prevent waste of groundwater, and to carry out the powers and duties of the District Act and Chapter 36.

§ 1.04 Use and Effect of Rules

These Rules are used by the District in the exercise of the powers conferred on the District by law and in the accomplishment of the purposes of the law creating the District. 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 will they, or any part therein, be construed as a limitation or restriction upon the District to exercise powers, duties, and jurisdiction conferred by law.

§ 1.05 Purpose of District

The purpose of the District is to provide for the conservation, preservation, protection, recharging, and prevention of waste of groundwater, and of groundwater reservoirs or their subdivisions, and to control subsidence caused by the withdrawal of water from those groundwater reservoirs or their subdivisions, consistent with the objectives of Section 59, Article XVI, Texas Constitution.

§ 1.06 Ownership of Groundwater

The ownership and rights of the owners of land within the District, and their lessees and assigns, in groundwater are hereby recognized, and nothing in Chapter 36 shall be construed as depriving or divesting those owners or their lessees and assigns of that ownership or those rights, except as those rights may be limited or altered by these Rules.

§ 1.07 Construction

A reference to a chapter, subchapter, section, or rule without further identification is a reference to a chapter, subchapter, section, or rule in these Rules, except that a reference to "Chapter 36" shall mean Chapter 36, Water Code. A reference to a subsection without further identification is a reference to a subsection in the same section. Construction of words and phrases

is governed by the Code Construction Act, Subchapter B, Chapter 311, Texas Government Code. The singular includes the plural, and the plural includes the singular. The masculine includes the feminine, and the feminine includes the masculine.

§ 1.08 Methods of Service Under the Rules

Except as provided in these rules for notice of hearings on permit applications or otherwise, any notice or document required by these rules to be served or delivered may be delivered to the recipient or the recipient's authorized representative in person, by agent, by courier receipted delivery, by certified or registered mail sent to the recipients last known address, by email to the recipient's email address on file with the District if written consent is granted by the recipient, or by telephonic document transfer to the recipient's current telecopier number and shall be accomplished by 5:00 o'clock p.m. (as shown by the clock in District's office in Burnet, Texas) on the date which it is due. Service by mail is complete upon deposit in a post office depository box or other official depository of the United States Postal Service. Service by telephonic document transfer is complete upon transfer, except that any transfer commencing after 5:00 o'clock p.m. (as shown by the clock in the District's office in Burnet, Texas) shall be deemed complete the following business day. If service or delivery is by mail and the recipient has the right or is required to do some act within a prescribed period of time after service, three days will be added to the prescribed period. If service by other methods has proved unsuccessful, service will be deemed complete upon publication of the notice or document in a newspaper of general circulation in the District or by such other method approved by the General Manager.

§ 1.09 Severability

If a provision contained in these Rules is for any reason held to be invalid, illegal, or unenforceable in any respect, the invalidity, illegality, or unenforceability does not affect any other Rules or provisions of these Rules, and these Rules shall be construed as if the invalid, illegal, or unenforceable provision had never been contained in these Rules.

§ 1.10 Regulatory Compliance

All well owners, operators, permittees, and registrants of the District shall comply with all applicable rules and regulations of all governmental entities. If District Rules and regulations are more stringent than those of other governmental entities, the District Rules and regulations control.

§ 1.11 Computing Time

In computing any period of time prescribed or allowed by these Rules, order of the Board, or any applicable statute, the day of the act, event, or default from which the designated period of time begins to run is not included, but the last day of the period so computed is included, unless it is a Saturday, Sunday, or legal holiday, in which event the period runs until the end of the next day that is not a Saturday, Sunday, or legal holiday.

§ 1.12 Time Limits

Applications, requests, or other papers or documents required or allowed to be filed under these Rules or by law must be received for filing in the District office within the time limit for filing, if any. The date of receipt, not the date of posting, is determinative of the time of filing.

Time periods set forth in these rules shall be measured by calendar days, unless otherwise specified.

§ 1.13 Show Cause Orders and Complaints

The Board, 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 a person operating within the District to appear before it at a public hearing and require the person to show cause why a suit should not be initiated against the person in a court of competent jurisdiction for failure to comply with the orders or Rules of the Board, the relevant statutes of the State, or failure to abide by the terms and provisions of a permit issued by the District or the operating authority of the District. A hearing under this Rule shall be conducted in accordance with the Chapter 7 rules of the District. Nothing in this rule shall be construed as a mandatory prerequisite to the District instituting a suit or other enforcement under Chapter 8 of these Rules.

§ 1.14 Notification of Rights of Well Owners

As soon as practicable after the effective date of these rules, September 1, 2009, the District shall publish notice to generally inform the well owners of the District's existence and the well owners' rights and duties under the rules.

§ 1.15 Amending of Rules

The Board may, following notice and hearing, amend these rules or adopt new rules from time to time.

CHAPTER 2
DISTRICT MANAGEMENT PLAN

§ 2.01 District Management Plan

Following notice and hearing, the District adopted a comprehensive District Management Plan in accordance with Chapter 36 of the Texas Water Code. Notice of a hearing on the Management Plan is governed by Rule 7.12 (c). The Management Plan, as implemented by the District through these Rules, specifies the acts and procedures and performance and avoidance measures necessary to prevent waste, the reduction of artesian pressure, or the draw-down of the water table in accordance with Section 36.1071, Texas Water Code. The Board may review the plan annually and will review and readopt the Management Plan with or without changes at least every five years. Upon adoption of Desired Future Conditions under Section 36.108, Texas Water Code, the Board shall update the Management Plan within two years of the date of the adoption of the Desired Future Conditions. The Board shall thereafter update the District's rules to implement the Management Plan within one year of the date the Management Plan is updated to include the adopted Desired Future Conditions and the amount of Modeled Available Groundwater corresponding to the most recently approved Desired Future Conditions. A Management Plan, once adopted, remains in effect in accordance with Section 36.1072, Texas Water Code.

CHAPTER 3
PERMITS AND REGISTRATIONS

SUBCHAPTER A.
GENERAL PROVISIONS APPLICABLE TO ALL PERMITS AND REGISTRATIONS

§ 3.01 Activities Prohibited Without Prior Authorization

(a) No person may:

(1) drill a well without first registering and, if required permitting the well under Rules 3.30 and 3.60, respectively, or unless otherwise expressly authorized by these Rules;

(2) drill a test hole without first obtaining from the District express written authorization to drill a test hole, or unless otherwise expressly authorized by these Rules;

(3) alter the size of a well or pump such that it would disqualify the well from a permitting exemption, without first obtaining a permit from the District;

(4) substantially alter the size of a well or pump without first obtaining a permit, permit amendment, or other express written authorization from the District; or

(5) produce water from any non-exempt well after without first having obtained from the District a valid Operating Permit or amendment thereto, Grandfathered Use Permit, or Emergency Permit that authorizes the withdrawal of the amount produced.

(b) No well may be operated unless the well is registered with the District, or unless otherwise expressly authorized in these Rules.

(c) For existing wells, Subsections (a)(3) and (a)(4) are effective on September 1, 2009, and Subsection (a)(5) is effective on September 1, 2010. For new wells, Subsection (a) is effective in its entirety on September 1, 2009.

(d) A violation of any of the prohibitions in Subsection (a) or (b) occurs on the first day that the prohibited drilling, alteration, operation or production begins, and continues each day thereafter as a separate violation until cessation of the prohibited conduct, or until the necessary authorization from the District is formally granted by the Board.

§ 3.02 Permits Issued by District

(a) A permit is required for drilling, substantially altering, operating, or producing groundwater from any non-exempt well, except for the drilling of a test hole under Subchapter H.

(b) The District must include the following in each permit it issues:

(1) the name of the person to whom the permit is issued;

(2) the date the permit is issued;

(3) the permit expiration date;

(4) each applicable permit condition and restriction;

(5) aquifer or management zone;

(6) estimated reasonable beneficial domestic-type use based on the applicant's representations of use to the General Manager under §3.40, §3.52, or §3.66;

(7) well location;

(8) conditions and restrictions, if any, placed on the rate and amount of withdrawal;

(9) purpose for which the water is to be used; and,

(10) any other information the District determines appropriate and is included in District rules and reasonably related to an issue that the District by law is authorized to consider.

§ 3.03 Permits Subject to Modification and Additional Production Limitations

(a) A permit issued by the District confers only the legal ability to undertake the activity specifically described in the terms of the permit. The terms of any permit issued by the District may be modified or amended pursuant to these Rules. A permit conveys no vested right, and itself is no vested right, of the permit holder. The board may revoke or amend a permit in accordance with these Rules when reasonably necessary to accomplish the purposes of the District, the District's rules, Management Plan, or Chapter 36.

(b) All permits issued by the District are subject to the District's rules, proportional adjustment regulations, and Management Plan.

(c) Each permit to produce groundwater issued by the District may be issued with special conditions and is at all times subject to additional production restrictions based on:

(1) the amount of calculated Sustainable Yield and Available Sustainable Yield in a formation, or formation subdivision, within a designated management zone;

(2) prohibiting unreasonable impacts to surrounding landowners;

(3) the proportional adjustment regulations of the District;

(4) the achievement of applicable desired future conditions;

(5) the accomplishment of the purposes of the District, the District's rules, Management Plan, or Chapter 36; and

(6) any other applicable production limitations set forth in Chapter 5 of these rules.

(d) By submitting an application for any permit issued by the District, the applicant acknowledges that any permit issued based on the submitted application does not guarantee the availability of any groundwater.

(e) The Board may amend these Rules at any time to allocate water available for permitting within a management zone, after considering an estimate of total exempt use produced within the zone, based upon the surface acreage owned by the holder of an Operating Permit or the surface acreage for which the holder of an Operating Permit controls the right to produce groundwater within the same zone.

(f) Any authorizations provided by these rules is subject to the right of the District, after notice and hearing, to modify or reduce the authorization allowed hereunder to protect the property rights of neighboring landowner.

§ 3.04 Compliance With Permit Terms

The terms, conditions, a new or existing well proposed in a permit application or permit amendment application that complies with the applicable production regulations under Sections 5.02(c)(2) or 5.02(i) and the spacing requirements, and special provisions of a permit issued by the District must be adhered to at all times. The failure of any person bound to comply with the terms, conditions, requirements, and special provisions of a permit is prohibited and is therefore grounds for enforcement as provided by these Rules and other applicable law.

§ 3.05 Permit Terms and Renewal

(a) Grandfathered Use Permits and Operating Permits issued by the District will be valid only for the term set by the District, not to exceed five years from the date of issuance, or until revoked or amended.

(b) Except as otherwise provided by these Rules, a permit will be renewed by the General Manager at the end of its term unless the Board acts to amend, cancel, or revoke the permit at the end of its term to accomplish the purposes of Chapter 4, unresolved rules violations, or as otherwise authorized under these Rules.

(c) The General Manager shall approve automatic permit renewals under this Rule without notice, hearing, or further action by the Board provided that the permit holder is not requesting a change related to the renewal that would require a permit amendment. The General Manager is not required to renew a permit if the permittee is delinquent in paying a required fee; is subject to a pending enforcement action that has not been settled or finally adjudicated or has not paid an outstanding civil penalty or complied with an order resulting from a final adjudication of a violation of a district permit, order or rule.

(d) This authorization is issued subject to the right of the District, after notice and hearing, to modify or reduce this permit in order to protect the property rights of neighboring landowners.

§ 3.06 Permit Revocation or Amendment for Nonuse

(a) To prevent speculation in groundwater permits and the issuance of permits that are not being used, which may result in the denial of permits to other applicants where there is no available water, a permit holder must begin to produce and beneficially use groundwater in accordance with the terms and conditions of a permit within five years of the date of issuance of a permit or permit amendment. The District shall schedule a permit that fails to begin producing and using groundwater in accordance with the permit within five years of permit issuance for a permit revocation hearing, after providing written notice to the permittee, to determine whether to revoke the permit or whether good cause exists to continue authorizing production under the terms of the permit.

(b) If the total annual groundwater authorization in a permit has been partially, but not fully, used beneficially in a calendar year within five years of permit issuance, the District may schedule a permit amendment or revocation hearing, after providing written notice to the permittee, to determine whether to:

(1) continue authorizing production under the terms of the permit;

(2) amend the permit to lower the groundwater production authorization to reflect the extent of annual beneficial use; or

(3) revoke the permit entirely.

(c) The District shall not amend or revoke a permit for nonuse if the Board determines, based on evidence presented by the permittee, that:

(1) the permit was partially utilized within the initial five-year period; and

(2) the unused portion of the permit can be reasonably expected to be fully utilized within ten years of permit issuance based upon the nature of the project, including a demonstration:

(A) that reasonable progress has been made on the project since permit issuance; and

(B) of the likelihood of continuing progress, based upon the nature of the project, so that full utilization of the total permitted amount before the end of the original ten-year period from permit issuance is probable.

(d) In considering whether to revoke or amend a permit for full or partial nonuse under Subsection (c), the Board shall also consider, where applicable:

(1) whether the permit was obtained to meet a demonstrated long-term public water supply need, including the gradual addition of retail connections supplied by infrastructure associated with the well and permit;

(2) whether nonuse was the result of implementation of water conservation measures; and

(3) whether the nonuse is attributable to a public water supplier or other permittee who, although produced groundwater from the well covered by the permit at one time, has converted its water supply in whole or in part to surface water or other alternative supplies and no longer uses the well except for emergency or back-up purposes.

(e) Any permit continued by the Board under this provision shall be scheduled for a review hearing at each time it is otherwise scheduled for automatic permit term renewal prior to the end of the original ten-year period from the date of issuance to determine the extent of progress since the last time it was considered by the Board and whether good cause exists to amend or revoke the permit.

(f) Any person whose permit is revoked or amended may reapply for a new permit or permit amendment at a later date in the manner set forth in these rules for new permits or permit amendments generally. The application will be processed in the same manner and under the same criteria and rules applicable to other new permit or permit amendment applications at the time of such reapplication.

(g) Acceptance of a permit constitutes an acknowledgment by the permit holder of receipt of the rules of the District and agreement that the permit holder will comply with all rules of the District.

(h) The District may amend any permit, in accordance with these Rules, to accomplish the purposes of the District Rules, Management Plan, the District Act, or Chapter 36.

§ 3.07 Applications Incorporated Into Permits and Registrations

(a) Each permit and well registration is issued by the District on the basis of, and contingent upon, the accuracy of the information supplied in the underlying applications. The information, statements and commitments contained in an application for a well registration, an Operating Permit, or a Grandfathered Use Permit is incorporated into the permit or registration as though the information was set forth in the permit or registration verbatim.

(b) A finding that false information has been supplied in any application submitted to the District may be grounds to refuse or deny the application, or to immediately revoke the permit or registration, except as authorized under Section 3.53 to allow a permit applicant for an existing well to amend a permit application.

§ 3.08 Transfer of Well Ownership

(a) Within 90 calendar days after the date of a change in ownership of a well, well system, or the right to produce water under a permit, the new owner (transferee) must file a notice of transfer of ownership of a well or other right to produce water under a permit with the District that includes the new owner's name and mailing address. The District staff shall develop a form for such purpose, and make the form available in the District office. Once the new l owner files a completed notice of transfer of ownership with the District, the

District will recognize the new owner as the applicable permit holder that will be authorized to produce groundwater from the applicable well or other right to produce water under a permit pursuant to the terms and conditions of the permit.

(b) If a permittee conveys by any lawful and legally enforceable means to another person the real property interests in one or more wells or a well system that is recognized in the permit so that the transferring party (the transferor) is no longer the "well owner" as defined herein, and if notice of change of ownership under Subsection (a) has been filed with the District, the District shall recognize the person to whom such interests were conveyed (the transferee) as the legal holder of the permit, subject to the conditions and limitations of these District Rules, and the terms and conditions of each applicable permit.

(c) Where more than one well is authorized under a single permit, but where not all permitted wells are included in a conveyance of real property interests in the wells to another person, the District may allocate the production authorization of the permit among the well owners pursuant to the terms of the conveyance, these Rules, and applicable law.

(d) The burden of proof in any proceeding related to a question of well ownership or status as the legal holder of a permit issued by the District and the rights thereunder shall be on the person claiming such ownership or status.

SUBCHAPTER B.
FILING AND PROCESSING PERMIT APPLICATIONS

§ 3.20 Processing Multiple Applications Concurrently

If a person has multiple applications pending before the District, and has requested in writing that the applications be processed concurrently, the District may process and the Board may consider the applications concurrently according to the standards and rules applicable to each, but only to the extent that concurrent processing is practicable under these Rules.

§ 3.21 Application Requirements for all Permits

(a) All permits are granted in accordance with the provisions of the District Rules.

(b) The application for a permit must be submitted to the District in writing and must be sworn to by the applicant.

(c) Each application for a permit issued by the District must contain the following:

(1) the name and mailing address of the applicant and the owner of the land on which the well is or will be located;

(2) if the applicant is other than the owner of the property, documentation establishing the applicable authority to file the application, hold the permit in lieu of the property owner, and construct and operate a well for the proposed use;

(3) a statement of the nature and purpose of the proposed use and the amount of water to be used for each purpose;

(4) a declaration that the applicant will comply with the District Management Plan;

(5) the location of each well and the estimated rate at which water will be withdrawn;

(6) a water well closure plan or a declaration that the applicant will comply with well plugging guidelines and report closure to the District;

(7) a drought contingency plan, if the applicant is required by law to have a drought contingency plan;

(8) a statement by the applicant that the water withdrawn under the permit will be put to beneficial use at all times;

(9) the location of the use of the water from the well;

(10) the name of the aquifer or subdivision thereof from which water will be produced by the well;

(11) legal description of the tract of land on which the well or well system is located;

(12) the number of Contiguous Controlled Acres, a legal description and drawing of all such surface acreage specifically assigned to the well to be permitted, and information demonstrating that the extent to which the surface acreage is located over the same aquifer as the aquifer from which the well will be producing.

(13) any additional information required for an Operating Permit under Section 3.50; and

(14) any other information included in District rules in effect on the date the application is submitted that specifies what must be included in an application for a

determination of administrative completeness and reasonably relates to an issue that the District by law is authorized to consider.

(d) An application for a permit issued by the District cannot be deemed administratively complete until the applicant has submitted any administrative fees or well report deposits required by the District for permit applications under Chapter 12.

(e) An application may be rejected as administratively incomplete if the District finds that substantive information required by the permit application is missing, false, or incorrect.

(f) The General Manager must determine whether an application for a permit issued by the District is administratively complete within the later of 90 calendar days after: (1) the completed application is discussed in the "General Manager Meeting" (Appendix B), or (2) receipt of the applicant's supplemental information to support the application that is provided in response to the General Manager's written request for more information after the Permit Meeting (Appendix B). If, by end of said 90 calendar days, after the later of the General Manager's Meeting or the last Permit Meeting, the General Manager fails to send a list of reasons why the application (as supplemented) is not administratively complete, then the application (as supplemented) is deemed to be administratively complete.

