

RESOLUTION
Resolution Number: 2009-08-28-A
Resolution Adopting the Rules of the Victoria
County Groundwater Conservation District
August 28, 2009

WHEREAS on August 7, 2009, a Notice of Hearing was published in the Victoria Advocate regarding a public hearing on the adoption of the Rules of the Victoria County Groundwater Conservation District and

WHEREAS on August 28, 2009, the Victoria County Groundwater Conservation District Board of Directors, with a quorum being present, conducted a public hearing regarding the adoption of the Rules of the Victoria County Groundwater Conservation District; and

NOW THEREFORE BE IT RESOLVED that the Rules of the Victoria County Groundwater Conservation District are ADOPTED as described in the Rules of the Victoria County Groundwater Conservation District attached hereto and made part of hereof for all purposes and that said Rules of the Victoria County Groundwater District shall be effective upon approval of this resolution.

ADOPTED by a vote of 5 ayes and 0 nays on this 28th day of August, 2009.



Mark Meek, President

I, the undersigned, do hereby certify that the above Resolution was adopted by the Board of Directors of the Victoria County Groundwater Conservation District on the 28th day of August, 2009.



Barbara Dietzel
Secretary, Board of Directors

**RULES
OF
VICTORIA COUNTY
GROUNDWATER
CONSERVATION DISTRICT**

**ADOPTED: August 28, 2009
EFFECTIVE: August 28, 2009**

The rules of the Victoria County Groundwater Conservation District were originally adopted on October 3, 2008. The rules of Victoria County Groundwater Conservation District were modified and re-adopted on August 28, 2009.

In accordance with Section 59 of Article XVI of the Texas Constitution, H.B. 3423, 79th Legislature, Regular Session (Codified as Chapter 8812, Special Districts and Local Laws Code) and Chapter 36 of the Texas Water Code, the following rules are hereby ratified and adopted as the rules of this District by its Board. Each rule as worded herein has been in effect since the date of passage and as may be hereafter amended.

The rules, regulations, and modes of procedure herein contained are and have been adopted to simplify procedures, avoid delays, and facilitate the administration of the water laws of the State and the rules of this District. To the end that these objectives are attained, these rules will be so construed.

These rules may be used as guides in the exercise of discretion, where discretion is vested. However, under no circumstances and in no particular case may these rules be construed as a limitation or restriction upon the exercise of powers, duties, and jurisdiction conferred by law. These rules will not limit or restrict the amount and accuracy of data or information that may be required for the proper administration of the law.

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SECTION 1 - DEFINITIONS AND CONCEPTS

RULE 1.1 - DEFINITIONS OF TERMS:

In the administration of its duties, the Victoria County Groundwater Conservation District follows the definitions of terms set forth in The District Act, Chapter 36 of the Texas Water Code, and other definitions as follow:

Abandoned Well - means a well or borehole the condition of which is causing, or is likely to cause, pollution of groundwater in the District. The following are not considered abandoned wells or deteriorated wells under this definition:

1. a non-deteriorated well which contains the casing, pump, and pump column in good condition; or
2. a non-deteriorated well which has been capped; or
3. a non-deteriorated free-flowing artesian well used for a beneficial purpose

Acre-foot - means the amount of water necessary to cover one acre of land one foot deep, or 325,851 U.S. gallons of water.

Aggregate Withdrawal – means the amount of water withdrawn from two or more wells which are permitted for a total pumping volume of all wells in the aggregate.

Agricultural Use - means any use or activity involving agriculture as defined in Texas Water Code Section 36.001, including but not limited to aquaculture; irrigation to cultivate the soil to produce crops; the practice of floriculture, viticulture, silviculture, and horticulture, including nursery grower operations; raising, feeding, or keeping animals for breeding or production of food or fiber or other products with a tangible value; planting cover crops, wildlife management; or raising or keeping equine animals.

Applicant - means a person or entity that submits the required forms to the District and pays the required fees for authorization to 1) drill and operate a groundwater well, or 2) transport groundwater, either by registration or by permit.

Aquifer - means the portions of the Gulf Coast, Chicot, Evangeline, or Jasper Aquifer located in the District or any other water bearing geologic formation.

Artesian Well – means a well drilled through impermeable strata to reach water capable of rising to the surface by internal hydrostatic pressure.

Authorized Annular Space Sealant – means a material that will:

1. create a seal against the borehole wall preventing the leaking of fluids into the borehole,
2. create a seal against the well casing preventing the development of liquid flow paths along the outside of the casing, and

- fills and sets up to fill the voids between the outside of the casing and the borehole wall having a structural integrity and porosity that prevents the migration of fluids through the sealant. Authorized materials include: neat cement grout, bentonite-cement grout, high-solids bentonite grout, bentonite slurry, and properly hydrated bentonite chips/pellets/granules.

Authorized Drilling Area – means that area identified on a drilling permit within which a water well may be drilled provided that all other spacing requirements for which a waiver has not been granted are met.

Authorized Groundwater Production Amount – means the quantity of groundwater that the District has authorized to be produced from a non-exempt water well.

Authorized Operator – means any person who has the right to operate a well and produce water from the land, either by ownership, contract, lease, easement, or any other estate in the land.

Authorized Well Site - means:

- The location of a proposed well on an application duly filed with the District until such application is denied; or
- The location of a proposed well on a valid permit. (An authorized well site is not a permit to drill); or
- A well which produces in excess of 28,800 gallons (20 gpm) of water per day and which was in existence at the time the District was created or at the time the area was annexed into the District and is not considered to be an abandoned well or deteriorated well; or
- A well drilled after the District was created or after an area was annexed into the District that has a properly completed well registration on file in the District office and such well has not been “abandoned” by the well owner.

Beneficial Use - means:

- the use of groundwater for agricultural, gardening, domestic, stock raising, municipal, mining, manufacturing, industrial, commercial, recreational, or pleasure purposes;
- the use of groundwater for exploring for, producing, handling, or treating oil, gas, sulphur, or other minerals; or
- the use of groundwater for any other purpose that is useful and does not constitute waste.

Board - means the Board of Directors of the Victoria County Groundwater Conservation District.

Commission – refers to the Texas Commission on Environmental Quality.

Conservation – means those water saving practices, techniques, and technologies that will reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water, or increase the recycling and reuse of water so that a water supply is made available for future or alternative uses.

Deteriorated Well – see abandoned well definition.

District - means the Victoria County Groundwater Conservation District.

District Act - means H.B. 3423, 79th Legislature, Regular Session (codified as Chapter 8812, Special Districts and Local Laws Code) and the non-conflicting provisions of Chapter 36, Water Code.

District office - means the office of the District as established by action of the Board.

Domestic Use - means the use of groundwater by an individual or a household to support domestic activity. Such use may include water for drinking, washing, or culinary purposes; for irrigation of lawns, or of a family garden and/or orchard; for watering of domestic animals; and for water recreation including aquatic and wildlife enjoyment. Domestic use does not include water used to support activities for which consideration is given or received or for which the product of the activity is sold. Domestic use does not include use by or for a public water system.

Drilling Permit - means an authorization issued by the District for a water well to be drilled.

Existing Well – means a water well that existed prior to the original adoption of the rules of the District (October 3, 2008).

Exempt Well – means a well exempted under these rules for which the owner is not required to obtain an operating permit but for which the owner is able to obtain a registration number by registering the well's use and location with the District, on a voluntary basis.

Fees – means charges imposed by the District pursuant to Texas Water Code Chapter 36.

General Manager - means the person employed by the District assigned the responsibility of managing the District office and completing duties, actions and tasks as directed by the Board.

Grandfather - means to:

1. exclude all wells drilled before adoption of these rules from well spacing requirements;

2. exclude all non-exempt wells drilled before adoption of these rules from water use fees;
3. allow all non-exempt wells drilled before adoption of these rules to obtain a validation permit authorizing the production of groundwater in an amount equal to past production during the validation period, unless otherwise determined by action of the Board or these rules;
4. allow all non-exempt wells drilled before adoption of these rules to operate under validation permits without requiring a periodic renewal of these permits.

Groundwater - means water percolating below the surface of the earth within the District.

Groundwater Production - means all water withdrawn from the ground, measured at the wellhead.

Hearing Body - means the Board, any committee of the Board, or a hearing examiner at any hearing held under the authority of the District Act.

Hearing Examiner - means a person appointed by the Board of Directors to conduct a hearing or other proceeding.

Industrial Use - means the use of water integral to the production of primary goods or services provided by industrial or manufacturing facilities and used primarily in the building, production, manufacturing, or alteration of a product or goods, or a well used to wash, cleanse, cool, or heat such goods or products. Industrial use includes the use of water in the generation of electricity by means other than hydroelectric, including the use of water for cooling purposes, uses associated with plant personnel, fire protection at the facility, and in maintaining associated property and facilities including mitigation and habitat areas. Industrial use does not include agricultural use.

Injection Use – means the use of a well for the following purposes:

1. An air conditioning return flow well used to return water used for heating or cooling in a heat pump to the aquifer that supplied the water;
2. A cooling water return flow well used to inject water previously used for cooling;
3. A drainage well used to drain surface fluid into a subsurface formation;
4. A recharge well used to replenish the water in an aquifer;
5. A saltwater intrusion barrier well used to inject water into a freshwater aquifer to prevent the intrusion of salt water into the freshwater;
6. A sand backfill well used to inject a mixture of water and sand, mill tailings, or other solids into subsurface mines;
7. A subsidence control well used to inject fluids into a non-oil or gas producing zone to reduce or eliminate subsidence associated with the overdraft of water; or
8. A closed system geothermal well used to circulate water, other fluids, or gases through the earth as a heat source or heat sink.

Landowner - means the person who bears ownership of the land surface.

Modify – means to alter the physical or mechanical characteristics of a well, its equipment, or production capabilities. This does not include repair of well equipment, well houses or enclosures, or replacement with comparable equipment.

Monitoring Use - means to use a well for the purpose to measure some property of the groundwater or aquifer it penetrates, and the well does not produce more than 5,000 gallons of groundwater per year.

Municipal Use - means the use of water for a public water system for residential, commercial, or public and institutional uses, including the application of potable water for irrigation of golf courses, parks and recreational uses; it does include water for industrial uses when the industrial user is receiving potable water from the municipality.

New Well - means a water well that did not exist prior to the original adoption of the rules of the District (October 3, 2008).

Non-exempt Well - means a well required to obtain a permit authorizing the production of groundwater from an existing or a new well.

