# Red River Groundwater Conservation District

## Rules for Water Wells in Fannin and Grayson Counties, Texas

As Amended on October 20, 2022

*Procedural History of Rules Adoption*

*These rules of the Red River Groundwater Conservation District were initially adopted by the Board of Directors on August 29, 2011, at a duly posted public meeting in compliance with the Texas Open Meetings Act and following notice and hearing in accordance with Chapter 36 of the Texas Water Code. The rules were subsequently amended, in accordance with all legal requirements, on March 21, 2012, December 12, 2012, May 15, 2014, January 1, 2017, January 1, 2019, November 19, 2020, and on October 20, 2022.*

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# Groundwater Conservation District
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# Red River
# Groundwater Conservation District
# District Rules

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## PREAMBLE

The Red River Groundwater Conservation District ("District") was created in 2009 by the 81st Texas Legislature with a directive to conserve, protect and enhance the groundwater resources of Fannin and Grayson Counties, Texas. The District's boundaries are coextensive with the boundaries of Fannin and Grayson Counties, and all lands and other property within these boundaries will benefit from the works and projects that will be accomplished by the District.

The Mission of the Red River Groundwater Conservation District is to develop rules to provide protection to existing wells, prevent waste, promote conservation and recharge of the aquifers, provide a framework that will allow availability and accessibility of groundwater for future generations, protect the quality of the groundwater in the recharge zone of the aquifer, insure that the residents of Fannin and Grayson Counties maintain local control over their groundwater, and operate the District in a fair and equitable manner for all residents of the District.

The District is committed to manage and protect the groundwater resources within its jurisdiction 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 the District. The preservation of this most valuable resource can be managed in a prudent and cost effective manner through conservation, education, and management. Any action taken by the District shall only be after full consideration and respect has been afforded to the individual property rights of all citizens of the District.

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# SECTION 1.
# DEFINITION, CONCEPTS, AND GENERAL PROVISIONS

## *Rule 1.1 Definitions of Terms.*

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

(1) "Acre foot" means the standard measurement of groundwater necessary to cover one acre of land one foot deep, or approximately 325,851 U.S. gallons.

(2) "Aggregate Withdrawal" means the total pumpage measurement of the amount of water withdrawn from two or more wells in a well system from the same aquifer.

(3) "Agriculture use" (or "agricultural use") means any of the following activities:

1. cultivating the soil to produce crops for human food, animal feed, or planting seed, or for the production of fibers;

2. the practice of floriculture, viticulture, silviculture, and horticulture, including the cultivation of sod, and the cultivation of plants in containers or non-soil media, by a nursery grower;

3. raising, feeding, or keeping animals for breeding purposes or for the production of food or fiber, leather, pelts, or other tangible products having a commercial value;

4. planting cover crops, including cover crops cultivated for transplantation, or leaving land idle for the purpose of participating in any governmental program or normal crop or livestock rotation procedure;

5. wildlife management; and

6. raising or keeping equine animals.

(4) "Air gap" means the unobstructed vertical separation between the free flowing discharge end of the pipe supplying the well and an open or non-pressure receiving vessel.

(5) "Animal Feeding Operation" (AFO) means: (1) a lot or facility (other than an aquatic animal production facility) where animals have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and where the animal confinement areas do not sustain crops, vegetation, forage growth, or postharvest residues in the normal growing season over any portion of the lot or facility; or (2) any other facility regulated as an AFO or as a Concentrated Animal Feeding

Operation by the TCEQ.

(6) "Aquifer" means a water bearing geologic formation in the District.

(7) "Aquifer Storage and Recovery" means the injection of water into a geologic formation and the subsequent recovery for beneficial use by the project operator, as defined by TCEQ rules.

(8) "Artificial flow restrictors" means the term used to describe the prohibited devices that are capable of altering the measurement of a well's maximum capacity or flow rate, including, but not limited to, the following types of devices: dole valves installed above the wellhead, static head reducers, artificial head devices; and fixed energy dissipaters. Dole valves installed below the wellhead are not prohibited under Rule 4.4.

(9) "As equipped" for purposes of determining the capacity of a well means visible pipes, plumbing, and equipment attached to the wellhead or adjacent plumbing that controls the maximum rate of flow of groundwater and that is permanently affixed to the well or adjacent plumbing by welding, glue or cement, bolts or related hardware, or other reasonably permanent means.

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

1. agricultural, gardening, domestic, stock raising, municipal, mining, manufacturing, industrial, commercial, or recreational purposes;

2. exploring for, producing, handling, or treating oil, gas, sulfur, lignite, or other minerals; or

3. any other purpose that is useful and beneficial to the user that does not constitute waste.

(11) "Best available data" means conclusions that are logically and reasonably derived using statistical or quantitative data, techniques, analyses, and studies that are available for peer review by scientists in the field and can be employed to address a specific scientific issue.

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

(13) "Boundary survey" means a diagram showing the proposed location of a well in relation to distance from property boundaries and existing registered wells, as required by Rule 4.3(a).

(14) "Cap or "capped well" means covering a well with a securely fixed, removable device that will prevent the entrance of surface pollutants into the well. A well that is capped must have a covering capable of preventing surface pollutants from entering the well and sustaining weight of at least 400 pounds. The cap must be constructed in such a way that the covering cannot be easily removed by hand.

(15) "Closed-loop geothermal well" means a well that recirculates water or other fluids inside

a sealed system for heating or cooling purposes, and where no water is produced from the well or used for any other purpose of use.

(16) "Completed well" means a well, the construction of which has been completed, with sealed off access of undesirable water or constituents to the well bore by utilizing proper casing and annular space positive displacement or pressure tremie tube grouting or cementing (sealing) methods.

(17) "Contiguous" means property within a continuous perimeter boundary situated within the District. The term also refers to properties that are divided by a publicly owned road or highway or other easements if the properties would otherwise share a common border.

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

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

(20) "District Act" means the Act of May 25, 2009, 81st Leg., R.S., ch. 884, 2009 Tex. Gen. Laws 2313, codified at Tex. Spec. Dist. Loc. Laws Code Ann. ch. 8859 ("the District Act"), as may be amended from time to time.

(21) "Domestic use" means the use of groundwater by an individual or a household to support essential domestic activity. Such use includes water for: drinking, washing, or culinary purposes; use by multiple households that do not qualify as a Public Water System as defined in these Rules, as long as there is no consideration given or received, as set forth herein; residential landscape watering of no more than one (1) acre contiguous to one (1) residence; irrigation of a family garden and/or family orchard; recreation limited to the filling of residential swimming pools and hot tubs; or for watering of domestic animals. Domestic use does not include the following types of use: water used to support activities for which consideration is given or received or for which the product of the activity is sold; use by or for a Public Water System; irrigation of crops in fields or pastures; or water used for open-loop residential geothermal systems, but does include water for closed-loop residential geothermal systems.

(22) "Effective Date" means January 1, 2019, which is the date of adoption of permitting rules by the District.

(23) "Emergency purposes" means the use of groundwater to fight fires, manage chemical spills, and otherwise address emergency public safety or welfare concerns.

(24) "Exempt well" means a new or existing well that is exempt from permitting under these Rules, and is not required to have a Historic Use Permit or Production Permit to withdraw groundwater from an aquifer within the District.

(25) "Existing well" means a well that was in existence or for which drilling commenced on or before the Effective Date.

(26) "Gallons per minute" or "gpm" means the maximum production capacity or flow rate of a well as equipped, which can be measured by the District in accordance with these Rules.

(27) "General Manager" as used herein is the appointed chief administrative officer of the District, as set forth in the District's bylaws, or the District staff or other Board designee acting at the direction of the General Manager or Board to perform the duties of the General Manager.

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

(29) "Groundwater reservoir" means a specific subsurface water-bearing stratum.

(30) "Hearings Examiner" means a person appointed by the Board of Directors to conduct a hearing or other proceedings including but not limited to an administrative law judge employed by the State Office of Administrative Hearings (SOAH).

(31) "Historic Use Period" means the period from January 1, 2013 through December 31, 2018, in which water produced from a well or well system was put to beneficial use at any point during the duration of the period.

(32) "Historic Use Permit" means a permit required by the District for a non-exempt well or well system that produced water during the Historic Use Period and that has not been abandoned.

(33) "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.

(34) "Leachate well" means a well used to remove contamination from soil or groundwater

(35) "Livestock or poultry" means the use of groundwater associated with watering, raising, feeding, or keeping non-commercial livestock and/or poultry, of any variety, for subsistence or labor. The term also includes domesticated horses, cattle, goats, sheep, swine, poultry, and other similar animals involved in farming or ranching operations, on land recorded and taxed in the county as an agricultural land use. The term does not include the use of water for any animal that is stabled, confined, or fed at a facility that is defined as an Animal Feeding Operation.

(36) "Maintenance Purposes" means the use of water to flush mains, fire hydrants or tanks as required by TCEQ.

(37) "Management Plan" means the District Management Plan required under Section 36.1071, Texas Water Code, and as further described in these Rules.

(38) "Maximum Historic Use" means the largest volume of groundwater produced during a calendar year from an aquifer and beneficially used during the Historic Use Period, as demonstrated by production reports submitted to the District.

(39) "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 from a well or well system during a measure of time, as specifically set forth under Section 10.

(40) "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 for the groundwater resources in the District.

(41) "Modify" or "Modified" means performing work on the physical or mechanical components of the well head assembly or downhole portion of a well.

(42) "Monitoring well" means a well used solely for the purpose of measuring some property of the groundwater or the aquifer that it penetrates, and is not equipped with a pump. Wells with other uses can still be used to collect aquifer data in the District's Monitoring Program and not be considered a monitoring well for the purposes of these rules.

(43) "New well" means a water well for which an administratively complete registration application is filed with the District on or after the Effective Date, or conversion of another type of well or artificial excavation to a water well on or after the Effective Date, including but not limited to a well originally drilled for hydrocarbon production activities that is to be converted to a water well.

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

(45) "Notice to Proceed" means the official registration approval form issued by the District for new exempt wells.

(46) "Nursery grower" means a person who grows more than 50 percent of the products that the person either sells or leases, regardless of the variety sold, leased, or grown. For the purpose of this definition, "grow" means the actual cultivation or propagation of the product beyond the mere holding or maintaining of the item prior to sale or lease and typically includes activities associated with the production or multiplying of stock such as the development of new plants from cuttings, grafts, plugs, or seedlings.

(47) "Penalty" means a reasonable civil penalty set by rule under the express authority delegated to the District through Section 36.102(b) of the Texas Water Code.

(48) "Person" means an individual, corporation, Limited Liability Company, organization, government, governmental subdivision, agency, business trust, estate, trust, partnership, association, or other legal entity.

(49) "Pre-Effective Date Exempt Wells" means those existing wells that were exempt from the metering, reporting, and fee payment requirements under the District's Temporary Rules in effect prior to the Effective Date because they are used solely for domestic use or livestock or poultry use, regardless of well capacity, or that are equipped with a maximum production capacity of 27.7 gpm (40,000 gallons per day) or less, but that were required to be registered under the District's Temporary Rules.

(50) "Presiding Officer" means the President of the Board, or other Board member presiding at any hearing or other proceeding or a Hearings Examiner appointed by the Board to conduct or preside over any hearing or other District proceeding.

(51) "Production" or "producing" means the act of extracting groundwater from an aquifer by a pump or other method.

(52) "Production Permit" means a permit required by the District for a new, non-exempt well.

(53) "Public Water System" or "PWS" 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.

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

(55) "Purpose of use" means the type of beneficial use of the groundwater produced from a well.

(56) "Registrant" means a person required to submit a registration.

(57) "Registration" means a well owner providing certain information about a well to the District, as more particularly described under Section 3.

(58) "Replacement well" means a new well drilled to replace an existing registered well that meets the requirements set forth in Rule 4.5.

(59) "Rule" or "Rules" means these Rules of the District regulating water wells, which shall continue to be effective until amended or repealed.

(60) "Spacing Formula" means the total spacing distance required under Rule 4.2 for new wells that have a production capacity of greater than 17.36 gpm (25,000 gallons per day), which is calculated according to the following formula: 889 feet + [2.5 x (gpm of proposed well)].

(61) "Substantially alter" 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, modify the depth or diameter of a well bore, increase the production capacity of the well, or performing work on the well that involves reaming, setting casing, or grouting.

