

# **RULES OF THE VICTORIA COUNTY GROUNDWATER CONSERVATION DISTRICT**

ADOPTED: November 15, 2013  
EFFECTIVE: November 15, 2013

The rules of the Victoria County Groundwater Conservation District were originally adopted on October 3, 2008.

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

The rules of the Victoria County Groundwater Conservation District were modified and re-adopted on November 15, 2013.

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. These rules shall be construed in such a manner as to attain these objectives.

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.

## Table of Contents

<b>SECTION 1: DEFINITIONS AND CONCEPTS .....</b>	<b>5</b>
RULE 1.1: DEFINITIONS OF TERMS .....	5
RULE 1.2: POSSIBLE CLASSIFICATIONS OF WELLS .....	13
RULE 1.3: PURPOSE OF RULES.....	14
RULE 1.4: USE AND EFFECT OF RULES.....	14
RULE 1.5: AMENDING OF RULES.....	15
RULE 1.6: HEADINGS AND CAPTIONS .....	15
RULE 1.7: CONSTRUCTION .....	15
RULE 1.8: METHODS OF SERVICE UNDER THE RULES .....	15
RULE 1.9: SEVERABILITY .....	15
<b>SECTION 2: REGISTRATION OF WELLS .....</b>	<b>16</b>
RULE 2.1: REGISTRATION OF WELLS, WELL FIELDS, AND WELL SYSTEMS .....	16
RULE 2.2: REGISTRATION APPLICATIONS FOR A WELL.....	16
RULE 2.3: REGISTRATION APPLICATIONS FOR WELL FIELDS .....	17
RULE 2.4: REGISTRATION APPLICATIONS FOR WELL SYSTEMS.....	18
RULE 2.5: REGISTRATION APPLICATION FEES .....	18
RULE 2.6: REPORTING REQUIREMENT OF NON-EXEMPT USE WELLS .....	18
<b>SECTION 3: PROTECTION OF HISTORIC USE.....</b>	<b>20</b>

RULE 3.1: VALIDATION OF HISTORIC USE OF A NON-EXEMPT USE WELL, WELL FIELD, OR WELL SYSTEM .....	20
<b>SECTION 4: PERMITS.....</b>	<b>24</b>
RULE 4.1: GENERAL PERMITTING POLICIES AND PROCEDURES.....	24
RULE 4.2:PERMITTING POLICIES AND PROCEDURES RELATED TO DRILLING PERMITS .....	26
RULE 4.3:PERMITTING POLICIES AND PROCEDURES RELATED PRODUCTION PERMITS .....	27
RULE 4.5: AGGREGATION OF WELL PRODUCTION.....	32
RULE 4.6:PERMITTING POLICIES AND PROCEDURES RELATED TRANSPORT PERMITS .....	33
RULE 4.7: DECISION AND ISSUANCE OF PERMITS .....	35
RULE 4.8: ACCEPTANCE OF PERMITS.....	35
RULE 4.9: PERMIT RENEWAL.....	35
RULE 4.10: PERMIT VIOLATIONS .....	36
RULE 4.11: WAIVERS AND VARIANCES OF DISTRICT RULES .....	36
<b>SECTION 5: WELL SPACING REQUIREMENTS .....</b>	<b>38</b>
RULE 5.1: WELL SPACING REQUIREMENTS OF NON-GRANDFATHERED WELLS .....	38
RULE 5.2: WELL SPACING REQUIREMENTS OF NON-GRANDFATHERED WELL FIELDS.....	39
RULE 5.3: WELL SPACING REQUIREMENTS OF NON-GRANDFATHERED WELL SYSTEMS.....	39
<b>SECTION 6: GROUNDWATER PRODUCTION LIMITATIONS .....</b>	<b>40</b>
RULE 6.1: GROUNDWATER PRODUCTION LIMITATIONS OF GRANDFATHERED NON-EXEMPT USE WELLS.....	40
RULE 6.2: GROUNDWATER PRODUCTION LIMITATIONS OF GRANDFATHERED WELL FIELDS.....	40
RULE 6.3: GROUNDWATER PRODUCTION LIMITATIONS OF GRANDFATHERED WELL SYSTEMS .....	40
RULE 6.4: GROUNDWATER PRODUCTION LIMITATIONS OF NON-GRANDFATHERED NON-EXEMPT USE WELLS, NON-GRANDFATHERED WELL FIELDS, AND NON-GRANDFATHERED WELL SYSTEMS.....	40
<b>SECTION 7 - DRILLING WELLS, REWORKING WELLS, AND REPLACING WELLS</b>	<b>43</b>
RULE 7.1: DRILLING WELLS .....	43
RULE 7.2: STANDARDS FOR COMPLETION OF WELLS.....	43
RULE 7.3: COMMINGLING OF UNDESIRABLE WATER WITH DESIRABLE GROUNDWATER.....	44
RULE 7.4: REWORKING A WELL .....	45
RULE 7.5: REPLACING A WELL .....	45
<b>SECTION 8 – DISTRICT FEES .....</b>	<b>47</b>
RULE 8.1: ADMINISTRATIVE AND APPLICATION FEES .....	47
RULE 8.2: TRANSPORT FEE .....	47
RULE 8.3: PRODUCTION FEE .....	47
RULE 8.4: PAYMENT LATE CHARGE .....	47
<b>SECTION 9 - WASTE, VIOLATIONS, INVESTIGATIONS, AND ENFORCEMENT .....</b>	<b>48</b>
RULE 9.1: WASTE PREVENTION .....	48
RULE 9.2: VIOLATIONS .....	48