§ 3.22 Considerations for Granting or Denying a Permit Application

(a) Before granting or denying a permit application, the Board shall consider whether the application conforms to the requirements prescribed by Chapter 36, the District Act, the Management Plan, and the District Rules, including without limitation:

(1) the criteria under Section 36.113, Water Code;

(2) whether the proposed use of water unreasonably affects surrounding landowners;

(3) whether the amount of groundwater requested in the application would exceed the Available Sustainable Yield of the formation, or formation subdivision, within any management zone in which the well will be completed;

(4) the amount of time expected to lapse, if any, between the application date and the date that the applicant can put the requested water to a beneficial use;

(5) whether the applicant commits to placing the water produced under the requested permit to a beneficial use;

(6) the spacing and completion requirements of Chapter 6;

(7) whether any special conditions should be included, as described under Section 3.03(c) or otherwise;

(8) whether the application is submitted in conjunction with any request to transfer another permit;

(9) whether the issuance of the requested permit or permits would authorize the withdrawal of groundwater in amounts that are greater than necessary for the project proposed in the application; and

(10) the effect of the amount of groundwater requested in the application on achieving the applicable DFC.

(b) In determining whether the applicant has demonstrated a need for the requested production authorization and the ability to produce the requested volumes in a manner that complies with the District Rules, the Board shall consider whether the applicant has demonstrated, by a preponderance of evidence, that the quantity of water requested in the application is reasonably needed by the applicant and that the applicant can feasibly begin production and beneficial use of the requested groundwater within five years of the date of permit issuance.

(c) The evidence required under Subsection (b) must include planning, design, and financing documents appropriate to the nature of the project.

(d) For each existing well proposed in a permit application, and each new well or substantial alteration to a new or existing well proposed in a permit application or permit amendment application that complies with the applicable production regulations under Sections 5.02(c)(2) or 5.02(i) and the spacing requirements under Chapter 6, the Board shall recognize a presumption that the proposed well will not unreasonably affect surrounding landowners under Subsection (a)(2) of this section. The presumption may be rebutted only by a preponderance of evidence to the contrary.

§ 3.23 Amendment of Permit

(a) If a permit holder intends to undertake any action that would exceed the maximum amount of groundwater authorized to be produced from a well or operation requiring a permit, change the ownership of a well or operation requiring a permit, the purpose of or location of use of the groundwater produced, or any other applicable term, condition or restriction of an existing permit, the permit holder must first apply for and obtain an appropriate permit amendment.

(b) A major amendment to a permit includes, but is not limited to: a change that would substantially alter the size or capacity of a well, an increase in the annual quantity of groundwater authorized to be withdrawn, a change in the purpose or place of use of the water produced, the addition of a new well to be included in an already permitted aggregate system, or a change of location of groundwater withdrawal, except for a replacement well authorized under Section 3.71, and any other change that is not a minor amendment.

(c) A major amendment to a permit shall not be made prior to notice and hearing.

(d) All applications for major amendments to any permit issued by the District shall be subject to the considerations in Section 3.22.

(e) Amendments that are not major, such as a change in ownership of the land the well, well system or operation requiring a permit is located on; or, an amendment sought by the

permittee for a decrease in the quantity of groundwater authorized for withdrawal and beneficial use, the removal of a well from an already permitted aggregate system, change of address of the well owner, changing of a well from nonexempt to exempt, or a non-substantive change in a permit language such as correcting a typographical error are minor amendments and may be approved by the General Manager.

(f) The General Manager is authorized to approve a minor permit amendment and may approve such minor amendments without public notice and hearing. The General Manager may also send an application for a minor permit amendment to the Board for consideration, and must do so if the General Manager proposes to deny the application. Any minor amendment sent to the Board for consideration shall be set on the Board's agenda and shall comply with the notice requirements of the Texas Open Meetings Act.

(g) Grandfathered Use Permits issued by the District may not be amended and retain status as a Grandfathered Use Permit to allow for:

(1) a purpose of use that is different than the purpose of use originally authorized; or

(2) use of any water produced under the terms of the applicable permit at any point outside of the District's boundaries, if no such out-of-District use was originally authorized.

(h) A permit amendment is not required for any well, well pump, or pump motor maintenance or repair if the maintenance or repair does not substantially alter the well, well pump, or pump motor.

§ 3.24 Completion of Permit Application Required

(a) The District may not act on any application it receives that is not administratively complete. Within 60 days of submission of an administratively complete application, the District shall promptly act on or set for hearing the application.

(b) If a filed application is not administratively complete, the District shall notify the applicant in writing of the incomplete nature of the application and request the information needed to complete the application.

(c) If the District does not receive the information requested pursuant to Subsection (b) within 45 calendar days after the request is tendered, unless good cause is shown the application will be deemed abandoned and shall be returned to the applicant, along with any applicable fees or deposits.

§ 3.25 Aggregation of Multiple Wells Under a Permit

(a) Multiple wells that are part of an aggregate well system that are owned and operated by the same permit holder and serve the same subdivision, facility, or a certificated service area authorized by the Texas Commission on Environmental Quality may, at the sole discretion of the District, be authorized under a single permit. Multiple wells that are not part of an aggregate well system but that are located on a single tract of land and owned and operated by the same permit holder may be also authorized under a single permit at the sole discretion of the District.

(b) For the purposes of categorizing wells by the amount of groundwater production, when wells are permitted with an aggregate withdrawal, the aggregate value shall be assigned to the group, rather than allocating to each well its prorated share of estimated production.

(c) Operating Permits for existing wells and Grandfathered Use Permits issued to an aggregate system will be based upon a consideration of the combined Maximum Grandfathered Use of all wells within the aggregate system, rather than the historic average use of each individual well.

(d) A well that is included in an aggregate well system is classified as a nonexempt well even if the production from the well is 25,000 gallons or less per day.

SUBCHAPTER C.
WELL REGISTRATION REQUIREMENTS

§ 3.30 Registration Requirements Applicable to All Wells

(a) Each application for well registration must include the following on a form provided by the District:

(1) the name and mailing address of the registrant and the owner of the land on which the well is or will be located;

(2) if the applicant is a person other than the owner of the property, documentation establishing the authority of the applicant to file the application for well registration, to serve as the registrant in lieu of the property owner, and to construct and operate the well for the proposed use;

(3) a statement of the nature and purpose of the existing or proposed use and the amount of water used or to be used for each purpose;

(4) the location of the well and the estimated rate at which water is or will be withdrawn;

(5) a water well closure plan or a declaration that the applicant will comply with well plugging guidelines and report closure to the District;

(6) a statement that the water withdrawn from the well will be put to beneficial use at all times;

(7) the location of the use of the water from the well;

(8) the maximum production capacity of the well as equipped for a 24-hour period; and

(9) any other information deemed necessary by the Board that relates to the purposes of the District.

(b) For purposes of determining applicable well spacing and permitting requirements, the information included in a timely filed, administratively complete application for well registration may be used as evidence that the well existed before September 1, 2009.

(c) Upon receipt of the well report required by Section 3.70, a registration shall be perpetual in nature, subject to enforcement and/or cancellation for violation of these Rules.

§ 3.31 Well Registration

(a) No new well may be drilled or completed until the proposed new well has first been registered with the District.

(b) No enforcement action may be initiated by the District against any person who fails to register an existing, exempt well in accordance with this section. However, the failure to timely register an existing, exempt well will waive all protections against well interference that are provided in Chapter 6 for the period of time from September 1, 2010, and the date the well is finally registered with the District. A failure to timely register an existing, exempt well also waives the eligibility for any special notice afforded to registered well owners pursuant to these rules.

SUBCHAPTER D.
EXEMPTIONS FROM PERMITTING

§ 3.40 Permitting Exemptions

Subject to Rule 4.05(h) regarding the Northeast Burnet County Trinity Aquifer Management Zone, no Permit is required for the following:

(1) The operation of an existing well that is:

equipped so that it is incapable of producing more than 25,000 gallons per 24 hour period, regardless of tract size.

(2) The operation of a well drilled between September 1, 2009 and October 15, 2018 which meets the tract size and spacing requirements found in Appendix A and is:

(A) equipped so that it is incapable of producing more than 25,000 gallons per 24 hour period; and,

(B) if drilled on a tract smaller than 10 acres in size, the casing diameter is not larger than 5 inch inside diameter.

(3) The operation of a well drilled between September 1, 2009 and October 15, 2018 on a tract of any size which was platted prior to September 1, 2009 and not subsequently divided into smaller tracts with a casing diameter of not more than 5 inch inside diameter and incapable of producing more than 25,000 gallons per 24 hour period.

(4) The drilling and operation of a well drilled after October 15, 2018 located on a tract of land larger than ten (10) acres that:

(A) will be drilled, equipped, or completed so that it is incapable of producing more than 25,000 gallons of water per 24-hour interval; and,

(B) meets the spacing requirements found in Appendix A as modified by §6.03(f).

(5) The drilling or operation of leachate wells and monitoring wells.

(6) All wells must be registered with the District.

SUBCHAPTER E.
AUTHORIZATION FOR PRODUCTION FROM EXISTING WELLS

§ 3.50 Operating Permits

(a) Each existing, non-exempt well that produced or beneficially used groundwater at any time prior to September 1, 2009, is required to have a permit under District rules originally adopted that authorizes groundwater production on or before September 1, 2010, and to continue operating the well after that date. A permit issued pursuant to this section could include an Operating Permit, a Grandfathered Use Permit, or both.

§ 3.51 (Reserved)

§ 3.52 Existing, Non-exempt Wells Used for Domestic, Livestock or Poultry Purposes

(a) Notwithstanding anything to the contrary in these rules, an existing well used solely for domestic, livestock, or poultry use, but that is not exempt under Section 3.40 exemptions existing on September 1, 2009, was eligible for and the District issued a limited number of permits if the well owner complied with the District rules originally adopted under this section.

(b) For each well permitted under Subsection (a), the District may limit production generally to only the amount of water that can be used beneficially for the specified purpose of use, instead of limiting production authorization to an express annual production volume.

(c) This section does not prohibit the District from limiting production from such a well in the future during drought conditions, or otherwise to carry out the purposes of the District.

(d) Applications for an Operating Permit described in this section must comply with all applicable provisions of this subchapter.

§ 3.53 Grandfathered Use Permits

Any existing, non-exempt well that was used to produce groundwater at any time during the Grandfathered Use Period was eligible for a Grandfathered Use Permit if the well owner complied with the District rules originally adopted under this section.

§ 3.54 Limited Grandfather Use Permits for Certain Existing Municipal Public Water System Wells

(a) This section applies only to an Existing well, as defined in Section 1.01(26), that was drilled and placed into production prior to September 1, 2009, that produced and beneficially used groundwater during the Grandfathered Use Period, that is a Non-exempt well, that was owned and operated by a municipality for use as a Public Water System as defined in Section 1.01(58) during the Grandfathered Use Period, and that did not receive a Grandfathered Use Permit under Section 3.53 prior to expiration of the Verification Period.

(b) An applicant seeking a limited Grandfather Use Permit under this section must submit a sworn application demonstrating, by a preponderance of evidence, the Maximum Grandfathered Use as defined in Section 1.01(43). The application must include any available production records, meter data, billing records, or other evidence establishing groundwater production during the Grandfathered Use Period and must demonstrate that the well has remained in continuous operation or service for Public Water System purposes since September 1, 2009. The application shall comply with all other applicable requirements of Section 3.21. The burden of proof is on the applicant.

(c) Notwithstanding any other provision of these Rules, including Section 3.21(c)(12), the Board may issue a permit under this section authorizing annual production not to exceed fifty percent (50%) of the demonstrated Maximum Grandfathered Use. Authorization under this subsection shall not exceed one-half (1/2) of Maximum Grandfathered Use unless additional production is granted under Subsection (d). The Permit shall be considered a Grandfather Use Permit under Section 1.01(29).

(d) An applicant for a limited Grandfather Use Permit issued under this section may request authorization to produce groundwater in excess of fifty percent (50%) of Maximum Grandfathered Use. For any annual production authorized above fifty percent (50%) of Maximum Grandfathered Use, the Board may require a one-time payment of a rules violation penalty fee to be determined by the Board in an amount not to exceed Ten Thousand Dollars ($10,000.00) per acre-foot authorized above the fifty percent (50%) threshold. Such penalty fee shall be assessed at the time the authorization is granted and shall be a one-time, non-recurring charge. The amount of the rules violation penalty fee shall be determined by the Board after notice and hearing and shall consider the extent of historical noncompliance, the impact of additional production on Sustainable Yield and

Available Sustainable Yield, the effect on achievement of applicable Desired Future Conditions, and the purposes of the District under Section 1.05. Payment of an assessment under this subsection does not create a vested right and does not guarantee renewal at the same production level.

(e) Authorization under this section is limited strictly to wells that meet all criteria of Subsection (a). This section shall not apply to wells drilled on or after September 1, 2009, wells that failed to produce groundwater during the Grandfathered Use Period, or wells not operated as part of a Public Water System during the Grandfathered Use Period. This section shall not be construed as reopening the Grandfathered Use Period or modifying Section 3.53 and shall be narrowly construed.

(f) A permit issued under this section may be transferred in accordance with Section 3.08, provided that the well continues to serve a Public Water System located within the District.

SUBCHAPTER F.
AUTHORIZATION FOR PRODUCTION FROM NEW WELLS AND EXEMPT WELL CONVERTED TO NONEXEMPT WELLS

§ 3.60 Construction of New Wells

(a) Before any new well may be drilled or completed, the well owner, water well driller, or any other person acting on behalf of the well owner pursuant to written authority, must:

(1) submit an application in accordance with Section 3.30 for well registration with the District, using a form provided by the District; and

(2) receive specific authorization from the District to commence drilling of the well.

(b) The General Manager shall review each application submitted pursuant to Subsection (a) and shall determine, based on the information provided by the applicant, whether the proposed well qualifies for a permitting exemption under Section 3.40 and whether it meets spacing and completion requirements under Chapter 6. The General Manager shall inform the applicant of this determination in writing within 15 calendar days of receipt of the completed registration application.

(c) For proposed new wells that the General Manager determines qualify for a permitting exemption under Section 3.40 and that comply with Chapter 6, the applicant may begin drilling the well described in the application upon receipt of the approved registration.

(d) For proposed wells that the General Manager determines do not qualify for an exemption under Section 3.40, application must be made for all appropriate permits and authorizations required by these rules, including an Operating Permit and, when applicable, a Test Hole Drilling Authorization. For proposed wells that the General Manager determines do not comply with Chapter 6, the application must be amended to comply with the requirements of Chapter 6 or the applicant must apply for and obtain a variance using the process set forth in Chapter 6. Any applicant may appeal a General Manager's determination under

Subsection (b) by filing, within 30 calendar days of the date of the written determination, a written request for a hearing before the Board.

(e) A registrant for a well described in Subsection (c) has 180 calendar days from the date of the General Manager's written determination provided under Subsection (b) to drill and complete the well, and must file the well report within 60 calendar days of completion as required by Section 3.70.

§ 3.61 (Reserved)

§ 3.62 Operating Permits for New Wells

(a) No new, non-exempt well may be operated without the issuance of an Operating Permit under this section that specifically authorizes the operation of, and production of water from, the well identified in the permit.

(b) An application for an Operating Permit must be sworn-to and contain the following:

(1) all information requested in Section 3.21;

(2) notice, if any, of any application to the Texas Public Utility Commission to obtain or modify a Certificate of Convenience and Necessity to provide water or wastewater service with water obtained pursuant to the requested permit; and

(3) for a Large Well, a hydrogeologic report conducted in conformity with, and that otherwise complies with, Section 3.63.

(c) The General Manager is authorized to act on an administratively complete Small Well application after notice and opportunity for hearing as described under Section 7.12. A hearing on a Small Well application will not be granted as a result of a hearing request unless it is timely and made by an affected person as determined by the General Manager.

(d) For a Large Well, in addition to all other applicable considerations, the Board may not grant an application for an Operating Permit submitted under this section unless:

(1) within 15 calendar days following the date that the General Manager determined the application to be administratively complete, the Applicant mailed written notice of the application to the owner of each property located, in whole or in part, within 1/2 mile of the location of the proposed well or had posted notice of the application in 2 places legible from a public roadway. Such signs shall consist of a minimum size of not less than 4 square feet with letters a minimum of ½ inch wide by 3 inches high in a contrasting color with the signs background;

(2) notice of the application was published in a newspaper of general circulation in Burnet County within 20 calendar days following the date that the General Manager determined the application to be administratively complete; and,

(3) the General Manager receives proof from the applicant that notice was provided as required under Subsection (d)(1).

(e) Subject to the considerations listed in Section 3.22, and any limitations imposed on the permit application pursuant to those considerations, an application for an Operating Permit submitted under this section may not be unreasonably denied by the District.

(f) An Operating Permit authorizing a new Small Well, shall expire on the first anniversary of the date of permit issuance, unless the permit holder:

(1) has demonstrated to the District that it has completed the well in accordance with the well description in the applications, the District's well spacing, construction and completion requirements provided for in these rules, and all other standards required under other applicable law; or

(2) has applied for, and been granted, an extension. Such extensions shall only be granted once and shall not be valid for more than an additional one-year period. Thereafter, the applicant must file a new Operating Permit application.

(g) If an application is submitted to the District for an Operating Permit for a new well with a proposed maximum designed production capacity of 50 gallons per minute or less, but the well as completed is capable of producing more than 50 gallons per minute, the permit holder must:

(1) equip the well so that it is incapable of producing more than the maximum designed production capacity described in the permit application; or

(2) apply for and obtain an amendment to the Operating Permit, and comply with the notice, aquifer test, and hydrogeologic reporting requirements of this chapter applicable to applications for wells of that production capacity.

(h) An Operating Permit authorizes the permittee to produce water only in accordance with the terms of the permit and these Rules.

(i) No water may be produced from any new, non-exempt well that is required to be metered under Section 11.1 unless the well is first:

(1) permitted by an Operating Permit issued pursuant to this section; and

(2) equipped with a properly installed, fully functional flow meter.

§ 3.63 Hydrogeologic Investigation and Reports

(a) Following the completion of each Large Well, or in connection with a substantial alteration of a well described under Rule 3.71(c)(3), the applicant must conduct a hydrogeologic investigation of each water bearing formation in which the well is completed to produce groundwater, or, if agreeable to the Board, a hydrogeologic investigation of the collective formations in which the well is completed to produce groundwater. In addition, the Board may order a hydrogeologic investigation be conducted under this section for any application where the Board determines that such report is warranted based on aquifer conditions, type of modification, status of adjacent wells, local water use trends, and other

aquifer management considerations, including when a permit application if granted would result in no Available Sustainable Yield in the formation or formation part.