(62) "TCEQ" means the Texas Commission on Environmental Quality, or its predecessor or successor agency.

(63) "Temporary Rules" means the version of the District's Rules in effect prior to the Effective Date.

(64) Test Hole" means a small diameter exploratory borehole that is drilled for groundwater quantity and/or quality assessment prior to further drilling and construction of a full-diameter, cased well.

(65) "Tract" means a contiguous parcel of land under the ownership of a single entity, such as a corporation, partnership or trust, or an individual or individuals holding as joint owners or tenants in common.

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

(a) ownership; or

(b) the person authorized to exercise the right to make withdrawals and place the groundwater to beneficial use.

(67) "Variable Frequency Drive" or "VFD" means an automated adjustable speed device used to control pump motor speed.

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

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

(b) the flowing or producing of water from the aquifer by artificial means if the water produced is not used for a beneficial purpose;

(c) the escape of groundwater from the aquifer to any other underground reservoir or geologic stratum that does not contain groundwater;

(d) pollution or harmful alteration of groundwater in the 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 Chapters 11 or 26 of the 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; or

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

(69) "Well" means any artificial excavation located within the boundaries of the District that provides access to or causes groundwater to be withdrawn or removed from an aquifer within the District.

(70) "Well Completion Report" is a form that is developed by the District which includes information such as depth to water, permanent pump size and permanent pump production capacity.

(71) "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. A well owner may delegate the responsibility to act on his or her behalf in accordance with these Rules.

(72) "Well Report" is a form provided by the Texas Department of Licensing and Regulation that includes information such as well location, casing and screen data and lithology data.

(73) "Well system" means a well or group of wells connected by piping, storage, or that share or are tied to the same distribution system. Examples of a well system include, but are not limited to, a well or group of wells connected to the same ground storage tank, pond, or

swimming pool.

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

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

## *Rule 1.2 Authority of District.*

The Red River Groundwater Conservation District is a political subdivision of the State of Texas organized and existing under Section 59, Article XVI, Texas Constitution, Chapter 36, Texas Water Code, and the District Act. The District is a governmental agency and a body politic and corporate. The District was created to serve a public use and benefit.

## *Rule 1.3 Purpose of Rules.*

These Rules are adopted under the authority of Sections 36.101 and 36.1071(f), 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 Chapter 36, Texas Water Code, and the District Act.

## *Rule 1.4 Use and Effect of Rules.*

(a) 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. These rules create no rights or privileges in any person or water well, and shall not be construed to bind the Board in any manner in its promulgation of the District Management Plan, amendments to these Rules, or promulgation of permanent rules.

(b) The accurate and timely reporting to the District of activities governed by these Rules is a critical component to the District's ability to effectively and prudently manage the groundwater resources that it has been charged by law with regulating. The purpose of Section 3 is to require the submission, by the appropriate person or persons, of complete, accurate, and timely registrations, records, reports, and logs as required throughout the District Rules. Because of the important role that accurate and timely reporting plays in the District's understanding of past, current and anticipated groundwater conditions within the District, the failure to comply with these rules may result in the assessment of additional fees, civil penalties, or other enforcement action by the District, as specifically set forth in these Rules.

## *Rule 1.5 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, consistent with the objectives of Section 59, Article XVI, Texas Constitution.

## *Rule 1.6 Construction.*

A reference to a title or chapter without further identification is a reference to a title or chapter of the Texas Water Code. A reference to a section or rule without further identification is a reference to a section or rule in these Rules. 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.

## *Rule 1.7 Methods of Service Under the Rules.*

Except as provided in these rules, 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 recipient's last known address, by fax transfer to the recipient's current fax number or by e-mail and shall be accomplished by 5:00 p.m. 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 fax transfer is complete upon transfer, except that any transfer completed after 5:00 p.m. 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.

## *Rule 1.8 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.

## *Rule 1.9 Regulatory Compliance; Other Governmental Entities.*

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

## *Rule 1.10 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 which is neither a Saturday, Sunday, or legal holiday.

### *Rule 1.11 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 by the District 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.

### *Rule 1.12 Request for Reconsideration.*

To appeal a decision of the District, including any determinations made by the General Manager, concerning any matter not specifically covered under any other section of these rules, a request for reconsideration may be filed with the District within twenty (20) calendar days of the date of the decision. Such request for reconsideration must be in writing and must state clear and concise grounds for the request. The Board will make a decision on the request for reconsideration within sixty (60) calendar days thereafter. The failure of the Board to grant or deny the request for reconsideration within sixty (60) calendar days of the date of filing of the request for reconsideration shall constitute a denial of the request.

### *Rule 1.13 Amending of Rules.*

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

## SECTION 2.
## DISTRICT MANAGEMENT ACTIONS AND DUTIES

### *Rule 2.1 District Management Plan.*

Following notice and hearing, the District shall adopt a Management Plan. The District Management Plan shall specify 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 using the best available data. The District shall use the Rules to implement the Management Plan. The Board will review the Management Plan at least every five years. Upon adoption of Desired Future Conditions under Section 36.108 Texas Water Code, the District shall update its Management Plan within two years of the date of the adoption of the Desired Future Conditions. The District shall thereafter update its rules to implement the Management Plan within one year of the date the Management Plan is updated to include the adopted Desired Future Conditions. If the Board considers a new Management Plan necessary or desirable based on evidence presented at a hearing, a new Management Plan will be developed and adopted. A Management Plan, once

adopted, remains in effect until the subsequent adoption of another Management Plan.

# SECTION 3.
# WELL REGISTRATION AND PERMITTING

## *Rule 3.1 Well Registration Required.*

(a) Except as otherwise provided in this Section 3.1, all water wells must be registered with the District. All new, exempt wells require the issuance of a Notice to Proceed by the District prior to the drilling of the well. Issuance of a Notice to Proceed by the District evidences the District's review and approval of a registration application for a new, exempt well. All new, non-exempt wells require the issuance of a Production Permit by the District under Rule 3.9 prior to the drilling of the non-exempt well.

(b) The following wells are not required to be registered by the District:

(1) Pre-Effective Date Exempt Wells in existence or for which drilling commenced prior to April 1, 2012; and

(2) Leachate wells, monitoring wells, and piezometers.

Wells that meet the criteria of this subsection are, however, encouraged to be registered in order to receive the benefits of being classified as an existing well under these Rules, including but not limited to a consideration of the registered well in a review of a proposed new well's spacing requirements and during the permitting process for proposed new non-exempt wells. Wells not registered with the District are not considered in a review of a proposed new well's impact on existing wells.

(c) Failure of a well owner to timely register or amend the registration of a well under this rule shall subject the well owner to enforcement under these rules. A violation of this rule occurs on the first day that the drilling, alteration, modification, or operation occurs, and continues each day thereafter as a separate violation until cessation of the prohibited conduct, or until the well is registered or the registration is amended, as applicable.

(d) Existing wells that are not registered or for which an administratively complete registration application has not been filed with the District prior to the Effective Date will be presumed to be wells not in existence prior to the Effective Date. Those wells that are not deemed as existing wells under these Rules are considered to be new wells that are required to comply with the spacing requirements under Rule 4.2 and, for non-exempt wells, are not eligible for a Historic Use Permit.

(a) Test holes must be registered with the District in accordance with the terms of this rule. Test holes are not subject to registration fees charged by the District. A plugging report shall be submitted to the District within 30 days of the date the test hole is plugged in accordance with Rule 3.4(c). If any equipment is installed downhole or well construction

occurs, such as installation of a pump or casing, for example, the borehole would then be considered a well and is subject to the same requirements as a new well as set forth in the District rules.

## *Rule 3.2 Well Registration Application.*

(a) An owner or well driller, or any other person legally authorized to act on their behalf, must submit and obtain approval of a registration application, submit fees consistent with Rule 9.11. and submit a well report deposit to the District before any new well, except leachate wells or monitoring wells, may be drilled, equipped, or completed, or before an existing well may be substantially altered. For new, non-exempt wells, registration applications shall be submitted in addition to Production Permit applications.

(b) A person seeking to register a well shall provide the District with the following information in the registration application on a form provided by the District:

(1) the name and mailing address of the registrant and the owner of the property, if different from the registrant, on which the well is or will be located;

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

(3) a statement of the nature and purpose of the existing or proposed use of water from the well;

(4) the location or proposed location of the well, identified as a specific point measured by latitudinal and longitudinal coordinates;

(5) the location or proposed location of the use of water from the well, if used or proposed to be used at a location other than the location of the well;

(6) the production capacity or proposed production capacity of the well, as equipped, in gallons per day, and the horsepower rating of the pump, as assigned by the pump manufacturer;

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

(8) a statement that the water withdrawn from the well will be put to beneficial use; and

(9) any other information deemed reasonably necessary by the Board.

(c) 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 the Effective Date.

(d) Once a registration is approved as administratively complete by the District under Rule 3.3(b) and the well registration is completed, which for new wells also includes receipt by the District of the well report and well completion report required by Rule 3.4, the registration shall be perpetual in nature, subject to being amended or transferred and subject to enforcement for violations of these Rules.

(e) Notwithstanding any other rule to the contrary, the owner, driller, pump installer, or any other person authorized by the owner to complete or operate a new well, substantially alter any existing well, or modify, alter, or operate an existing non-exempt well are jointly responsible for ensuring that a well registration required by this section, or well registration amendment required by Rule 3.6, is timely filed with the District and contains only information that is true and accurate. Each will be subject to enforcement action if a registration or registration amendment required by this section is not timely filed by either, or by any other person legally authorized to act on his or her behalf.

## *Rule 3.3 General Provisions Applicable to Registrations.*

(a) Registration applications may be submitted to the District in person, by mail, by fax, or by internet submission, using the registration form provided by the District.

(b) A determination of administrative completeness of a registration application shall be made by the General Manager within thirty (30) business days after the date of receipt of an application for registration, which for new wells must include receipt of the well report deposit and fees consistent with Rule 9.11. If an application is not administratively complete, the District shall request the applicant to complete the application. The application will expire if the applicant does not complete the application within 120 days of the date of the District's request. A registration application will be considered administratively complete and may be approved by the General Manager without notice or hearing if:

(1) it substantially complies with the requirements set forth under Rule 3.2(b), including providing all information required to be included in the application that may be obtained through reasonable diligence; and

(2) if it is a registration for a new well:

(A) includes the well report deposit and well registration fee; and

(B) proposes a well that complies with spacing, location, and well completion requirements of Section 4.

A person may appeal the General Manager's ruling on a registration application by filing a written request for a hearing before the Board. The Board will hear the applicant's appeal at the next regular Board meeting. The General Manager may set the application for consideration by the Board at the next available Board meeting or hearing in lieu of approving or denying an application.

(c) Upon approval or denial of an application, the General Manager shall inform the registrant in writing of the approval or denial, as well as whether the well meets the exemptions provided in Rule 3.7 or whether it is subject to the permitting, metering, fee payment, and reporting requirements of these Rules.

(d) Except as provided under Subsection (e) of this section, a registrant for a new well has 240 days from the date of approval of the application for well registration to drill and complete the new well. If drilling has not completed within 240 days from the date of approval of the registration application, the well registration expires. However, a registrant may apply for one extension of an additional 240 days or may resubmit an identical well registration without the need to pay any additional administrative fee associated with the submittal of well registrations for new wells. Upon the expiration of a well registration, the District may process a resubmission of an expired registration application only upon the passage of thirty (30) calendar days from the date the previous registration application expired.

(e) A registrant for a new well that is required by state law to be approved by TCEQ prior to operation has 365 days from the date of approval of the registration application to drill and complete the new well, with up to two (2) 365-day extension options authorized under the same filing requirements under Subsection (d) if the well is not completed prior to the end of the applicable 365-day period. Any extension requested under this Subsection (e) shall be granted only upon the submission of proof that an extension is warranted as determined by the District. Upon the expiration of a well registration, the District may process a resubmission of an expired registration application only upon the passage of thirty (30) calendar days from the date the previous registration application expired.

(f) A registration application for a well may be filed prior to the filing of a Production Permit application for the well as required under Rule 3.9; provided, however, the Production Permit application must be filed, be declared administratively complete, and be acted on by the District Board within a timeframe that allows the well to be drilled according to the deadline set forth in Subsection (d) or (e) of this rule, as applicable.