Open Meetings Law - means Chapter 551, Texas Government Code.

Operating Permit – means the authorization issued by the District under which an owner, operator or lessee of the property may withdraw a specific amount of groundwater from a non-exempt well for a designated period of time.

Overproduction - means to produce water from a well in excess of the amount authorized to be withdrawn under an operating or validation permit issued by the District; or to produce water in excess of 28,800 gallon per day from an exempt well.

Overpumping – see overproduction definition.

Permit Amendment - means a District approved change in a permit, also see special provisions.

Public Information Act - means Chapter 552, Texas Government Code.

Pumping - see groundwater production definition.

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

Presiding Officer - means the President, Vice-President, Secretary, or other Board member presiding at any hearing or other proceeding or a hearing examiner conducting any hearing or other proceeding.

Production Zone - means the water bearing stratum or strata that a well is completed in from which groundwater is released into the water well.

Recharge – means the process of replenishment of groundwater by infiltration of water from sources such as precipitation, streams, rivers, and reservoirs.

Registered Well - means a well registered with the District in accordance with the District Rules.

Remediation Use - means to use a well to either extract or inject materials for the purpose of remediating or removing a subsurface contaminant.

Replacement Well - means a new well drilled within 100 yards (300 feet) of a registered or permitted well for the purposes of replacing an abandoned or deteriorated well which is properly plugged.

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

Seal - means an official seal, tag, or label placed on a well or its equipment, or the act of placing the tag or label, to indicate that further pumping of groundwater, or operation of the well, or continuing with other District regulated activities is not permitted by the District, shall be in violation of District Rules, and may subject the well owner or authorized producer to civil suit and/or penalties.

Special Provisions - means conditions or requirements added to a permit, which may be more or less restrictive than the rules as a result of circumstances unique to a particular situation.

Texas Rule of Civil Procedure and Texas Rules of Civil Evidence - means the civil procedure and evidence rules as amended and in effect at the time of the action or proceeding. Except as modified by the rules of the District, the rights, duties, and responsibilities of the presiding officer acting under the Texas Rules of Civil Procedure or the Texas Rules of Evidence are the same as a court acting under those rules.

Transport of Groundwater - means pumping, transferring, or moving groundwater out of the District.

Transport Permit - means an authorization issued by the District allowing the transfer or transporting of a specific amount of groundwater out of the District for a designated period of time.

Validation Permit - means the authorization issued by the District under which an owner, operator or lessee of the property may continue to withdraw a specific amount of groundwater validated to have been produced during the validation period from a grandfathered non-exempt well for a specific purpose of use.

Waste - means:

1. The withdrawal of groundwater from a groundwater reservoir at a rate and in an amount that causes or threatens to cause intrusion into the reservoir of water unsuitable for agricultural, gardening, domestic, or stock raising purposes.
2. The use of that amount of water in excess of that which is economically reasonable for an authorized purpose when reasonable intelligence and reasonable diligence are used in applying the water to that purpose constitutes waste.
3. The flowing or producing of wells from a groundwater reservoir if the water produced is not used for a beneficial purpose.
4. The escape of groundwater from one groundwater reservoir to any other reservoir or geologic strata that does not contain groundwater.
5. The pollution or harmful alteration of groundwater in a groundwater reservoir by saltwater or by other deleterious matter admitted from another stratum or from the surface of the ground.
6. Willfully or negligently causing, suffering, or allowing groundwater to escape into any river, creek, natural watercourse, depression, lake, reservoir, drain, sewer, street, highway, road, or road ditch, or onto any land other than that of the owner of the well unless such discharge is authorized by permit, rule, or order issued by the commission under Chapter 26 "Water Quality Control".
7. 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.
8. For water produced from an artesian well, "waste" has the meaning assigned by Section 11.205

Water Bearing Strata - means a geologic formation from which groundwater can be produced from a water well.

Water Meter - means a water flow measuring device that can accurately record the amount of groundwater produced during a measured time.

Water Use Fee - means a fee based upon total annual pumpage imposed by the District on each well or aggregate system for which a permit is issued. The terms "user fee," "production fee," and "pumpage fee" are synonymous and used interchangeably with "water use fee".

Well - means any facility, device, or method used to withdraw groundwater from the groundwater supply within the District.

Well Operator - means the person who operates a well or a water distribution system supplied by a well.

Well Owner - means the person who owns the land upon which a well is located or is to be located.

Well Registration - the creation of a record of the well by use and a well identification number for purposes of registering the well as to its geographic location and for notification to the well owner in cases of spills or accidents, data collection, record keeping, or future planning purposes.

Well System - means a well or group of wells tied to the same distribution system.

Withdraw - means extracting groundwater by pumping or by another method.

RULE 1.2 - PURPOSE OF RULES:

These rules are adopted pursuant to the authority of Section 36.101, Texas Water Code, for the purpose of conserving, preserving, protecting, and recharging groundwater in the district, and these rules are adopted under the district's statutory authority to prevent waste and to protect the rights of owners of interests in groundwater. In fulfilling the stated purpose of these rules, the board will endeavor to maintain the aquifers in the district on a sustainable basis. For the purposes of these rules, "sustainability" is defined as development and use of groundwater in a manner that can be maintained in perpetuity.

RULE 1.3 - USE AND EFFECT OF RULES:

The District uses these rules as guides in the exercise of the powers conferred by law and in the accomplishment of the purposes of the District Act. They may not be construed as a limitation or restriction on the exercise of any discretion nor be construed to deprive the District or Board of the exercise of any powers, duties or jurisdiction conferred by law, nor be construed to limit or restrict the amount and character of data or information that may be required to be collected for the proper administration of the District Act.

A permit from the District does not allow the drilling of water wells within the incorporated limits of an incorporated municipality in violation of the ordinances of that municipality.

RULE 1.4 - AMENDING OF RULES:

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

RULE 1.5 - HEADINGS AND CAPTIONS:

The section and other headings and captions contained in these rules are for reference purposes only. They do not affect the meaning or interpretation of these rules in any way.

RULE 1.6 - CONSTRUCTION:

A reference to a title, chapter or section without further identification is a reference to a title, chapter or section of the Water Code or these rules. Construction of words and phrases are governed by the Code Construction Act, Subchapter B, Chapter 311, Government Code.

RULE 1.7 - METHODS OF SERVICE UNDER THE RULES:

Except as otherwise expressly provided in these rules, any notice or documents 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 mail sent to the recipient's last known address, or by telephonic document transfer to the recipient's current telecopier number. Service by mail is complete upon deposit in a post office or other official depository of the United States Postal Service. Service by telephonic document transfer is complete upon transfer,

except that any transfer occurring after 5:00 p.m. will be deemed complete on 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 time after service, three days will be added to the prescribed period. Where service by one of more methods has been attempted and failed, the service is complete upon notice publication in a general circulated newspaper in Victoria County.

RULE 1.8 - SEVERABILITY:

If any one or more of the provisions contained in these rules are for any reason held to be invalid, illegal, or unenforceable in any respect, the invalidity, illegality, or unenforceability may not affect any other rules or provisions of these rules, and these rules must be construed as if such invalid, illegal or unenforceable rules or provision had never been contained in these rules.

SECTION 2 - REGISTRATION OF WELLS

RULE 2.1 – REGISTRATION OF WELLS:

All existing wells within the district can be registered on a voluntary basis if the well does not require a permit. Registration is required for all new wells drilled in the District. All existing non-exempt wells must be registered and validation of past production submitted to the district for approval.

Upon receipt of a completed registration application the District will determine if the well is exempt or non-exempt.

All wells registered with the District shall be classified, by the District, according to purpose(s) of use. Purpose of use classifications include:

- agricultural use,
 - commercial use,
 - domestic use,
 - groundwater monitoring use
 - industrial use,
 - injection use,
 - irrigation use,
 - livestock use,
 - manufacturing use,
 - mining use,
 - municipal use,
 - oil and gas water supply use,
 - recreational use,
 - remediation use,
1. New exempt wells must be registered with the District prior to being operated. New non-exempt wells must be registered and have a valid operating permit from the District prior to operation.
 2. All wells constructed after the adoption of these rules must have a valid drilling permit prior to drilling and be registered before operation.

RULE 2.1.1 - Well Activity:

No person shall hereafter begin to drill or drill a well, or increase the size of a well, or well pump, without having first registered the well or applied to the District and received an appropriate permit to do so, unless the drilling and operation of the well is exempt by law or by these rules.

RULE 2.1.2 - Registration and Application Forms:

Registration shall include the following information, submitted on forms provided by the District, and any other information the General Manager may determine to be of need.

1. The exact location of the well to be drilled, as provided in the application, including the county, section, block, survey and township; and the exact number of feet to the nearest public road, property line, or other legal description;
2. The proposed purpose of use of the well to be drilled;
3. The size of the pump and the estimated gallons per minute production,
4. An agreement by the applicant that a completed well completion report and drillers log will be furnished to the District, upon completion of this well and prior to the production of water there from,
5. The latitude and longitude-,
6. The name and address of the applicant and owner of the land upon which the well is or will be located; and as well as documentation establishing the authority of the applicant to drill or operate the well if the applicant is not the owner of the land; and
7. The name and address of the well driller or contractor, if applicable.

RULE 2.2 – EXEMPT WELLS:

An “Exempt Well” is a well that:

1. is used solely for domestic purposes or for providing water for livestock, poultry or personal recreational use that is drilled, completed, or equipped so that it is incapable of producing more than 28,800 gallons (20 gpm) of groundwater per day; or
2. a well otherwise exempt under the provisions of Section 36.117, Water Code.

An exempt well does not require an operating permit.

Any existing exempt well that is operational and is not an abandoned well, or a deteriorated well, and was in existence prior to adoption of these rules is considered grandfathered.

Any existing non-exempt well that is operational and is not an abandoned well, a deteriorated well, or an exempt well and was in existence prior to adoption of these rules is considered grandfathered and will be granted a validation permit upon completion of the well validation procedure as provided in these rules.

These grandfathered wells will not be assessed a registration or permit fee if the procedure is completed within three (3) years from adoption of these rules and the owner or operator provides all the information requested by the District. The production validated on a grandfathered well shall be limited to past production of the well as determined under these rules. All grandfathered non-exempt wells with validation permits are not subject to operating permits.