(b) The District shall adopt hydrogeologic investigation and reporting requirements as a component of these rules, which shall govern the procedure and protocol for conducting hydrogeologic investigations and for preparing hydrogeologic reports. The requirements shall be attached as an appendix to these rules, and a reference to this rule or section shall be construed also as a reference to such appendix. The requirements shall be designed to provide the District with information that is sufficient to assess the hydrogeologic impacts related to the proposed water production rate or to the transportation of water to a point or points outside of the District. Applicants may not rely solely on hydrogeologic reports previously filed with or prepared by the District.

(c) Each hydrogeologic report conducted pursuant to this section must be completed in a manner that complies with the requirements adopted by the District for this purpose pursuant to Subsection (b).

(d) Notwithstanding Section 3.62(a), the operation of a well for which the District has not issued a permit to produce groundwater, the production of water from the same well is authorized for the limited purpose of conducting a hydrogeologic investigation under this section.

§ 3.64 Reporting Requirements for Metered New Wells

Beginning no later than February 15, 2011, and no later than May 1 of each year thereafter, the holder of an Operating Permit for each new well that is required to be metered under Section 11.01 must, on a form provided by or otherwise acceptable to the District, submit a report to the District providing the information required under Section 11.05.

§ 3.65 Emergency

(a) Upon application, the General Manager may grant an Emergency Permit that authorizes the drilling, equipping, completion, substantial altering with respect to size or capacity, or operation of a well and production from it as set forth under this Section.

(b) An application for an Emergency Permit shall contain the information set forth in Section 3.21 and present sufficient evidence that:

(1) no suitable surface water or permitted groundwater is immediately available to the applicant; and

(2) an emergency need for the groundwater exists such that issuance of the permit is necessary to prevent the loss of life or to prevent severe, imminent threats to the public health or safety.

(c) The General Manager may rule on any application for an Emergency Permit without notice, hearing, or further action by the Board, or with such notice and hearing as the General Manager deems practical and necessary under the circumstances. Notice of the ruling shall be given to the applicant. Any applicant may appeal the General Manager's ruling by

filing, within 15 calendar days of the General Manager's ruling, a written request for a hearing before the Board. The Board will hear the applicant's appeal at the next available regular Board meeting or at a special Board meeting called for that purpose. The General Manager shall inform the Board of any Emergency Permits granted or denied. On the motion of any Board member, and a majority concurrence in the motion, the Board may overrule the action of the General Manager.

(d) The administrative fees, if any, to be assessed for an Emergency Permit under this Rule shall be the same as a permit issued under Section 3.62.

(e) Emergency Permits may be issued for a term determined by the General Manager based upon the nature and extent of the emergency, such term not to exceed 60 calendar days. Upon expiration of the term, the permit automatically expires and is cancelled.

§ 3.66 New, Non-exempt Wells Used for Domestic, Livestock or Poultry Purposes

(a) This section applies to certain new wells drilled before October 15, 2018. The District issued a limited number of Operating Permits pursuant to this section for a new well drilled before October 15, 2018 that did not otherwise qualify for a permitting exemption existing on September 1, 2009 under Section 3.40, but that is used solely for domestic, livestock, or poultry use.

(b) For Operating Permits issued pursuant to this section, the District may limit production generally to only the amount of water that can be used beneficially for the specified purpose of use, instead of limiting production authorization to an express annual production volume.

(c) This section does not prohibit the District from limiting production from such a well in the future during drought conditions, or otherwise to carry out the purposes of the District.

(d) An Operating Permit described in this section must comply with all applicable provisions of this subchapter.

§ 3.67 Permit by Rule for Certain Nonexempt Wells Located on a Tract of Land that is Ten Acres or Less

(a) The purpose of this provision is to permit by rule the drilling, completion and production of certain nonexempt wells. Eligible wells are authorized to operate pursuant to this Section without an individual permit from the District.

(b) To be eligible for authorization under this permit by rule, wells must:

(1) be drilled after October 15, 2018;

(2) be located on a tract of land that is ten acres or less;

(3) meet spacing requirements found in Appendix A;

(4) for a well drilled between October 15, 2018 and March 27, 2024 be equipped so that it is incapable of producing more than 25,000 gallons per 24-hour period;

(5) for a well drilled after March 27, 2024 be equipped so that it is incapable of producing more than 10,000 gallons per 24-hour period; and

(6) not be part of an Aggregate Well System.

(c) Wells authorized by this Section shall be registered in accordance with Rule §3.31.

(d) Wells authorized by this Section are subject to the production limitations imposed by the District during drought conditions.

§ 3.68 Permit for Exempt Wells Converted to Nonexempt Well

An existing exempt well that is converted to a nonexempt well is required to obtain a permit and must comply with sections 3.60 through 3.64 as determined applicable by the General Manager or Board.

SUBCHAPTER G.
WELL REPORTS; WELL REPLACEMENT AND ALTERATION; UNUSED WELLS

§ 3.70 Reports of Drilling, Pump Installation and Alteration Activity

(a) Each person who drills, deepens, completes, replaces a pump or otherwise alters a well shall make, at the time of drilling, deepening, completing or otherwise altering the well, a legible and accurate Well Report recorded on forms provided by the District or by the Texas Department of Licensing and Regulation.

(b) Each Well Report required by Subsection (a) must contain:

(1) the name and physical address of the well owner;

(2) the location of the drilled, deepened, completed or otherwise altered well, including the physical address of the property on which the well is or will be located, and the latitudinal and longitudinal coordinates of the wellhead location, as measured by a properly functioning and calibrated Global Positioning System unit;

(3) the type of work being undertaken on the well;

(4) the type of use or proposed use of water from the well;

(5) the diameter and total depth of the well bore;

(6) the date that drilling was commenced and completed, along with a description of the depth, thickness, and character of each strata penetrated;

(7) the drilling method used;

(8) the borehole completion method performed on the well, including the depth, size and character of the casing installed;

(9) a description of the annular seals installed in the well;

(10) the surface completion method performed on the well;

(11) the location of water bearing strata, including the static level and the date the level was encountered, as well as the measured rate of any artesian flow encountered;

(12) the type and depth of any packers installed;

(13) a description of the plugging methods used, if plugging a well;

(14) the type, make and model of the pump installed on the well, including the horsepower rating of the pump motor and the designed production capability of the pump, as assigned by the pump manufacturer;

(15) the type and results of any water test conducted on the well, including the yield, in gallons per minute, of the pump operated under optimal conditions in a pump test of the well;

(16) the actual production capacity of a well as equipped, stated in gallons per minute, as determined under Subsection (d);

(17) a description of the water quality encountered in the well;

(18) the Texas Water Development Board State Well Number Grid quadrangle in which the well is located; and

(19) an identification of the aquifer supplying water to the well.

(c) If the well is constructed and completed to produce water from more than one aquifer, as authorized under Section 6.04, the Well Report submitted for the well shall also include the following:

(1) a statement that the well is completed to produce water from more than one aquifer;

(2) an identification of each aquifer supplying water to the well; and

(3) an estimate in gallons per minute of the contribution of water from each aquifer supplying water to the well.

(d) In determining the actual production capacity of the well for the information required under Subsection (b)(16), the person providing the information should consider all available information, including the pump column size, bowl size, casing size, horsepower, pumping level, pump tests, manufactures pump rating, whether the well is connected to a storage

tank with or without a booster pump, or other information available to or provided by the pump installer or well driller. For the purpose of these rules, the production capacity shall be stated in gallons per minute produced by the well under normal operating conditions.

(e) The person who drilled, deepened, completed, equipped or otherwise altered a well shall, within 60 calendar days after the date the well is completed or such other action is taken, file a Well Report described in this section with the District.

§ 3.71 Replacement Wells and Substantial Alteration of Completed Wells

(a) No person may substantially alter a well or pump, or replace a well, without first having obtained authorization for such work from the District. Authorization for substantial alterations or replacement wells may only be granted following the submission of an application for such a request with the District.

(b) Applications for replacement wells submitted under this subsection may be granted by the General Manager without notice or hearing if the replacement well will comply with each of the following conditions:

(1) the replacement well must be drilled within 50 feet of the location of the well being replaced;

(2) the replacement well or pump shall not be larger in size or capacity than the well being replaced so as to substantially alter the size or capacity of the well; and

(3) immediately upon commencing operation of the replacement well, the well owner will cease production and remove the pump from the well being replaced and will immediately undertake the plugging or capping of the well being replaced.

(c) For the substantial alteration of existing wells, the applicant must obtain approval by the Board of a permit amendment application under Section 3.23 that provides all of the following information that applies:

(1) a description of the features of the well or pump that the applicant proposes to substantially alter, and a description of the same features of the well or pump as they currently exist;

(2) the extent of any recompletion or reworking proposed for the well, and the methods proposed to be used to accomplish such recompletion or reworking;

(3) for requests for the substantial alteration of a well , if the proposed alteration will increase the capacity of the well to produce groundwater by more than 10 acre-feet per year or that the proposed alteration will increase the maximum capacity to be more than 50 gallons per minute, a hydrogeologic report conducted in accordance with Section 3.63; and

(4) the reasons for the proposed substantial alterations.

(d) The Board may grant a variance to the 50-foot requirement under Subsection (b) only after notice and hearing on an amendment application.

(e) The General Manager shall review applications for substantial alteration of existing wells submitted under Subsection (c) to determine whether the proposed substantial alteration would constitute a major or minor permit amendment, or would disqualify an exempt well from the applicable permitting exemption under Section 3.40.

§ 3.72 Returning an Unused Well to Production

If an unused well, as defined in Section 1.01, is returned to production, the well must be brought into compliance with the current District Rules, and the owner shall obtain a permit or permit amendment for the well prior to operating the well. The rules relating to permit and permit amendment applications, including the spacing requirements applicable to new wells under Chapter 6, shall apply to the application for returning the unused well to production.

SUBCHAPTER H.
TEST HOLES

§ 3.80 Authorized Test Hole Drilling

(a) The District may authorize the drilling of test holes for groundwater exploration purposes through the issuance of a Test Hole Drilling Authorization.

(b) A Test Hole Drilling Authorization issued by the District shall only authorize a person to drill one or more test holes for the limited purpose of obtaining necessary and reliable information regarding aquifer characteristics and other relevant subsurface conditions for use in locating groundwater, and potentially subsequently applying to the District to complete and permit a final producing groundwater well.

(c) The drilling of a hole for purposes other than groundwater exploration must comply with this Subchapter H if there is a likelihood that groundwater will be encountered in the drilling process.

§ 3.81 Test Hole Drilling Authorization Applications

(a) No Test Hole Drilling Authorizations shall be issued by the District until after it receives, and has reviewed, an administratively complete application filed pursuant to this Subchapter.

(b) Applications described in subsection (a) shall be submitted using a form provided by the District and shall include, at a minimum, the following information:

(1) the name and physical address of the legal owner of the property on which the proposed production well is to be located;

(2) the name, mailing address, telephone number and license number of the well driller that will be responsible for drilling the proposed test holes;

(3) the legal description of the property on which all test wells will be drilled;

(4) the date that the exploratory drilling is estimated to begin;

(5) the drilling method proposed to be used;

(6) a description of each water bearing formation that will be explored through test holes;

(7) a declaration that the test holes will be drilled and either completed or sealed in a manner that complies with the requirements of these Rules; and

(8) other pertinent information the District requests on a form approved by the District.

(c) Applications filed pursuant to this subchapter shall be sworn-to by the applicant.

(d) The General Manager may approve an administratively complete application for a Test Hole Drilling Authorization. The hearing procedures under Chapter 7 of these rules do not apply to an application for a Test Hole Drilling Authorization, unless the General Manager submits the application to the Board for consideration in lieu of approving it.

(e) A Test Hole Drilling Authorization does not authorize any person to access or drill upon property that the person does not otherwise have an independent legal right to access or drill upon.

§ 3.82 Test Hole Drilling Authorization Term

(a) Test Hole Drilling Authorizations shall be issued for a period of no more than 180 calendar days from the date of issuance.

(b) Notwithstanding Subsection (a), a Test Hole Drilling Authorization term may be extended for a period of no more than 30 calendar days if, before the expiration of the 180 calendar day term, the authorization holder submits to the District a request for extension that includes a reasonably detailed description of why the test hole drilling could not be completed within the 180 calendar day term.

§ 3.83 Spacing

(a) To the extent practicable, all test holes shall be drilled in a manner that complies with the spacing requirements set forth in Chapter 6.

(b) Notwithstanding anything to the contrary in Subsection (a), production wells must satisfy, or qualify for an exception to, the District's spacing requirements provided for in Chapter 6 for purposes of applying for and obtaining an Operating Permit.

§ 3.84 Sealing Test Holes and Reporting Test Hole Decommissioning

(a) Once a test hole has been selected for completion as a producing groundwater well, all remaining test holes drilled pursuant to the applicable Test Hole Drilling Authorization

shall be sealed to eliminate physical hazards, prevent groundwater contamination, to prevent hydraulic communication between water-bearing formations, and to preserve aquifer pressure. Rather than sealing, a test hole selected for use as a monitoring well pursuant to an agreement with or authorization from the District must be properly completed.

(b) All test holes that require sealing in Subsection (a) shall be sealed primarily with concrete, cement grout, bentonite, or sealing clay by placing the material into the test hole from the bottom up to the surface in a manner that avoids dilution or segregation of the material.

(c) Complete and accurate records of the test hole decommissioning process must be maintained for each test hole that is required to be sealed pursuant to this section, including a record of:

(1) the depth of each layer of all sealing and backfilling materials used; and

(2) the quantity of sealing materials used.

(d) For each test hole required to be sealed under this section, the authorization holder shall submit to the District within the time otherwise provided by District rules a compliant Well Report that includes all applicable information under Section 3.70, including the information required by Subsection (c) of this section.

(e) For each test hole that is drilled pursuant to this subchapter that is selected for completion, the authorization holder must comply with all applicable well completion, spacing, registration and permitting requirements provided for in these rules.

CHAPTER 4
MANAGEMENT ZONES

§ 4.01 Management Zones

(a) Using the best hydrogeologic and other relevant scientific data readily available, the Board by resolution may create certain management zones within the District based on geographically or hydrogeologically defined areas, aquifers, or aquifer subdivisions, in whole or in part, within which the District may:

(1) assess water availability;

(2) authorize total production and make proportional adjustments to permitted withdrawals;

(3) allow for the transfer of permits; and

(4) otherwise undertake efforts to manage the groundwater resources in a manner that is consistent with the District Act, Chapter 36, and that aids in the achievement of all applicable desired future conditions.

(b) In creating zones pursuant to Subsection (a), the Board shall attempt to delineate zone boundaries that will promote fairness and efficiency by the District in its management of groundwater, while considering hydrogeologic conditions.

(c) Where practicable, the Board may consider the ability of the public to readily identify the boundaries of designated zones based on features on the land surface.

§ 4.02 Calculation of Sustainable Yield Within Management Zones

(a) Upon designating a management zone or no later than 24 months after such designation, the Board shall publish by order the calculated Sustainable Yield and review period for each formation, or formation subdivision, within each zone designated pursuant to Section 4.01.

(b) In making each Sustainable Yield calculation, the Board must consider the most reliable, necessary scientific and economic information readily available to it regarding the hydrologic condition of the formation, or formation subdivision, within the zone and the current and anticipated demands on that formation or formation subdivision from exempt uses. Such information may include, without limitation:

(1) groundwater availability models made available by the Texas Water Development Board or other such models;

(2) relevant information from hydrogeologic reports conducted pursuant to Section 3.63 and submitted to the District by permit applicants;

(3) information from monitoring wells;

(4) information in the District Management Plan;

(5) information in the approved state or regional water plan for the area;

(6) the applicable Modeled Available Groundwater number, if any;

(7) any well reports on file with the District;

(8) population counts, available population estimates, and available population growth forecasts for relevant areas within the zone from the state demographer, the Texas Water Development Board, or the United States Census Bureau; and

(9) information published by the United States Department of Agriculture, the Texas Department of Agriculture, and the Texas A&M Cooperative Extension Service regarding relevant trends in the livestock and poultry industries that may influence the volumes of water used for exempt livestock and poultry purposes during the review period.

(c) Each Sustainable Yield calculation published by the District must be such that a calculation of zero (0) acre feet per year for the same formation within every designated zone would accommodate all estimated current exempt uses, plus the additional exempt uses anticipated during the review period, while allowing achievement of applicable desired future conditions.

§ 4.03 Consideration of Permit Applications in Formations or Management Zones With No Available Sustainable Yield

(a) When considering any application for a permit in a formation, or formation subdivision, within a management zone that, if granted in the amount requested, would result in an Available Sustainable Yield for the formation or formation subdivision of zero (0) acre-feet per year or less, the Board shall order that production from any existing non-exempt well within the appropriate area of the proposed new well will be reduced proportionally as necessary to allow for the additional production and to achieve any applicable desired future conditions.

(b) The provisions of this section do not apply to Grandfathered Use Permits issued in accordance with the Rules of the District.

§ 4.04 Proportional Adjustments of Permitted Production Authorization

(a) If the Available Sustainable Yield for any formation, or formation subdivision, within a management zone reaches a volume that is less than zero (0), the Board may order that all permitted withdrawals authorized from the formation or formation subdivision within the zone be reduced proportionally so that the volume of Available Sustainable Yield will be equal to or greater than zero (0) acre-feet per year or as otherwise necessary to achieve the applicable desired future conditions.

(b) When establishing proportional adjustment regulations for a zone that contemplate the reduction of authorized production, the Board may consider the time reasonably necessary

for water users to secure alternate sources of water, including surface water, by economically feasible means and may incorporate those time considerations in the adoption and implementation of the proportional adjustment regulations. The Board may also include provisions in the proportional adjustment regulations that engender or facilitate cooperative arrangements between permittees within a zone to diminish the impacts to the permittees in complying with the regulations.

§ 4.05 Northeast Burnet County Trinity Aquifer Management Zone

(a) As set forth in the following subsection, the Northeast Burnet County Trinity Aquifer Management Zone is established within the boundaries of the District in accordance with Section 36.116(d) of the Texas Water Code, to provide for better management of the groundwater resources located within the District, and to address the unique hydrogeologic conditions of the Northeast Burnet County Trinity Aquifer Management Zone.