RULE 9.3: NOTICE AND ACCESS TO PROPERTY .....	49
RULE 9.4: RIGHT TO INSPECT, TEST, AND LOCATE WELLS.....	49
RULE 9.5: CONDUCT OF INVESTIGATION .....	50
RULE 9.6: RULE ENFORCEMENT.....	50
RULE 9.7: SEALING OF WELLS .....	50
<b>SECTION 10 - HEARINGS, PERMITTING PROCEDURES, AND RULE-MAKING PROCEDURES.....</b>	<b>51</b>
RULE 10.1: TYPES OF HEARINGS.....	51
RULE 10.2: NOTICE AND SCHEDULING OF PERMIT HEARINGS.....	51
RULE 10.3: GENERAL PROCEDURES .....	52
RULE 10.4: UNCONTESTED PERMIT HEARINGS PROCEDURES .....	55
RULE 10.5: CONTESTED PERMIT HEARINGS PROCEDURES .....	56
RULE 10.6: CONCLUSION OF THE HEARING; REPORT .....	59
RULE 10.7: RULE-MAKING HEARINGS PROCEDURES .....	60
RULE 10.8: FINAL DECISION; APPEAL.....	61

## **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, Chapter 76 of Title 16 of the Texas Administrative Code, and the definitions as follow:

**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.

**ADMINISTRATIVELY COMPLETE** means the condition of an application when all information required and requested has been provided to the District.

**AGGREGATE AUTHORIZED GROUNDWATER PRODUCTION AMOUNT** means the amount of groundwater authorized to be withdrawn from two or more wells of a well field or well system.

**APPLICATION** means the completed forms and associated information supporting a request or authorization from the District related to the regulation of the groundwater resources within the District.

**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
3. 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 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 use well.

**AUTHORIZED OPERATOR** means any person authorized by the District by permit to operate a well, well field, or well system.

**AUTHORIZED WELL SITE** means:

1. The location of a proposed well on an application duly filed with the District until such application is denied; or
2. The location of a proposed well on a valid permit; or
3. 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
4. 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 authorized operator.

**BENEFICIAL USE** means:

1. The use of groundwater for agricultural, gardening, domestic, stock raising, municipal, mining, manufacturing, industrial, commercial, recreational, or pleasure purposes;
2. The use of groundwater for exploring for, producing, handling, or treating oil, gas, sulphur, or other minerals; or
3. 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** means 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.

**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 means those activities related to the running of a single home.

DORMANT WELL means a well which is not a deteriorated well or abandoned well that the authorized operator has notified the District will not be operated and the authorized operator has agreed to notify the District prior to the operation of the well.