RULE 2.2.1 – REPORTING REQUIREMENT OF OTHER EXEMPT WELLS:

An entity holding a permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code, that authorized the drilling of a water well shall report monthly to the District the following:

1. The total amount of water withdrawn during the month;
2. The quantity of water necessary for mining activities; and
3. The quantity of water withdrawn for other purposes.

RULE 2.3 – WELL VALIDATION:

In order to provide for the “grandfathering” of existing non-exempt water wells, a validation permit for a well can be issued only after the location of the well and the wellhead equipment of the well has been determined by investigation by District personnel or designated agents acting for the District. A well owner or agent may apply to the District for validation.

The Board on its own initiative may cause to be issued a validation permit for grandfathered non-exempt wells drilled and equipped within the District for which the landowner or his agent has not applied for a validation permit or an operating permit or for wells not otherwise properly permitted provided that such wells were not drilled, equipped and operated (pumped) in such a manner as to violate any other rules and regulations of the District. To the extent available, the well owner shall provide all of the information required in these rules and as may otherwise be requested by the District.

RULE 2.3.1 – Past Production Limits:

The production from an existing non-exempt well shall not exceed the maximum annual production established for any calendar year between January 1, 1990 and the date these rules are originally adopted. Evidence of past production shall be submitted by sworn application or affidavit. An operating permit is not required for a well with a validation permit.

For the purposes of establishing past production, the maximum annual production for a single, connected, well system that is currently operational may be validated as an aggregate system to the maximum produced by the system in any calendar year during the validation period. All wells that produced groundwater by way of operating the system may be used in the validation of the past production aggregate provided the individual well contributed groundwater to the system during the validation period, January 1, 1990 to the date these rules are originally adopted.

SECTION 3 - PERMITS

RULE 3.1 - GENERAL PERMITTING POLICIES AND PROCEDURES:

A permit confers only the authority to use the well under the provisions of these rules and according to its terms. A permit's terms may be modified or amended pursuant to the provisions of these rules.

RULE 3.1.1 - Drilling Permit Requirement:

The landowner or any other person legally authorized to act on behalf of the landowner must file an administratively completed application for drilling permit before a well may be drilled. The application for a drilling permit shall comply with all the guidelines of these rules, including a location map or property plat drawn on a scale that adequately details the well site, the property lines, the location of other existing wells and their use(s) on the subject tract, the location of any existing or proposed on-site wastewater system, and the location of any other potential source of contamination within 100 feet of the existing well. Applicants acting on behalf of a landowner must file with the application appropriate documentation demonstrating the authority to act on behalf of the landowner.

The District staff will review each application for a drilling permit and make a preliminary determination on whether the well meets the exclusions or exemptions provided in these rules. Providing the District finds during preliminary determination that the well is classified as an exempt well, the applicant may begin drilling immediately upon receiving the approved drilling permit for the well.

After submitting an administratively complete application to drill an exempt well that meets all requirements, exclusions, and exemptions provided by these rules, the applicant may proceed at his own risk to drill or have drilled the well for which the application to drill was submitted. In the event that the applicant proceeds to drill the exempt well prior to receiving a drilling permit from the District, the applicant is required to have the well drilled by a licensed well driller that has completed the District's most recent water well drilling seminar. Licensed well drillers who have not completed the District's most recent water well drilling seminar are prohibited from drilling a well under this provision.

Once the drilling permit is issued, the applicant may thereupon proceed at his own risk to drill such well. All wells drilled after receiving a drilling permit are subject to the completion and location requirements set forth in these rules. A drilling permit application for an exempt well is subject to approval by the General Manager of the District. The landowner or any other person legally authorized to act on behalf of the landowner may request a public hearing and the approval of the drilling permit by the Board. All drilling permits applications for a non-exempt well are subject to Board approval.

Additional requirements and conditions associated with drilling permits are as follows:

1. Unless specified otherwise by the Board or these rules, permits are effective for a term ending 180 calendar days after the date the permit was approved. Provided that the circumstances and conditions under which the drilling permit was originally approved have not changed the General Manager may extend the drilling permit term up to an additional 180 days upon written request from the applicant. Failure of the landowner or any other person legally authorized to act on behalf of the landowner to provide evidence of the drilling and completion of the permitted well within the designated time frame will render the permit void and groundwater production is strictly prohibited. Provided, however, that the Board, for good cause, may extend the time for drilling and completion. If an extension is granted and the landowner or any other person legally authorized to act on behalf of the landowner fails to provide the General Manager evidence of the drilling and completion within the allowable period designated by the Board, the permit is void and drilling or groundwater production there from is strictly prohibited.
2. Applicants for drilling permits for a non-exempt well may pre-apply for an operating permit at the time of applying for a drilling permit. The application requirements are identical to the requirement set out in RULE 3.1.2 with the exception that information that can only be determined by or after completing the well shall be estimated. The Board may grant a conditional approval to the operating permit application. Failure of the landowner or any other person legally authorized to act on the behalf of the landowner to provide evidence of the satisfaction of the operating conditions will render the permit void and groundwater production is strictly prohibited.
3. Applicants for drilling permits for a well with a pump capable of producing greater than 360,000 gallons per day must submit the following information upon completion of the well:
 - A. All known existing, abandoned, and inoperative wells within 1500 feet of the well site;
 - B. Location of permitted well, and monitoring wells, depth, and screened intervals; and
 - C. Aquifer identification, stratigraphy of geologic formations, lithology of the geologic strata, geologic structure, characteristics of the aquifer and their hydraulic relationships, recharge to the aquifer, and movement and discharge of groundwater from aquifer, and the ambient quality of water in the aquifer.
4. This section applies to individual wells with a pump capacity equal to or greater than 360,000 gallons per day and to a well field/groundwater development project with an aggregate size of more than 500 acres. No drilling permit may be issued unless the following conditions are determined to be met by the permit application.

- A. Performance Condition 1. The maximum calculated drawdown of the water table or artesian pressure in the aquifer shall not be greater than five (5) feet at the property line. For the purposes of this rule and the consideration of the associated limitations or requirements, an incorporated municipality may consider all contiguous land within its corporate limits and any other public water supply entity may consider all contiguous land within the boundary of its certificate of convenience and necessity (CCN) that is located within the District to be under its control or as an aggregation area. The boundary of the contiguous land within the incorporated area or CCN inside the District's boundary may serve as the applicant's property line. The evaluation shall be based upon a minimum of two years of simulated continuous pumping. Upon request by the Board, computer modeling shall use a model accepted by the Board indicating the compliance with this condition.
- B. Performance Condition 2. No Well may cause or contribute to the intrusion of saltwater into freshwater aquifers by causing the interface between salt and freshwater in the surface to migrate inland or upward. Upon request by the Board, computer modeling shall use a model accepted by the Board indicating the compliance with this condition.
- C. Performance Condition 3. Water flow gradients must be demonstrated to be maintained during drought conditions in the water bodies designated by the district. Such demonstration shall show the relationship of water levels declines in the aquifer within a project area relative to surface elevations and the relationship of any such declines to the continued viability of seeps and springs.
- D. Performance Condition 4. Surface water and groundwater exchanges must be demonstrated to not be adversely affected. Such demonstrations shall show the relationship, through modeling or otherwise, of water levels to surface water bodies.
- E. Performance Condition 5. Groundwater quality must be demonstrated to not be adversely affected. Such demonstrations shall show, through modeling or otherwise, the relationship between pumping and total dissolved solid (TDS) levels. The applicant must demonstrate that the impact of the proposed pumping will not:
 - 1. result in an increase the TDS concentration beyond 1,500 mg/l at the property line if the historical average TDS concentration calculated for the well site is below 1,300 mg/l; or
 - 2. result in an increase of TDS concentration above 1,700 mg/l at the property line if the historical average TDS

- concentration calculated for the well site is below 1,500 mg/l; or
3. result in an increase of TDS concentration above 2,000 mg/l at the property line if the historical average TDS concentration calculated for the well site is below 1,700 mg/l; or
 4. result in an increase of TDS concentration above 2,500 mg/l at the property line.

For the purposes of this rule and the consideration of the associated limitations or requirements, an incorporated municipality may consider all contiguous land within its corporate limits and any other public water supply entity may consider all contiguous land within the boundary of its certificate of convenience and necessity (CCN) that is located within the District to be under its control or as an aggregation area. The boundary of the contiguous land within the incorporated area or CCN inside the District's boundary may serve as the applicant's property line.

5. The applicant shall provide a location map or property plat drawn on a scale that adequately details:
 - A. The well site;
 - B. The property lines;
 - C. The location of other existing wells on the subject tract;
 - D. The location of the existing use(s) on the subject tract;
 - E. The location of any existing or proposed on-site wastewater system;
 - F. The location of any other potential source of contamination within 100 feet of the existing well;
 - G. Any other information deemed necessary by the General Manager in order to review and evaluate the application.
6. Providing the applicant can show good cause why a permit application requirement is unnecessary, the District may waive the application requirement.

RULE 3.1.2 - Operating Permit Requirement:

A completed operating permit application must be approved by the District prior to operating the well. In addition to the information required on the District's application form, the applicant may be required to provide other information including a water conservation plan, drought management plan, and determination of groundwater availability.