(b) The Northeast Burnet County Trinity Aquifer Management Zone shall have the following boundaries and is depicted in Figure 1 below:

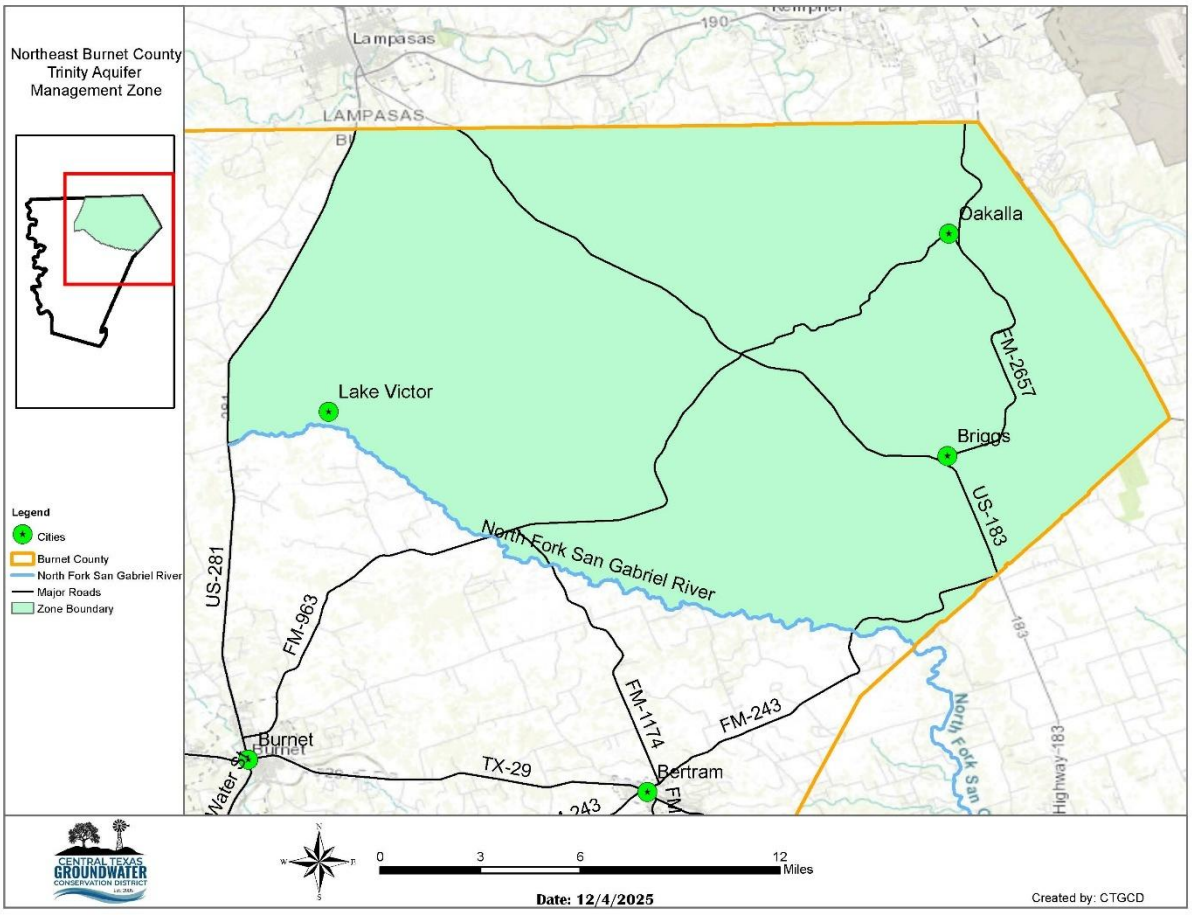
Starting at the intersection of the Burnet County Line and the North Fork San Gabriel River, and following the Burnet County Line northeast, then northwest, then west to its intersection with U.S. Highway 281 (U.S. Hwy 281);

then following the pavement centerline of U.S. Hwy 281 southwest to its intersection with Ranch to Market Rd 2340;

then following the pavement centerline of Ranch to Market Rd 2340 east approximately 0.45 miles to its intersection with the headwaters of the North Fork San Gabriel River, as depicted on the United States Geological Survey National Hydrography Dataset maps;

then following the path of the North Fork San Gabriel River towards the southeast to its intersection with the Burnet County Line (the starting point).

Figure 1: Northeast Burnet County Trinity Aquifer Management Zone Map



(c) The rules governing the management of the Northeast Burnet County Trinity Aquifer Management Zone shall only apply to wells completed within any layer of the Trinity Aquifer and do not apply to wells completed in the Hickory, Ellenburger-San Saba, Marble Falls, Welge-Lion Mountain, or Granite Aquifers, as such aquifers are described in the District Management Plan, current and previous versions of the State Water Plan, and the applicable numbered groundwater reports and other official publications of the Texas Water Development Board.

(d) Well spacing requirements for wells completed in the Trinity Aquifer within the Northeast Burnet County Trinity Aquifer Management Zone are located in Appendix A of these rules. Production limitations for wells completed in the Trinity Aquifer within the Northeast Burnet County Trinity Aquifer Management Zone are located in Rule 5.02 (c).

(e) In addition to the well spacing and tract size requirements and production limitations, referenced above, wells completed in the Trinity Aquifer in the Northeast Burnet County Trinity Aquifer Management Zone shall be limited to the conditions set forth in the below subsections (1) to (4):

(1) After January 23, 2026, a tract of land that is 10 acres or less in size within the Northeast Burnet County Trinity Aquifer Management Zone may have no more than one well drilled or completed in the Trinity Aquifer on that tract, regardless of when the tract was created or subdivided.

(2) In addition to complying with all Standards of Completion for All Wells under Rule 6.04, wells drilled after January 23, 2026, within the Northeast Burnet County Trinity Aquifer Management Zone may not be completed so that they are screened or open to the Glen Rose layer of the Trinity Aquifer if they are also screened or open to any other layer of the Trinity Aquifer. If a well is completed below the Glen Rose layer of the Trinity Aquifer, a commercially available manufactured packer that is made from a non-degradable material must be installed immediately above the producing interval, in accordance with Rule 6.04(g).

(3) All wells drilled after January 23, 2026, within the Northeast Burnet County Trinity Aquifer Management Zone, used for purposes other than domestic, livestock, or poultry use, and completed in the Trinity Aquifer must obtain an Operating Permit from the District.

(4) All wells drilled after January 23, 2026, within the Northeast Burnet County Trinity Aquifer Management Zone, used for purposes other than domestic, livestock, or poultry use, and completed in the Trinity Aquifer must be metered and must comply with the metering requirements of Chapter 11 of these Rules.

Historical and Administrative Notes

The District established the Northeast Burnet County Trinity Aquifer Management Zone in response to hydrogeologic conditions indicating that the Trinity Aquifer in this area exhibits low transmissivity, generally modest to low well productivity, and minimal available drawdown in many locations. Furthermore, some locations exhibit poor water quality that may degrade further under increased drawdown conditions. In addition to these hydrogeologic conditions, high density clusters of existing wells and numerous platted or approved subdivisions reliant on individual groundwater supplies, suggest that declining water levels in local areas may affect future well yields. Simple predictive groundwater models confirm that local areas may be vulnerable. The combination of hydrogeologic conditions and increased pressure from local pumping demonstrated the need for a specialized management approach. This zone was created using the best available science, and the District will continue to refine its understanding through ongoing data collection, technical studies, and long term monitoring. As additional information is developed, the District may adjust its evaluations and management strategies to reflect the aquifer conditions observed in this area.

CHAPTER 5
REGULATION OF PRODUCTION

§ 5.01 Interim and Permanent Production Limits for Existing Wells Eligible for Operating and Grandfathered Use Permits

(a) The maximum annual quantity of groundwater that may be withdrawn by an applicant for an Operating Permit for an existing non-exempt well, or withdrawn in total by an applicant for both an Operating Permit and a Grandfathered Use Permit, during the time between September 1, 2009, and the issuance or denial of the permit or permits shall be the amount specified in the applications or most recent amendment thereto as the Maximum Grandfathered Use.

(b) The maximum annual quantity of groundwater that may be withdrawn under an Operating Permit for an existing non-exempt well or a Grandfathered Use Permit issued by the District shall be no greater than the amount specified in the terms of the permit, subject to any production restrictions ordered by the Board pursuant to Chapters 3 or 4 of these Rules. The Board shall limit the maximum annual quantity of groundwater that may be withdrawn under a Grandfathered Use Permit to an amount equal to or less than the amount determined by the board, after a hearing on the application, to be the Maximum Grandfathered Use, subject to the considerations set forth under Section 3.22 and Chapter 4 of these rules, including without limitation limiting the amount if the Board determines that the withdrawal would unreasonably affect surrounding landowners.

§ 5.02 Production Limitations for Operating Permits

(a) In order to accomplish the purposes of Chapter 36 and these Rules, and achieve the goals of the Management Plan, including achievement of the desired future conditions of the aquifers, the District shall establish production limitations for all permits and may amend such limitations at some time before or after the Verification Period, as applicable, based upon the District's determination of claims of Maximum Grandfathered Use under Chapter 3 and water availability under Chapter 4 of these rules.

(b) The maximum annual quantity of groundwater that may be withdrawn under an Operating Permit for a new well shall be no greater than the amount specified in the terms thereof, subject to any production restrictions ordered by the Board pursuant to Chapters 3 or 4.

(c) Subject to subsections (i) and (j) below, No Operating Permit shall be issued by the Board that authorizes the production of groundwater in an annual amount that exceeds the lesser of the following:

(1) the amount of water determined by the Board after considering the factors enumerated in Section 3.22, and applicable considerations in Chapter 3, Subchapters E and F, and Chapter 4; or

(2) except as provided for in Subsection (i), an annual amount of groundwater equal to:

(i) 1 acre-foot per Contiguous Controlled Acre for wells completed in the Ellenburger-San Saba Aquifer,

(ii) 1/2 acre-foot per Contiguous Controlled Acre for wells completed in any aquifer other than the Ellenburger-San Saba Aquifer, or

(iii) 1/4 acre-foot per Contiguous Controlled Acre for wells completed in the Trinity Aquifer within the Northeast Burnet County Trinity Aquifer Management Zone.

(3) For purposes of Subsection (c)(2), the Ellenburger-San Saba Aquifer is the aquifer described in the District Management Plan.

(d) Each Contiguous Controlled Acre is presumed to be located over the same aquifer from which the well is, or is proposed to be, producing.

(e) The presumption in Subsection (d) may be rebutted only by a preponderance of evidence, admitted by the District or a person contesting the permit application.

(f) The presumption in Subsection (d) does not apply to acreage that does not meet the definition of "Contiguous Controlled Acre" in Section 1.01. The applicant must, in such circumstances, demonstrate by a preponderance of evidence:

(1) that such acreage is located over the same aquifer from which the well is, or is proposed to be, producing; and

(2) that groundwater can be physically produced in substantially similar quantities as is produced, or is proposed to be produced, from the well site property.

(g) In addition to all other applicable provisions, if an applicant for an Operating Permit seeks to produce an increased amount of groundwater from a well located on one tract of land based on surface acreage located on a different, but contiguous, tract of land, as specifically described under Subdivision (3)(C) of the definition of "Contiguous Controlled Acre" in Section 1.01, the applicant must demonstrate that groundwater could actually physically be produced from the different tract of land in the quantity claimed for that acreage on the different tract.

(h) A surface acre of land may not be assigned as a Contiguous Controlled Acre to more than one well, well system, or permit holder.

(i) The Board may establish aquifer-specific or management zone-specific production regulations or permits that allow more than the limit set forth under Subsection (c)(2) in an area or aquifer established as a management zone in accordance with the provisions of Chapter 4. If the Board undertakes a special production regulation, any such special production regulations shall be adopted in the manner and under the procedures applicable to the adoption of rules generally, and shall be attached as an Appendix to these rules.

(j) Any person may petition the Board to establish a special production regulation or management zone pursuant to Subsection (i), or the Board may do so on its own initiative. A special production regulation may only be established within a Board-declared management zone. If the Board initiates or grants a hearing on such a petition, the Board may establish a zone and a special production regulation if the Board determines that there is clear and convincing evidence that:

(1) the special production regulation will not unreasonably impact registered wells hydrologically connected to the groundwater resource in question;

(2) the special production regulation will not unreasonably impact the goals and objectives of the District Management Plan, the achievement of the adopted desired future conditions of the aquifer, other groundwater production that is hydrologically connected to the proposed zone, or production for exempt use.

(k) If the Board establishes special production regulations under Subsection (i), the Board may require permit applicants in the zone that are requesting more than the limit set forth under Subsection (c)(2) to:

(1) provide additional information to the District, in accordance with Section 3.63 and any hydrogeologic reporting requirements adopted by the Board, that is acceptable to the Board and could be used to support the establishment of a special production regulation for a proposed well;

(2) sign a written acknowledgement that any maximum annual quantity of groundwater that may be withdrawn under an Operating Permit in excess of the limit set forth under Subsection (c)(2) per Contiguous Controlled Acre shall be subject to future reductions and proportional adjustment regulations;

(3) agree to purchase or reimburse the District for the cost of drilling and equipping any monitoring wells adjacent to the applicant's property to monitor for any unreasonable effects on surrounding landowners due to the production of groundwater in excess the limit set forth under Subsection (c)(2); or

(4) sign a written acknowledgement that the District may reduce production based on criteria established by the District from data collected from the monitor wells if such data indicates unreasonable effects on surrounding landowners or the aquifer.

(l) Notwithstanding anything to the contrary in these Rules, all permits issued by the District may be subject to future production limitation reductions or special conditions by the Board in the event that the Board adopts rules in the future creating interruptible permits or creating interruptibility conditions or groundwater withdrawal reduction conditions in previously issued permits due to drought conditions, aquifer conditions, or other criteria once total permitted production from an aquifer has reached the then desired future conditions or once there is no longer Available Sustainable Yield in a formation, or formation subdivision, in a management zone.

(m) For any aquifer or zone including an aquifer for which no desired future condition has been adopted, the Board may utilize an expedited process to establish a zone and a special production regulation under Subsection (i) and begin studying and monitoring the formation to determine the reasonableness of the special regulation. The Board may immediately impose the requirements set forth under Subsection (k) on any permit applicants in the zone that are requesting more than the limit set forth under Subsection (c)(2).

(n) Any water either (1) utilized to fight fires, or (2) produced under emergency declaration by the General Manager (as confirmed by the Board at its next meeting), is considered exempt from these Rules and does not count as production under any permit or registration. If the Board does not confirm, the General Manager's emergency declaration lapses. However, the quantity used shall be reported to the District.

Historical and Administrative Notes

The default production limit set forth under Subsection (c)(2) was established by the Board after careful deliberation using the best science and information presently available, as a reasonable balance between:

(1) The amount of groundwater that could be expected to be assigned to each surface acre located over an aquifer under a modified correlative rights approach after considering the lateral extent of the surface area of the aquifers in the District and dividing that surface area by the availability of groundwater within each aquifer, as set forth in the District Management Plan and after considering estimates of exempt use and the available Managed Available Groundwater and desired future conditions for each aquifer, which results in an acre-foot per surface acre allocation that is only a small fraction of one acre-foot of groundwater per surface acre per year, even in areas of land overlying more than one aquifer, which fraction is so small that if adopted by the Board as a production limitation would prohibit virtually any reasonable use of groundwater by any landowner in the District. and the Board increased the production limit for the Ellenburger-San Saba Aquifer in recognition of the modelled available groundwater (MAG) for this aquifer differs from and is substantially greater than the MAG for other aquifers within the District; and

(2) The amount of groundwater needed per surface acre of land to allow reasonable beneficial use of groundwater without waste, encourage conservation, and support continued economic growth in the District.

Thus, the limit set forth under Subsection (c)(2) is one determined by the Board in light of the best information presently available to be substantially greater than the actual amount of groundwater that a surface acre of land would be assigned under the modified correlative rights approach described above for each and every aquifer in the District for which a desired future condition has been established, but nonetheless a reasonable amount to promote continued use and development of the groundwater resource while encouraging conservation and avoidance of waste.

In establishing this maximum production limitation, the Board carefully considered the diverse nature of the aquifers in the District and the wide discrepancies in the physical ability to produce groundwater from different areas and aquifers of the District, the limited groundwater availability nature has provided in this semi-arid region of Texas, the rights of property owners in the District, and the guarantees provided in these Rules to all property owners in the District that they are at least entitled to produce groundwater sufficient to support human and animal life on all tracts of land existing in the District as of the original date of adoption of these Rules. The Board recognizes that the water use in the Ellenburger-San Saba Aquifer differs from and is substantially greater than for the other aquifers in the District.

Notwithstanding the foregoing, the Board is committed to continue to develop and receive science, data, and information on the diverse groundwater resources in the District and pursue groundwater management strategies that are supported by such science, data, and information while carrying out the District's statutory obligations and pursuing the goals and objectives in the District Management Plan. In light of that commitment, the Board has adopted the process described under Subsections (i) and (j) to allow for the consideration by the Board of new science and data on particular aquifers or subdivisions thereof and the establishment of special production regulations in an aquifer or management zone where necessary and appropriate based upon such science and data.

§ 5.03 Production Capacity and Rate for Grandfathered and Operating Permits

A permittee may produce the total authorized annual groundwater production amount authorized in the permit at any rate deemed necessary by the permittee, including any rate necessary to comply with any applicable minimum water system capacity requirements of the Texas Commission on Environmental Quality, to the extent that the permittee can physically produce the groundwater at the well capacity recognized in the permit.

CHAPTER 6
WELL SPACING AND COMPLETION

§ 6.01 Spacing and Location of Existing Wells

(a) Wells drilled prior to September 1, 2009, shall be drilled in accordance with state law in effect, if any, on the date such drilling commenced.

(b) Existing wells are grandfathered from the spacing requirements established by these rules for the capacity of the well as it existed on September 1, 2009.

(c) If a person wishes to substantially alter the size or capacity of the existing well, the well will become subject to the spacing requirements of these rules.

§ 6.02 Spacing and Location of New Wells

(a) All new wells must comply with the spacing and location requirements set forth under the Texas Water Well Drillers and Pump Installers Administrative Rules, Title 16, Part 4, Chapter 76, Texas Administrative Code, unless a written variance is granted by the Texas Department of Licensing and Regulation and a copy of the variance is forwarded to the District by the applicant or registrant.

(b) To prevent interference between wells and impacts to neighboring wells within the same aquifer, new wells must be drilled and completed at locations that comply with the minimum tract sizes requirements, the minimum distances from the nearest registered or permitted well or authorized well site that does or will produce from the same aquifer, and the minimum distances from the property lines for the land upon which the well is to be located, as provided in the appendices to these rules.

(c) An appendix with minimum tract sizes and spacing distances has been established for each aquifer located within the boundaries of the District and is attached to these rules and incorporated into them.

(d) As used in this rule and the attached appendix on well spacing, "tract" shall mean a surface estate plat, surface estate deed, or other legally recognized surface estate property configuration recorded in the deed records of Burnet County as the well, and "property line" shall mean the property line of such tract.

(e) After authorization to drill a well has been granted under the District's registration rules or through a permit, the well, if drilled, must be drilled within the area that extends no farther than 10 yards (30 feet) from the proposed location point specified in the permit, but that is nevertheless at a point that complies with the spacing and location requirements of these rules. If drilling of the well is initiated at a different location, the drilling or operation of such well may be enjoined by the Board pursuant to Chapter 36 and these Rules.

§ 6.03 Exceptions to Spacing Requirements

(a) The Board may grant exceptions to the spacing requirements of the District only after considering an application requesting a spacing variance.