DRILLING PERMIT means an authorization issued by the District for a water well to be drilled.

EXEMPT USE means the operation of a well, well field, or well system:

1. For the sole purpose of producing groundwater to be used for domestic use purposes;
2. For the sole purpose of providing groundwater for livestock, poultry or personal recreation that is drilled, completed, or equipped so that it is incapable of producing more than 28,800 gallons of groundwater per day;
3. For the sole purpose of providing groundwater for fire fighting;
4. For the sole purpose of providing a heat source or heat sink to a freshwater closed loop geothermal well; or
5. For the sole purpose of providing access to monitor groundwater resources that does not consume more than 5,000 gallons of water per year.

EXEMPT USE WELL means a well utilized to produce groundwater to be used solely for exempt use purposes or a well otherwise exempt under the provisions of Section 36.117 of the Texas Water Code.

FEE means a charge imposed by the District pursuant to Texas Water Code Chapter 36.

FEE TYPES include:

1. ADMINISTRATIVE FEE means a fee assessed by the District for the submittal of an application on an applicant.
2. PRODUCTION FEE means a fee assess by the District on authorized operators based on the volume of groundwater produced from a non-exempt use well.
3. TRANSPORT FEE means a fee assess by the District on authorized operators based on the volume of groundwater transported out of the boundary of the District.

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 a grandfathered well from well spacing requirements so long as the purpose of use remains unchanged;
2. Exclude a non-exempt well drilled before adoption of these rules from water use fees;
3. Allow a grandfathered well used for non-exempt-use purposes prior to the adoption of these rules to obtain a production permit authorizing the operation of the well for validated historic uses;
4. Allow a non-exempt well drilled before adoption of these rules to operate under production permits authorizing the operation of the well for validated historic uses without requiring a periodic renewal of these permits.

GRANDFATHERED STATUS means the classification assigned, by the District, of the purpose of use for which a well, well field, or well system as either grandfathered or non-grandfathered.

GRANDFATHERED WELL means a well that existed at the date of the original adoption of the rules of the District.

GRANDFATHERED WELL FIELD means a well field that existed, in its entirety, at the date of the original adoption of the rules of the District.

GRANDFATHERED WELL SYSTEM means a well system that existed, in its entirety, at the date of the original adoption of the rules of the District.

GROUNDWATER means water percolating below the surface of the earth.

GROUNDWATER PRODUCTION means the operation of a well that results in the extraction of groundwater from a well.

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.

HISTORIC USE means the specific pattern of utilization of a well, well field, or well system during the historic use period including the annual quantity of groundwater produced from a well, well field, or well system and the specific purposes of use of the produced groundwater.

HISTORIC USE VALIDATION PERIOD means the time period before the date of the original adoption of the rules of the District.

LANDOWNER means the person who bears ownership of the land surface.

LANDOWNER AGENT means a person authorized by the landowner to serve as

their legal representative in matters related to the activities and regulations of the District.

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.

NON-GRANDFATHERED WELL means a well that is not a grandfathered well or a replacement well of a grandfathered well.

NON-GRANDFATHERED WELL FIELD means a well field that is not a grandfathered well field.

NON-GRANDFATHERED WELL SYSTEM means a well system that is not a grandfathered well system.

NON-EXEMPT USE WELL means a well that is not an exempt use well.

OPEN MEETINGS LAW means Chapter 551, Texas Government Code.

PERMIT AMENDMENT means a modification of an unexpired permit previously issued by the District.

PERSON means a 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 PERMIT means the authorization issued by the District under which an authorized operator may produce a specific amount of groundwater from a non-exempt use well for a designated purpose of use for a designated period of time.

PRODUCTION ZONE means the water bearing stratum or strata that a well is completed in from which groundwater is released into the water well.

PUBLIC INFORMATION ACT means Chapter 552, Texas Government Code.

PURPOSE OF USE means the beneficial purpose to which produced groundwater is used or the beneficial purpose to which the produced groundwater will be used.

PURPOSE OF USE Types include:

Agricultural Use means any use of groundwater for activities 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.