Additional requirements and conditions associated with operating permits are as follows:

1. Determination of groundwater availability. To the extent available, the applicant shall provide the following aquifer parameters:

- A. rate of yield and drawdown;
 - B. specific capacity
 - C. efficiency of the pumped (test) well;
 - D. transmissivity;
 - E. coefficient of storage
 - F. hydraulic conductivity
 - G. recharge or barrier boundaries, if any are present; and
 - H. thickness of the aquifer
2. Using the information and data identified, application shall include the following calculations.
 - A. Time-drawdown. The amount drawdown at the pumped well(s) and at the property boundaries for the time frames of ten (10) and thirty (30) years. For the purposes of this rule and the consideration of the associated limitations or requirements, an incorporated municipality may consider all contiguous land within its corporate limits and any other public water supply entity may consider all contiguous land within the boundary of its certificate of convenience and necessity (CCN) that is located within the District to be under its control or as an aggregation area. The boundary of the contiguous land within the incorporated area or CCN inside the District's boundary may serve as the applicant's property line.
 - B. Distance-drawdown. The distance(s) from the pumped well(s) to the outer edges of the cone(s)-of-depression shall be determined for the time frames of ten and thirty years.
 - C. Well interference. For multiple wells in a well field, calculations shall be made to determine how pumpage from multiple wells will affect drawdown in individual wells for the time frames of ten (10) and thirty (30) years.
 3. Based upon the information developed and the water quality examination as documented in these rules, permit conditions for groundwater availability and quality may be imposed by the District.
 4. An operating permit shall specify and authorize the annual maximum groundwater production from the well (in gallons per year or acre feet per year), the date the operating permit is issued by the District, the term of the operating permit, the person or entity receiving the operating permit, permit and well number, the type of use permitted, the maximum rate of withdrawal in gallons per minute and any special operating conditions. When two or more wells are owned and operated by the authorized producer or well owner as a multi-well system, the District may issue an operating permit for an aggregate withdrawal. The number, location and designation of the aggregate wells shall be listed on the permit. Wells associated with an operating permit for aggregated groundwater production may not produce more than 150% of that well's individual authorized groundwater production during any twelve (12) month period. Under no circumstances may the

- total production of groundwater from wells operating under an aggregated permit during any twelve (12) month period exceed the annual authorized groundwater production of the aggregate permit.
5. Operating permits issued by the District shall be valid for a term set by the District which shall not exceed five (5) years from the date of issuance. Operating permit renewal applications, provided by the District upon request, shall be submitted to the District no later than sixty (60) days prior to the date of expiration of the operating permit.
 6. The District will renew an operating permit provided:
 - A. the District has not determined that the quantity of available groundwater at renewal is less than the quantity at the time of the original operating permit approval; and
 - B. the well operator is not in violation of these rules; and
 - C. the District has not determined that the continued permitted production for the well would cause damage to the aquifer.
 7. The General Manager may rule on any renewal application without notice, hearing, or further action by the Board, or with such notice and hearing as the General Manager deems desirable or necessary under the circumstances. The General Manager may deny an operating permit renewal application on any reasonable ground, including, but not limited to, a determination that the applicant is currently in violation of these rules or Chapter 36, Texas Water Code, or that the Applicant has a previously unresolved violation on record with the District. The General Manager must provide written notice of the application denial within 15 calendar days. Any applicant may appeal the General Manager's ruling by filing, within 45 calendar days of the General Manager's ruling, a written request for a hearing before the Board. The Board will hear the applicant's appeal at the next available regular Board meeting. The General Manager shall inform the Board of any renewal applications granted on behalf of the District. The Board may overrule the action of the General Manager. The General Manager may authorize an applicant for a permit renewal to continue operating under the conditions of the prior permit, subject to any changes necessary under these rules, or the District's management plan, for any period in which the renewal application is the subject of a contested case hearing.
 8. Providing the applicant can show good cause why a permit application requirement is unnecessary, the District can waive the application requirement.

RULE 3.1.3 - Permit Applications:

Each application for a water well drilling permit, operating permit, transport permit, operating permit renewal, transport permit renewal, or permit ownership transfer requires a separate application. Application forms will be provided by the

District and furnished to the applicant upon request. Applications must be executed under oath.

RULE 3.1.4 - Notice of Permit Hearing:

Once the District has received a completed original application for a non-exempt well drilling permit, operating permit, or transport permit the General Manager will issue written notice indicating a date and time for a hearing on the application in accordance with these rules. The District may schedule a hearing and action on as many applications at one hearing as deemed necessary and appropriate.

RULE 3.1.5 - Decision and Issuance of Permit:

In deciding whether or not to issue a permit, and in setting the terms of the permit, the Board will consider the district management plan and rules, and all other relevant factors. The Board will also consider additional information and data provided by the Applicant and other interested parties. If no person or the General Manager contests the application, the General Manager will present the application directly to the Board for a final decision. The Board may issue the permit or refer the application to a hearing examiner for a hearing.

RULE 3.1.6 - Aggregation of Groundwater Production:

In issuing an operating permit, the authorized groundwater production for a given well may be aggregated with the authorized groundwater production from other permitted wells designated by the District. District rules will be considered in determining whether or not to allow aggregation of groundwater production. Wells associated with an operating permit for aggregated groundwater production may not produce more than 150% of that well's individual authorized groundwater production during any twelve (12) month period. Under no circumstances may the total production of groundwater from wells operating under an aggregated permit during any twelve (12) month period exceed the annual authorized groundwater production of the aggregate permit.

RULE 3.1.7 - Effect of Acceptance of Permit:

Acceptance of the permit by the applicant constitutes acknowledgment of and agreement to comply with all of the terms, provisions, conditions, limitations, and restrictions in the permit. Failure to appeal the District's decision constitutes acceptance of the permit.

RULE 3.2 - PERMIT PROVISIONS:

All permits are granted subject to these rules, the district management plan, orders of the Board, and the laws of the State of Texas. In addition to any special provisions or other requirements incorporated into the permit, each permit issued must contain the following standard permit provisions:

1. Permits are granted in accordance with the provisions of these rules, and acceptance of a permit constitutes an acknowledgment and agreement that the permittee, applicant, land owner, and/or authorized operator will comply with these rules.

2. A drilling permit confers only the right to drill, construct, and complete a water well to the specifications and provisions of the drilling permit.
3. An operating permit confers only the right to operate the well under the provisions of these rules. Within 30 calendar days after the date of transfer of ownership of a well or well system, the operating permit authorized operator must submit a completed application for transfer of ownership to the District specifying the name of the new owner. Any person who becomes the owner of a permitted well must, within 30 calendar days from the date of the change in ownership, file with the District an application for transfer of ownership.
4. The operation of the well for authorized groundwater production must be conducted in a non-wasteful manner.
5. Groundwater production from all non-exempt wells must be measured by the owner or operator using a device or method that is accurate within plus or minus 10%. Measured water use shall be reported to the District on a quarterly basis using the District's quarterly groundwater production report form, and at that time the permittee shall pay to the District fees in accordance with the fee schedule of the District and the requirements of these rules. Grandfathered wells are not subject to these fees.
 - A. New Wells or well systems producing more than 360,000 gallons of water per day (gpd) must provide monthly water levels from a minimum of two monitoring wells in the same aquifer or aquifers located at a distance not greater than 700 feet nor less than 100 feet from the permitted well or well system. This monitoring well information will be submitted by the permittee with the quarterly water use report. Any required monitoring wells must be completed as provided for in the terms and conditions in the operating permit for the producing well or well system.
 - B. New wells or well systems producing more than 360,000 gpd must also provide annual data on the following water quality parameters: Alkalinity, Ammonia, Arsenic, Calcium, Chloride, Coliform, Conductivity, Iron, Lead, Magnesium, Mercury, Molybdenum, Nitrate, Nitrite, pH, Potassium, Selenium, Sodium, Sulfate, Sulfite, Temperature, Total Dissolved Solids, Total Hardness, Total Phosphorus, Total Organic Carbon, Total Suspended Solids, Turbidity, Uranium. These data will be collected from any monitoring wells required in the permit. These water quality measurements shall be reported annually to the District in September.
6. The well site must be accessible to District representatives for inspection, and the permittee, authorized producer, landowner, and well owner agrees to cooperate fully in any reasonable inspection of the well and well site by the District representatives. Prior to entering upon property for the purpose of conducting an investigation, the District representative seeking access must give notice in writing or in person or by telephone to the landowner, lessee, or operator, agent, or employee of the well owner or operator, as determined by information contained in the application or other information on file with the District. Notice is not required if prior permission is granted to enter without notice. The district representative will cooperate with the landowner and adhere to applicable governmental safety protocols.
7. The application pursuant to which a permit has been issued is incorporated in the permit, and the permit is granted on the basis of and is contingent upon the accuracy

of the information supplied in that application. A finding that false information has been supplied is grounds for immediate revocation of the permit.

8. Violation of the permit terms, conditions, requirements, or special provisions, including pumping amounts in excess of authorized groundwater production, is punishable by civil penalties as provided by these rules and the revocation of the permit.
9. Whenever special permit terms and conditions are inconsistent with other permit provisions or these rules, the special terms and conditions will prevail.

RULE 3.3 - OPERATING AND VALIDATION PERMIT LIMITATIONS AND VIOLATIONS:

Operating permits issued by the District may be limited or be considered violated under the following circumstances:

1. It is a violation of these rules to pump any amount of groundwater over the amount authorized (authorized groundwater production) by the applicable operating permit or validation permit.
2. It is violation of these rules to pump a non-exempt well without a validation permit application or an operating permit application being filed with the District and approved by the Board of Directors.
3. Each operating permit for each well with a capacity greater than 360,000 gallons per day and each well field/groundwater development project covering an area greater than 500 acres shall include provisions requiring that compliance with the performance conditions identified in these rules be demonstrated through the utilization of field monitoring wells as required by the District to ensure compliance with the performance conditions set forth in these rules and the operating permit. The monitoring required by these rules may, at the discretion of the District, be utilized to prove compliance with the performance conditions set out in these rules and the operating permit. If the monitoring data indicates a violation of the performance conditions set out in these rules, and or the operating permit, then the operating permit authorized groundwater production or maximum rate of withdrawal shall be modified to bring the permitted well into compliance with the appropriate performance condition.

RULE 3.4 - EXCLUSIONS AND EXEMPTIONS:

The operating permit requirements in this section do not apply to:

1. Wells used solely for domestic purposes or for providing water for livestock, poultry or personal recreational use that is drilled, completed, or equipped so that it is incapable of producing more than 28,800 gallons (20 gpm) of groundwater per day; or
2. Wells used to supply water for mining activities or hydrocarbon production activities associated with any oil or gas well permitted by the Railroad Commission of Texas.

RULE 3.5 - WATER TABLE DRAWDOWN WELLS:

A system of two or more new wells tied together in order to supply water must provide two or more monitoring wells as required in these rules. One of the monitoring wells may be designated in the operating permit as a water table drawdown well. When the

water level in a water table drawdown well reaches a depth designated in the permit, production from the well system must be reduced or cease until the water level in the water table drawdown well again reaches the drawdown depth designated in the permit.

Providing the applicant can show good cause why monitoring wells or drawdown wells are unnecessary, the District may waive the monitoring well requirement.