(b) An application for spacing variance must be sworn-to, and must include the following:

(1) a description of the circumstances that justify the requested exception;

(2) a map accurately identifying the locations of all wells within a radius of 1/2 mile of the proposed well that, as of the date of filing of the application, are registered with the District;

(3) a tax plat map or other documentation from the tax appraisal district or other governmental office indicating the boundaries of the all properties within a radius of 1/2 mile of the proposed well;

(4) the names and addresses of all owners of property whose property adjoins the tract on which the well is to be located;

(5) the names and addresses of all owners of registered wells located within a radius of 1/2 mile of the proposed well site;

(6) each formation from which the applicant proposes to make withdrawals using the well that is the subject of the application;

(7) the formation from which each affected well located within the applicable spacing distance from the well that is the subject of the application is producing; and

(8) an affidavit certifying both the application and the plat by an individual with personal knowledge of facts presented in the application, that attests under oath that the facts contained in the application and plat are true and correct.

(c) The Board may not grant an application filed pursuant to this Section unless it first:

(1) receives proof from the applicant that written notice of the application was submitted to:

(A) the owner of each property within a radius of 1/2 mile of the proposed well; and

(B) the owner of each registered well located within a radius of 1/2 mile of the proposed well site; and

(2) conducts a public hearing on the application where interested parties are given an opportunity to appear and be heard on the application.

(d) Subsection (c) does not apply to an application that includes a written notarized acknowledgment, signed by the owner of each property and registered well whose property

or wells would be located within the applicable minimum distance from the well that is the subject of the application, affirmatively stating the absence of any objection to the applicant's proposed well location. The General Manager is authorized to act on an administratively complete spacing variance application that meets subsections (b) and (d).

(e) If the Board grants an exception to its spacing requirements, the applicant must, within 60 calendar days of granting the variance, record the Board order granting the spacing variance in the real property records of Burnet County and provide the District with a copy of the recorded filing.

(f) Notwithstanding anything to the contrary in this rule, upon application by a person, and without the need for written notice to other landowners or well owners, the Board shall grant an exception to its spacing requirements for a well that will be equipped so that it is incapable of producing more than 25,000 gallons of water per 24-hour interval and that will be used solely for domestic, livestock, or poultry use to:

(1) equip or operate a well that was previously a monitoring well of the District pursuant to a written agreement between the District and the owner; or

(2) to drill a well on a tract of land that was platted, meets an exception to platting, or was otherwise lawfully configured prior to September 1, 2009, as a tract that is too small to comply with the minimum tract size and spacing requirements set forth in these rules, only if such tract is not further subdivided into smaller tracts of land after September 1, 2009, and prior to the drilling, completion, or equipping of the well.

(g) The burden of proof in any proceeding related to an application for an exception to a spacing requirement under this Section shall be on the applicant. The Board may impose additional restrictions on the exact location of a well to be drilled pursuant to an exception that it grants.

§ 6.04 Standards of Completion for All Wells

(a) Except as otherwise specified in this Rule 6.04, all wells must be completed in accordance with the well completion standards set forth under the Texas Water Well Drillers and Pump Installers Administrative Rules, Title 16, Part 4, Chapter 76, Texas Administrative Code, and under these Rules.

(b) In addition to the requirements under Subsection (a), all new wells, re-worked wells, and re-completed wells shall be equipped in such a manner as to allow the measurement of the water level in the aquifer supplying water to the well as follows:

(1) For all wells exempt under Section 3.40, domestic, livestock and poultry wells permitted under sections 3.52 and 3.66 and wells permitted by rule under section 3.67, the well head shall be equipped so that it will allow the introduction and unimpaired retrieval of a steel tape, e-line, or similar device of at least 3/8 inch in width or diameter in order to measure the aquifer level in the well.

(2) For all non-exempt wells other than non-exempt wells permitted by rule under section 3.67, the well head shall be equipped with either of the following:

(A) a minimum of 1/2 inch inside diameter drop tube which is equipped with a removable threaded cap at the well head and which extends to a depth that is within 1 foot of the top of the pump installed in the well; or

(B) an air line composed of non-corrodible material which is equipped with a pressure gauge capable of displaying pressure in at least 1-pound per square-inch (PSI) increments and which extends to a depth that is within 1 foot of the top of the pump installed in the well; the air line shall have a weather-resistant tag affixed at the well head displaying the depth below land surface of the air-line orifice.

(3) The driller or employee of the driller shall determine that the completed well complies with this subsection.

(c) For wells drilled after June 1, 2024:

(1) the diameter of the drilled hole shall be a minimum of three inches (3") larger than the outside diameter of the casing to be used down to a depth of fifty feet (50') or to the top of the first potable water bearing strata above fifty feet (50'), if the well is targeting that interval for production; and,

(2) the borehole casing annulus shall be filled with cement slurry or bentonite from ground level to a depth of not less than fifty feet (50') below the land surface or to the top of the first potable water bearing strata above fifty feet (50'), if the well is targeting that interval for production.

(d) All wells shall be completed so that aquifers or zones containing waters that differ in chemical quality are not allowed to commingle through the borehole-casing annulus or the gravel pack and cause quality degradation of any aquifer or aquifer subdivision.

(e) In order to protect water quality, the integrity of the well, or loss of groundwater from the well, the District may impose additional well completion requirements on any well as determined necessary or appropriate by the Board.

(f) In recognition of the potential for low productivity of any single aquifer in certain areas of the District, and the resulting need to construct and complete a well to produce water from more than one aquifer to achieve at least a minimal water supply, the Board by resolution may establish areas within the District where wells may be constructed and completed to produce water from more than one aquifer, provided that the following requirements are observed:

(1) the well is located within the certain areas established by Board resolution; and

(2) the multiple-aquifer completion does not violate the rules of the Texas Department of Licensing and Regulation.

(g) In addition to all other applicable completion standards, wells that penetrate more than one aquifer, but that are intended to produce water from a single aquifer only, must be completed in accordance with each of the following standards:

(1) the well bore diameter must be at least 2 inches greater than the largest outside dimension of the casing to be installed in the well;

(2) a rubber strap-on packer, or equivalent device acceptable to the District, shall be installed on the casing to seal the casing annulus either one foot above the base of the casing for open-hole completed wells or the upper-most well screen; and

(3) the casing annulus must be filled with bentonite grout for a distance of at least two feet above the packer required by Subsection (g)(2) - the bentonite grout seal may be achieved by manually emplacing dry bentonite chips of no greater than 3/8 inch diameter for the requisite distance above the packer during installation of the casing.

(h) For wells constructed and completed to produce water from more than one aquifer pursuant to this section, the Well Report for each well must comply with the additional requirements of Section 3.70(c).

(i) A person that desires to construct a multiple-aquifer well in an area that has not been designated under Subsection (f) for use of multiple-aquifer wells, and who reasonably believes that a multiple-aquifer well completion is necessary to achieve at least a minimal water supply may appear before the Board to request authorization to construct the multiple aquifer well.

(j) The Board may consider a request for a waiver submitted pursuant to Subsection (i) and:

(1) authorize the request and order that the well be constructed and completed following the standards set forth under Subsection (f);

(2) authorize the General Manager to review the request and, where the General Manager determines in his discretion that the request should be granted, administratively approve the request by authorizing the well to be completed following the standards set forth under Subsection (f); or

(3) deny the request.

(k) In addition to the requirements under Subsection (a), all new wells, re-worked wells, and re-completed wells shall be equipped with new or unaltered casing unless approved by the landowner. No screws, bolts or other foreign objects may penetrate through the interior of the well casing.

CHAPTER 7
HEARINGS ON RULEMAKING AND PERMIT MATTERS

SUBCHAPTER A.
GENERAL PROVISIONS

§ 7.01 Types of Hearings

The District conducts two general types of hearings: (1) hearings involving permit matters, in which the rights, duties, or privileges of a party are determined after an opportunity for an adjudicative hearing, and (2) rulemaking hearings involving matters of general applicability that implement, interpret, or prescribe the law or District policy, or that describe the procedure or practice requirements of the District. Any matter designated for hearing before the Board may be heard by a quorum of the Board, referred by the Board for hearing before a Hearing Examiner, heard by a quorum of the Board along with an appointed Hearing Examiner who officiates during the hearing or conducted by the State Office of Administrative Hearings. For actions for which a hearing is not required, the Board shall act at a meeting, as defined by Section 551.001, Government Code, unless authority has been delegated to the General Manager under these Rules.

SUBCHAPTER B.
PERMIT HEARINGS

§ 7.10 Permit Applications, Amendments, and Revocations

(a) The District shall hold a hearing for each activity for which a permit or permit amendment is required pursuant to Chapter 3, subject to the exception in Subsection (b). A hearing involving permit matters may be scheduled before a Hearing Examiner.

(b) The District shall hold a hearing for minor amendments and permits authorized under Rule 3.52, 3.62(c), 3.66, and 3.67 only if the General Manager determines that a hearing is required.

(c) The District may hold hearings on permit revocations or suspensions.

§ 7.11 Hearings on Motions for Rehearing

Motions for Rehearing will be heard by the Board pursuant to Section 7.91(b).

§ 7.12 Notice and Scheduling of Permit Hearings

(a) This rule applies to all permit matters for which a hearing is required.

(b) Notice may be provided under this rule for permit revocations and suspensions if the General Manager determines that a hearing is required.

(c) Not later than the 10th day before the date of a hearing, the General Manager, as instructed by the Board, is responsible for giving notice in the following manner:

(1) notice of hearing will be published at least once in a newspaper of general circulation in the District;

(2) notice shall be posted in a place readily accessible to the public at the District's office;

(3) notice of the hearing shall be provided to the county clerk;

(4) notice of the hearing shall be provided by regular mail to the applicant; and

(5) notice of the hearing shall be provided by mail, facsimile, or electronic mail to any person who has requested notice under Subsection (d).

(d) A person having an interest in the subject matter of a hearing may receive written notice of the hearing if the person submits to the District a written request to receive notice of the hearing. The request remains valid for a period of one year from the date of the request, after which time a new request must be submitted. An affidavit of an officer or employee of the District establishing attempted service by first class mail, facsimile, or email to the person in accordance with the information provided by the person is proof that notice was provided by the District. Failure by the District to provide written notice to a person under this Subsection does not invalidate any action taken by the Board.

(e) The notice provided under Subsections (a) and (b) must include:

(1) the name of the applicant;

(2) the address or approximate location of the well or proposed well;

(3) if the notice is for a permit, or permit amendment, provide a brief explanation, including any requested amount of groundwater, the purpose of the proposed use, and any change in use;

(4) a general explanation of the manner by which a person may contest the permit, or permit amendment, including information regarding the need to appear at the hearing or submit a motion for continuance on good cause under Section 7.62(e)(4);

(5) the time, date, and location of the hearing; and

(6) any other information the Board or General Manager deems relevant and appropriate to include in the notice.

(f) An administratively complete application shall be set for a hearing on a specific date within 60 calendar days after the date it is administratively complete. An initial/preliminary hearing shall be held within 35 calendar days after the setting of the date, and the District shall act on the application within 60 calendar days after the date the final hearing on the application is concluded.

(g) A hearing may be scheduled during the District's regular business hours, excluding District holidays. All permit hearings will be held at the District Office or regular meeting location

of the Board. The Board, however, may change or schedule additional dates, times, and places for hearings. A SOAH Hearing must be held in Travis County or a location provided by the Board.

SUBCHAPTER C.
RULEMAKING HEARINGS

§ 7.20 Rules

The Board may hold a hearing, after giving notice, to amend or adopt new District Rules.

§ 7.21 Other Matters

A public hearing may be held on any matter within the jurisdiction of the Board if the Board determines that a hearing is in the public interest or necessary to effectively carry out the duties and responsibilities of the District.

§ 7.22 Notice and Scheduling of Rulemaking Hearings

(a) Not later than the 20th day before the date of a rulemaking hearing, the General Manager, as instructed by the Board, is responsible for giving notice in the following manner:

(1) notice of the hearing will be published at least once in a newspaper of general circulation in the District;

(2) notice will be posted in a place readily accessible to the public at the District's office;

(3) notice of the hearing will be provided to the county clerk; and

(4) notice will be provided by mail, facsimile, or electronic mail to any person who has requested notice under Subsection (b).

(b) A person having an interest in the subject matter of a hearing may receive written notice of the hearing if the person submits to the District a written request to receive notice of the hearing. The request remains valid for a period of one year from the date of the request, after which time a new request must be submitted. An affidavit of an officer or employee of the District establishing attempted service by first class mail, facsimile, or email to the person in accordance with the information provided by the person is proof that notice was provided by the District. Failure by the District to provide written notice to a person under this Subsection does not invalidate any action taken by the Board.

(c) The notice provided under Subsection (a) must include:

(1) the time, date, and location of the rulemaking hearing;

(2) a brief explanation of the subject of the rulemaking hearing; and

(3) a location or Internet site at which a copy of the proposed rules may be reviewed or copied.

(d) A hearing may be scheduled during the District's regular business hours, excluding District holidays. All rulemaking hearings shall be held at the District Office or regular meeting location of the Board unless the Board provides for hearings to be held at a different location. The Board, however, may change or schedule additional dates, times, and places for hearings.

(e) The District shall make available a copy of all proposed rules at a place accessible to the public during normal business hours, and post an electronic copy of the rules on the District's internet site.

SUBCHAPTER D.
GENERAL PROCEDURES

§ 7.30 Authority of Presiding Officer

(a) The Presiding Officer may conduct a hearing or other proceeding in the manner the Presiding Officer determines most appropriate for the particular proceeding.

(b) The authority of a Hearing Examiner appointed by the Board to serve as Presiding Officer may be limited at the discretion of the Board. The Board may not supervise a SOAH administrative law judge. The Presiding Officer may:

(1) set hearing dates other than the initial/preliminary hearing date for permit matters which is set by the General Manager;

(2) convene the hearing at the time and place specified in the notice for public hearing;

(3) establish the jurisdiction of the District concerning the subject matter under consideration;

(4) rule on motions, the admissibility of evidence, and amendments to pleadings;

(5) designate parties and establish the order for presentation of evidence;

(6) administer oaths to all persons presenting testimony;

(7) examine witnesses;

(8) prescribe reasonable time limits for the presentation of evidence and oral argument;

(9) ensure that information and testimony are introduced as conveniently and expeditiously as possible without prejudicing the rights of any party to the proceeding;

(10) conduct public hearings in an orderly manner in accordance with these Rules;

(11) recess a hearing from time to time and place to place;

(12) reopen the record of a hearing for additional evidence when necessary to make the record more complete; and

(13) exercise any other lawful power necessary or convenient to effectively carry out the responsibilities of the Presiding Officer.

§ 7.31 Registration Form

Each individual attending a hearing or other proceeding of the District who wishes to testify or otherwise provide information to the District must submit a form to the Presiding Officer providing the following information: the individual's name; the individual's address; whether the individual plans to testify; whom the person represents, if the person is not there in the person's individual capacity; and any other information relevant to the hearing or other proceeding.

§ 7.32 Appearance; Representative Capacity

An interested person may appear in person or may be represented by counsel, an engineer, or other representative, provided the representative is authorized to speak and act for the principal. The person or the person's representative may present evidence, exhibits, or testimony, or make an oral presentation in accordance with the procedures applicable to the particular proceeding. A person appearing in a representative capacity may be required to prove proper authority to so appear.

§ 7.33 Alignment of Parties; Number of Representatives Heard

Participants in a proceeding may be aligned according to the nature of the proceeding and their relationship to it. The Presiding Officer may require the members of an aligned class to select one or more persons to represent the class in the proceeding or on any particular matter or ruling and may limit the number of representatives heard, but must allow at least one representative from each aligned class to be heard in the proceeding or on any particular matter or ruling.

§ 7.34 Appearance by Applicant or Movant

The applicant, movant, party, or their representative in accordance with Section 7.32, should be present at the hearing or other proceeding. Failure to appear may be grounds for withholding consideration of a matter and dismissal without prejudice or may require the rescheduling or continuance of the hearing or other proceeding if the Presiding Officer determines that action is necessary to fully develop the record.

§ 7.35 Recording of Hearings

(a) Contested Hearings: A record of the hearing in the form of an audio or video recording or a court reporter transcription shall be prepared and kept by the Presiding Officer in a contested hearing. The Presiding Officer shall have the hearing transcribed by a court reporter upon a request by a party to a contested hearing. The Presiding Officer may assess court reporter transcription costs against the party requesting the transcription or among the parties to the hearing. 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 rule, unless the parties have agreed that the costs assessed against such party will be paid by another party.

(b) Uncontested Hearings: In an uncontested hearing, the Presiding Officer may use the means available in Subsection (a) to record a proceeding or substitute meeting minutes or the report set forth under Section 7.64 for a method of recording the hearing.

(c) Rulemaking Hearings: The Presiding Officer shall prepare and keep a record of each rulemaking hearing in the form of an audio or video recording or a court reporter transcription.

§ 7.36 Continuances

Except as required by the Open Meetings Act, the Presiding Officer may continue a hearing or other proceeding without the necessity of publishing, serving, mailing, or otherwise issuing a new notice. If a hearing or other proceeding is continued and a date, time and place to reconvene are not publicly announced at the hearing or other proceeding by the Presiding Officer before it is recessed, a notice of any further setting of the hearing or other proceeding will be mailed at a reasonable time to all parties. A continuance may not exceed the time limit for a final decision under Rule 7.93.

§ 7.37 Filing of Documents; Time Limit

Applications, motions, exceptions, communications, requests, briefs, or other papers and documents required to be filed under these Rules or by law must be received at the District Office within the time limit, if any, set by these Rules or by the Presiding Officer for filing. Mailing within the time period is insufficient if the submissions are not actually received by the District within the time limit. A document may be filed be electronic mail (email) only if the Board or Presiding Officer has expressly authorized filing by email for that particular type of document and expressly established the appropriate date and time deadline, email address, and any other appropriate filing instructions.

§ 7.38 Affidavit

If a party to a hearing or other proceeding is required to make an affidavit, the affidavit may be made by the party or the party's representative. This rule does not dispense with the necessity of an affidavit being made by a party when expressly required by statute.

§ 7.39 Broadening the Issues

No person will be allowed to appear in a hearing or other proceeding that in the opinion of the Presiding Officer is for the sole purpose of unduly broadening the issues to be considered in the hearing or other proceeding.

§ 7.40 Conduct and Decorum

Every person, party, representative, witness, and other participant in a proceeding must conform to ethical standards of conduct and exhibit courtesy and respect for all other participants. No person may engage in any activity during a proceeding that interferes with the orderly conduct of District business. If, in the judgment of the Presiding Officer, a person is acting in violation of this provision, the Presiding Officer will warn the person to refrain from engaging in such conduct. Upon further violation by the same person, the Presiding Officer may exclude that person from the proceeding for such time and under such conditions as the Presiding Officer determines necessary.