(g) If the well report and well completion report is timely submitted to the District, and the flow test has been performed in accordance with section 11.4 and the District Flow Testing Procedures the District shall return the well report deposit to the owner or well driller. In the event that the well report, well completion report and flow testing requirements are not completed within the deadlines set forth in Rule 9.10, the driller or owner shall forfeit the well report deposit and may be subject to enforcement by the District for violation of this rule.

(h) All new wells must be drilled within 30 feet (10 yards) of the location specified in the Notice to Proceed.

(i) An application pursuant to which a registration has been issued is incorporated in the registration, and the registration is valid contingent upon the accuracy of the information

supplied in the registration application. A finding that false information has been supplied in the application may be grounds to refuse to approve the registration or to revoke or suspend the registration.

(j) Submission of a registration application constitutes an acknowledgment by the registrant of receipt of the rules and regulations of the District and agreement that the registrant will comply with all rules and regulations of the District.

(k) The District may amend any registration, in accordance with these Rules, to accomplish the purposes of the District Rules, Management Plan, the District Act, or Chapter 36, Texas Water Code.

(l) No person shall operate or otherwise produce groundwater from a well required under this section to be registered with the District before:

(1) timely submitting an accurate application for registration, or accurate application to amend an existing registration as applicable, of the well to the District; and

(2) obtaining a Notice to Proceed or a Production Permit issued by the District.

(m) A well registration application will not be approved if the well driller or pump installer has well reports, well completion reports, or flow tests related to other wells that are more than one hundred twenty (120) days past due in accordance with Rules 11.4 and 9.10.

## *Rule 3.4 Records of Drilling, Pump Installation and Alteration Activity, Plugging, and Capping.*

(a) Each person who drills, deepens, completes, 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 prescribed by the District or by the Texas Department of Licensing and Regulation. As part of the well report, an accurate drillers' log shall be kept of the water well in accordance with the rules of the Texas Department of Licensing and Regulation, and a copy of the log must be included with the well report and submitted to the District under the terms of this section.

(b) The person who drilled, deepened, completed or otherwise altered a well pursuant to this rule shall, within sixty (60) days after the date the well is drilled, deepened, completed or otherwise altered, file the well report described in Subsection (a) and the well completion report with the District. If a registrant fails to timely submit the well report within 60 days as required by this subsection, then the well registration will not be considered complete.

(c) Not later than the 30th day after the date a well is plugged, a driller, licensed pump installer, or well owner who plugs the well shall submit a plugging report to the District, which shall be substantially similar in form to the Texas Department of Licensing and Regulation Form a004WWD (Plugging Report) and shall include all information required

therein.

(d) The District requires wells to be capped under certain conditions to prevent waste, prevent pollution, or prevent further deterioration of well casing. The well must remain capped until such a time as the condition that led to the capping requirement is eliminated or repaired. A well must be capped in accordance with this rule if the well is inactive and the pump equipment is removed from a well with the intention of re-equipping the well at a later date for future use; provided, however that the casing is not in a deteriorated condition that could result in the commingling of water strata and degradation of water quality, in which case the well must be plugged or repaired in accordance with this rule. The cap must be capable of sustaining a weight of at least 400 pounds when installed on the well and must be constructed in such a way that the covering cannot be easily removed by hand. The driller, licensed pump installer, or well owner who caps a well shall submit to the District a well capping notice on a form provided by the District.

## *Rule 3.5 Transfer of Well Ownership.*

(a) Within ninety (90) days after the date of a change in ownership of a well that is required to be registered under these Rules, the new well owner (transferee) shall file with the District a Transfer of Well Ownership form that provides the name, daytime telephone number, and mailing address of the new well owner, along with any other contact or well-related information reasonably requested by the General Manager. The requirement under this rule to transfer well ownership shall also apply to capped or inactive wells.

(b) If a registrant 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 registration so that the transferring party (the transferor) is no longer the "well owner" as defined herein, and if an application for change of ownership under Subsection (a) has been approved by the District, the District shall recognize the person to whom such interests were conveyed (the transferee) as the legal holder of the registration, subject to the conditions and limitations of these District Rules.

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

(d) Notwithstanding any provision of this Rule to the contrary, no application made pursuant to Subsection (a) of this Rule shall be granted by the District unless all outstanding fees, penalties, and compliance matters have first been fully and finally paid or otherwise resolved by the transferring party (transferor) for all wells included in the application or existing registration, and each well and registration made the subject of the application is otherwise in good standing with the District.

(e) The new owner of a well that is the subject of a transfer described in this rule (transferee) may not operate or otherwise produce groundwater from the well after ninety (90) days from the date of the change in ownership until the new owner has submitted a Transfer of Well Ownership form if required under this rule.

## *Rule 3.6 Amendment of Registration.*

A registrant of an exempt well shall file an application to amend an existing registration and obtain approval by the District of the application prior to engaging in any activity that would constitute a substantial change from the information in the existing registration. For purposes of this rule, a substantial change includes a change that would substantially alter the pump or well, a change in the type of use of the water produced, the addition of a new well to be included in an already registered aggregate system, a change in location of a well or proposed well, a change of the location of use of the groundwater, or a change in ownership of a well. A substantial change to a non-exempt well requires a permit amendment application under Rule 3.15. A registration amendment is not required for maintenance or repair of a well if the maintenance or repair does not increase the designed production capabilities of the pump.

## *Rule 3.7 Permit Exclusions and Exemptions.*

(a) The permitting requirements of these Rules do not apply to:

(1) Wells exempt from registration under Rule 3.1(b);

(2) Pre-Effective Date Exempt Wells drilled or for which an administratively complete registration application is on file with the District prior to the Effective Date;

(3) Wells registered and drilled on or after the Effective Date that have a capacity to produce 17.36 gallons per minute or less, as equipped; and

(4) Wells used for certain limited oil and gas operations as specifically exempted from permitting only under Section 36.117(b) of the Texas Water Code.

(b) Wells exempt from the permitting requirements under Subsection (a)(4) shall meter, report and pay production fees based on groundwater produced from the well in accordance with the District Act and these Rules.

## *Rule 3.8 Historic Use Permits; Permit By Rule.*

(a) The owner of an existing, non-exempt water well or well system that was operational and produced groundwater during the Historic Use Period and was registered or for which an administratively complete registration application is on file with the District as of the Effective Date is eligible for a Historic Use Permit. Wells classified as non-exempt to which a Historic Use Permit may apply include those wells that were subject to the registration, metering, reporting and fee payment requirements under the District's Temporary Rules. Wells that qualify for a Historic Use Permit may be operated in the

same manner as the well was operated prior to the Effective Date until such time as a Historic Use Permit is approved by the District. Any changes to a well eligible for a Historic Use Permit prior to issuance of a Historic Use Permit by the District requires a well registration amendment under Rule 3.6.

(b) A Historic Use Permit shall be based on the Maximum Historic Use from the well during the Historic Use Period.

(c) Failure of an owner of a well or well system to have registered and been in compliance with District Rules prior to the Effective Date shall preclude the owner from making any future claim or application to the District for historic use under these Rules, and the owner is required to obtain a Production Permit in order to be able to produce groundwater.

(d) The District shall review the records of those owners with wells that qualify for a Historic Use Permit. After determining the Maximum Historic Use based on District records of production reports and fee payments during the Historic Use Period, the District shall send a letter to each well owner with a well that qualifies for a Historic Use Permit that includes a draft permit for review by the owner. The draft permit shall be signed by the General Manager and shall include the terms set forth in Rule 3.16.

(e) Wells drilled and completed within eighteen (18) months prior to the end of the Historic Use Period that have not been in operation for a full calendar year during the Historic Use Period are eligible to have the Historic Use Period extended until December 31, 2019, upon submission of a request on a form provided by the District. Such an extension is intended to allow for wells drilled within eighteen (18) months prior to the Effective Date the opportunity to demonstrate the amount of Maximum Historic Use of the well during a one (1) year period prior to the end of the extended Historic Use Period. The amount of Maximum Historic Use of a well under this Subsection (e) shall be demonstrated by meter reading and submitted on a form provided by the District.

(f) The General Manager or well owner eligible for a Historic Use Permit may refer or appeal the matter to the Board, as applicable, through a permit hearing held in accordance with Rule 5.3 to determine the amount of beneficial use from the well during the Historic Use Period.

## *Rule 3.9 Production Permit.*

The owner of a new, non-exempt well must obtain a Production Permit from the District prior to the drilling, construction, or operation of the well or well system. The owner of a new or existing well that is exempt from the District's permitting requirements, but is subsequently substantially altered in a manner which causes the well to lose its exempt status, must obtain a Production Permit. In addition, the owner of an existing well or well system that has obtained a Historic Use Permit for the well must obtain a Production Permit if any of the following apply:

(1) The permit holder intends to produce groundwater in excess of the amount authorized in a Historic Use Permit;

(2) The well or well system has been substantially altered in a manner that causes the well or well system to be capable of producing more groundwater from the same aquifer; or

(3) The purpose of use of the groundwater produced changes to another type of use other than that authorized in the Historic Use Permit.

## *Rule 3.10 Application Requirements for Production Permits.*

(a) Each original application for Production Permit must contain all of the information as set forth below in this rule. Application forms will be provided on the District's website and can be furnished to the applicant upon request. For well systems, the applicant shall provide the information required in this subsection for each well that is part of the well system. All applications for a permit shall be in writing and sworn to, and shall include the following:

(1) name, telephone number, fax number, and mailing address of the applicant and the owner of the land on which the well will be located;

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

(3) the location of each well, including a location map showing the proposed well location;

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

(5) a requirement that the water withdrawn under the permit be put to beneficial use at all times;

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

(7) the estimated rate at which water will be withdrawn from the well;

(8) a declaration that the applicant will comply with the District's Rules and all groundwater use permits and plans promulgated pursuant to the District's Rules;

(9) a water conservation plan or a declaration that the applicant will comply with the District's Management Plan;

(10) a water conservation plan and drought contingency plan, if the applicant is required to prepare a water conservation plan and drought contingency plan by other law, or for applicants that are not required by other law to have a drought contingency plan, a declaration that the applicant will comply with the District's

Drought Contingency Plan;

(11) a declaration that the applicant will comply with all District well plugging and capping guidelines and report closure to the District and the appropriate state agencies;

(12) if the groundwater is to be resold, leased, or otherwise transferred to others, whether inside or outside of the District, provide the location to which the groundwater will be delivered, the purpose for which the groundwater will be used, and a copy of the legal documents establishing the right for the groundwater to be sold, leased, or otherwise transferred, including but not limited to any contract for the sale, lease, or transfer of groundwater;

(13) for wells or well systems with a proposed aggregate production capacity of 200 gpm and above, a Hydrogeological Report that meets all of the requirements of the District's Hydrogeological Report Requirements and a declaration allowing the District to monitor the water levels in the well through a continuous measuring device installed on the well pursuant to Rule 3.16; and;

(14) information on whether the applicant has access to an alternative water source, including surface water or reuse/reclaimed water, as applicable based upon the purpose of use;

(15) information on whether the applicant has requirements in its ordinances and/or regulations that require future end users to install and maintain smart irrigation controllers (weather or soil moisture-based) on irrigation systems, as applicable;

(16) if groundwater is proposed to be transported out of the District, the applicant shall describe the following issues and provide documents relevant to these issues:

i. availability of water in the District and in the proposed receiving area during the period for which the water supply is requested;
ii. projected effect of the proposed transport on aquifer conditions, depletion, subsidence, or effects on existing permit holders or other groundwater users within the District; and
iii. how the proposed transport is consistent with the approved regional water plan and District Management Plan.

(b) Hydrogeological Reports required under Subsection (a)(13) and Rule 3.15 shall be submitted simultaneously with a Production Permit application and shall include all of the required elements of the District's Hydrogeological Report Requirements in order for the Production Permit application to be deemed administratively complete.

## *Rule 3.11 Administrative Completeness of Production Permit Application.*

The District shall promptly consider and act on each administratively complete application for a Production Permit that meets the requirements of Rule 3.10, includes the application fee

established by the District under Rule 9.11, and for which the applicant is in compliance with District Rules. If an application is not administratively complete, the District may request the applicant to complete the application as required by these Rules. The application will expire if the applicant does not complete the application within 60 (sixty) days of the date of the District's request or upon conclusion of an extension granted by the General Manager of the District.