DOMESTIC USE means the use of groundwater for domestic purposes by an individual or a household. Such use may include water used:

1. For drinking, washing, or culinary purposes;
  1. For irrigation of lawns, or of a family garden and/or family orchard;
  2. For watering of domestic animals; and
  3. 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.

INDUSTRIAL USE means the use of groundwater 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 groundwater 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.

**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 groundwater 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.

**REMEDICATION USE** means to use groundwater to either extract or inject materials for the purpose of remediating or removing a subsurface contaminant.

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

**REGISTRATION** means the process through which the District assigns an identification number, grandfathered status, and use exemption status to a well.

**REGISTERED WELL** means a well registered by the District in accordance with the District Rules.

**REPLACEMENT WELL** means a well drilled for the purposes of replacing a registered well which is deteriorated provided the replacement well is drilled within 100 yards of a registered well.

**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 production of groundwater, or operation of the well, or continuing with other activities regulated by the District is not authorized by the District, shall be in violation of District Rules, and may subject the well owner or authorized operator to civil suit 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.

**SUBJECT OPERATION** means the operation, proposed or existing, of wells, well fields, or well systems of which are the subject of an application for a permit, application for an amendment, or application for a waiver or variance.

**SUBJECT WELL** means the specific well, proposed or existing, of an application for a permit, application of an amendment, or application for a waiver or variance.

SUBJECT WELL FIELD means the specific well field and related wells, proposed or existing, of an application for a permit, application of an amendment, or application for a waiver or variance.

SUBJECT WELL SYSTEM means the specific well system and related wells, proposed or existing, of an application for a permit, application of an amendment, or application for a waiver or variance.

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 groundwater produced under a production permit out of the District for a designated period of time.

USE EXEMPTION STATUS means the classification assigned, by the District, of the purpose of use for which a well, well field, or well system as either exempt use or non-exempt 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 of the Texas Water Code.

**WATER BEARING STRATA** means a geologic formation from which groundwater can be produced from a water well.

**WATER METER** means a flow-measuring device that can accurately record the amount of groundwater produced from a well.

**WELL** means any facility, device, or method used to produce groundwater from any groundwater supply.

**WELL FIELD** means the collection of non-exempt use wells located on a contiguous tract of land or on tracts of noncontiguous land, without intervening private ownership or private control, owned or controlled by a person, and operated to produce groundwater for one or more non-exempt use purposes.

**WELL OWNER** means the person who owns the land upon which a well is located.

**WELL OWNER AGENT** means a person authorized by the well owner to serve as their legal representative in matters related to the activities and regulations of the District.

**WELL SYSTEM** means the collection of non-exempt use wells located on noncontiguous tracts of land, with intervening private ownership or private control, owned or controlled by a person, operated to produce groundwater for non-exempt use purpose, and connected by a transmission or distribution system.

## **RULE 1.2: POSSIBLE CLASSIFICATIONS OF WELLS**

1. **GRANDFATHERED EXEMPT USE WELL** refers to a well that is, or would be, classified as a grandfathered well and classified as an exempt use well by the District.
2. **GRANDFATHERED NON-EXEMPT USE WELL** refers to a well that is, or would be, classified as a grandfathered well and classified as a non-exempt use well by the District.
3. **GRANDFATHERED NON-EXEMPT USE WELL FIELD** refers to a well field comprised of wells that are, or would be, classified as grandfathered wells and classified as a non-exempt use wells by the District.

4. GRANDFATHERED NON-EXEMPT USE WELL SYSTEM refers to a well system comprised of wells that are, or would be, classified as grandfathered wells and classified as a non-exempt use wells by the District.
5. NON-GRANDFATHERED EXEMPT USE WELL refers to a well that is, or would be, classified as a non-grandfathered well and classified as an exempt use well by the District.
6. NON-GRANDFATHERED NON-EXEMPT USE WELL refers to a well that is, or would be, classified as a non-grandfathered well and classified as a non-exempt use well by the District.
7. NON-GRANDFATHERED NON-EXEMPT USE WELL FIELD refers to a well field comprised of wells of which at least one well is, or would be, classified as a non-grandfathered well and classified as a non-exempt use well by the District.
8. NON-GRANDFATHERED NON-EXEMPT USE WELL SYSTEM refers to a well system comprised of wells of which at least one well is, or would be, classified as a non-grandfathered well and classified as a non-exempt use well by the District.