§ 7.41 Public Comment

Documents that are filed with the Board that comment on an application but that do not request a hearing will be treated as public comment. The Presiding Officer may allow any person, including the General Manager or a District employee, to provide comments at a hearing on an uncontested application.

SUBCHAPTER E.
CONTESTED AND UNCONTESTED APPLICATIONS

§ 7.60 Contesting a Permit Application

(a) The following may request a contested case hearing on an application for a permit or permit amendment:

(1) the General Manager;

(2) the applicant; or

(3) an affected person.

(b) A request for a contested case hearing must substantially comply with the following:

(1) give the name, address, and daytime telephone number of the person who files the request. If the request is made by a group or association, the request must identify one person by name, address, daytime telephone number, e-mail and, where

possible, fax number, who shall be responsible for receiving all official communications and documents for the group;

(2) identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language how and why the requestor believes he or she will be affected by the activity in a manner not common to members of the general public;

(3) set forth the grounds on which the person is protesting the application;

(4) request a contested case hearing;

(5) be timely submitted under Subsection (d); and

(6) provide any other information required by the public notice of application.

(c) If a person or entity is requesting a contested case hearing on more than one application, a separate request must be filed in connection with each application.

(d) A hearing request is considered timely if it complies with Subsection (b) and:

(1) it is submitted in writing to and received by the District seven (7) days prior to the date of the hearing and action by the Board on the application; and

(2) the person appears before the Board at the hearing and opposes the application.

(e) Contested Case: A matter is considered to be contested if a hearing request is made pursuant to Subsection (b), complies with Subsection (c), made in a timely manner pursuant to Subsection (d), and declared as such by the Presiding Officer. Any case not declared a contested case under this Section shall be considered an uncontested case.

§ 7.61 Decision to Proceed as Uncontested or Contested Case

(a) The written submittal of a hearing request is not, in itself, a determination of a contested case. The Presiding Officer will evaluate the contested case hearing request at the hearing and may:

(1) determine that a hearing request does not meet the requirements of Section 7.60(b) and deny the request;

(2) determine that the person requesting the hearing is not an affected person, that is a person without a personal justiciable interest under Subsection 7.60(b)(2) related to the application and deny the hearing request;

(3) determine that a hearing request meets the requirements of Section 7.60(b), and designate the matter as a contested hearing upon determining that the person is an affected person, that is a person with a personal justiciable interest under Subsection 7.60(b)(2); or

(4) refer the case to a procedural hearing.

(b) Request for SOAH Hearing. If an application is contested, any party to the hearing may request that the District contract with SOAH to conduct further proceedings in the hearing. A request for SOAH Hearing must be made to the Board at the initial, preliminary hearing and is untimely if submitted after the conclusion of the preliminary hearing.

(1) The District shall contract with SOAH to conduct a hearing if requested by a party. The requesting party shall pay all costs associated with the contract for a SOAH hearing and shall deposit with the District an amount determined by the District to pay the contract amount on a date determined by the District before the SOAH hearing begins. At the conclusion of the hearing, the District shall refund any excess money to the paying party. The District will not refer a case to SOAH until the costs are paid as determined by the District.

(2) SOAH shall conduct the hearing in accordance with Subchapters C, D, and F, Chapter 2001, Texas Government Code and Texas Water Code Section 36.416(d)-(f) and the Board shall consider the SOAH proposal for decision in accordance with Texas Water Code Section 36.4165.

(c) Any case not declared a contested case under this Section is an uncontested case, and the Presiding Officer will summarize the evidence and issue a report to the Board within 30 calendar days after the date a hearing is concluded. Such report must include a summary of the subject matter of the hearing; a summary of the evidence or public comments received; and the Presiding Officer's recommendations to the Board. A copy of the report must be provided to the applicant; and each person who provided comment. A report is not required if the hearing was conducted by a quorum of the Board and the hearing was recorded pursuant to Section 7.35(a).

(1) The Board may take action on an uncontested application at any time after the hearing (including at the meeting the hearing is held). The board may issue a written order to grant the application with or without special conditions, or deny the application.

(2) An applicant may, not later than the 20th day after the date the board issues an order granting the application, demand a contested case hearing if the order includes special conditions that were not part of the application finally submitted or grant the maximum amount of groundwater production that is less than the amount requested in the application.

§ 7.62 Contested Permit Hearings Procedures

(a) Procedural Hearing: A procedural hearing may be held to consider any matter that may expedite the hearing or otherwise facilitate the hearing process in contested matters.

(b) Matters Considered: Matters that may be considered at a procedural hearing include:

(1) the determination and designation of parties;

(2) the formulation and simplification of issues;

(3) the necessity or desirability of amending applications or other pleadings;

(4) the possibility of making admissions or stipulations;

(5) the scheduling of depositions, if authorized by the Presiding Officer;

(6) the identification of and specification of the number of witnesses;

(7) the filing and exchange of prepared testimony and exhibits; and

(8) the procedure at the evidentiary hearing.

(c) Notice: A procedural hearing or evidentiary hearing may be held at a date, time, and place stated in a notice, given in accordance with Section 7.1, or at the date, time, and place for hearing stated in the notice of public hearing, and may be continued at the discretion of the Presiding Officer.

(d) Procedural Hearing Action: Action taken at a procedural hearing may be reduced to writing and made a part of the record or may be stated on the record at the close of the hearing.

(e) Designation of Parties:

(1) Parties to a contested permit hearing will be designated as determined by the Presiding Officer.

(2) The General Manager and the applicant are automatically designated as parties.

(3) In order to be admitted as a party, persons other than the automatic parties must appear at the hearing in person or by representation and seek to be designated as a party.

(4) After parties are designated, no other person may be admitted as a party unless, in the judgment of the Presiding Officer, there exists good cause and the hearing will not be unreasonably delayed.

(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 by the author to every party or party's representative. A certification of this fact must accompany the original instrument when filed with the District. Failure to provide copies to a party or a

party's representative may be grounds for withholding consideration of the pleading or the matters set forth therein.

(g) Disabled Parties and Witnesses: Persons who have special requests concerning their need for reasonable accommodation, as defined by the Americans With Disabilities Act, 42 U.S.C.12111(9), during a Board meeting or a hearing shall make advance arrangements with the General Manager of the District. Reasonable accommodation shall be made unless undue hardship, as defined in 42 U.S.C. 12111(10), would befall the District.

(h) Interpreters for Deaf Parties and Witnesses: If a party or subpoenaed witness in a contested case is deaf, the District must provide an interpreter whose qualifications are approved by the State Commission for the Deaf and Hearing Impaired to interpret the proceedings for that person. "Deaf person" means a person who has a hearing impairment, whether or not the person also has a speech impairment that inhibits the person's comprehension of the proceedings or communication with others.

(i) Agreements to be in Writing: No agreement between parties or their representatives affecting any pending matter will be considered by the Presiding Officer unless it is in writing, signed by all parties, and filed as part of the record, or unless it is announced at the hearing and entered on the record.

(j) Ex Parte Communications: Neither the Presiding Officer nor a Board member may communicate, directly or indirectly, in connection with any issue of fact or law in a contested case with any agency, person, party, or representative, except with notice and an opportunity for all parties to participate. This provision does not prevent such communications between Board members and District staff, attorneys, or other professional consultants retained by the District.

(k) Written testimony: The Presiding Officer may allow testimony to be submitted in writing, either in narrative or question and answer form, and may require that the written testimony be sworn to. On the motion of a party to a hearing, the Presiding Officer may exclude written testimony if the person who submits the testimony is not available for cross-examination in person or by phone at the hearing, by deposition before the hearing, or other reasonable means.

(l) Cross-examination**:** All testimony in a contested case hearing shall be subject to cross-examination.

(m) Evidence:

(1) The Presiding Officer shall admit evidence if it is relevant to an issue at the hearing. The Presiding Officer may exclude evidence that is irrelevant, immaterial, or unduly repetitious.

(2) Notwithstanding Paragraph (1), the Texas Rules of Evidence govern the admissibility and introduction of evidence, except that evidence not admissible under the Texas Rules of Evidence may be admitted if it is of the type commonly relied upon by reasonably prudent persons in the conduct of their affairs.

§ 7.63 Consolidated Hearing on Applications

(a) Except as provided by Subsection (b), the Board shall process applications from a single applicant under consolidated notice and hearing procedures on written request by the applicant.

(b) The Board is not required to use consolidated notice and hearing procedures to process separate permit or permit amendment applications from a single applicant if the Board cannot adequately evaluate one application until it has acted on another application.

§ 7.64 Closing the Record; Final Report

(a) At the conclusion of the presentation of evidence and any oral argument in a contested case, the Presiding Officer may either close the record or keep it open for an additional 10 calendar days to allow a person who testifies at the hearing to supplement the testimony given at the hearing by filing additional written materials.

(b) After the record is closed, the Presiding Officer will prepare a proposal for decision to the Board. The proposal for decision must include a summary of the subject matter of the hearing, a summary of the evidence, and the Presiding Officer's recommendations for action.

(c) Upon completion of the Presiding Officer's proposal for decision, the Presiding Officer must submit a copy to the Board and deliver a copy to each party to the proceeding and to each person who provided comments on the application.

(d) 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 Section 7.35(a), the Presiding Officer shall determine whether to prepare and submit a proposal for decision to the Board.

§ 7.65 Exceptions to the Presiding Officer's Proposal for Decision; Reopening the Record

(a) Prior to Board action, any party in a contested case may file with the Presiding Officer written exceptions to the Presiding Officer's proposal for decision.

(b) Upon review of the proposal for decision and exceptions, the Presiding Officer may reopen the record for the purpose of developing additional evidence or may deny the exceptions and submit the proposal for decision and exceptions to the Board.

(c) Any party may request of the Board an opportunity to make an oral presentation of exceptions to the Board. The Board, at any time and in any case, may remand the matter to the Presiding Officer for further proceedings.

§ 7.66 Time for Board Action on Certain Permit Matters

In a hearing involving an application for an Operating Permit or an application for a permit amendment, the Presiding Officer's proposal for decision should be submitted and delivered within

30 calendar days after the date of the closing of the hearing record, and the Board shall consider the proposal for decision and any exceptions and replies to exceptions during a final hearing and shall act within 60 calendar days after the date of the final hearing.

SUBCHAPTER F.
PROCEDURES FOR RULEMAKING HEARINGS AND PETITION FOR RULEMAKING

§ 7.80 General Procedures

(a) The Presiding Officer will conduct the rulemaking hearing in the manner the Presiding Officer determines most appropriate to obtain all relevant information pertaining to the subject matter of the hearing as conveniently, inexpensively, and expeditiously as possible. The Presiding Officer shall prepare and keep a record of each rulemaking hearing in the form of an audio or video recording or court reporter transcription.

(b) The Presiding Officer may follow the guidelines of "Parliamentary Procedure at a Glance," New Edition, O. Garfield Jones, 1971 revised edition, or as amended.

(c) The District may use an informal conference or consultation to obtain the opinions and advice of interested persons about contemplated rules and the Board may appoint advisory committees of experts, interested persons, or public representatives to advise the district about contemplated rules.

§ 7.81 Submission of Documents

Any interested person may submit to the Presiding Officer written statements, protests, comments, briefs, affidavits, exhibits, technical reports, or other documents relating to the subject matter of the hearing. Such documents must be submitted no later than the date as stated in the notice of hearing given in accordance with Section 7.22. The Presiding Officer may grant additional time for the submission of documents.

§ 7.82 Oral Presentations

Any person desiring to testify on the subject matter of the hearing must so indicate on the registration form provided at the hearing. The Presiding Officer establishes the order of testimony and may limit the number of times a person may speak, the time period for oral presentations, and the time period for raising questions. The Presiding Officer may limit or exclude cumulative, irrelevant, or unduly repetitious presentations.

§ 7.83 Petition for Adoption or Modification of Rules

(a) A person with a real property interest in groundwater located within the District may petition the District to request the adoption or modification of a rule.

(b) Petitions shall be submitted in writing to the General Manager, and shall comply with the following requirements:

(1) each rule requested must be submitted by separate petition;

(2) each petition must be signed and state the name and address of the petitioner(s) and identify with a brief written description and a drawing of the petitioner's real property interest in groundwater within the District;

(3) each petition shall include:

(A) a brief explanation of the proposed rule;

(B) the text of the proposed rule prepared in a manner to indicate the words to be added or deleted from the text of the current rule, if any;

(C) a statement of the statutory or other authority under which the proposed rule is to be promulgated; and

(D) an allegation of injury or inequity that could result from the failure to adopt the proposed rule.

(c) The General Manager may reject a petition for failure to comply with the requirements of subsection (b) of this section.

(d) Not later than the 90th day after the date the District receives the petition that complies with this section, the Board shall either deny the petition and provide an explanation for the denial in the minutes of the Board meeting or in a letter, or engage in rulemaking consistent with the granted petition as provided by Section 36.101 of the Water Code.

(e) There is no private cause of action for a decision to accept or deny a petition.

SUBCHAPTER G.
POST-HEARING PROCEDURES

§ 7.90 Board Action Following Conclusion of Hearing

(a) Unless otherwise provide by these Rules, after the record is closed on a permit or rulemaking hearing and the matter is submitted to the Board, the Board may take the matter under advisement, continue it from day to day, reopen or rest the matter, refuse the action sought, grant the action sought in whole or part, or take any other appropriate action.

(b) Board action on a rulemaking hearing takes effect at the conclusion of the meeting in which the Board took the action and is not affected by a request for rehearing.

§ 7.91 Requests for Rehearing or Findings and Conclusions

(a) An applicant in a contested or uncontested hearing on an application 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 of fact and conclusions of law not later than the 20th day after the date of the board's decision unless the Board issued findings of fact and conclusions of law as part of the final decision.

(b) On receipt of a timely written request, the board shall make written findings of fact and conclusions of law regarding a decision of the board on a permit or permit amendment application. The board shall provide certified copies of the findings of fact and conclusions of law to the person who requested them, and to each designated party, not later than the 35th day after the date the board receives the request. A party to a contested case hearing may request a rehearing before the board not later than the 20th day after the date the board issues the findings of fact and conclusions of law.

(c) The Board shall consolidate requests for rehearing filed by multiple parties to the contested case hearing, but only one rehearing may be considered per matter.

(d) 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.

(e) If the board grants a request for rehearing, the board shall schedule the rehearing not later than the 45th day after the date the request is granted.

(f) If a motion for rehearing is filed and granted by the Board, the Board shall make a final decision on the application not later than the 90th day after the date of the decision by the Board that was subject to the motion for rehearing.

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

§ 7.92 Decision; When Final

A decision by the Board on a permit or permit amendment application is final:

(a) If a request for rehearing is not filed on time, on the expiration of the period for filing a request for rehearing; or

(b) If a request for rehearing is filed on time, on the date:

(1) the Board denies the request for rehearing; or

(2) the Board renders a written decision after rehearing.

§ 7.93 Decision; When Final After a Contested Case Before SOAH

(a) In a proceeding for a permit application or amendment in which the District has contracted with the SOAH for a contested case hearing, the Board has the authority to make a final decision on consideration of a proposal for decision issued by an ALJ.

(b) The board may change a finding of fact or conclusion of law made by the ALJ, or may vacate or modify an order issued by the ALJ, only if the Board determines:

(1) that the ALJ did not properly apply or interpret applicable law, district rules, written policies provided by the District, or prior administrative decisions;

(2) that a prior administrative decision on which the ALJ relied is incorrect or should be changed; or

(3) that a technical error in a finding of fact should be changed.

(c) A final decision issued by the board under this section must be in writing and must either adopt the proposed findings of fact and conclusions of law as proposed by the ALJ or include revised findings of fact and conclusions of law consistent with Subsection (b).

(d) Notwithstanding any other law, the Board shall issue a final decision under this section not later than the 180th day after the date of receipt of the final proposal for decision from SOAH. The deadline may be extended if all parties agree to the extension.

(e) The Board is considered to have adopted a final proposal for decision of the ALJ as a final order on the 181st day after the date the ALJ issued the final proposal for decision if the Board has not issued a final decision by:

(1) adopting the findings of fact and conclusions of law as proposed by the ALJ; or

(2) issuing revised findings of fact and conclusions of law as provided by Subsection (b).

(f) A proposal for decision adopted under Subsection (e) is final, immediately appealable, and not subject to a request for rehearing.

§ 7.94 Minutes and Records of the District

All documents, reports, records, and minutes of the District are available for public inspection and copying under the Texas Public Information Act. Upon written request of any person, the District will furnish copies of its public records. The Board will set a reasonable charge for such copies and will publicly post a list of copying charges.

CHAPTER 8
INSPECTION AND ENFORCEMENT OF RULES

§ 8.1 Notice of Inspection

Inspections that require entrance upon property must be conducted at reasonable times and must be consistent with the property's rules and regulations concerning safety, internal security, and fire protection. A person conducting an inspection under this Rule must identify themselves to the land owner, lessee, operator, or person in charge of the well upon commencement of the inspection and must present credentials upon request of the land owner, lessee, operator, or person in charge of the well.

§ 8.2 Rules Enforcement

(a) If it appears that a person or entity has violated, is violating, or is threatening to violate any provision of the District Rules, the Board of Directors may institute and conduct a suit in a court of competent jurisdiction in the name of the District for injunctive relief, recovery of a civil penalty in an amount set by District Rule per violation, both injunctive relief and a civil penalty, or any other appropriate remedy. Each day that a violation continues shall be considered a separate violation. The civil penalty for a violation of any District rule is hereby set at the lower of:

(1) $25,000.00 per violation; or

(2) a lesser amount based on the severity of the violation set forth in a civil penalty schedule which the Board of Directors may adopt from time to time via resolution in a properly noticed meeting, which civil penalty schedule is incorporated by reference into these Rules and shall constitute a Rule of the District for all purposes.

(b) Notwithstanding Subsection (a), the Board of Directors may initiate and conduct a civil suit for recovery of a civil penalty greater than the maximum penalty established by law in Section 36.102, Texas Water Code, if the District determines that the person gained an economic benefit greater than the maximum penalty as a result of the violation of the District's Rules.

(c) A penalty under this section is in addition to any other penalty provided by law and may be enforced by filing a complaint in a court of competent jurisdiction in Burnet County.

(d) If the District prevails in a suit to enforce its Rules, the District may seek and the court shall grant, in the same action, recovery of attorney's fees, costs for expert witnesses, and other costs incurred by the District before the court. The amount of attorney's fees awarded by a court under this Rule shall be fixed by the court.

(e) The District shall follow the process under Texas Water Code Section 36.119 when it receives a written complaint alleging that a person has drilled or operated a well without a required permit or in violation of the District Rules.

§ 8.3 Tagging of Wells

(a) The District (or in a health or safety emergency, acting through the General Manager, as confirmed by the Board at its next meeting) may take action, including but not limited to tagging the well, or issuing a cease and desist order, against wells that are prohibited from withdrawing groundwater within the District by these Rules or Board order when the General Manager, or a designated District employee, determines that such action is reasonably necessary to assure that a well is not operated in violation of these Rules or Board orders.