## *Rule 3.12 Considerations for Granting or Denying a Permit Application.*

(a) Before granting or denying a Production Permit application, the District must consider whether:

(1) the application contains accurate information, all the information requested and is accompanied by the subscribed administrative fees;

(2) the water well(s) complies with Chapter 36 of the Texas Water Code, and these Rules, including but not limited to the spacing and production limitations identified in these Rules;

(3) the proposed use of water unreasonably affects existing groundwater and surface water resources or existing permit holders;

(4) the proposed use of water is dedicated to a beneficial use;

(5) the proposed use of water is consistent with the District's Management Plan;

(6) the applicant agrees to avoid waste and achieve water conservation;

(7) if the applicant is requesting water for the purposes of irrigating an acre or more of landscape, the applicant must agree to install and maintain a smart irrigation controller (weather or soil moisture-based) on the irrigation system;

(8) the applicant has access to an alternative water source, including surface water or reuse/reclaimed water, as applicable based upon the purpose of use;

(9) the applicant has requirements in its ordinances and/or regulations that require future end users to install and maintain smart irrigation controllers (weather or soil moisture-based) on irrigation systems, as applicable;

(10) the applicant has agreed that reasonable diligence will be used to protect groundwater quality and that the applicant will follow well plugging guidelines at the time of well closure; and

(11) for those hearings conducted by the State Office of Administrative Hearings, the Board shall consider the proposal for decision issued by the State Office of Administrative Hearings.

(b) The District, to the extent possible, shall issue permits up to the point the total volume of

exempt and permitted groundwater production will achieve the applicable Desired Future Conditions established for the aquifers in the District. In issuing permits, the District shall manage total groundwater production on a long-term basis to achieve the applicable Desired Future Conditions and shall consider:

(1) the Modeled Available Groundwater determined by the Executive Administrator of the Texas Water Development Board;

(2) the Executive Administrator of the Texas Water Development Board's estimate, as may be provided by the District, of the current and projected amount of groundwater produced under the exemptions in District Rule 3.7;

(3) the amount of groundwater authorized under permits previously issued by the District;

(4) a reasonable estimate of the amount of groundwater that is actually produced under permits issued by the District; and

(5) yearly precipitation and production patterns.

## *Rule 3.13 Permit Term.*

Except as otherwise specifically provided in the conditions of an individual permit, all permits are perpetual in nature; provided, however, that the District will conduct inspections and will request information from a permit holder from time-to-time as required to ensure the accuracy and integrity of the District's information, and to enforce compliance with District Rules, the District Act, and Chapter 36 of the Texas Water Code. Upon receipt of information that necessitates a permit amendment under Rule 3.15, the District shall notify the well owner in writing that a permit amendment is required prior to the initiation of the permit amendment process.

## *Rule 3.14 Aggregation of Withdrawal Among Multiple Wells.*

Multiple wells that are part of a well system that are owned and operated by the same person or entity may be aggregated under a single permit; provided, however, that wells owned by the same person or entity that produce from different aquifers are not aggregated for purposes of authorized production. All aggregated production shall be based on the maximum amount of production authorized from the specific aquifer, or subdivision thereof, from which the well system produces.

## *Rule 3.15 Permit Amendment.*

(a) Prior to undertaking any action that would exceed the maximum amount of groundwater authorized to be produced under a permit issued by the District, or a change to the location or purpose of use, the capacity of the well, or any other applicable term, condition or restriction of an existing permit, the permit holder must first apply for and obtain a permit

amendment. All applications for amendments to any permit issued by the District are subject to the considerations for Production Permits in Rule 3.12, and are subject to the notice and hearing procedures set forth in Rule 5.3. Changes requested to the purpose of use or to increase the amount of annual production under a Historic Use Permit require the issuance of a Production Permit prior to the changes being made.

(b) Requests to modify or increase an existing well or well system that would result in the existing well(s), in total, being equipped to produce 200 gallons per minute or more require the submission of a Hydrogeological Report under Rule 3.10(a)(13).

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

(d) The District may initiate an amendment to a permit as necessary and provided by these Rules. If the District initiates an amendment to a permit, the permit as it existed before the permit amendment process shall remain in effect until the conclusion of the permit amendment or process.

(e) Prior to the Board of Directors considering a permit amendment that includes groundwater use for irrigation, the District may require the permittee to conduct: i) Irrigation Inspection to be performed by a TCEQ Licensed Irrigation Inspector to identify irrigation deficiencies: and ii) lab testing of soil and water as determined by the Board.

## *Rule 3.16 Permits Subject to Conditions and Restrictions.*

(a) Permits issued by the District may be subject to the conditions and restrictions placed on the rate and amount of withdrawal, the Rules promulgated by the District, and terms and provisions with reference to the equipping of wells or pumps that may be necessary to prevent waste and achieve water conservation, minimize as far as practicable the drawdown of the water table or the reduction of artesian pressure, lessen interference between wells, or to achieve the Desired Future Conditions established for the aquifers in whole or in part within the boundaries of the District. The permittee, by accepting the permit, agrees to abide by any and all groundwater withdrawal regulations established by the District that are currently in place, as well as any and all regulations established by the District in the future. Acceptance of the permit by the person or entity to whom it is issued constitutes acknowledgment of, and agreement to comply with, all of the terms, provisions, conditions, limitations, and restrictions.

(b) All permits shall include, at a minimum, the following conditions:

(1) That the permit holder may not exceed the annual amount of production from a well or well system from the specific aquifer authorized under the permit, except as authorized by the District.

(2) The permit is granted subject to the District's rules, orders of the District Board of Directors, special provisions, permit conditions, and laws of the State of Texas,

including but not limited to Chapter 36 of the Texas Water Code and the District's enabling legislation codified at Chapter 8859 of the Special District Local Laws Code.

(3) Acceptance of the permit and production of groundwater under the authority granted constitutes acknowledgement and agreement that the permittee is required to abide by the precise terms of this permit and comply with the District's rules, orders of the District Board of Directors, special provisions, permit conditions, and laws applicable to the permit.

(4) Violation of the terms of the permit shall result in enforcement in accordance with the District's Enforcement Policy and Civil Penalty Schedule, Chapter 36 of the Texas Water Code, and the District's enabling legislation codified at Chapter 8859 of the Special District Local Laws Code.

(5) The permit does not confer any rights and/or privileges other than those expressly set forth herein**.**

(6) The well(s) identified in the permit shall be installed, equipped, operated, maintained, plugged, capped, or closed, as may be appropriate in accordance with the District's rules.

(7) Production shall not exceed the amount of authorized production set forth in the permit.

(8) Produced groundwater shall be put to a beneficial use at all times. Operation of the well(s) under the permit shall be conducted in a manner so as to avoid waste, pollution, or harm to groundwater resources.

(9) The well site shall be accessible to District representatives and/or agents for inspection during business hours and during emergencies. The permit holder agrees to cooperate fully in any reasonable monitoring or sampling of the well(s).

(10) A permit holder shall provide written notice to the District of any change of ownership, name of any authorized representative, well operator, mailing address or telephone number in accordance with District rules.

(11) The permit holder shall reduce water production as required by District rules and orders of the Board of Directors, including but not limited to proportional adjustments issued based on achievement of the District's Desired Future Conditions, and/or adjustments due to times of drought and in accordance with the District's Drought Contingency Plan, as applicable.

(12) For wells or well systems with a proposed aggregate production capacity of 200 gpm and above, the applicant must allow the District to monitor the water levels in the permitted well(s) by allowing a continuously measuring device to be installed on the well(s).

(13) The application and all information pursuant to which the permit has been granted is incorporated therein, and the permit has been granted based on the accuracy thereof. A finding that false information has been supplied to the District shall be grounds for immediate revocation of the permit, and shall subject the permit holder to enforcement.

(14) The permit contains all matters approved by the District related to the permittee's authority to use groundwater, and all other matters requested by the permit holder not included in the permit are denied.

(15) In the event of a conflict between the terms of the permit and the application and information pursuant to which the permit was granted, the terms of the permit shall prevail.

(16) Any other information, special conditions or restrictions deemed necessary by the District.

### *Rule 3.17 Emergency Authorization.*

(a) The General Manager or Board may grant an Emergency Permit authorizing the drilling, equipping, or operation of a well that complies with the spacing requirements of Rule 4.2. An Emergency Permit may be granted 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.

(b) An Emergency Permit may only be issued upon a finding 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) An Emergency Permit may be issued for a term determined by the Board or General Manager based upon the nature and extent of the emergency, but which shall in no event exceed sixty (60) days. Upon expiration of the term, the permit automatically expires and is cancelled.

## SECTION 4.
## SPACING AND LOCATION OF WELLS; WELL COMPLETION

### *Rule 4.1 Spacing and Location of Existing Wells.*

Wells drilled or for which an administratively complete registration application is filed prior to the Effective Date, shall be drilled in accordance with state law and District rules in effect on the

date such drilling commenced or the administratively complete registration application was filed, and are exempt from the spacing, location, and completion requirements of these rules to the extent that they were drilled lawfully.

## *Rule 4.2 Spacing Requirements for All New Wells*

(a) Except as authorized under Rule 4.3, all new wells for which a registration application is filed after the Effective Date shall be required to adhere to the spacing requirements of the District. The owner of a well or well system for which significant plans or funding related to the drilling thereof have been developed prior to the Effective Date may submit evidence to the District in order for the District to consider whether the well or well system qualifies under Rule 4.1 for spacing purposes only.

(b) The minimum distance from the property line for all new wells shall be fifty (50) feet for all aquifers within the District. The minimum distance from existing registered wells completed in the same aquifer is based upon the capacity of the proposed new well. Wells equipped so that the maximum production capacity is 17.36 gpm (25,000 gallons per day) or less are required to be located no less than one-hundred (100) feet from existing registered wells for all aquifers within the District. The Spacing Formula for new wells that are proposed to be equipped so that the maximum production capacity is more than 17.36 gpm (25,000 gallons per day) requires wells to be located at a total distance (in feet) of not less than the sum of 889 feet plus 2.5 multiplied by the maximum production capacity of the proposed well (in gpm) for all aquifers within the District. The following table summarizes the District's spacing requirements:

| **Minimum Spacing Requirements for All New Wells in the District** *Applies to all aquifers* | | |
|---|---|---|
| **Maximum Capacity of Well** | **Spacing from Property Line** | **Spacing from Existing Wells Completed in the Same Aquifer (in feet)** |
| 17.36 gpm or less | 50 feet | 100 feet |
| Greater than 17.36 gpm | 50 feet | 889 feet + [2.5 x (gpm of proposed well)] |

(c) A person who drills a well in violation of the applicable spacing requirements of this rule may be required to recomplete or reconstruct the well in accordance with the District's rules, and may be ordered to plug the well deemed to be in violation.

(d) An administratively complete registration application approved by the District or a spacing exception granted by the District Board pursuant to Rule 4.3 shall reserve a well site for the duration of time before the well is drilled or upon expiration of the deadline set forth in Rule 3.3(d) or (e), as applicable.

## *Rule 4.3 Exceptions to Spacing Requirements.*

(a) If an exception to the spacing requirements of the District is desired, a person shall submit an application on a form provided by the District. In the application, the applicant must explain the circumstances justifying an exception to the spacing requirements of the District. The application must include a boundary survey or sketch, drawn to scale, one inch equaling two-hundred (200) feet. The boundary survey or sketch must show the property lines in the immediate area and show accurately, to scale, all existing wells within the applicable spacing distance under Rule 4.2 of the proposed well site. The application and boundary survey or sketch must be certified by a person acquainted with the facts who shall state that the facts contained in the application are true and correct.

(b) An exception to the property line and existing well spacing requirements shall be automatically granted upon receipt of an application under Subsection (a) that includes evidence and a sworn statement by the landowner or well owner, as applicable, that the abutting land or existing well to which a spacing exception is requested is owned by the same person as the proposed well.

(c) An exception may be granted by the Board after written notice has been given by the applicant by mailing notice by certified mail, return receipt requested, to all existing registered wells or all adjacent property owners, as applicable, located within the minimum required distance from the proposed well site. Such an exception may only be granted by the Board after a public hearing at which all interested parties may appear and be heard, except as otherwise provided in Subsection (d). Proof of the mailed notice shall be given to the General Manager by the applicant no less than twenty (20) days prior to the date of the public hearing on the spacing exception request. The District may require the applicant or any interested party that appears or submits information protesting the spacing exception request to provide additional information in order for the Board to further evaluate the exception request.