SECTION 4 - Groundwater Production Limits and Well Spacing

RULE 4.1 - GROUNDWATER PRODUCTION LIMITS:

Operating permits for non-exempt wells may be limited by the following restrictions:

1. A well or well system may not be permitted to be drilled or equipped for the production of a cumulative total that exceeds 250 gallons per minute (gpm) per contiguous acre controlled by applicant. For the purposes of this rule and the consideration of the associated limitations or requirements, an incorporated municipality may consider all contiguous land within its corporate limits and any other public water supply entity may consider all contiguous land within the boundary of its certificate of convenience and necessity (CCN) that is located within the District to be under its control or as an aggregation area. The boundary of the contiguous land within the incorporated area or CCN inside the District's boundary may serve as the applicant's property line.
2. The amount of the annual maximum groundwater production specified in the operating permit for a non-exempt well or well field, issued under these rules, shall not exceed one-half (1/2) acre-foot per contiguous surface acre owned or controlled by the applicant. For the purposes of this rule and the consideration of the associated limitations or requirements, an incorporated municipality may consider all contiguous land within its corporate limits and any other public water supply entity may consider all contiguous land within the boundary of its certificate of convenience and necessity (CCN) that is located within the District to be under its control or as an aggregation area. The boundary of the contiguous land within the incorporated area or CCN inside the District's boundary may serve as the applicant's property line. Applicants may request that greater amounts of groundwater production per surface acre per annum be authorized provided they submit information, and meet performance conditions specified in these rules, sufficient for the District to determine, and the District does determine, that local hydrogeologic conditions will allow the withdrawal of a greater amount of groundwater per annum without negatively affecting water levels and water quality at adjoining property lines or otherwise interfering with an adjacent landowner's ability to use groundwater.
3. A person's right to continue to produce groundwater from a well or wells under this rule is dependent upon maintaining the ownership or control of water rights sufficient to produce the volume of groundwater specified in the permit or permits and the rules of the District. A conveyance of any portion of the water rights could result in non-compliance with these rules.
4. Operating permit applications for new wells shall be accompanied by well registration application(s) for any unregistered well(s) that currently exist on the same tract of land or adjoining tracts of land owned by the applicant for the new permit(s).
5. The Board may, if good cause is shown, authorize increased groundwater production amounts. Operating permits authorizing amounts of production in excess of one-half acre-foot per surface acre per annum shall contain specific monitoring and performance criteria, and the operating permit, appropriate to demonstrating that such well or well field can be operated so as not to:
 - A. cause well interference on adjoining properties;

- B. impact the usability of the groundwater; or
 - C. otherwise have a negative impact on groundwater availability and use outside the applicant's property.
6. Exceptions to Groundwater Production Limits:
- A. If the applicant present waivers signed by the adjoining landowner(s) stating that they have no objection to the proposed drawdown at the adjoining landowner(s) well site or property line, the production requirements may be altered by the District.
 - B. Providing the application can show good cause why a new well should be allowed to cause greater drawdown, the issue of drawdown criteria will be considered during the permitting process. If the Board chooses to grant a drilling permit for a well in an area where aquifer conditions are not favorable, the Board may limit the groundwater production of the well to ensure no injury is done to adjoining landowners or the aquifer.

RULE 4.2 - WELL SPACING:

In order to minimize the drawdown of the water table or the reduction in artesian pressure, to prevent interference between wells, to prevent degradation of water quality, or to prevent waste, the District may regulate the spacing of water wells.

1. The minimum distance from the property line for placement of a new well shall be a minimum of 50 feet. For the purposes of this rule and the consideration of the associated limitations or requirements, an incorporated municipality may consider all contiguous land within its corporate limits and any other public water supply entity may consider all contiguous land within the boundary of its certificate of convenience and necessity (CCN) that is located within the District to be under its control or as an aggregation area. The boundary of the contiguous land within the incorporated area or CCN inside the District's boundary may serve as the applicant's property line..
2. Minimum distance from any existing or proposed septic system whether on owner's property or adjacent property, must meet county and state standards.
3. Spacing requirements for non-exempt wells is 1 foot for every gallon per minute (gpm) of the permitted groundwater production from nearest registered well or authorized well site on property owned or controlled by an entity other than the applicant. For the purposes of this rule and the consideration of the associated limitations or requirements, an incorporated municipality may consider all contiguous land within its corporate limits and any other public water supply entity may consider all contiguous land within the boundary of its certificate of convenience and necessity (CCN) that is located within the District to be under its control or as an aggregation area. The boundary of the contiguous land within the incorporated area or CCN inside the District's boundary may serve as the applicant's property line.
4. Exception to spacing requirements:
 - A. If the applicant presents waivers signed by the adjoining landowner(s) stating that they have no objection to the proposed location of the well site, the spacing requirements may be altered by the District to suit the applicant's request.
 - B. Providing the applicant can show good cause why a new non-exempt well should be allowed to be drilled closer than the minimum spacing requirements

- of these rules, the issue of spacing requirements will be considered during the permit process. If the Board chooses to grant a permit to drill a well that does not meet the spacing requirements, the Board may limit the production of the well to ensure no injury is done to adjoining landowners or the aquifer.
- C. The Board may, if good cause is shown, enter special orders or add special permit conditions increasing or decreasing spacing requirements.

SECTION 5 - TRANSFER OF GROUNDWATER OUT OF THE DISTRICT:

RULE 5.1 – TRANSPORT PERMIT REQUIRED:

Groundwater produced from within the District may not be transported outside the District's boundaries unless the Board has issued the well owner or operator a transport permit.

RULE 5.2 - APPLICABILITY:

A transport permit is not required for:

1. transportation of less than 10 acre-feet per year,
2. transportation of groundwater that is part of a manufactured product manufactured within the District, or
3. if the groundwater is produced from and put to use on property or within a certificate of convenience and necessity (CCN) that straddles the District boundary line as of the date of these rules.

RULE 5.3 - APPLICATION:

An application for a transport permit must be filed in the District office and must include the following information:

1. The name and mailing address of the applicant;
2. A statement of the nature and purpose of the proposed use and the amount of water be used for each purpose;
3. A statement describing the availability of water in the proposed receiving area;
4. A water-conservation plan for the receiving area;
5. Information on the proposed transportation project including:
 - A. A copy of any contracts with entities to whom the water is to be delivered as evidence of demand for the groundwater and beneficial use;
 - B. The availability of water in the proposed receiving area during the period for which the water supply is requested, including:
 - I. the amount of surface water available for any purpose;
 - II. the amount of groundwater available for any purpose and from any other groundwater source;
 - III. the conservation measures in place or to be implemented in the receiving area; and
 - IV. the projected water demand and proposed water sources for the receiving area as listed in the State and Regional Water Plans;
 - C. The availability of water in the District, including the projected water demand and proposed water sources for the District as listed in the State and Regional Water Plans;
 - D. The projected effect of the proposed transfer on aquifer conditions, depletion, subsidence, existing permit holders or other groundwater users within the District;
 - E. Proof of notification of all landowners adjacent to the property where the well or wells are to be located and all well owners within a 2 mile radius of any of the proposed production wells;
 - F. A specific description of the proposed transportation facilities;

- G. A statement giving the time within which the proposed construction is to begin;
 - H. A statement giving the length of time required for the proposed use of water, and the amount of water to be used;
 - I. Information on the method or methods of transportation; and
 - J. Identify any other liquids that could be substituted for the fresh groundwater and possible sources for such liquid including quantity and quality.
- 6. The location of the well(s) and rates of withdrawal;
 - 7. Any additional information that the Applicant feels is relevant to the District's decision related to the issuance of a transport permit; and
 - 8. Proof of notification of all landowners adjacent to the property where the well or wells are to be located and all well owners within one-half mile radius of any of the proposed production wells.

RULE 5.4 - HEARING AND PERMIT ISSUANCE:

- 1. Applications for transport permits are subject to the hearing procedures provided by these rules.
- 2. In determining whether to issue a permit to transport groundwater out of the District, the Board shall consider:
 - A. availability of water in the District and in the proposed receiving area during the period for which the water supply is requested;
 - B. the projected effect of the proposed transfer on aquifer conditions, depletion, subsidence, or effects on existing Permit holders or other groundwater users within the District; and
 - C. the approved regional and state water plan, and the certified District Management Plan.

SECTION 6 – DISTRICT FEES

RULE 6.1 - ADMINISTRATIVE AND APPLICATION FEES:

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

RULE 6.2 - EXPORT OR TRANSPORT FEE:

The District shall impose a reasonable fee or surcharge, established by Board resolution, for transportation of groundwater out of the District.

RULE 6.3 - PRODUCTION FEE:

A District fee schedule shall be established by Board resolution. Water use fees shall be applied to the total actual annual production. Excess production fees shall be applied to any quantity produced over the authorized annual production for each operating permit, including amendments.

RULE 6.3.1 - Payment Due Date:

Payment shall be due no later than March 1 of each calendar year. Payment for additional pumpage granted through a permit amendment shall be due within 30 days after the amendment is granted.

RULE 6.3.2 - Payment Late Charge:

Each day that a payment remains unpaid after it is due shall constitute a separate violation of these rules. A late payment charge equal to one percent per month following the due date shall be assessed on past due production fees in addition to any penalty amounts.

RULE 6.3.3 - Request for Rebate:

Permittees may request a rebate for any water conserved equal to the production rate for that calendar year times the difference between the amount authorized to be withdrawn on the permit and the amount actually withdrawn for that calendar year. The request must be filed no later than January 31 following the production year for which the rebate is requested. The request for a production fee rebate must present sufficient evidence that:

1. A water meter was installed and operating during the entire permit term;
2. The amount of actual withdrawal during the permit term was less than the amount of authorized withdrawal;
3. The production fee originally paid for the amount by which authorized withdrawal exceeded actual withdrawal is equal to or greater than \$100.00; and

4. If the well is a public supply well, the ratio of water sold or otherwise accounted for to the total water produced is at least 85%. The District may either issue a check for the rebate amount or deduct the rebate amount from the production fee due for the next calendar year.

RULE 6.3.4 - Well Registration Fees:

There is no fee associated with registration of exempt wells.

SECTION 7 - REWORKING AND REPLACING A WELL

RULE 7.1 – PROCEDURES FOR REWORKING A WELL:

1. An existing well may be reworked, re-drilled, or re-equipped without authorization from District if such work is done in a manner that will not change the existing well status.
2. The appropriate applications must be submitted and the District will consider approving the application, if a party wishes to increase the authorized groundwater production of an existing well to the point of increasing the size of the column pipe or gallons per minute rate by reworking, re-equipping, or re-drilling such well.
3. In the event the application meets spacing and production requirements, the board may grant such application without further notice.

RULE 7.2 – PROCEDURES FOR REPLACING A WELL:

1. The appropriate applications must be submitted and the appropriate permits granted by the District if a well owner or operator wishes to replace a well with a replacement well. In the event the application meets spacing and production requirements, the District may grant such application without further notice.
2. A replacement well, in order to be considered such, must be drilled within one hundred (100) yards (300 feet) of the existing well. Provided the existing well is a grandfathered well, the replacement well shall not be drilled in a location that increases the degree to which the original well violated the spacing requirements for new wells.
3. In the event the application meets spacing and production requirements, the board may grant such application without further notice.