### **RULE 1.3: PURPOSE OF RULES**

1. 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.
2. In fulfilling the stated purpose of these rules, the board will endeavor to maintain the aquifers in the district on a sustainable basis.
3. 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 1.4: USE AND EFFECT OF RULES**

1. 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.
2. The rules 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.
3. A permit from the District does not allow the drilling of wells within the incorporated limits of an incorporated municipality in violation of the ordinances of that municipality.
4. A reference to "the District" is a reference to the Victoria County Groundwater Conservation District as an organization.
5. The Board of Directors of the District may delegate authority, responsibility, or requirement of "the District" to other persons by separate

policy.

### **RULE 1.5: AMENDING OF RULES**

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

### **RULE 1.6: HEADINGS AND CAPTIONS**

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

### **RULE 1.7: CONSTRUCTION**

1. 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.
2. Construction of words and phrases are governed by the Code Construction Act, Subchapter B, Chapter 311, Government Code.

### **RULE 1.8: METHODS OF SERVICE UNDER THE RULES**

1. 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, by telephonic document transfer to the recipient's current telecopier number, or by electronic mail to the recipient's current electronic email address.
2. Service by mail is complete upon deposit in a post office or other official depository of the United States Postal Service.
3. 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.
4. 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.
5. 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 1.9: SEVERABILITY**

1. 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, WELL FIELDS, AND WELL SYSTEMS**

1. The District shall create and maintain a registry of wells within the boundary of the District.
2. All grandfathered exempt use wells within the boundary of the District may be registered on a voluntary basis by the authorized operator, well owner, or well owner agent.
3. All grandfathered non-exempt use wells, grandfathered well fields, and grandfathered well systems within the boundary of the District shall be registered with the District by the authorized operator, well owner, or well owner agent.
4. All non-grandfathered wells and replacement wells drilled within the boundary of the District shall be registered with the District by the authorized operator, well owner, or well owner agent within 60 days of the completion of the non-grandfathered well by application accompanied by the well driller's log.
5. All wells registered with the District shall be classified by the District according to grandfathered status and use exemption status.
6. An application for the registration of a non-grandfathered well capable of producing 360,000 gallons per day shall include the following information:
  - a. The location of all wells within 1,500 feet of the well being registered;
  - b. The location, screened intervals, and total depth of wells to be used to monitor the impacts of the well being registered;
  - c. The 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
7. Administratively complete applications for the registration of grandfathered non-exempt use wells, grandfathered well fields, and grandfathered well systems shall be submitted by the authorized operator, well owner, or well owner agent to the District to be eligible for historic use validation.
8. The District may register any well, well field, or well system within the District that is required to be registered under these rules.
9. The District may register any well, well field, or well system within the District that is subject to investigation by the District.

### **RULE 2.2: REGISTRATION APPLICATIONS FOR A WELL**

1. An application for the registration of a well shall be submitted on forms provided by the District.
2. Registration applications for grandfathered wells shall contain estimates of the daily production capacity and the date the well was drilled.

3. In order to be classified as a grandfathered well, the registration application shall state that the well existed at the date of the original adoption of the rules of the District.
4. In order to be classified as an exempt use well, the registration application for a well shall state that the use of the well qualifies as an exempt use well as defined in these rules.
5. An application for the registration of a well shall include the following information and any other information the General Manager may determine to be of need to be considered administratively complete:
  - a. The exact location of the well, as provided in the application including the geographic coordinate, the distance to the nearest public road, the distance to the nearest property line, or other descriptions of the well location;
  - b. The purpose of use of the groundwater produced from the well;
  - c. The maximum production rate expressed as gallons per minute;
  - d. The date the well was drilled;
  - e. The name and address of the well owner;
  - f. A statement certifying, under penalty of law, that the information reported on and attached to the report was prepared under the direction or supervision of the authorized operator and is, to the best of the knowledge and belief of the authorized operator, true, accurate and complete; and
  - g. A statement certifying, under penalty of law, that the authorized operator will operate the well in accordance with the rules of the District and regulations of the State of Texas.
  - h. The dated signature of the well owner, well owner agent, or authorized operator of the subject well.