(d) If all existing well and/or property owners within the applicable spacing distance for which an exception is sought execute a certified waiver in writing, stating that they do not object to the granting of the exception, the District may proceed, upon notice to the applicant only and without hearing, and take action to grant or deny the exception in full or in part.

(e) Grounds for granting a spacing exception from an existing well may include evidence that the well proposed in the application will produce groundwater from a different aquifer subdivision other than that of the existing wells within the minimum required distance from the proposed well.

(f) If the Board approves a spacing exception for a non-exempt well, the Board may limit the production of the well under the Production Permit to prevent or limit injury to existing well owners or the applicable aquifer or subdivision thereof.

## *Rule 4.4 Standards of Completion for All Wells.*

(a) 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. Artificial flow restrictors that can in any way affect the measurement of the capacity of a well as equipped are strictly prohibited until after the District has been able to perform a flow test on the well. Flow tests conducted by the District shall be completed according to the District's Flow Testing Procedure manual adopted by the District Board.

(b) In addition to the requirements under Subsection (a), all new wells, re-completed wells, and wells that are re-worked in a manner that involves removal of the pump from the well for any reason shall be equipped in such a manner as to allow the measurement of the water level in the aquifer supplying water to the well. The driller or well owner is responsible for ensuring that the completed well complies with this subsection.

(c) After the Notice to Proceed has been issued by the District, the well may only be drilled at a location that is within 30 feet (10 yards) of the location specified in the registration.

(d) Water well drillers shall indicate the method of completion performed on the well report and shall indicate the water level upon completion of the well.

(e) To prevent the commingling of water between the aquifers which can result in a loss of artesian (or static) head pressure or the degradation of water quality, each well penetrating more than one aquifer or subdivision thereof must be completed in a manner so as to prevent the commingling of groundwater between aquifers or between subdivisions of an aquifer if required by the Texas Water Well Drillers and Pump Installers Administrative Rules, Title 16, Part 4, Chapter 76, Texas Administrative Code. The driller shall indicate the method of completion used to prevent the commingling of water on the well report. The well driller may use any lawful method of completion calculated to prevent the commingling of groundwater.

(f) All wells drilled on or after January 1, 2017, must be equipped with either one of the following water quality control devices for the purpose of preventing the siphoning of external water and contaminants into the well:

(1) a backflow prevention device installed above ground so that it is readily accessible for maintenance or replacement; or

(2) an air gap installed at the well discharge location.

(g) Wells drilled on or after January 1, 2017, shall meet at least one of the following completion standards:

(1) the well shall be completed in a manner that exposes fourteen (14) inches or fifteen

(15) pipe diameters, whichever is greater, of straight and unobstructed discharge pipe above ground so that the District's flow metering measurement device can measure the flow rate;

(2) provide a threaded tee above ground with the same pipe diameter requirements as Subsection (1) and with valves arranged in a manner to divert 100% of the discharge to one side of the tee temporarily so that the District's flow metering device can measure the flow rate; or

(3) equip the well with a meter that is easily accessible and measures instantaneous flow rate.

(h) The District shall test the flow rate of all new wells through one of the following methods:

(1) At the well head before the well is tied into the system that it will ultimately serve; or

(2) Through a bypass installed immediately downstream of meter, but located within fifty (50) feet downstream of wellhead.

A "bypass" as the term is used in this rule means an installation downstream of the meter that is of equal size to the discharge pipe so that there is unobstructed flow for purposes of measuring the maximum flow capacity from a well. A Variable Frequency Drive installed on a well must be set at one-hundred percent (100%) speed during the flow test performed by the District.

## *Rule 4.5 Replacement Wells.*

(a) No person may replace an existing well without first having obtained authorization from the District. Authorization for the construction of a replacement well may only be granted following the submission to the District of an application for registration of a replacement well on a form provided by the District. Authority to replace an existing well applies only to wells registered as of the Effective Date. The application for registration of a replacement well shall include a diagram of the property that depicts both the proposed replacement well and the well being replaced, and any other existing structures on the property.

(b) Applications for replacement wells submitted under this rule may be granted by the General Manager without notice or hearing. An applicant may appeal the General Manager's ruling by filing a written request for a hearing before the Board. The Board will hear such an appeal at the next available regular Board meeting or hearing called for that purpose.

(c) A replacement well must be actually drilled and completed so that it is located within fifty (50) feet of the well being replaced. A replacement well shall be drilled in the same

aquifer as the well being replaced. A replacement well shall be drilled so that it is located farther away from the nearest existing registered well than the well being replaced if possible based on property configuration. The replacement well and pump must not be larger in designed production capacity than the well and pump being replaced.

(d) The well owner must cease all production from the well being replaced immediately upon commencing production from the replacement well, and must plug the well being replaced within ninety (90) days from the date that the replacement well is completed.

(e) For those applications submitted to replace a well that also include a request to increase the capacity of the replacement well beyond that of the well being replaced, the spacing requirements of Rule 4.2 shall apply only to the increase in capacity over that of the well being replaced. A Production Permit or permit amendment shall also be required for the increase in capacity over that of the well being replaced if required by Rules 3.9 or 3.15. Increasing the capacity of the replacement well from that being replaced will result in forfeiture of any applicable exemptions under Rule 3.7(a).

# SECTION 5.
# HEARINGS OF THE DISTRICT

## *Rule 5.1 Hearings Generally.*

(a) A public hearing may be held on any matter within the jurisdiction of the Board, or if the Board deems a hearing to be in the public interest or necessary to effectively carry out the duties and responsibilities of the District. The District conducts four general types of hearings under this Section:

(1) rulemaking or Management Plan 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;

(2) hearings involving the issuance of Production Permits or permit amendments, in which the rights, duties, or privileges of a party are determined after an opportunity for an adjudicative hearing;

(3) show cause hearings, in which the obligation and authority of the District to impose civil penalties is considered under specific relevant circumstances, as set forth in Rule 11.6; and

(4) hearings on the Desired Future Conditions proposed for the District.

(b) Any matter designated for hearing before the Board may be heard by a quorum of the Board, referred by the Board for a hearing before a hearing examiner, by a quorum of the Board along with an appointed hearing examiner who officiates during the hearing, or by the State Office of Administrative Hearings if required under Rule 5.4(b).

(c) Any hearing may be scheduled during the District's regular business hours, Monday through Friday of each week, except District holidays. All hearings shall be held at the location set forth in the notice. Any hearing may be continued from time to time and date to date without notice after providing the initial notice.

## *Rule 5.2 Rulemaking Hearings*

(a) Rulemaking hearing notice shall include a brief explanation of the subject matter of the hearing, the time, date, and place of the hearing, location or internet site at which a copy of the proposed rules may be reviewed or copied, if the District has a functioning internet site, and any other information deemed relevant by the General Manager or the Board.

(b) Not less than 20 calendar days prior to the date of the hearing, the General Manager shall:

(1) Post notice in a place readily accessible to the public at the District office;

(2) Provide notice to the county clerks within the District;

(3) Publish notice in one or more newspapers of general circulation in the District;

(4) Provide notice by mail, facsimile, or electronic mail to any person who has requested rulemaking hearing notice; and

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

(c) A person may submit to the District a written request for notice of a rulemaking hearing. A request is effective for the remainder of the calendar year in which the request is received by the District. To receive notice of a rulemaking hearing in a later year, a person must submit a new request. An affidavit of an officer or employee of the District establishing attempted service by first class mail, facsimile, or e-mail to the person in accordance with the information provided by the person is proof that notice was provided by the District.

(d) Failure to provide notice under Subsection (c) does not invalidate an action taken by the District at a rulemaking hearing.

(e) A person participating in a rulemaking hearing shall complete a hearing registration form stating the person's name, address, and whom the person represents, if applicable.

(f) The District shall prepare and keep a record of each rulemaking hearing in the form of an audio or video recording or a court reporter transcription.

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

about contemplated rules.

## *Rule 5.3 Permit Hearings.*

(a) If the General Manager or Board schedules a hearing on an application for a Historic Use Permit, Production Permit, permit amendment or permit revocation, the General Manager shall give notice of the hearing as provided in this section. The General Manager or Board may schedule more than one permit application for consideration at a hearing.

(b) Any person having an interest in the subject matter of a permit 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. Failure by the District to provide written notice to a person under this Subsection does not invalidate any action taken by the Board.

(c) Not later than the 10th day before the date of a permit hearing, the General Manager shall:

(1) Post notice at a place readily accessible to the public in the District office;

(2) Provide notice to the county clerk of all counties within the District, whereby the county clerks must post the notice on a bulletin board at a place convenient to the public;

(3) Provide notice by regular mail to the applicant; and

(4) Provide notice by mail, fax, or email to any person who has specifically requested to receive notices of permit hearings.

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

(1) the name and address of the applicant;

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

(3) a brief explanation, including any requested amount of groundwater, the purpose of the proposed use, and any change in use, if applicable;

(4) a general explanation of the manner by which a person may contest the permit, or permit amendment;

(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.

(e) An administratively complete application shall be set for a hearing within sixty (60) days

after the date the application is determined to be administratively complete. A hearing shall be held within thirty-five (35) days after the setting of the date, and the District shall act on the application within sixty (60) days after the date the final hearing on the application is concluded.

## *Rule 5.4 Contested Permit Hearings*

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

(1) The name, address, telephone number and email address of the person filing the request. If the request is made by a group or association, the request must identify the primary contact person responsible for receiving all official communications on behalf of the group or association;

(2) The person or entity's personal justiciable interest affected by the application and proposed withdrawal, including a statement demonstrating how that interest is not common to members of the general public; and

(3) Specifically request a contested hearing.

(b) A request for a contested hearing to be conducted by the State Office of Administrative Hearings pursuant to Section 36.416 of the Texas Water Code shall be made not later than three (3) calendar days before the scheduled hearing date. If timely requested under this section, the District shall contract with the State Office of Administrative Hearings to conduct the hearing on the application.

## *Rule 5.5 Preliminary Hearing for Contested Application.*

(a) Upon the timely filing of a contested hearing request that meets the requirements of Rule 5.4, the District shall schedule a preliminary hearing on the application. The preliminary hearing may be conducted by a quorum of the Board, a Hearing Examiner, or the State Office of Administrative Hearings.

(b) Parties to a contested hearing shall be designated at the preliminary hearing. Unless the District is required to contract with the State Office of Administrative Hearings to conduct the contested hearing, the District may conduct the preliminary hearing on the same day and immediately before the evidentiary hearing on an application.

(c) If the District determines that no person requesting a contested hearing has standing or that no justiciable issues are presented, the Board may take any action authorized under Rule 5.6(a).

## *Rule 5.6 Action on Uncontested Application.*

(a) The Board may take action on any uncontested application at a properly noticed public meeting held at any time after the public hearing at which the application is scheduled to be heard. The Board may issue a written order to:

(1) grant the permit application;

(2) grant the permit application with special conditions; or

(3) deny the permit application.

(b) An applicant may, not later than the 20th day after the date the Board issues an order granting the application, request a contested case hearing if the order:

(1) includes special conditions that were not part of the application as finally submitted; or

(2) grants a maximum amount of groundwater production that is less than the amount requested in the application.

## *Rule 5.7 Contested Case Hearings Conducted by the State Office of Administrative Hearings.*

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

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

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

(d) The District Board may change a finding of fact or conclusion of law made by the

administrative law judge, or may vacate or modify an order issued by the administrative judge, only if the Board determines:

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

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

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

## *Rule 5.8 Procedures for Permit Hearings Conducted by the District*

(a) Authority of Presiding Officer: The Presiding Officer may conduct the hearing or other proceeding in the manner the Presiding Officer deems most appropriate for the particular hearing. The Presiding Officer has the authority to:

(1) set hearing dates, other than the hearing date set by the General Manager or Board under Rule 5.3;

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

(3) designate the parties to a hearing;

(4) admit evidence that is relevant to an issue at the hearing, exclude evidence that is irrelevant, immaterial, or unduly repetitious, and rule on motions and on the admissibility of evidence;

(5) establish the order for presentation of evidence;

(6) administer oaths to all persons presenting testimony;

(7) examine witnesses;

(8) ensure that information and testimony are introduced as conveniently and expeditiously as possible, without prejudicing the rights of any person participating in the proceeding;

(9) conduct public hearings in an orderly manner in accordance with these rules;

(10) recess any hearing from time to time and place to place; and

(11) exercise any other appropriate powers necessary or convenient to effectively carry out the responsibilities of Presiding Officer.