SECTION 8 - WELL LOCATION AND COMPLETION

RULE 8.1 - RESPONSIBILITY:

After an application for a drilling permit has been granted, the well, if drilled, must be drilled within the authorized drilling area specified in the drilling permit, and not elsewhere. If the well should be commenced or drilled at a different location, the drilling or operation of such well may be enjoined by the Board pursuant to Chapter 36, Texas Water Code. As described in the Texas Water Well Drillers' Rules, all well drillers and persons having a well drilled, deepened, or otherwise altered shall adhere to the provisions of the rule prescribing the location of wells and proper completion.

RULE 8.2 - LOCATION OF WELLS:

1. A well shall not be located closer than fifty (50) feet to any water-tight sewage collection system or liquid-waste collection facility.
2. A well shall not be located closer than fifty (50) feet to any potential source of contamination, such as existing or proposed livestock or poultry yards, privies, and septic system absorption fields.
3. A well must be located at a site not generally subject to flooding; provided, however, that if a well must be placed in a flood prone area, it must be completed with a watertight sanitary well seal and steel casing extending a minimum of 24 inches above the known flood level.
4. No well may be located within five-hundred (500) feet of a sewage treatment plant, solid waste disposal site, or land irrigated by sewage plant effluent, or within three-hundred (300) feet of a sewage wet well, sewage pumping station, or a drainage ditch that contains industrial waste discharges or effluent from sewage treatment systems.
5. A well must also meet the following requirements:
 - A. Drilling and completion of wells must satisfy all applicable requirements of the Texas Commission on Environmental Quality and the Texas Department of Licensing and Regulation.
 - B. All wells must be completed in accordance with the well completion standards set forth under the requirements promulgated by the Texas Department of Licensing and Regulation set forth under Title 16, Texas Administrative Code, Chapter 76, Water Well Drillers and Pump Installers Rules.
 - C. Violations of the rules adopted by Texas Commission on Environmental Quality, the Texas Department of Licensing and Regulation or Victoria County also constitute a violation of these rules.

RULE 8.3 - STANDARDS FOR COMPLETION OF WELLS:

New water wells must be constructed using methods and materials to minimize the potential for contamination, degradation, or commingling of waters of different chemical quality. Water well drillers must indicate the method of completion performed on the Well Report (TNRCC-0199) Section 10 Surface Completion. New exempt and non-exempt wells must be completed in accordance with the following specifications and in compliance with the local county or incorporated city ordinances:

1. The annular space between the borehole wall and the casing of a well shall be filled with an authorized annular space sealant such that:
 - A. the annular space is sealed from ground level to the top of the water producing strata, or
 - B. the annular space is sealed from ground level to a depth of fifty (50) feet below the land surface, or
 - C. the annular space is sealed with a minimum cumulative seal of fifty (50) feet and such that:
 1. the annular space is filled from ground level to a depth of ten (10) feet as specified under Texas Administrative Code, Chapter 76, Water Well Drillers and Pump Installers Rules, and
 2. the seal must cross a confining layer having a thickness in excess of five (5) feet..
2. The annular space between the borehole wall and the casing of a well located closer than 100 feet to a water-tight sewage collection system or liquid-waste collection facility shall be filled with an authorized annular space sealant from the ground level to the top of the water producing strata or to 100 feet below the land surface.
3. The annular space between the borehole wall and the casing of a well shall be filled in a manner that ensures that the sealant is evenly distributed around the casing and that gaps/voids are not present beyond a reasonable degree.
4. In the case that a pitless adapter is installed, the annular space between the borehole and the casing shall be filled with an authorized annular space sealant to a depth not less than 50 feet below the adapter connection.
5. All wells shall be constructed so that water bearing strata which are not part of the production zone are not allowed to commingle.
6. All wells shall be constructed so that water bearing strata which are allowed to commingle through a gravel pack do not cause quality degradation of any aquifer or zone.
7. The well casing shall be capped or completed in a manner that will prevent pollutants from entering the well.
8. The casing shall be centered in well annular space for the portion of the borehole that will be sealed prior to emplacing the sealant.
9. The annular space sealant shall be emplaced to produce a seal that is absent of significant voids.
10. Bentonite slurry or any other material used in the actual drilling of the well shall not be used to seal the annular space between the borehole wall and the casing.
11. Exceptions to the completion requirements:
 - A. Providing the applicant can show good cause why a proposed well should be allowed to not meet the well completion requirements of these rules, the applicant may request a waiver of the well completion requirements. The issue of well completion requirements shall be considered during the permit process and the Board may enter special orders and add special permit conditions altering the well completion requirements.

RULE 8.4 - RE-COMPLETIONS:

1. The well owner or operator shall have the continuing responsibility of ensuring that a well does not allow commingling of undesirable water and fresh water or the unwanted loss of water through the wellbore to other porous strata.
2. If a well is allowing the commingling of undesirable water and fresh water or the unwanted loss of water, and the casing in the well cannot be removed and the well re-completed within the applicable rules, the casing in the well shall be perforated and cemented in a manner that will prevent the commingling or loss of water. If such a well has no casing, then the well shall be cased and cemented, or plugged in a manner that will prevent such commingling or loss of water.
3. The District may direct the well owner or operator to take steps to prevent the commingling of undesirable water and fresh water, or the unwanted loss of water.

SECTION 9 - WASTE PROHIBITED

RULE 9.1 - WASTE PREVENTION:

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

SECTION 10 - HEARINGS

RULE 10.1 - TYPES OF HEARINGS:

The District conducts two general types of hearings: hearings involving permit matters, in which the rights, duties, or privileges of a party are determined after an opportunity for an adjudicative hearing, and rulemaking hearings involving matters of general applicability that implement, interpret, or prescribe the law or District policy, or that describe the procedure or practice requirements of the District. Any matter designated for hearing before the District may be referred by the Board for hearing before a hearing examiner.

1. Permit Hearings:
 - A. **Permit Applications, Amendments, and Revocations:** The District will hold hearings on drilling permits, operating permits, transport permit, permit renewals, permit amendments, permit revocations, and permit suspensions. Hearings involving permit matters may be scheduled before a hearing examiner.
 - B. **Hearings on Motions for Rehearing:** Motions for Rehearing will be heard by the Board pursuant to these rules.
2. Rule-making Hearings:
 - A. **Rules:** As provided by Section 36.101, Texas Water Code, the Board shall provide notice and conduct a hearing to consider adoption of district rules.
 - B. District Management Plan as provided by Section 36.1071, Texas Water Code; the Board shall provide notice and conduct a hearing to consider adoption of a district management plan.
 - C. **Other Matters:** A public hearing may be held on any matter within the jurisdiction of the District, 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.

RULE 10.2 - NOTICE AND SCHEDULING OF PERMIT HEARINGS:

The General Manager, as instructed by the Board, is responsible for giving notice of all permit hearings in the following manner:

1. Notice will be given to each person who requests copies of hearing notices pursuant to the procedures set forth in these rules, and any other person the Board of Directors deem appropriate. The date of delivery or mailing of notice may not be less than ten calendar days before the date set for the hearing.
2. Notice of hearing will be published at least once in a newspaper of general circulation in the District. The date of publication may not be less than ten calendar days before the date set for the hearing.
3. A copy of the notice will be posted at the county courthouse in the place where notices are usually posted. The date of posting may not be less than ten calendar days before the date of the hearing.
4. In addition to the notices required above, when a hearing involves a permit matter, notice of the date, time, and location of the hearing will be given to the applicant at least ten calendar days before the day of the hearing.

5. In addition to the notice required above, when a hearing involves designation of a Production Limitation Management Area, as provided for in Section 36.116(d) of the Texas Water Code, a copy of the notice must be provided to each landowner, well owner, well operator and known groundwater permit holder in the proposed management area.
6. Any person having an interest in the subject matter of a hearing or hearings may receive written notice of such hearing or hearings by submitting a request in writing to the District. The request must identify with as much specificity as possible the hearing or hearings for which written notice is requested. 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 to provide written notice under this section does not invalidate any action taken by the District.
7. Hearings may be scheduled, Monday through Friday -, except District holidays. Permit hearings will normally be held at the District Office. However, the Board may from time to time change or schedule additional dates, times, and places for permit hearings by resolution adopted at a regular Board meeting. The General Manager is instructed by the Board to schedule hearings involving permit matters at such dates, times, and places set forth above for permit hearings. Other hearings will be scheduled at the dates, times and locations set at a regular Board meeting.

RULE 10.3 - GENERAL PROCEDURES:

1. 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 proceeding. The presiding officer has the authority to:
 - A. set hearing dates, other than the initial hearing date for permit matters set by the District in accordance with these rules;
 - B. convene the hearing at the time and place specified in the notice for public hearing;
 - C. establish the jurisdiction of the District concerning the subject matter under consideration;
 - D. rule on motions and on the admissibility of evidence and amendments to pleadings;
 - E. designate and align parties and establish the order for presentation of evidence;
 - F. administer oaths to all persons presenting testimony;
 - G. examine witnesses;
 - H. issue subpoenas when required to compel the attendance of witnesses or the production of papers and documents;
 - I. require the taking of depositions and compel other forms of discovery under these rules;
 - J. ensure that information and testimony are introduced as conveniently and expeditiously as possible, without prejudicing the rights of any party to the proceeding;
 - K. conduct public hearings in an orderly manner in accordance with these rules;
 - L. recess any hearing from time to time and place to place;

- M. reopen the record of a hearing for additional evidence when necessary to make the record more complete; and
 - N. exercise any other appropriate powers necessary or convenient to effectively carry out the responsibilities of presiding officer.
2. Hearing Registration Forms: Each individual attending a hearing or other proceeding of the District must submit a form providing the following information: name; address; whether the person plans to testify; and any other information relevant to the hearing or other proceeding.
 3. Appearance; Representative Capacity: Any interested person may appear in person or may be represented by counsel, engineer, or other 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 in accordance with the procedures applicable to the particular proceeding. Any partner may appear on behalf of the 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 for 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.
 4. Alignment of Parties; Number of representatives heard: Participants in a proceeding may be aligned according to the nature of the proceeding and their relationship to it. The presiding officer may require the participants of an aligned class to select one or more persons to represent them in the proceeding or on any particular matter or ruling and may limit the number of representatives heard, but must allow at least one representative of an aligned class to be heard in the proceeding or on any particular matter or ruling.
 5. Appearance by Applicant or Movant: The applicant, movant or party requesting the hearing or other proceeding or a representative should be present at the hearing or other proceeding. Failure to so appear may be grounds for withholding consideration of a matter and dismissal without prejudice or may require the rescheduling or continuance of the hearing or other proceeding if the presiding officer deems it necessary in order to fully develop the record.
 6. Reporting: Hearings and other proceedings will be recorded on audio cassette tape or, at the discretion of the presiding officer, may be recorded by a certified shorthand reporter. The District does not prepare transcripts of hearings or other proceedings recorded on audio cassette tape on District equipment for the public, but the District will arrange access to the recording. Subject to availability of space, any party may, at their own expense, arrange for a reporter to report the hearing or other proceeding or for recording of the hearing or other proceeding. The cost of reporting or transcribing a permit hearing may be assessed in accordance with these rules. If a proceeding other than a permit hearing is recorded by a reporter, and a copy of the transcript of testimony is ordered by any person, the testimony will be transcribed and the original transcript filed with the papers of the proceeding at the expense of the person requesting the transcript of testimony. Copies of the transcript of testimony of any hearing or other proceeding thus reported may be purchased from the reporter.