(b) The well may be tagged to indicate that the well may not be operated by order of the District. The District may recover costs incurred for tagging a well under this Rule from the owner of the well. Other appropriate action may be taken as necessary to preclude operation of the well or to identify unauthorized operation of the well.

(c) Tampering with, altering, damaging, or removing the tag placed on the well or in any other way violating the integrity of the tag or pumping groundwater from a well that has been tagged constitutes a violation of these Rules and subjects the person performing that action, as well as any well owner or primary operator who authorizes or allows that action, to such penalties as provided by law and District Rules.

(d) The owner of the well may appeal the decision of the Board or General Manager to tag the well by filing a written request for a hearing before the Board, in which case the Board will hear the owner's appeal at the next regular Board meeting for which notice has not already been published. The owner may also take corrective action to address the cause for which the General Manager tagged the well and thereafter request the General Manager to remove the tag at the General Manager's discretion.

§ 8.4 Open or Uncovered Wells

(a) The District may require the owner or lessee of land on which an open or uncovered well is located to keep the well permanently closed or capped with a covering capable of sustaining weight of at least 400 pounds except when the well is in actual use.

(b) The owner or lessee of land on which an open or uncovered well is located must close or cap the well within 10 calendar days of receiving written notice from the District that the well must be closed or capped.

(c) As used in this section, "open or uncovered well" means an artificial excavation dug or drilled for the purpose of exploring for or producing water from the aquifer that is not capped or covered as required by this Rule.

(d) If an owner or a lessee fails or refuses to close or cap the well in compliance with this Rule, any person, firm, or corporation employed by the District may go on the land and close or cap the well safely and securely.

(e) Reasonable expenses incurred by the District in closing or capping a well under this Rule constitute a lien on the land on which the well is located.

(f) The lien arises and attaches upon recordation of an affidavit in the deed records of the county where the well is located. The affidavit may be executed by any person conversant with the facts and must state:

(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 to close or cap the well within 10 calendar days after receiving notification from the District to do so;

(5) the well was closed or capped by the District, or by an authorized agent, representative, or employee of the District; and

(6) the expense incurred by the District in closing or capping the well.

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

§ 8.5 Abandoned and Deteriorated Wells

(a) Not later than the 180th day after the date a well owner or other person who possesses an abandoned and or deteriorated well learns of its condition, the well owner or other person shall have the well plugged or capped under the standards and procedures adopted by the Texas Department of Licensing and Regulation.

(b) Not later than the 30th day after the date the well is plugged, a water well driller, licensed pump installer, or well owner who plugs an abandoned and deteriorated well shall submit a plugging report to:

(1) the District; and

(2) the Executive Director of the Texas Department of Licensing and Regulation.

(c) The District shall enforce compliance with Subsection (a).

(d) The District may bring an action to enjoin a person from violating Subsection (a).

(e) The District may enforce by injunction or other appropriate remedy in a court any rule, decision, determination, or order adopted or entered under Chapter 1901, Texas Occupations Code that is related to Section 1901.255, Texas Occupations Code and Subsection (a).

(f) The District may bring an action to recover a civil penalty under Section 1901.401, Texas Occupations Code for a violation of Chapter 1901, Texas Occupations Code or a rule adopted under Chapter 1901, Texas Occupations Code related to Section 1901.255, Texas Occupations Code and Subsection (a).

(g) The District may bring the action in the county in which:

(1) the offending activity occurred; or

(2) the person engaging in the activity resides.

(h) When the General Manager is informed of an abandoned well, the General Manager shall notify the well owner of the condition of the well. The notification to the well owner shall include:

(1) the conditions under which the well may be considered abandoned through action of the Board;

(2) any corrective action the well owner may take to prevent the well from being abandoned; and

(3) the date, time and location of the meeting at which the Board will determine if the well is abandoned.

(i) After being notified by the District, the well owner or representative of the well owner may meet with the General Manager to discuss corrective actions necessary to prevent the well being deemed abandoned. If the well owner has met the requirements necessary to bring the well into compliance with the District Rules, and Chapter 1901, Texas Occupations Code or has decided to abandon the well before the Board meeting, the General Manager will report this to the Board.

§ 8.6 Failure to Report Pumpage and/or Transported Volumes

The accurate reporting and timely submission of pumpage and/or transported volumes is necessary for the proper management of water resources in Burnet County. Failure of the permittee to submit complete, accurate, and timely pumpage and transportation reports as required by District Rule may result in late payment fees, forfeiture of the permit, payment of meter reading and administrative fees as a result of District inspections to obtain current and accurate pumpage and/or transported volumes, and other enforcement for violation of District Rules.

CHAPTER 9
WASTE

§ 9.01 Waste

(a) Groundwater shall not be produced within and used within the District, or produced within the District and used outside the District, in such a manner as to constitute waste.

(b) A person producing or using groundwater within the District shall use every possible precaution, in accordance with reasonable methods, to stop and prevent the waste of such water.

(c) A person shall not pollute or harmfully alter the character of the aquifer within the boundaries of the District by means of saltwater or other deleterious matter admitted to the aquifer from some other stratum or strata or from the surface of the ground.

(d) A person under the jurisdiction of the District shall not commit waste.

CHAPTER 10
TRANSPORTATION OF GROUNDWATER OUT OF THE DISTRICT

§ 10.01 General Provisions

(a) A person who produces or wishes to produce water from a well required to be permitted or from any other activity producing groundwater requiring a permit, which is located or will be located within the District, and transport such water for use outside of the District must obtain an Operating Permit, Grandfathered Use Permit, or amendment to such a permit from the District in the manner provided under these rules for production and use of water within the District before transporting the water out of the District.

(b) If the District finds that a transfer of groundwater out of the District negatively impacts any of the following factors, the District may impose additional requirements or limitations on the permit which are designed to minimize those impacts:

(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 approved management plan.

(c) The District may impose more restrictive permit conditions on transporters than the District imposes on in-district users.

(d) The District may impose a Groundwater Transport Fee on such a permittee as set forth under Chapter 12 for any water transported out of the District and shall require the permittee to install any meters necessary to report the total amount of groundwater transported outside of the District for reporting purposes and for purposes of calculating the Groundwater Transport Fee.

(e) The District may establish a term for an Operating Permit or Grandfathered Use Permit for a well that produces groundwater for transport which is consistent with Section 3.05.

(f) A Groundwater Transport Fee is not required in connection with the transfer of water produced in an area of a retail public utility that is located inside the district boundaries and transferred for use to an area that is within the same retail public utility but that is located outside the district boundaries if the majority of the geographic area of the retail public utility's boundaries or defined service area is within the boundaries of the District and the majority of the groundwater produced is used within the boundaries of the District. If conditions change over time such that the majority of such geographic area or use is not within the boundaries of the District, the groundwater used outside of the District shall be assessed the Groundwater Transport Fee.

(g) Trucks hauling bulk water produced within the District under an Operating or Grandfathered Use Permit for use outside the District are exempt from the requirement to pay a Groundwater Transport Fee or report annual amounts of groundwater transported out of the District.

§ 10.02 Fee for Exempt Wells; Discharge Under Other Permit

(a) A Groundwater Transport Fee is required for an exempt well if the groundwater produced from the exempt well is transported for use outside of the District.

(b) Groundwater that is discharged pursuant to a permit issued by the Texas Commission on Environmental Quality and not sold is not considered to have been transported from the District unless the discharge is part of an overall water transfer and sale.

§ 10.03 Reporting

(a) A permit holder with authorization to transport groundwater for use outside of the District shall file annual reports with the District disclosing the amount of water transported under the permit and used.

(b) The report required under Subsection (a) shall be filed with the District no later than February 15, 2011, and each May 1 thereafter, on a form provided by the District and shall include the following:

(1) the name of the permittee;

(2) the well numbers of each well for which the permittee holds a permit;

(3) the total amount of groundwater produced from each well or well system or other activity requiring a permit to produce groundwater during the immediately preceding calendar year;

(4) the total amount of groundwater transported outside of the District from each well or well system or other activity requiring a permit to produce groundwater during each month of the immediately preceding calendar year;

(5) the purposes for which the water was transported; and

(6) any other information requested by the District.

CHAPTER 11
METERING

§ 11.01 Water Meter Required

(a) Subject to Rule 4.05 (i) regarding the Northeast Burnet County Trinity Aquifer Management Zone, meters are not required for the following wells under these Rules:

(1) an existing well which is used solely for domestic, livestock, or poultry use, regardless of the size or capacity of the well;

(2) an existing well used for purposes other than domestic, livestock, or poultry use if the well does not have the capacity, as equipped, to produce more than 50 gallons per minute;

(3) an existing well used for purposes other than domestic, livestock, or poultry use if the well is connected to a well system that does not have the aggregated capacity, as the wells in the system are equipped, to produce more than 50 gallons per minute; and

(4) a new well which is used solely for domestic, livestock, or poultry use if the well does not have the capacity, as equipped, to produce more than 25,000 gallons of water per 24-hour interval, regardless of the size of the tract upon which the well is located.

(b) Meters or other form of groundwater production or consumptive use estimate as provided under Section 13.05 is required for the following under these Rules:

(1) an existing well that is used in whole or in part for purposes of use other than domestic, livestock, or poultry use which has the capacity, as equipped, to produce more than 50 gallons per minute;

(2) an existing well connected to a well system that is used in whole or in part for purposes of use other than domestic, livestock, or poultry use and that has the aggregated capacity, as the wells in the system are equipped, to produce more than 50 gallons per minute;

(3) a new well for which an Operating Permit is required under these Rules, regardless of production capacity;

(4) a new well connected to a well system that has the aggregated capacity, as the wells in the system are equipped, to produce 25,000 gallons or more per 24-hour interval;

(5) a well of any capacity or any other activity producing or consumptively using groundwater that is involved in the transport of any groundwater for use outside of the District for any activity for which a fee that is based on the amount of groundwater transported is required to be calculated under these Rules;

(6) an exempt well converted to a non-exempt well as described under Rule 3.68; and,

(7) an activity regulated under Section 13.05.

(c) The owner of a well required to be metered under this Section shall equip the well with a flow measurement device meeting the specifications of these Rules and shall operate the meter on the well to measure the flow rate and cumulative amount of groundwater withdrawn from the well.

(d) The owner of an existing well that is required to install a meter under this Section shall install the meter prior to producing groundwater from the well after September 1, 2010. The owner of a new well that is required to install a meter under this Rule shall install the meter prior to producing groundwater from the well.

(e) Unless otherwise approved by the General Manager, a mechanically driven, totalizing water meter is the only type of meter that may be installed on a well permitted by or registered with the District. The totalizer must not be resettable by the permittee and must be capable of a maximum reading greater than the maximum expected pumpage during the permit term. Battery operated registers must have a minimum five-year life expectancy and must be permanently hermetically sealed. Battery operated registers must visibly display the expiration date of the battery. All meters must meet the requirements for registration accuracy set forth in the American Water Works Association standards for cold-water meters as those standards existed on the date of adoption of these Rules.

(f) The water meter must be installed according to the manufacturer's published specifications in effect at the time of the meter installation, or the meter's accuracy must be verified by the permittee in accordance with Section 11.03. If no specifications are published, there must be a minimum length of five pipe diameters of straight pipe upstream of the water meter and one pipe diameter of straight pipe downstream of the water meter. These lengths of straight pipe must contain no check valves, tees, gate valves, back flow preventers, blow-off valves, or any other fixture other than those flanges or welds necessary to connect the straight pipe to the meter. In addition, the pipe must be completely full of water throughout the region. All installed meters must measure only groundwater.

(g) Each meter shall be installed, operated, maintained, and repaired in accordance with the manufacturer's standards, instructions, or recommendations, and shall be calibrated to ensure an accuracy reading range of 95% to 105% of actual flow.

(h) The owner of a well is responsible for the installation, operation, maintenance, and repair of the meter associated with the well.

(i) Bypasses, which include any device or feature located between the wellhead and the meter that would allow water to be diverted for use before it passes through the meter, are prohibited unless they are also metered.

§ 11.02 Metering Aggregate Withdrawal

Where wells are permitted in the aggregate, one or more water meters may be used for the aggregate well system if the water meter or meters are installed so as to measure the groundwater production from all wells covered by the aggregate permits. The provisions of Section 11.01 apply to meters measuring aggregate pumpage.

§ 11.03 Accuracy Verification

(a) Meter Accuracy to be Tested: The General Manager may require the permittee, at the permittee's expense, to test the accuracy of a water meter and submit a certificate of the test results. The certificate shall be on a form provided by the District. The General Manager may further require that such test be performed by a third party qualified to perform such tests. The third party must be approved by the General Manager prior to the test. Except as otherwise provided herein, certification tests will be required no more than once every three years for the same meter. If the test results indicate that the water meter is registering an accuracy reading outside the range of 95% to 105% of the actual flow, then appropriate steps shall be taken by the permittee to repair or replace the water meter within 90 calendar days from the date of the test. The District, at its own expense, may undertake random tests and other investigations at any time for the purpose of verifying water meter readings. If the District's tests or investigations reveal that a water meter is not registering within the accuracy range of 95% to 105% of the actual flow, or is not properly recording the total flow of groundwater withdrawn from the well or wells, the permittee shall reimburse the District for the cost of those tests and investigations, and the permittee shall take appropriate steps to bring the meter or meters into compliance with these Rules within 90 calendar days from the date of the tests or investigations. If a water meter or related piping or equipment is tampered with or damaged so that the measurement of accuracy is impaired, the District may require the permittee, at the permittee's expense, to take appropriate steps to remedy the problem and to retest the water meter within 90 calendar days from the date the problem is discovered and reported to the permittee.

(b) Meter Testing and Calibration Equipment: Only equipment capable of accuracy results of +/- 2% of actual flow may be used to calibrate or test meters.

(c) Calibration of Testing Equipment: All approved testing equipment must be calibrated every two years by an independent testing laboratory or company capable of accuracy verification. A copy of the accuracy verification must be presented to the District before any further tests may be performed using that equipment.

§ 11.04 Removal of Meter for Repairs

A water meter may be removed for repairs and the well remain operational provided that the District is notified prior to removal and the repairs are completed in a timely manner. The readings on the meter must be recorded immediately prior to removal and at the time of reinstallation. The record of pumpage must include an estimate of the amount of groundwater withdrawn during the period the meter was not installed and operating.

§ 11.05 Water Meter Readings

The permittee must read each water meter associated with the well or provide an estimate as required under Section 13.05 and record the meter readings and the actual amount of pumpage or consumptive use in a log at least monthly. The logs containing the recordings shall be available for inspection by the District at reasonable business hours. Copies of the logs must be furnished to the District annually no later than May 1 on a form provided by the District or other acceptable format approved by the District. The logs containing the recordings must include the name of the permit holder, the well number associated with each permit held, the total amount of groundwater produced during each month, and the purpose for which the water was used.

§ 11.06 Installation of Meters

Except as otherwise provided by these Rules, a meter required to be installed under these Rules shall be installed before producing water from the well under a permit issued by the District.

CHAPTER 12
FEES AND PAYMENT OF FEES

§ 12.01 Application and Other Fees

The Board shall establish a schedule of fees for administrative acts of the District, including the cost of reviewing and processing permits and the cost of hearings for permits, and such administrative fees shall not unreasonably exceed the cost to the District for performing such administrative acts. In addition to such fees, the District shall assess a permit application fee set by Board resolution to help reimburse the District for the costs of publishing notice of a hearing related to a permit matter for each notice published for a particular application.

§ 12.02 Groundwater Transport Fee

(a) The District shall impose a reasonable fee or surcharge, established by Board resolution, for transportation of groundwater out of the District using one of the following methods:

(1) a fee negotiated between the District and the transporter; or

(2) an export surcharge on the volume of water transported.

(b) Groundwater Transport Fee payments for the previous calendar year shall be remitted by the permittee to the District on or before February 15th of each calendar year. Payments received within the 30 calendar days following the due date will not be subject to a late payment fee. Failure to make complete and timely payment of a fee as required by these Rules shall automatically result in a late payment fee of ten percent of the amount not paid beginning on the 31st day following the due date. The fee payment plus the late payment fee must be made within 30 calendar days following the date of the assessment of the late payment fee, otherwise the Board may declare the permit void and/or proceed with enforcement action as provided by these Rules. Overdue fees not paid within 60 calendar days of the due date shall thereafter accrue a monthly late charge at a simple interest rate of ten percent per annum.

§ 12.03 Returned Check Fee

The Board, by resolution, may establish a fee for checks returned to the District for insufficient funds, account closed, signature missing, or any other reason causing a check to be returned by the District's depository.

§ 12.04 Well Report Deposit

The Board, by resolution, may establish a well report deposit to be held by the District. The District shall return the deposit to the depositor if all relevant well reports are timely submitted to the District in accordance with these Rules. In the event the District does not timely receive all relevant well reports, or if rights granted within the registration or permit are not timely used, the deposit shall become the property of the District.

CHAPTER 13
QUARRIES

§ 13.01 Definitions

(a) Notwithstanding anything to the contrary under Section 1.01, the following definitions of words shall apply in this section:

(1) “Aggregates” means any commonly recognized construction material originating from a quarry or pit by the disturbance of the surface, including dirt, soil, rock asphalt, granite, gravel, gypsum, marble, sand, stone, caliche, limestone, dolomite, rock, riprap, or other non-mineral substance. The term does not include clay or shale mined for use in manufacturing structural clay products.

(2) “Consumptive use” of groundwater, or groundwater "consumptively used", means that portion of produced groundwater assumed to be lost from the aquifer to the environment by evaporation, transpiration, incorporation into a product or crop, or otherwise consumed by man, animals, or processes and not effectively recharged to the aquifer from which it was produced.

(3) “Operator” means any person engaged in or responsible for the physical operation and control of a quarry.

(4) “Owner” means any person having title, wholly or partly, to the land on which a quarry exists or has existed.

(5) “Pit” means an open excavation from which aggregates have been or are being extracted with a depth of five feet or more below the adjacent and natural ground level.

(6) “Quarrying” means the current and ongoing surface excavation and development without shafts, drafts, or tunnels, with or without slopes, for the extraction of aggregates for commercial sale from natural deposits occurring in the earth.

(7) “Quarry” means the site from which aggregates for commercial sale are being or have been removed or extracted from the earth to form a pit, including the entire excavation, stripped areas, haulage ramps, and the immediately adjacent land on which the plant processing the raw materials is located. The term does not include any land owned or leased by the responsible party not being currently used in the production of aggregates for commercial sale or an excavation to mine clay or shale for use in manufacturing structural clay products.

(8) “Site” means the tract of land on which is located a pit and includes the immediate area on which the plant, if any, used in the extraction of aggregates is located.