(b) Hearing Registration Forms: Each person attending and participating in a permit hearing of

the District must submit on a form provided by the District the following information: the person's name; the person's address; who the person represents if other than himself; whether the person wishes to provide public comment or testify; and any other information relevant to the hearing.

(c) 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.

(d) Any interested person may appear at a hearing in person or may appear by representative provided the representative is fully authorized to speak and act for the principal. Such person or representative may present evidence, exhibits, or testimony, or make an oral presentation as determined by the Board. Any partner may appear on behalf of a partnership. A duly authorized officer or agent of a public or private corporation, political subdivision, governmental agency, municipality, association, firm, or other entity may appear on behalf of the entity. A fiduciary may appear for a ward, trust, or estate. A person appearing in a representative capacity may be required to prove proper authority.

(e) After the Presiding Officer calls a hearing to order, the Presiding Officer shall announce the subject matter of the hearing and the order and procedure for presentation.

(f) The Presiding Officer may prescribe reasonable time limits for the presentation of evidence and oral argument.

(g) If the Board has not acted on the application, in the discretion of the Presiding Officer, any person who testifies at a hearing may supplement that testimony by filing additional written material with the Presiding Officer within ten (10) days after the date of conclusion of the hearing. A person who files additional written material with the Presiding Officer must also provide the material, not later than the 10th day after the date of the hearing, to any person who provided comments on an uncontested application or any party to a contested hearing. A person who receives additional written material under this Subsection may file a response to the material with the Presiding Officer not later than the 10th day after the date the material was received. Cumulative, repetitive, and unduly burdensome evidence filed under this Subsection will not be considered by the Board.

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

(i) Written testimony: When a proceeding will be expedited and the interest of the persons participating in the hearing will not be prejudiced substantially, testimony may be received

in written form. The written testimony of a witness, either in narrative or question and answer form, may be admitted into evidence upon the witness being sworn and identifying the testimony as a true and accurate record of what the testimony would be if given orally. On the motion of a party to the hearing, the Presiding Officer may exclude written testimony if the person who submits the testimony is not available for cross-examination by phone, a deposition before the hearing, or other reasonable means.

(j) No person will be allowed to appear in any hearing or other proceeding whose appearance, 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. A record of a 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.

## *Rule 5.9 Board Action.*

The Board shall act on a permit or permit amendment application not later than the 60th day after the date the final hearing on the application is concluded. For hearings conducted by the State Office of Administrative Hearings, the Board shall make the final decision on the application within 60 days after the issuance of the proposal for decision by the State Office of Administrative Hearings. In a hearing in which the District has contracted with the State Office of Administrative Hearings to conduct the contested case hearing, the Board has the authority to make a final decision on consideration of a proposal for decision issued by the State Office of Administrative Hearings administrative law judge consistent with Section 2001.058, Texas Government Code.

## *Rule 5.10 Request 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 appeal a decision of the Board by requesting written findings of fact and conclusions of law within twenty (20) calendar days of the date of the Board's decision. 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 and conclusions to the party who requested them, and to each designated party, not later than the 35th day after the date the Board receives the request.

(b) A party who receives a certified copy of the findings and conclusions from the Board may request a rehearing before the Board not later than the 20th day after the date the Board issues the findings and conclusions. In a contested case, a party must first make a request for written findings and conclusions under District Rule 5.10 before any party to the contested case may submit a request for rehearing under this rule.

(c) A request for rehearing must be filed with the District in writing and must state clear and concise grounds for the request. The person requesting a rehearing must provide copies of the request to all parties to the hearing. With respect to any decision or action of the Board in a contested case, such a request for rehearing is mandatory before any appeal to District Court may be brought. Any appeal to District Court shall be limited to the issues and grounds raised in the motion for rehearing.

### *Rule 5.11 Final Decision.*

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

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

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

(A) the Board denies the request for rehearing either expressly or by operation of law; or

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

(b) Except as provided by Subsection (c), an applicant or a party to a contested hearing may file suit against the District under Section 36.251, Texas Water Code, to appeal a decision on a permit or permit amendment application not later than the 60th day after the date on which the decision becomes final.

(c) An applicant or a party to a contested hearing may not file suit against the District under Section 36.251, Texas Water Code, if a request for rehearing was not filed on time.

## SECTION 6.
## PRODUCTION LIMITATIONS; DROUGHT BUFFER; MANAGEMENT ZONE AND PROPORTIONAL REDUCTION AUTHORITY

### *Rule 6.1 Production Limits for Permits.*

The District shall designate the maximum quantity of groundwater authorized to be produced on an annual basis under each Historic Use Permit and Production Permit issued by the District pursuant to the conditions of the District Act, Chapter 36 of the Texas Water Code, the Desired Future Conditions established by Groundwater Management Area 8, as adopted by the District, in which the District is located for the aquifers located in whole or in part within the boundaries of the District, and these Rules. Except as otherwise provided in these Rules, the quantity withdrawn under a Historic Use Permit or Production Permit shall not exceed the maximum amount of groundwater designated in the permit issued by the District.

## *Rule 6.2 Temporary Drought Buffer.*

(a) The District shall adopt a Drought Contingency Plan that establishes voluntary conservation strategies applicable to various drought stages declared by the District. The drought stages set forth in the Drought Contingency Plan shall be based upon those recognized by the Texas Water Development Board, as follows:

(1) Abnormally dry conditions;

(2) Drought – Moderate;

(3) Drought – Severe;

(4) Drought – Extreme; and

(5) Drought - Exceptional

(b) The declaration of each drought stage under the Drought Contingency Plan shall occur based on the most recent Texas Water Development Board Monthly Drought Report as specified for the counties within the District. In the event one or more of the counties within the District are at least partially included in a Drought-Extreme or Drought-Exceptional status, the District's Drought Buffer shall apply to some or all of the permits issued by the District as determined according to the District's Drought Contingency Plan. Issuance of a Drought Buffer declaration by the District according to the Drought Contingency Plan shall result in the affected permits' production limits set forth under Rule 6.1 being adjusted upward by fifteen percent (15%) of the maximum quantity of groundwater authorized under the permit. The Drought Buffer shall remain in place until the District suspends the Drought Buffer under this rule based upon improvement of the drought status according to the Texas Water Development Board Monthly Drought Report.

## *Rule 6.3 Authority to Establish Management Zones.*

(a) Using the best hydrogeologic and other relevant scientific data readily available, the Board by resolution may create specific 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) assess water quality;

(3) establish more restrictive spacing requirements;

(4) authorize total production and make proportional adjustments to permitted

withdrawals; and

(5) otherwise undertake efforts to manage the groundwater resources in a manner that is consistent with the District Act, Chapter 36, Texas Water Code, and that aids in the attainment of all applicable Desired Future Conditions established for the aquifers located in whole or in part within the boundaries of the District.

(b) In creating management zones, the Board shall attempt to establish zone boundaries that will promote fairness and efficiency by the District in its management of groundwater, while considering hydrogeologic conditions and the Desired Future Conditions established for the aquifers located in whole or in part within the boundaries of the District.

## *Rule 6.4 Proportional Adjustment.*

(a) The Board, by resolution, may establish proportional adjustment reductions to alter the amount of production allowed from an aquifer within the District if reductions are required under these rules, and/or if reductions are required within one or more Management Zones, if necessary to avoid impairment of and to achieve the applicable Desired Future Conditions established for the aquifers located in whole or in part within the boundaries of the District.

(b) When establishing proportional adjustment restrictions, the Board shall first set aside an amount of groundwater equal to an estimate of total exempt use for each aquifer. If the proportional adjustment restrictions are to be imposed for a particular aquifer in a particular Management Zone, the Board shall first set aside an amount of groundwater equal to an estimate of total exempt use for each aquifer within that particular Management Zone.

(c) After first setting aside an amount of groundwater for exempt use for each aquifer, the Board shall allocate groundwater next to Historic Use Permits according to the permitted amount in each or a proportion thereof, and then to Production Permits according to the permitted amount in each or a proportion thereof.

(d) When establishing proportional adjustment restrictions that contemplate the reduction of authorized production, the Board may choose to proportionately reduce existing permits on a pro rata basis according to the order stated herein to allow for new production.

## *Rule 6.5 Issuance of New Production Permits.*

In a management zone where the Board has already established proportional adjustment regulations, new Production Permits may be issued by the District for production in the management zone only if the management zone contains groundwater available for permitting after the District has made any and all proportional adjustments to existing permits in a manner that is consistent with the achievement of the Desired Future Conditions established for the aquifers located in whole or in part within the boundaries of the District.

# SECTION 7.
# AQUIFER STORAGE AND RECOVERY WELLS AND BRACKISH PRODUCTION ZONES

## *Rule 7.1 Registration Required.*

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

## *Rule 7.2 No Permit Required; No Water Use Fee Imposed on Authorized Recovery.*

Except as provided by Rule 7.3, no permit is required for the drilling, equipping, or operation of an Aquifer Storage and Recovery injection or recovery well authorized by TCEQ. Similarly, no water use fee or transport fee will be imposed on the volume of groundwater authorized by TCEQ to be recovered under an Aquifer Storage and Recovery project. The District may, however, assess a well registration fee or other similar administrative fee for an Aquifer Storage and Recovery well.

## *Rule 7.3 Exceeding Authorized Recovery Volume.*

(a) If an Aquifer Storage and Recovery project recovers an amount of groundwater that exceeds the volume authorized by the TCEQ to be recovered under the project, the project operator shall immediately report to the District the volume of groundwater recovered that exceeds the volume authorized to be recovered in addition to providing the reports required by Rule 7.1.

(b) The recovery wells associated with an Aquifer Storage and Recovery project are subject to the District's spacing, permitting, metering, production and fee payment requirements if the amount of groundwater recovered from the wells exceeds the authorized volume to be recovered under the project. The District's spacing, permitting, metering, production and fee payment requirements only apply to the volume of groundwater recovered that exceeds the recovery volume authorized by the TCEQ.

## *Rule 7.4 Desired Future Conditions Planning.*

The District may consider hydrogeologic conditions related to the injection and recovery of water as part of an Aquifer Storage and Recovery project in the planning related to, and monitoring of the achievement of, a Desired Future Condition for the aquifer in which the injection and recovery wells associated with the project are located.

### *Rule 7.5 Adoption of Rules for Permits in Brackish Production Zones*

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

## SECTION 8.
## TRANSPORTATION OF GROUNDWATER OUT OF THE DISTRICT

### *Rule 8.1 General Provisions.*

(a) A person who produces or wishes to produce water from a well located within the District and transport such water for use outside of the District must report and submit timely payment of any applicable Groundwater Transport Fee to the District under Rule 9.3 for any water transported out of the District. The District may require the person 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.

(b) The District may not, in a manner inconsistent with rules and fees applied to production and use occurring wholly within the boundaries of the District, regulate production of groundwater or assess fees against the transport of water produced in an area of a retail public utility that is located inside the District boundaries and transported for use to an area that is within the same retail public utility but that is located outside the District boundaries.

### *Rule 8.2 Reporting.*

A person transporting groundwater for use outside of the District and subject to the requirement to pay the Groundwater Transport Fee shall file quarterly reports with the District describing the amount of water transported and used outside the District. The report shall be filed with the District in the same manner, for the same reporting periods, and by the same deadlines set forth for Water Production Reports under Rule 9.1. The report for groundwater transported shall be on the appropriate form provided by the District and shall state the following:

(1) the name of the person;

(2) the well registration numbers of each well from which the person has produced groundwater transported for use outside the District;

(3) the total amount of groundwater produced from each well or well system during the immediately preceding reporting period;

(4) the total amount of groundwater transported outside of the District from each well, well system or surface impoundment containing produced groundwater during each month of the immediately preceding reporting period;

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

(6) any other information requested by the District.

# SECTION 9.
# WATER PRODUCTION REPORTING AND FEES

## *Rule 9.1 Water Production Reports.*

The owner of any non-exempt well within the District must submit, through regular mail, facsimile, electronic mail, hand delivery, or the District's online reporting system, a quarterly report on a form provided by the District. The District may also review and consider annual water system loss reports submitted by public water systems to the Texas Water Development Board, which are publicly available on the Texas Water Development Board's website.