7. Continuance: The presiding officer may continue hearings or other proceedings from time to time and from place to place without the necessity of publishing, serving, mailing or otherwise issuing a new notice. If a hearing or other proceeding is continued and a time and place (other than the District Office) for the hearing or other proceeding to reconvene are not publicly announced at the hearing or other proceeding by the presiding officer before it is recessed, a notice of any further setting of the hearing or other proceeding will be delivered at a reasonable time to all parties, persons who have requested notice of the hearing pursuant to these rules, and any other person the presiding officer deems appropriate, but it is not necessary to post at the county courthouses or publish a newspaper notice of the new setting.
8. Filing of Documents; Time limit: Applications, motions, exceptions, communications, requests, briefs or other papers and documents required to be filed under these rules or by law must be received in hand at the District's office within the time limit, if any, set by these rules or by the presiding officer for filing. Mailing within the time period is insufficient if the submissions are not actually received by the District within the time limit.
9. Computing Time: In computing any period of time specified by these rules, by a presiding officer, by Board orders, or by law, the day of the act, event, or default after which the designated period of time begins to run is not included, but the last day of the period computed is included, unless the last day is a Saturday, Sunday or legal holiday as determined by the Board, in which case the period runs until the end of the next day which is neither a Saturday, Sunday nor a legal holiday.
10. Affidavit: Whenever the making of an affidavit by a party to a hearing or other proceeding is necessary, it may be made by the party or the party's representative or counsel. This rule does not dispense with the necessity of an affidavit being made by a party when expressly required by statute.
11. Broadening the Issues: No person will be allowed to appear in any hearing or other proceeding that in the opinion of the presiding officer is for the sole purpose of unduly broadening the issues to be considered in the hearing or other proceeding.
12. Conduct and Decorum: Every person, party, 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.

RULE 10.4 - UNCONTESTED PERMIT HEARINGS PROCEDURES:

1. Written Notice of Intent to Contest: Any person who intends to contest a permit application must provide written notice of that intent to the District office located at 2805 N. Navarro St., Victoria, Texas 77901 least five calendar days prior to the date of the hearing. If the General Manager or any other person intends to contest a permit application, the District must provide the applicant written notice of that intent at least five calendar days prior to the date of the hearing. If no notice of intent to

contest is received five calendar days prior to the hearing, the District will cancel the hearing and the Board will consider the permit at the next regular board meeting.

2. **Informal Hearings:** Permit hearings may be conducted informally when, in the judgment of the hearing examiner, the conduct of a proceeding under informal procedures will save time or cost to the parties, lead to a negotiated or agreed settlement of facts or issues in controversy, and not prejudice the rights of any party.
3. **Agreement of Parties:** If, during an informal proceeding, all parties reach a negotiated or agreed settlement which, in the judgment of the hearing examiner, settles the facts or issues in controversy, the proceeding will be considered an uncontested case and the hearing examiner will summarize the evidence, make findings of fact and conclusions of law based on the existing record and any other evidence submitted by the parties at the hearing.
4. **Decision to Proceed as Uncontested or Contested Case:** If the parties do not reach a negotiated or agreed settlement of the facts and issues in controversy or if any party contests a staff recommendation, and the hearing examiner determines these issues will require extensive discovery proceedings, the hearing examiner will declare the case to be contested and convene a prehearing conference as set forth in these rules. The hearing examiner may also recommend issuance of a temporary permit for a period not to exceed 4 months, with any special provisions the hearing examiner deems necessary, for the purpose of completing the contested case process. Any case not declared a contested case under this provision is an uncontested case and the hearing examiner will summarize the evidence, make findings of fact and conclusions of law, and make appropriate recommendations to the Board.

RULE 10.5 - CONTESTED PERMIT HEARINGS PROCEDURES:

1. **Prehearing Conference:** A prehearing conference may be held to consider any matter which may expedite the hearing or otherwise facilitate the hearing process.
 - A. **Matters Considered:** Matters which may be considered at a prehearing conference include, but are not limited to, (1) the designation of parties; (2) the formulation and simplification of issues; (3) the necessity or desirability of amending applications or other pleadings; (4) the possibility of making admissions or stipulations; (5) the scheduling of discovery; (6) the identification of and specification of the number of witnesses; (7) the filing and exchange of prepared testimony and exhibits; and (8) the procedure at the hearing.
 - B. **Notice:** A prehearing conference may be held at a date, time, and place stated in a separate notice given in accordance with these rules, or at the date, time, and place for hearing stated in the notice of public hearing, and may be continued from time to time and place to place, at the discretion of the hearing examiner.
 - C. **Conference Action:** Action taken at a prehearing conference may be reduced to writing and made a part of the record or may be stated on the record at the close of the conference.
2. **Assessing Reporting and Transcription Costs:** Upon the timely request of any party, or at the discretion of the hearing examiner, the hearing examiner may assess

reporting and transcription costs to one or more of the parties. The hearing examiner must consider the following factors in assessing reporting and transcription costs:

- A. the party in which requested the transcript;
 - B. the financial ability of the party to pay the costs;
 - C. the extent to which the party participated in the hearing;
 - D. the relative benefits to the various parties of having a transcript;
 - E. the budgetary constraints of a governmental entity participating in the proceeding;
 - F. any other factor that is relevant to a just and reasonable assessment of costs.
 - G. In any proceeding where the assessment of reporting or transcription costs is an issue, the Hearing Examiner must provide the parties an opportunity to present evidence and argument on the issue. A recommendation regarding the assessment of costs must be included in the Hearing Examiner's report to the Board.
3. Designation of Parties: Parties to a hearing will be designated on the first day of hearing or at such other time as the Hearing Examiner determines. The General Manager and any person specifically named in a matter are automatically designated parties. Persons other than the automatic parties must, in order to be admitted as a party, appear at the proceeding in person or by representative and seek to be designated. After parties are designated, no other person may be admitted as a party unless, in the judgment of the hearing examiner, there exists good cause and the hearing will not be unreasonably delayed.
 4. Rights of Designated Parties: Subject to the direction and orders of the hearing examiner, parties have the right to conduct discovery, present a direct case, cross-examine witnesses, make oral and written arguments, obtain copies of all documents filed in the proceeding, receive copies of all notices issued by the District concerning the proceeding, and otherwise fully participate in the proceeding.
 5. Persons Not Designated Parties: At the discretion of the hearing examiner, persons not designated as parties to a proceeding may submit comments or statements, orally or in writing. Comments or statements submitted by non-parties may be included in the record, but may not be considered by the hearing examiner as evidence.
 6. Furnishing Copies of Pleadings: After parties have been designated, a copy of every pleading, request, motion, or reply filed in the proceeding must be provided by the author to every other party or the party's representative. A certification of this fact must accompany the original instrument when filed with the District. Failure to provide copies may be grounds for withholding consideration of the pleading or the matters set forth therein.
 7. Interpreters for Deaf Parties and Witnesses: If a party or subpoenaed witness in a contested case is deaf, the District must provide an interpreter whose qualifications are approved by the State Commission for the Deaf and Hearing Impaired to interpret the proceedings for that person. "Deaf person" means a person who has a hearing impairment, whether or not the person also has a speech impairment that inhibits the person's comprehension of the proceedings or communication with others.

8. **Agreements to be in Writing:** No agreement between parties or their representatives affecting any pending matter will be considered by the hearing examiner unless it is in writing, signed, and filed as part of the record, or unless it is announced at the hearing and entered as record.
9. **Discovery:** Discovery will be conducted upon such terms and conditions, and at such times and places, as directed by the Hearing Examiner. Unless specifically modified by these rules or by order of the Hearing Examiner, discovery will be governed by, and subject to the limitations set forth in, the Texas Rules of Civil Procedure. In addition to the forms of discovery authorized under the Texas Rules of Civil Procedure, the parties may exchange informal requests for information, either by agreement or by order of the Hearing Examiner.
10. **Discovery Sanctions:** If the Hearing Examiner finds a party is abusing the discovery process in seeking, responding to, or resisting discovery, the Hearing Examiner may:
 - A. suspend processing of the application for a Permit if the applicant is the offending party;
 - B. disallow any further discovery of any kind or a particular kind by the offending party;
 - C. rule that particular facts be regarded as established against the offending party for the purposes of the proceeding, in accordance with the claim of the party obtaining the discovery ruling;
 - D. limit the offending party's participation in the proceeding;
 - E. disallow the offending party's presentation of evidence on issues that were the subject of the discovery request; and
 - F. recommend to the Board that the hearing be dismissed with or without prejudice.
11. **Ex Parte Communications:** The Hearing Examiner may not communicate, directly or indirectly, in connection with any issue of fact or law with any agency, person, party, or their representatives, except on notice and opportunity for all parties to participate. This provision does not prevent communications with staff of an agency other than the District not directly involved in the hearing to utilize the special skills and knowledge of the agency in evaluating the evidence.
12. **Compelling Testimony; Swearing Witnesses and Subpoena Power:** The Hearing Examiner may compel the testimony of any person which is necessary, helpful, or appropriate to the hearing. The Hearing Examiner will administer the oath in a manner calculated to impress the witness with the importance and solemnity of the promise to adhere to the truth. The Hearing Examiner may issue subpoenas to compel the testimony of any person and the production of books, papers, documents, or tangible things, in the manner provided in the Texas Rules of Civil Procedure.
13. **Evidence:** Except as modified by these rules, the Texas Rules of Civil Evidence govern the admissibility and introduction of evidence; however, evidence not admissible under the Texas Rules of Civil Evidence may be admitted if it is of the type commonly relied upon by reasonably prudent persons in the conduct of their affairs. In addition, evidence may be stipulated by agreement of all parties.