§ 13.02 Waste Prohibited

An owner or operator of a quarry shall not produce groundwater or otherwise allow groundwater to escape from a site in a manner that constitutes waste.

§ 13.03 Dewatering Wells

Dewatering wells are subject to the permitting requirements, including but not limited to the production limitations, of these rules.

§ 13.04 Discharge of Groundwater from Quarry Prohibited

(a) An owner or operator of a quarry shall not discharge groundwater produced from a site to a creek, stream, river, or other watercourse, or allow groundwater to escape from a site to a creek, stream, river, or other watercourse, except as authorized under this rule.

(b) Notwithstanding Subsection (a), this rule does not apply to the discharge or escape from a site to a watercourse of:

(1) storm water or diffused surface water from rainfall runoff; or

(2) groundwater that has been commingled with storm water or diffused surface water from rainfall runoff that has not yet entered a watercourse if:

(A) the total amount of commingled water discharged to a watercourse is equal to or less than the volume of the surface water component of the commingled water; and

(B) the water is discharged to the watercourse in compliance with state and federal law and all applicable rules and regulations of other governmental entities with jurisdiction over the discharge, including without limitation the rules and regulations of the Texas Commission on Environmental Quality and applicable river authorities of the State of Texas.

§ 13.05 Recirculation of Groundwater Required; Permit Required

(a) In order to prevent waste, groundwater from quarry dewatering wells or groundwater that gathers in pits through seepage in quarries by quarrying below the water table in an aquifer or otherwise and that is not fully consumptively used for mining purposes, such as dust control or washing of aggregates, must be recirculated by directing the water to and holding the water in settling ponds or other pits.

(b) An owner or operator of a quarry shall obtain an Operating Permit from the District for the amount of the consumptive use of groundwater that is produced at the site from dewatering wells or seepage.

(c) In light of the impracticability of actually metering seepage in pits, groundwater consumptively used for mining purposes, groundwater lost to evaporation and transpiration, groundwater returned to settling ponds, groundwater that effectively

recharges to the aquifer, and other components of the recirculation system other than actual production of groundwater by water wells, an owner or operator of a quarry shall determine a reasonable estimate of the amount of groundwater consumptively used from the site monthly and report the amount annually to the District in the manner set forth under Rule 11.05. The estimate submitted to the District under this subsection must be:

(1) prepared by, signed, and sealed by a registered professional engineer in the State of Texas or a licensed professional geoscientist in the State of Texas; or

(2) signed by the quarry operator and derived from an alternate measuring methodology previously approved by the Board after receiving an application from the operator for approval of an alternate measuring methodology.

(d) If the quarry operator desires to seek approval of an alternative measuring methodology for determining the amount of groundwater consumptively used at a quarry, the operator must apply to the District for approval of the methodology. The Board shall authorize the alternative measuring method if the operator demonstrates that the alternative measuring method will provide a reasonable estimate of the amount of groundwater consumptively used. In deciding whether to approve an alternate measuring methodology, the District may require as a condition precedent to its approval:

(1) the installation by the operator of one or more meters to monitor production or discharge of groundwater;

(2) the drilling, monitoring, and sampling of one or more monitoring wells by the operator at or adjacent to the site to assist the District in monitoring production, consumptive use, unmetered seepage, or pollution of groundwater at a site; and

(3) other reasonable requirements to measure the consumptive use of groundwater by the quarry operation.

(e) For operators that elect to have the estimate submitted to the District under this subsection prepared by, signed, and sealed by a registered professional engineer in the State of Texas or a licensed professional geoscientist in the State of Texas, the District may at its own expense require the drilling, monitoring, and sampling of one or more monitoring wells at or adjacent to the site to assist the District in monitoring consumptive use of groundwater.

(f) It shall be a violation of these rules for an owner or operator of a quarry to consumptively use more groundwater than authorized for consumptive use under a Grandfather Use Permit or Operating Permit. The District shall authorize consumptive use for a quarry under this rule under the same standards, criteria, and rules as it authorizes annual production limits for regular water wells, including Section 3.22, so as to be fair and impartial in its administration of groundwater removed from the aquifer for beneficial use without waste.

(g) In implementing Subsection (a) of this rule to recirculate and recharge groundwater to an aquifer, an owner or operator of a quarry shall not cause or allow pollution of groundwater in an aquifer and shall implement any and all management practices as may be necessary or appropriate to prevent such pollution and protect aquifer recharge features.

§ 13.06 Use of Quarry Derived Groundwater for Another Purpose

Groundwater derived from quarry dewatering wells or seepage as described under Subsection (a) of Section 13.05 may be used for a purpose of use other than mining, such as municipal use or agricultural irrigation, only if the production of groundwater through wells or seepage is permitted in accordance with the general permitting, production limitation, spacing, reporting, transport, fee, metering, and other requirements and procedures of these rules and this section applicable to water wells generally. For such groundwater derived from seepage, the District may waive or conform certain requirements of these rules applicable to water wells to the extent that applying them as written to seepage from a quarry would be impossible, impractical, or cause unreasonable hardship to the applicant as determined in the sole discretion of the District.

CHAPTER 14
EFFECTIVE DATE

§ 14.01 Effective Date

These Rules take effect on September 1, 2009, and an amendment to these Rules takes effect on the date of the amendment's original adoption. It is the District's intention that the rules and amendments thereto be applied retroactively to activities involving the production and use of groundwater resources located in the District.

APPENDIX A

AQUIFER-SPECIFIC WELL SPACING REQUIREMENTS

The well spacing and tract size requirements set forth in this appendix apply to wells or proposed wells that are required to comply with these requirements pursuant to Chapter 6 of the rules.

A. Trinity Aquifer

The following well spacing requirements shall apply to wells outside of the Northeast Burnet County Trinity Aquifer Management Zone completed in any layer of the Trinity Aquifer, as such aquifer is described in the District Management Plan, current and previous versions of the State Water Plan, and the applicable numbered groundwater reports and other official publications of the Texas Water Development Board:

Well Capacity	Minimum Tract Size	Spacing from Other Well Sites	Spacing from Property Line
The maximum amount of water the well can actually produce as equipped in gallons per minute (gpm).	The minimum tract size (if platted after 9/1/2009) that is owned or controlled, in acres, which may be considered an appropriate site for a well of a specified capacity.	The minimum distance, in feet, that a new or substantially altered well or proposed well site may be located from a registered well or authorized well site that does or will produce water from the same subdivision of the same aquifer.	The minimum distance, in feet, that a new or substantially altered well or proposed well site may be located from the nearest property line or limit of control of the tract of land on which it is to be located.
17.36 gpm or less	Minimum Tract Size is 2 acres	100 feet	50 feet
More than 17.36 gpm but less than 30 gpm		500 feet	250 feet
More than 30 gpm but less than 40 gpm		1,000 feet	500 feet
40 gpm or larger but less than 80 gpm		1,800 feet	900 feet
80 gpm or larger		2,400 feet	1200 feet

B. Northeast Burnet County Trinity Aquifer Management Zone

The following well spacing requirements shall apply to wells located inside of the Northeast Burnet County Trinity Aquifer Management Zone completed in any layer of the Trinity Aquifer, as such aquifer is described in the District Management Plan, current and previous versions of the State Water Plan, and the applicable numbered groundwater reports and other official publications of the Texas Water Development Board:

Well Capacity	**Minimum Tract Size**	**Spacing from Other Well Sites**	**Spacing from Property Line**
The maximum amount of water the well can actually produce as equipped in gallons per minute (gpm).	The minimum tract size (if platted after 1/23/2026) that is owned or controlled, in acres, which may be considered an appropriate site for a well of a specified capacity.	The minimum distance, in feet, that a new or substantially altered well or proposed well site may be located from a registered well or authorized well site that does or will produce water from the same subdivision of the same aquifer.	The minimum distance, in feet, that a new or substantially altered well or proposed well site may be located from the nearest property line or limit of control of the tract of land on which it is to be located.
17.36 gpm or less	Minimum Tract Size is 10 acres	100 feet	50 feet
More than 17.36 gpm but less than 30 gpm		500 feet	250 feet
More than 30 gpm but less than 40 gpm		1,000 feet	500 feet
40 gpm or larger but less than 80 gpm		1,800 feet	900 feet
80 gpm or larger		2,400 feet	1200 feet

C. Hickory, Ellenburger-San Saba, Marble Falls, Welge-Lion Mountain, Granite, and Other Non-Trinity Aquifers

The following well spacing requirements shall apply to wells completed in any layer of the Hickory, Ellenburger-San Saba, Marble Falls, Welge-Lion Mountain, or Granite Aquifers, as such aquifers are described in the District Management Plan, current and previous versions of the State Water Plan, and the applicable numbered groundwater reports and other official publications of the Texas Water Development Board, and shall apply to wells completed in any other aquifer in the District that is not part of the Trinity Aquifer:

Well Capacity	Minimum Tract Size	Spacing from Other Well Sites	Spacing from Property Line
The maximum amount of water the well can actually produce as equipped in gallons per minute (gpm).	The minimum tract size (if platted after 9/1/2009) that is owned or controlled, in acres, which may be considered an appropriate site for a well of a specified capacity.	The minimum distance, in feet, that a new or substantially altered well or proposed well site may be located from a registered well or authorized well site that does or will produce water from the same subdivision of the same aquifer.	The minimum distance, in feet, that a new or substantially altered well or proposed well site may be located from the nearest property line or limit of control of the tract of land on which it is to be located.
17.36 gpm or less	Minimum Tract Size is 1 acre	100 feet	50 feet
More than 17.36 gpm but less than 30 gpm		150 feet	75 feet
More than 30 gpm but less than 40 gpm		300 feet	150 feet
40 gpm or larger but less than 80 gpm		600 feet	300 feet
80 gpm or larger		1,000 feet	500 feet

APPENDIX B

HYDROGEOLOGIC INVESTIGATION AND REPORTING REQUIREMENTS

The requirements included in this appendix are adopted pursuant to Section 3.63 of the District Rules, and set forth the requirements related to any references in the District Rules regarding the preparation of hydrogeologic reports or conducting of hydrogeologic investigations.

Information to be Submitted with Registrations and Permit Applications

The District is a science-based District focusing on the use of groundwater and preventing unreasonable affects between landowners. The District recognizes that the large number of different potential aquifers, the significant variations within aquifers, and significant faulting of aquifers within the District makes each application unique. The District employs a geoscientist to help with hydrogeologic investigations. The District has acquired many monitoring wells and will encourage all permits requiring meters to acquire and maintain monitoring wells. The District prefers monitoring and actual performance over all theoretical calculations.

To address these unique and complicating issues, an application is not considered delivered until the applicant (or its agent) has met with the General Manager for a General Manager Meeting. This meeting is the initial meeting with an applicant and the General Manager Meeting will be relied upon to assign the applicant the appropriate Registration or Permit for the applicant's intended use. In some cases, the General Manager may require supplemental information to be supplied with Permit Applications. Information required at the General Manager Meeting for the different applicants is as follows:

1. Statutorily Exempt (Chapter 36 Water Code) wells **Do Not r**equire more than proof of entitlement to the statutory exemption.

2. Domestic, Livestock, or Poultry Use Permits (§3.52 & §3.66) to assign a reasonable volume of beneficial use to the well under the Rules.

3. Wells permitted by rule under section 3.67 **Do Not** require more than proof that the well is authorized to operate pursuant to section 3.67.

4. All other applicants for permits must cause their agents to meet with the General Manager and/or geoscientist to discuss the supplemental information for the application. Any subsequent meeting after the General Manager Meeting is the Permit Meeting and the General Manager may schedule more Permit Meetings within 30 calendar days of the last Meeting. Depending on the circumstances, the following types of information may be requested by the General Manager as a result of Permit Meetings. This list is not exhaustive, but is illustrative:

    (a) Maps, plats, cross-sections, geophysical logs and other information helpful in establishing the geologic setting and geologic features within a reasonable distance from the proposed well;

(b) Discussions of proposed uses of the groundwater and the land involved in production and use;

(c) Discussions of likely effects on other users and appropriate notice to and consideration of the other users;

(d) Monitoring and pump testing of one or more wells under the supervision of the District. Multiple tests may be necessary to calculate transmissivity, hydraulic conductivity, storage coefficient, appropriate solution method, and effects on other wells. The rates of pumping, measurement periods for static water levels and recoveries after pumping to be determined by the District. The applicant (and permit holder) may be required to use monitoring wells to verify the reliability of the models used and the effect on other registered wells;

(e) Provision for the cost and operation of monitoring wells over the term of the permit;

(f) Discussions of likely recharge for the aquifer as a result of actions taken by the applicant;

(g) Investigations of applicability of any reliable aquifer models, and if applicable, running of such models. This could include forward solution of effects on the aquifer and registered wells in the aquifer of projected pumping after terms up to 40 years based on "assumptive" hydrogeologic aquifer parameters acceptable to the District.

Failure to provide all such information identified to applicant in writing as a result of any General Manager or Permit Meeting within 45 calendar days may be considered a failure to prosecute the application and the General Manager may return it as not administratively complete. Pump testing must be a good faith attempt to supply information for a pending or reasonably anticipated application, or else may be considered waste. Notice of commencement of all pump tests must be given to the District at least 24 hours before the test commences.

APPENDIX C

ENFORCEMENT POLICY AND CIVIL PENALTY SCHEDULE

Central Texas Groundwater Conservation District

ENFORCEMENT POLICY AND CIVIL PENALTY SCHEDULE

General Guidelines

When the General Manager discovers a violation of the District Rules that either (1) constitutes a Major Violation, or (2) constitutes a Minor Violation that the General Manager is unable to resolve within 60 calendar days of discovering the Minor Violation, the General Manager shall bring the Major Violation or the unresolved Minor Violation and the pertinent facts surrounding it to the attention of the Board. Violations related to water well construction and completion requirements shall also be brought to the attention of the Board.

The General Manager shall recommend to the Board of Directors an appropriate settlement offer to settle the violation in lieu of litigation based upon the Civil Penalty Schedule set forth below. The Board may instruct the General Manager to tender an offer to settle the violation or to institute a civil suit in the appropriate court to seek civil penalties, injunctive relief, and costs of court and expert witnesses, damages, and attorneys' fees. Nothing in this policy and penalty schedule, including the assessment of penalties, shall be construed to relieve the violator of the duty to comply with the rule that was violated, and the District shall continue to have all remedies available in law or equity to enforce compliance with the rule.

Notwithstanding anything within this Enforcement Policy and Civil Penalty Schedule that may be interpreted to the contrary, the District will not assess any civil penalty, nor otherwise take any enforcement action, for the failure to register an existing, exempt well within the District as otherwise provided for by District Rule 3.1. However, as also stated in District Rule 3.1(d), the failure of any person to timely register an existing, exempt well within the District constitutes a waiver of all protections against well interference that are established in Chapter 6 of the District Rules until such time as the well becomes registered with the District in a manner that complies with applicable rules. The failure to timely register an existing, exempt well within the District also waives eligibility for any special notice afforded to registered well owners pursuant to applicable District Rules.

I. Minor Violations

The following acts each constitute a minor violation:

1. Failure to file notice and application of transfer of well ownership of non-exempt well within 90 calendar days after date of change of ownership in well.

2. Failure to conduct a meter reading within the required period.

3. Failure to timely file a well report under Rule 3.70 when drilling, deepening, or otherwise altering a well (plus loss of well report deposit).

4. Failure to timely submit required documentation reflecting alterations or increased production.

5. Operating a meter that is not accurately calibrated as required under Chapter 11.

6. Failure to obtain written authorization to drill a test hole as required under District Rule 3.01, 3.60 and 3.80.

CIVIL PENALTY SCHEDULE FOR MINOR VIOLATIONS

First Violation:	**$100.00**
Second Violation:	**$200.00**
Third Violation:	**Major Violation**

A second violation shall be any minor violation within three years of the first minor violation. A third violation shall be any minor violation following the second minor violation within three years of the second minor violation. Each day of a continuing violation constitutes a separate violation.

II. Major Violations

The following acts each constitute a major violation:

1. Exceeding the annual amount of groundwater authorized to be produced or consumptively used under a permit.

2. Failure to obtain a permit from the District before drilling, substantially altering, operating, or producing groundwater from any non-exempt well.

3. Failure to comply with permit terms, conditions, requirements and special provisions.

4. Failure to timely meter a well under Chapter 11.

5. Failure to timely submit accurate groundwater pumpage report.

6. Failure to obtain authorization before drilling test holes under Rule 3.80.

7. Failure to timely submit accurate groundwater transport report.

8. Failure to timely submit Groundwater Transport Fees.**

9. Failure to timely register any new well before drilling or completion pursuant to Rule 3.31.

10. Drilling a well at a different location than authorized or in violation of spacing or minimum tract size requirements under Chapter 6.*

11. Failure to close or cap an open or uncovered well.

12. Failure to timely plug an abandoned or deteriorated well.

13. Committing waste.

14. Discharging or allowing the escape of groundwater produced from a quarry into a creek, stream, river or other watercourse.

15. Failure of owner or operator of a quarry to timely obtain a required permit for the amount of consumptive use of groundwater produced at the quarry site.

16. Failure to curtail permitted production or use when mandatory drought reductions are in place.

CIVIL PENALTY SCHEDULE FOR MAJOR VIOLATIONS

First Violation:	**$500.00**
Second Violation:	**$1,000.00**
Third Violation:	**Civil Suit for injunction and damages**

A second violation shall be any major violation within three years of the first major violation. A third violation shall be any major violation following the second major violation within three years of the second major violation. Each day of a continuing violation constitutes a separate violation.

* In addition to the applicable penalty provided for in the Civil Penalty Schedule for Major Violations, persons who drill a well in violation of applicable spacing requirements may be required to plug the well.

** In addition to the applicable penalty provided for in the Civil Penalty Schedule for Major Violations, persons who do not submit all Groundwater Transport Fees due and owing within 60 calendar days of the date the fees are due pursuant to Rule 12.02(b) will be assessed a civil penalty equal to three times the total amount of outstanding Groundwater Transport Fees that are due and owing.

III. Water Well Construction, Completion, Sealing Requirements

Failure to use approved construction materials:	$250 + total costs of remediation
Fail to properly seal test holes pursuant to Rule 3.84:	$500 + total costs of remediation
Failure to properly cement annular space:	$500 + total costs of remediation

In addition to the civil penalties provided for in this schedule: (1) persons who drill a well in violation of applicable spacing or completion requirements may be required to re-complete or reconstruct the well in accordance with the District's rules, or may be ordered to plug the well; and (2) persons who fail to properly seal test holes may be required to re-seal the test holes.

IV. Other Violations of District Rules Not Specifically Listed Herein

Any violation of a District Rule not specifically set forth herein shall be presented to the Board of Directors for a determination of whether the violation is Minor or Major, based upon the severity of the violation and the particular facts and issues involved, whereupon the procedures and the appropriate civil penalty amount set forth herein for Minor and Major Violations shall apply to the violation.