(a) There shall be four quarterly reporting periods each year: January 1 to March 31, April 1 to June 30, July 1 to September 30, and October 1 to December 31. The report for each quarter shall be due no later than 30 days after the last day of the applicable quarterly reporting period. To comply with this rule, each water meter required to be installed under these Rules shall be read and recorded on a meter log within ten (10) days before or after the last day of each month, which shall be reported to the District on a quarterly basis. Additionally, to comply with this rule, all applicable information required under Subsection (a) must be contained in the water production report filed with the District.

(b) The report required by Subsection (a) must also include a true and correct copy of the meter log required by District Rule 10.5. Once the District makes on-line submission of water production reports and meter logs available by internet to well owners, all such reports and logs may be submitted via internet.

(c) If a non-exempt well owner is not using an existing well and would like to be exempt from the requirement to submit quarterly production reports, the well owner can enter the well into the District's Well Monitoring Program. The well owner must contact the District to first see if the well is a candidate for the District's Well Monitoring Program. By entering the well into the program, the well owner agrees that District staff will visit the site at least annually to collect data and to confirm no usage on the meter during the visit(s).

## *Rule 9.2 Water Use Fees.*

(a) A water use fee rate schedule shall be established by Board resolution annually at least 60 days before the end of the calendar year. The Board may adopt a different water use fee rate for water used for agricultural purposes than for water used for non-agricultural purposes. The rate shall be applied to the groundwater pumpage in the ensuing calendar year for each non-exempt well. The District will review the account of any person changing the use of a well from non-exempt to exempt or vice versa to determine if additional water use fees are due or if a refund of water use fees is warranted.

(b) No later than 30 days prior to the end of the calendar year, the District shall send by regular mail or e-mail to the owner or operator of each registered well that is required to pay the Water Use Fee a reminder statement setting forth the water use fee rate applicable to the water produced in the ensuing year, setting forth deadlines for submission of fee payments and production reports of meter readings, and other information deemed appropriate by the District.

(c) Groundwater produced from a well during its development or rehabilitation, including groundwater used in a pump test, is exempt from the requirements relating to the payment of fees under Section 9 and the requirement to install and maintain a meter under Section 10. A Water Production Report that complies with Rule 9.1 must be submitted to the District providing all usage under this subsection. For unmetered usage, the Water Production Report submitted under this subsection shall provide an estimated amount of use based on acceptable estimation methods, including but not limited to electricity usage or calculation of usage based on run time at the known flow measurement rate. A well no longer qualifies for the fee payment and metering exemptions authorized by this subsection once the well is placed into operation, unless the well is otherwise exempt under Rule 3.7(a).

## *Rule 9.3 Groundwater Transport Fees.*

The District may impose a Groundwater Transport Fee in accordance with the authority set forth in Section 36.122(e) of the Texas Water Code. The procedures, requirements, and penalties related to payment of the Water Use Fee shall apply to payment of the Groundwater Transport Fee. Groundwater Transport Fees shall not be imposed on a water supplier that withdraws groundwater from a well located in the District and that distributes the water to any part of the territory within the water supplier's certificate of convenience and necessity (CCN) issued by the Texas Commission on Environmental Quality, or its predecessor or successor agency, that is outside the boundaries of the District. Groundwater Transport Fees shall also not be imposed on a person that produces groundwater from a well located in the District, but who uses the water outside the boundaries of the District, only if the property where the well is located and the water is used is contiguous and owned by the same person.

## *Rule 9.4 Payments of Water Use and Groundwater Transport Fees.*

(a) All fees for groundwater production or transport in a calendar year must be paid to the District based on quarterly production. All water production reports, monthly logs, and

groundwater transport reports will be due no later than 30 days from the end of the applicable quarterly reporting period in accordance with Rule 9.1. All payments that are due to the District must be paid no later than 60 days from the end of the applicable quarterly reporting period.

(b) Any well that is subject to fee payment under this Rule and that provides water for both agricultural and non-agricultural purposes shall pay the water use fee rate applicable to non-agricultural purposes for all water produced from the well, unless the applicant can demonstrate through convincing evidence to the satisfaction of the District that a system is or will be in place so as to assure an accurate accounting of water for each purpose of use.

## *Rule 9.5 Summary of Applicable Meter Reading, Reporting and Water Use Fee Payment Deadlines.*

The following chart summarizes Rules 9.1, 9.4, and 10.5 regarding the deadlines for meter readings, production reporting and water use fee payments that must occur on a quarterly basis:

| **Applicable Quarterly Reporting Period** | **Water Meter Reading Must Occur and Be Recorded on Monthly Meter Log Between** | **Water Production Report Deadlines (Date by Which Report of Monthly Usage Must be Submitted to District)** | **Water Use Payment Deadlines** |
|---|---|---|---|
| Quarter 1: January 1 to March 31 | January 21 to February 10<br><br>February 18 to March 11 (additional day added into end of timeframe to account for leap years)<br><br>March 21 to April 10 | April 30 | May 30 |
| Quarter 2: April 1 to June 30 | April 20 to May 10<br><br>May 21 to June 10<br><br>June 20 to July 10 | July 30 | August 29 |
| Quarter 3: July 1 to September 30 | July 21 to August 10<br><br>August 21 to September 10<br><br>September 20 to October 10 | October 30 | November 29 |
| Quarter 4: October 1 to December 31 | October 21 to November 10<br><br>November 20 to December 10<br><br>December 21 to January 10 | January 30 | March 1*<br>*deadline automatically extended by one day during leap years for consistency |

## *Rule 9.6 Failure to Make Fee Payments.*

(a) Payments not received pursuant to the deadline established under Rule 9.4(a) will be subject to a late payment fee, in accordance with the District's Fee Schedule, of the total amount of water use fees due and owing to the District.

(b) Persons failing to remit all Water Use Fees or Groundwater Transport Fees due and owing to the District within 60 days of the date such fees are due pursuant to Rule 9.4(a) shall be subject to a civil penalty not to exceed three times the amount of the outstanding fees due and owing, in addition to the late fee penalty prescribed in Subsection (a) of this Rule, and may be subject to additional enforcement measures provided for by these Rules or by order of the Board.

## *Rule 9.7 Failure to Submit Water Production Reports*

(a) Water Production Reports not received by the deadline of not later than thirty (30) days after the last day of the applicable quarterly reporting period pursuant to Rule 9.1 will be subject to a late fee in accordance with the District's Fee Schedule.

(b) Persons failing to submit Water Production Reports within sixty (60) days after the last day of the applicable quarterly reporting period pursuant to Rule 9.1 shall be subject to a civil penalty as set forth in the District's Enforcement Policy and Civil Penalty Schedule in Appendix A.

## *Rule 9.8 Penalty for Production in Excess of Maximum Amount Authorized by Permit or Rule.*

(a) Except as specifically authorized under Rule 6.2, no person may withdraw, or cause to be withdrawn, groundwater within the District's boundaries in an amount that exceeds the maximum amount specifically authorized by these Rules or in any permit issued by the District. Persons withdrawing, or causing to be withdrawn, groundwater in an amount that exceeds the specific amount authorized for withdrawal in the applicable District permit shall be subject to an automatic penalty of three (3) times the applicable water use fee rate for the first occurrence and for Agricultural use only the penalty is $3 per acre-foot. Such excess production penalty shall accrue in addition to, and shall be due at the same time as, the final quarterly production payment due to the District under Rule 9.4 for production from the previous calendar year.

(b) Any production in violation of Subsection (a) of this section that occurs within three (3) calendar years of a first occurrence of excess production shall result in an automatic penalty of ten (10) times the applicable water use fee rate, $10 per acre-foot for Agricultural use only, and shall result in initiation of an automatic permit amendment by the District.

## *Rule 9.9 Returned Check Fee.*

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

## *Rule 9.10 Well Report Deposit.*

The Board, by resolution, may establish a well report deposit to be held by the District as part of the well registration procedures. The District shall return the deposit to the depositor if all relevant well reports, logs and District well completion reports are timely submitted to the District in accordance with Rule 3.4(b). In the event the District does not timely receive all relevant well reports, logs and District well completion reports, or if rights granted within the registration are not timely used, the deposit shall become the property of the District. In addition, the well report deposit will not be returned if the District is unable to flow test the new well in accordance with section 11.4 and the District Flow Testing Procedures.

## *Rule 9.11 Well Registration and Permit Fees.*

The owner of any new well shall submit payment to the District of a non-refundable well registration fee established by the Board per well, which is due by the same deadline established under these rules for registration of the well. The owner of a non-exempt well that requires a permit shall also be required to pay the permit application fee established by the Board. A fee required under this rule and established by the Board must be received by the District in order for the District to find a registration application administratively complete. The purpose of such fees is to cover the administrative costs to the District associated with registering and permitting the well, where applicable, and administering the rules of the District related to the well.

## *Rule 9.12 Enforcement.*

After a well is determined to be in violation of these rules for failure to make payment of water use fees on or before the 60th day following the date such fees are due, all enforcement mechanisms provided by law and these Rules shall be available to prevent unauthorized use of the well and may be initiated by the General Manager without further authorization from the Board.

## *Rule 9.13 Meter Sealing Fee.*

The Board, by resolution, may establish a fee to recover all or part of its costs for removing and reapplying a District seal and verifying relevant well and meter information in situations where a well owner or operator submits a request to move a meter from one well to another.

# SECTION 10.
# METERING

## *Rule 10.1 Water Meter Required.*

(a) The owner of a well located in the District and not exempt under Rule 3.7(a) 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 cumulative amount of groundwater withdrawn from the well.

(b) Except as otherwise provided in these Rules, all meters installed on new, non-exempt wells must be installed prior to production from the well and must be located within fifty (50) feet of the wellhead. The meter (or blind flange) must be installed the same day the well is completed and must be sealed in place by the District with a District seal upon completion of the well. For purposes of this Section 10, "completion" shall mean construction of the well and installation of the pump. If a newly drilled well has a pump installed, but is not capable of pumping due to lack of power service or other reason, the well must be equipped with a meter or bolted blind flange so that the District can place a seal on the well for the interim period until a flow test can be performed. The well report deposit reference in Section 9.10 of these rules will not be returned until the District has completed a flow test. Except as provided by Rule 10.4, the meter must remain with the well except in cases where the well is modified or the meter no longer meets the accuracy standards set forth under this rule and Rule 10.3. In the event a well owner wants to move a meter from one well to another, the well owner must submit a request to the District to remove its meter seal. The District shall remove or provide authorization to remove the seal within five (5) business days of receiving a request from the well owner. The District may seal the well from which the meter was removed to prevent its operation without a meter, in addition to sealing the meter on the new well. The readings on the meter must be recorded immediately prior to removal and at the time of reinstallation.

(c) A mechanically driven, magnetic, or ultrasonic totalizing water meter is the only type of meter that may be installed on a well registered with the District unless an approval for another type of reliable meter or alternative measuring method is applied for and granted by the District. The totalizer must not be resettable by the registrant and must be capable of a maximum reading greater than the maximum expected annual pumpage. 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.

(d) All meters must be installed within fifty (50) feet of the wellhead. 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 registrant in accordance with Rule 10.3. If no specifications are published, there must be a minimum length of five pipe diameters of straight pipe upstream of the water meter and two 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.

(e) 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.

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

(g) All water produced from a well must go through a single meter that must record all production from the well.

## *Rule 10.2 Water Meter Exemption.*

Wells exempt from permitting under Rule 3.7(a) shall be exempt from the requirement to obtain a water meter under Rule 10.1.

## *Rule 10.3 Accuracy Verification.*

(a) Meter Accuracy to be Tested: The General Manager may require the registrant, at the registrant'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 registrant 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 registrant shall reimburse the District for the cost of those tests and investigations within 90 calendar days from the date of the tests or investigations, and the registrant 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 registrant, at the registrant'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 registrant.

(b) Meter Testing and Calibration Equipment: Only equipment capable of accuracy results of plus or minus two percent 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.

## *Rule 10.4 Removal of Meter for Repairs.*

A water meter may be removed for repairs and the well may remain operational. A water meter may also be removed if necessary to modify the well. A water meter may be removed by the owner according to this Section 10 and the owner must provide notice to the District within three (3) business days of the removal. If the well is to remain operational, the repairs must be completed in a timely manner; provided, however, that a well shall not be operated without a meter for more than fourteen (14) days from the date of removal. If the meter on the well has already been sealed by the District, the District shall remove or provide authorization to remove the seal within five (5) business days of receiving a request from the well owner. The readings on the meter must be recorded immediately prior to removal and at the time of reinstallation, and the owner must either make the previous meter available for inspection by District staff or have a photo available evidencing the last reading prior to removal of the meter. The record of pumpage must include an estimate of the amount of groundwater withdrawn during the period the meter was not installed and operating.