14. **Written Testimony:** When a proceeding will be expedited and the interest of the parties will not be prejudiced substantially, testimony may be received in written form. The written testimony of a witness, either in narrative or 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. The witness will be subject to clarifying questions and to cross-examination, and the prepared testimony will be subject to objection.
15. **Requirements for Exhibits:** Exhibits of a documentary character must be sized to not unduly encumber the files and records of the District. All exhibits must be numbered and, except for maps and drawings, may not exceed 8-1/2 by 11 inches in size.
16. **Abstracts of Documents:** When documents are numerous, the Hearing Examiner may receive in evidence only those which are representative and may require the abstracting of relevant data from the documents and the presentation of the abstracts in the form of an exhibit. Parties have the right to examine the documents from which the abstracts are made.
17. **Introduction and Copies of Exhibits:** Each exhibit offered must be tendered for identification and placed in the record. Copies must be furnished to the Hearing Examiner and to each of the parties, unless the Hearing Examiner rules otherwise.
18. **Excluding Exhibits:** In the event an exhibit has been identified, objected to, and excluded, it may be withdrawn by the offering party. If withdrawn, the exhibit will be returned and the offering party waives all objections to the exclusion of the exhibit. If not withdrawn, the exhibit will be included in the record for the purpose of preserving the objection to excluding the exhibit.
19. **Official Notice:** The Hearing Examiner may take official notice of all facts judicially cognizable. In addition, official notice may be taken of generally recognized facts within the area of the District's specialized knowledge.
20. **Documents in District Files:** Extrinsic evidence of authenticity is not required as a condition precedent to admissibility of documents maintained in the files and records of the District.
21. **Oral Argument:** At the discretion of the Hearing Examiner, oral arguments may be heard at the conclusion of the presentation of evidence. Reasonable time limits may be prescribed. The Hearing Examiner may require or accept written briefs in lieu of, or in addition to, oral arguments. When the matter is presented to the Board for final decision, further oral arguments may be heard by the Board.

RULE 10.6 - CONCLUSION OF THE HEARING; REPORT:

1. **Closing the Record; Final Report:** At the conclusion of the presentation of evidence and any oral argument, the Hearing Examiner may either close the record or keep it open and allow the submission of additional evidence, exhibits, briefs, or proposed findings and conclusions from one or more of the parties. No additional evidence, exhibits, briefs, or proposed findings and conclusions may be filed unless permitted or requested by the Hearing Examiner. After the record is closed, the Hearing Examiner will prepare a report to the Board. The report must include a summary of the evidence, together with the Hearing Examiner's findings and conclusions and recommendations for action. Upon completion and issuance of the Hearing Examiner's report, a copy must be submitted to the District and delivered to each

party to the proceeding. In a contested case, delivery to the parties must be by certified mail.

2. Exceptions to the Hearing Examiner's Report; Reopening the Record: Prior to Board action any party in a contested case may file written exceptions to the Hearing Examiner's report, and any party in an uncontested case may request an opportunity to make an oral presentation of exceptions to the Board. Upon review of the report and exceptions, the Hearing Examiner may reopen the record for the purpose of developing additional evidence, or may deny the exceptions and submit the report and exceptions to the Board. The Board may, at any time and in any case, remand the matter to the Hearing Examiner for further proceedings.
3. Time for Board Action on Certain Permit Matters: In the case of hearings involving new Permit applications, original applications for existing wells, or applications for Permit renewals or amendments, the Hearing Examiner's report should be submitted, and the Board should act, within 60 calendar days after the close of the hearing record.

RULE 10.7 - RULEMAKING HEARINGS PROCEDURES:

1. General Procedures: The presiding officer will conduct the rulemaking hearing in the manner the presiding officer deems most appropriate to obtain all relevant information pertaining to the subject of the hearing as conveniently, inexpensively, and expeditiously as possible. The presiding officer may follow the guidelines of "Parliamentary Procedure at a Glance," New Edition, O. Garfield Jones, 1971 revised edition, or as amended.
2. Submission of Documents: Any interested person may submit written statements, protests or comments, briefs, affidavits, exhibits, technical reports, or other documents relating to the subject of the hearing. Such documents must be submitted no later than the time of the hearing, as stated in the notice of hearing given in accordance with these rules; provided, however, that the presiding officer may grant additional time for the submission of documents.
3. Oral Presentations: Any person desiring to testify on the subject of the hearing must so indicate on the registration form provided at the hearing. The presiding officer establishes the order of testimony and may limit the number of times a person may speak, the time period for oral presentations, and the time period for raising questions. In addition, the presiding officer may limit or exclude cumulative, irrelevant, or unduly repetitious presentations.
4. Conclusion of the Hearing; Closing the Record; Hearing Examiner's Report: At the conclusion of the testimony, and after the receipt of all documents, the presiding officer may either close the record, or keep it open to allow the submission of additional information. If the presiding officer is a Hearing Examiner, the Hearing Examiner must, after the record is closed, prepare a report to the Board. The report must include a summary of the subject of the hearing and the public comments received, together with the Hearing Examiner's recommendations for action. Upon completion and issuance of the Hearing Examiner's report, a copy must be submitted to the Board. Any interested person who so requests in writing will be notified when the report is completed, and furnished a copy of the report.

5. Exceptions to the Hearing Examiner's Report; Reopening the Record: Any interested person may make exceptions to the Hearing Examiner's report, and the Board may reopen the record, in the manner prescribed in Rule 14.6(b).

RULE 10.8 - FINAL DECISION; APPEAL:

1. Board Action: After the record is closed and the matter is submitted to the District, the Board may then take the matter under advisement, continue it from day to day, reopen or rest the matter, refuse the action sought or grant the same in whole or part, or take any other appropriate action. The Board action takes effect at the conclusion of the meeting and is not affected by a motion for rehearing.
2. Requests for Rehearing: Any decision of the Board on a matter may be appealed by requesting a rehearing before the Board within 20 calendar days of the Board's decision. Such a rehearing request must be filed at the District Office in writing and must state clear and concise grounds for the request. Such a rehearing request is mandatory with respect to any decision or action of the Board before any appeal may be brought. The Board's decision is final if no request for rehearing is made within the specified time, or upon the Board's denial of the request for rehearing, or upon rendering a decision after rehearing. If the rehearing request is granted by the Board, the date of the rehearing will be within 45 calendar days thereafter, unless otherwise agreed to by the parties to the proceeding. The failure of the Board to grant or deny the request for rehearing within 90 calendar days of submission will be deemed to be a denial of the request.

SECTION 11 - INVESTIGATIONS AND ENFORCEMENT

RULE 11.1 - NOTICE AND ACCESS TO PROPERTY:

Board members and district agents and employees are entitled to access to all property within the District to carry out technical and other investigations necessary to the implementation of the these rules. Prior to entering upon property for the purpose of conducting an investigation, the person seeking access must give notice in writing or in person or by telephone to the landowner, lessee, or operator, agent, or employee of the well owner or operator, as determined by information contained in the application or other information on file with the District. Notice is not required if prior permission is granted to enter without notice. Inhibiting or prohibiting access to any board member or district agents or employees who are attempting to conduct an investigation under these rules constitutes a violation and subjects the person who is inhibiting or prohibiting access, as well as any other person who authorizes or allows such action, to the penalties set forth in the Texas Water Code Chapter 36.102.

RULE 11.1.1 - RIGHT TO INSPECT, TEST, AND LOCATE WELLS:

Upon notice as provided for in these rules, and in accordance with provisions of these rules:

1. Any authorized officer, employee, agent, or representative of the District shall have the right at all reasonable times to enter upon the lands on which a well or wells may be located within the boundaries of the District to:
 - A. inspect such well or wells;
 - B. read or interpret any meter, weir box or other instrument for the purpose of measuring production of water from said well or wells;
 - C. determine the pumping capacity of said well or wells;
 - D. measure the water level or obtain water samples for determining the water quality of said well or wells;
 - E. test the pump and the power unit of the well or wells;
 - F. determine the coordinates (location) of said well or wells using GPS or other available methods; or
 - G. make any other reasonable and necessary inspection and / or test that may be required or necessary for the information or enforcement of the rules and regulations of the District.
2. The operation of any well may be enjoined by the Board immediately upon refusal to allow the gathering of information as provided from such well or wells.

RULE 11.2 - CONDUCT OF INVESTIGATION:

Investigations or inspections that require entrance upon property must be conducted at reasonable times, and must be consistent with the establishment's rules and regulations concerning safety, internal security, and fire protection. The persons conducting such investigations must identify themselves and present credentials upon request of the owner, lessee, operator, or person in charge of the well.

RULE 11.3 - RULE ENFORCEMENT:

If it appears that a person has violated, is violating, or is threatening to violate any provision of these rules the Board may institute and conduct a suit in the name of the District for enforcement of rules through the provisions of Chapter 36.102 Texas Water Code.

RULE 11.4 - SEALING OF WELLS:

Following due-process, the District may, upon orders from a court, seal wells that are prohibited from withdrawing groundwater within the District by these rules to ensure that a well is not operated in violation of these rules. A well may be sealed when:

1. no application has been made for a drilling permit for a new water well which is not excluded or exempted; or
2. no application has been made for an operating permit to withdraw groundwater from an existing well that is not excluded or exempted from the requirement that a operating permit be obtained in order to lawfully withdraw groundwater; or
3. the Board has denied, canceled or revoked a drilling permit or an operating permit.

The well may be sealed by physical means, and tagged to indicate that the well has been sealed by the District, and other appropriate action may be taken as necessary to preclude operation of the well or to identify unauthorized operation of the well.

Tampering with, altering, damaging, or removing the seal of a sealed well, or in any other way violating the integrity of the seal, or pumping of groundwater from a well that has been sealed constitutes a violation of these rules and subjects the person performing that action, as well as any well owner or primary operator who authorizes or allows that action, to such penalties as provided by these rules.