### **RULE 2.3: REGISTRATION APPLICATIONS FOR WELL FIELDS**

1. An application for the registration of a well field shall be submitted on forms provided by the District.
2. An application for the registration of a well field shall be accompanied by registration applications for a well for each well in the well field.
3. An application for the registration of a well field shall include the following information any other information the General Manager may determine to be of need to be considered administratively complete:
  - a. The name and address of the well field owner;
  - b. The exact location and exact extent of the well field;
  - c. The date the well field was established;
  - d. The date and description of each expansion of the well field;
  - e. Documentation demonstrating the ownership or control of the contiguous tract of land on which the well field is located or tracts of noncontiguous land without intervening private ownership or private control on which the well field is located;
  - f. A statement certifying, under penalty of law, that the information reported on and attached to the report was prepared under the direction or supervision of the authorized operator and is, to the

best of the knowledge and belief of the authorized operator, true, accurate and complete; and

- g. A statement certifying, under penalty of law, that the authorized operator will operate the well in accordance with the rules of the District and regulations of the State of Texas.
- h. The dated signature of the well owner, well owner agent, or authorized operator of the subject well field.

#### **RULE 2.4: REGISTRATION APPLICATIONS FOR WELL SYSTEMS**

1. An application for the registration of a well system shall be submitted on forms provided by the District.
2. An application for the registration of a well system shall be accompanied by registration applications for a well for each well participating in the well system.
3. An application for the registration of a well system shall include the following information and any other information the General Manager may determine to be of need to be considered administratively complete:
  - a. The name and address of the well system owner;
  - b. The exact location of each well participating in the well system and exact extent of the well system;
  - c. The date the well field was established;
  - d. The date and description of each expansion of the well system;
  - e. Documentation demonstrating the ownership or control of the noncontiguous tracts of land with intervening private ownership or private control on which the well system is located;
  - f. A statement certifying, under penalty of law, that the information reported on and attached to the report was prepared under the direction or supervision of the authorized operator and is, to the best of the knowledge and belief of the authorized operator, true, accurate and complete; and
  - g. A statement certifying, under penalty of law, that the authorized operator will operate the well in accordance with the rules of the District and regulations of the State of Texas.

#### **RULE 2.5: REGISTRATION APPLICATION FEES**

1. The District shall not assess fees for filing and processing of registration applications associated with grandfathered wells, grandfathered well fields, or grandfathered well systems.
2. The District shall assess fees for the filing and processing of registration applications associated with non-grandfathered wells, non-grandfathered well fields, or non-grandfathered well systems in accordance with the District's fee schedule as established by resolution of the Board.

#### **RULE 2.6: REPORTING REQUIREMENT OF NON-EXEMPT USE WELLS**

1. Authorized operators shall report groundwater production from each non-exempt use well, each well of a non-exempt use well field, and each well

- of a non-exempt use well system to the District on an annual basis.
2. Authorized operators shall report groundwater production that is accurate within 10% of the actual volume of groundwater produced during the year.
  3. The reporting period for groundwater production reporting for non-exempt use wells, non-exempt use well fields, and non-exempt use well systems is January 1 to December 31 of each year.
  4. Groundwater production shall be reported to the District no later than thirty days after the end of the reporting period.
  5. Groundwater production shall be reported using forms provided by the District.
  6. Groundwater production reports shall include the following information:
    - a. The well registration number assigned by the District;
    - b. The production permit identification number;
    - c. The aggregate production permit number, if applicable;
    - d. The reporting period;
    - e. The volume of groundwater produced during the reporting period in acre-feet;
    - f. The accumulative volume of groundwater produced during the calendar year of the reporting period in acre-feet;
    - g. The accumulative volume of groundwater produced during the 12-month period preceding the last day of the reporting period;
    - h. The method used to determine the volumes of groundwater being reported; and
    - i. A statement certifying, under penalty of law, that the information reported on and attached to the report was prepared under the direction or supervision of the authorized operator and is, to the best of the knowledge and belief of the authorized operator, true, accurate and complete.
  7. A non-exempt use well identified as being a dormant well by the authorized operator for more than 12 months shall be exempt from reporting requirements of Rule 2.6 until such time as the well no longer satisfies the definition of a dormant well.
  8. An entity holding a permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code, that authorized the drilling of a well shall report monthly to the District the following:
    - a. The total amount of groundwater produced during the month;
    - b. The quantity of groundwater produced that was necessary for mining activity purposes; and
    - c. The quantity of groundwater produced that was necessary for other purposes.