## *Rule 10.5 Water Meter Readings.*

Each meter must be read and the actual amount of pumpage recorded 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 included with the Water Production Report required by District Rule 9.1, along with fee payments as set forth under Section 9. The registrant of a well shall read each water meter associated with a well within 10 (ten) days before or after the last day of each month, and shall report the readings to the District on a form provided by the District along with copies of the monthly logs and payment of all Water Use Fees by the deadlines set forth for fee payment under Rule 9.4.

## *Rule 10.6 Enforcement.*

It is a major violation of these Rules to fail to meter a well and report meter readings in accordance with this Section. After a well is determined to be in violation of these rules for failure to meter or maintain and report meter readings, all enforcement mechanisms provided by law and these Rules shall be available to prevent unauthorized use of the well and may be initiated by the General Manager without further authorization from the Board.

# SECTION 11.
# INSPECTION AND ENFORCEMENT OF RULES

## *Rule 11.1 Purpose and Policy.*

The District's ability to effectively and efficiently manage the limited groundwater resources within its boundaries depends entirely upon the adherence to the rules promulgated by the Board to carry out the District's purposes. Those purposes include providing for the conservation, preservation, protection and recharge of the groundwater resources within the District, to protect against subsidence, degradation of water quality, and to prevent waste of those resources. Without the ability to enforce these rules in a fair, effective manner, it would not be possible to accomplish the District's express groundwater management purposes. The enforcement rules and procedures that follow are consistent with the responsibilities delegated to the District by the Texas Legislature through the District Act and through Chapter 36 of the Texas Water Code.

## *Rule 11.2 Rules Enforcement.*

(a) If it appears that a person has violated, is violating, or is threatening to violate any provision of the District Rules, the Board 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. A violation of any of the prohibitions in these Rules occurs on the first day that the prohibited action begins and continues each day thereafter as a separate violation.

(b) Unless otherwise provided in these rules, the penalty for a violation of any District rule shall be either:

(1) $10,000.00 per violation; or

(2) A lesser amount, based on the severity of the violation, as set forth in an Enforcement Policy that may include a Civil Penalty Schedule, which is attached to these Rules as Appendix A and adopted as a Rule of the District for all purposes.

(c) In determining the amount of a civil penalty, the Board of Directors shall consider the following factors:

(1) compliance history;

(2) efforts to correct the violation and whether the violator makes a good faith effort to cooperate with the District;

(3) the penalty amount necessary to ensure future compliance and deter future

noncompliance;

(4) any enforcement costs related to the violation; and

(5) any other matters deemed necessary by the Board.

(d) 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 the county in which the District's principal office or meeting place is located.

(e) If the District prevails in a suit to enforce its Rules, the District may seek, 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.

## *Rule 11.3 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 the District. Failure of a well owner required by these Rules to submit complete, accurate, and timely pumpage and transportation reports may result in:

(1) the assessment of any fees or penalties adopted under Rule 11.2 for meter reading and inspection as a result of District inspections to obtain current and accurate pumpage volumes; and

(2) additional enforcement measures provided by these Rules or by order of the Board.

## *Rule 11.4 District Inspections.*

No person shall unreasonably interfere with the District's efforts to conduct inspections or otherwise comply with the requirements, obligations, and authority provided in Section 36.123 of the Texas Water Code.

All new and altered wells are required to undergo a flow test consistent with the District's Flow Testing Procedure manual adopted by the District Board. A flow test is required to be performed within the 60-day deadline for submitting reports as set forth in Rule 3.4(b).

## *Rule 11 .5 Notices of Violation.*

Whenever the District determines that any person has violated or is violating any provision of the District's Rules, including the terms of any rule or order issued by the District, it may use any of the following means of notifying the person or persons of the violation:

(a) Informal Notice: The officers, staff or agents of the District acting on behalf of the District or the Board may inform the person of the violation by telephone by speaking or

attempting to speak to the appropriate person to explain the violation and the steps necessary to satisfactorily remedy the violation. The information received by the District through this informal notice concerning the violation will be documented, along with the date and time of the call, and will be kept on file with the District. Nothing in this subsection shall limit the authority of the District to take action, including emergency actions or any other enforcement action, without first providing notice under this subsection.

(b) Notice of Violation: The District may inform the person of the violation through a written notice of violation issued pursuant to this rule. Each notice of violation issued hereunder shall explain the basis of the violation, identify the rule or order that has been violated or is being violated, and list specific required actions that must be satisfactorily completed—which may include the payment of applicable civil penalties—to address each violation raised in the notice. Notices of violation issued hereunder shall be tendered by a delivery method that complies with District Rule 1.7. Nothing in this rule subsection shall limit the authority of the District to take action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(c) Compliance Meeting: The District may hold a meeting with any person whom the District believes to have violated, or to be violating, a District Rule or District order to discuss each such violation and the steps necessary to satisfactorily remedy each such violation. The information received in any meeting conducted pursuant to this rule subsection concerning the violation will be documented, along with the date and time of the meeting, and will be kept on file with the District. Nothing in this rule subsection shall limit the authority of the District to take action, including emergency actions or any other enforcement action, without first conducting a meeting under this subsection.

## *Rule 11.6 Show Cause Hearing.*

(a) Upon recommendation of the General Manager to the Board or upon the Board's own motion, the Board may order any person that it believes has violated or is violating any provision of the District's Rules a District notice to appear before the Board at a public meeting called for such purpose and show cause why an enforcement action, including the initiation of a suit in a court of competent jurisdiction, should not be pursued by the District against the person or persons made the subject of the show cause hearing.

(b) No show cause hearing under Subsection (a) of this Rule may be held unless the District first mails each person to be made the subject of the hearing, written notice not less than twenty (20) days prior to the date of the hearing. Such notice shall include the following:

(1) the time and place for the hearing;

(2) the basis of each asserted violation;

(3) the rule or order that the District believes has been violated or is being violated; and

(4) a request that the person cited duly appear and show cause why enforcement action should not be pursued.

(c) The District may pursue immediate enforcement action against the person cited to appear in any show cause order issued by the District where the person so cited fails to appear and show cause why an enforcement action should not be pursued.

(d) Nothing in this rule shall limit the authority of the District to take action, including emergency actions or any other enforcement action, against a person at any time regardless of whether the District holds a hearing under this rule.

**Rule 11.7 Penalties for Failure to Register and Permit Non-Exempt Wells**

Non-Exempt wells that are unregistered/unpermitted shall incur a penalty in accordance with the District fee schedule if they are reported to the District by the well owner. If the well is discovered to be out of compliance by any other source than the well owner, an additional $1,000.00 penalty shall be enforced and the well owner will have ninety (90) days from the date of District's initial contact to bring the well into compliance as a new well pursuant to Rule 3.1(d). If the well is not in full compliance within ninety (90) days from the District's initial contact, the Board may enforce an additional $500.00 fine per year that the well has been out of compliance. This section shall not be construed to waive the spacing and/or permitting requirements applicable to a non-exempt well.

# SECTION 12. EFFECTIVE DATE

## *Rule 12.1. Effective Date.*

The District's Temporary Rules took effect on August 29, 2011, which was the date of their original adoption. Pursuant to the District Act and Chapter 36 of the Texas Water Code, the District adopted permanent rules on January 1, 2019, the Effective Date of these Rules. An amendment to these Rules takes effect on the date of its original adoption, or upon a specific effective date for the amendment as approved by the Board of Directors. 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, as specifically authorized by state law and as set forth in these Rules.

# APPENDIX A.
# Enforcement Policy and Civil Penalty Schedule.

Red River 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 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.

## I. Minor Violations

The following acts each constitute a minor violation:

1. Failure to conduct a meter reading within the required period.

2. Failure to timely submit a Transfer of Ownership form to the District.

3. Failure to timely file a Well Report.

4. Failure to timely submit required documentation reflecting alterations or increased production.

5. Operating a meter that is not accurately calibrated.

**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 3 years of the first minor violation. A third violation shall be any minor violation following the second minor violation within 5 years of the first minor violation. Each day of a continuing violation constitutes a separate violation.

## II. Major Violations

The following acts each constitute a major violation:

1. Failure to register or permit a well or amend the registration of a well where mandated by rules, including drilling, equipping, completing, altering, or operating a well without an approved registration, as evidenced through a Notice to Proceed or permit issued by the District. The specific penalty for failure to register and permit non-exempt wells shall be calculated in accordance with District Rule 11.7.

2. Drilling an exempt or non-exempt well with an expired well registration.

3. Failure to timely meter or blind flange a well when required.

4. Failure to submit accurate Water Production Report within 60 days of the date the report is due.

5. Failure to submit accurate Groundwater Transport Report within the required period.

6. Drilling a well in a different location than authorized or in violation of spacing requirements.*****

7. Failure to close or cap an open or uncovered well.

8. Failure to submit Water Use Fees within 60 days of the date the fees are due.******

9. Failure to timely submit Groundwater Transport Fees within 60 days of the date the fees are due.******

10. Committing waste.

11. Tampering with or disabling a required meter or tampering with a District seal.

12. Failure to timely make a well available within 60 days of completion for a required flow test.

**CIVIL PENALTY SCHEDULE FOR MAJOR VIOLATIONS**

| | |
|---|---|
| **First Violation:** | **$500.00** |
| **Second Violation:** | **$1,000.00** |
| **Third Violation:** | **Civil Suit for injunction, damages, and escalated penalties** |

A second violation shall be any major violation within 3 years of the first major violation of the same level. A third violation shall be any major violation following the second major violation within 5 years of the first major violation. Each day of a continuing violation constitutes a separate

violation. Multiple violations by the same person or entity shall result in escalated fines assessed in order to deter such continued noncompliance.

* 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 Water Use Fees and Groundwater Transport Fees due and owing within 60 days of the date the fees are due pursuant to Rule 9.4(a) will be assessed a civil penalty equal to three times the total amount of outstanding Water Use Fees that are due and owing.

## III. Water Well Construction and Completion Requirements

Failure to use approved construction materials: $500.00 and total costs of remediation, with costs of remediation of well to be borne by the well owner.

Failure to properly cement annular space: $1,000.00 and total costs of remediation, with costs of remediation to be borne by well owner.

In addition to the civil penalties provided for in this schedule, persons who drill a well in violation of applicable spacing or completion requirements may be required to re-drill, re-complete or re-construct the well in accordance with the District's rules, or may be ordered to plug the well.

## IV. Production in Excess of Maximum Amount Authorized in Permit

In accordance with Rule 9.8, an automatic penalty of three (3) times the applicable water use fee rate for a calendar year shall be applied in addition to the standard water use fee rate owed for those persons that produce groundwater in excess of the maximum amount authorized in a District-issued permit. A second occurrence of production in excess of the maximum amount authorized within three (3) calendar years of the first occurrence shall result in an automatic penalty of ten (10) times the applicable water use fee rate, which shall be applied in addition to the standard water use fee rate owed for the production.

## V. 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.

# APPENDIX B.
# List of Commonly Used Acronyms.

The following acronyms are commonly used in the District Rules, District Management Plan, and/or the daily operations of the District:

| | |
|---|---|
| AFO | Animal Feeding Operation |
| ASR | Aquifer Storage and Recovery |
| BOD | District Board of Directors |
| CCN | Certificate of Convenience and Necessity |
| DCP | Drought Contingency Plan |
| DFC | Desired Future Condition |
| GAM | Groundwater Availability Model |
| GCD | Groundwater Conservation District |
| GMA | Groundwater Management Area |
| GPM | Gallons per minute |
| HUP | Historic Use Permit |
| MAG | Modeled Available Groundwater |
| MP | District Management Plan |
| NTP | Notice to Proceed |
| PGMA | Priority Groundwater Management Area |
| PIA | Public Information Act |
| PFD | Proposal for Decision |
| PP | Production Permit |
| PWS | Public Water System |
| RRC | Railroad Commission of Texas |
| RRGCD | Red River Groundwater Conservation District |
| SOAH | State Office of Administrative Hearings |
| TCEQ | Texas Commission on Environmental Quality |
| TOMA | Texas Open Meetings Act |
| TWDB | Texas Water Development Board |