## **SECTION 3: PROTECTION OF HISTORIC USE**

### **RULE 3.1: VALIDATION OF HISTORIC USE OF A NON-EXEMPT USE WELL, WELL FIELD, OR WELL SYSTEM**

1. The District shall provide for the protection of historic use by grandfathered non-exempt use wells, grandfathered well fields, and grandfathered well systems by validating evidence of historic use and issuing permits authorizing the continued operation of the grandfathered non-exempt use wells, grandfathered well fields, and grandfathered well systems based on validated evidence.
2. The Board on its own initiative may cause to be issued a production permit for a grandfathered non-exempt use well, a grandfathered well field, or a grandfathered well system within the District for which the well owner or well owner agent has not submitted an administratively complete application for validation of historic use or for wells not otherwise properly permitted provided that such wells were not drilled, equipped and operated in such a manner as to violate any other rules and regulations of the District. To the extent available, the authorized operator shall provide all of the information required in these rules and as may otherwise be requested by the District.
3. The District shall limit the authorized groundwater production amount and purpose of use of a grandfathered non-exempt use well to that amount and purpose of use validated, by the District, as historic use of the well.
4. The District shall limit the authorized groundwater production amount and purpose of use of a grandfathered well field to that amount and purpose of use validated, by the District, as historic use for the well field.
5. The District shall limit the authorized groundwater production amount and purpose of use of a grandfathered well system to that amount and purpose of use validated, by the District, as historic use for the well system.
6. The District shall limit the validated historic use of a grandfathered non-exempt use well to:
  - a. the maximum annual volume of groundwater produced by the well during the historic use period and
  - b. for the purpose of use of the groundwater during the historic use period.
7. The District shall limit the validated historic use of a grandfathered well field to:
  - a. the maximum annual volume of groundwater produced by the well field during the historic use period and
  - b. for the purpose of use of the groundwater during the historic use period.
8. The maximum annual volume of groundwater to be validated by the District for a grandfathered well field shall not exceed the aggregate volume of groundwater produced by each grandfathered non-exempt use

- well of the grandfathered well field of the year for which validation is being requested.
9. The District shall limit the validated historic use of a grandfathered well system to:
    - a. the maximum annual volume of groundwater produced by the well system during the historic use period and
    - b. for the purpose of use of the groundwater during the historic use period.
  10. The maximum annual volume of groundwater to be validated by the District for a grandfathered well system shall not exceed the aggregate volume of groundwater produced by each grandfathered non-exempt use well of the grandfathered well system of the year for which validation is being requested.
  11. An application for the validation of historic use of a grandfathered well, grandfathered well field, or grandfathered well system shall be submitted on forms provided by the District.
  12. An application for the validation of historic use of a grandfathered non-exempt use well shall include the following information and any other information the General Manager may determine to be of need to be considered administratively complete:
    - a. The name and address of the well owner;
    - b. The exact location of the grandfathered non-exempt use well including a geographic coordinate, street address, and nearest intersection;
    - c. The well registration number;
    - d. The well registration application identification;
    - e. A statement confirming the use of the grandfathered well in a manner that qualifies as non-exempt use during the historic period;
    - f. Specification of the year during the historic use validation period for which historic use is being validated (validation year);
    - g. Specification of the amount of groundwater produced in acre-feet by the grandfathered well during the validation year;
    - h. Specification of the purpose of use of the groundwater produced by the grandfathered non-exempt use well during the validation year;
    - i. A description of the evidence supplied with the application to be used to validate the historic use of the grandfathered non-exempt use well;
    - j. A statement certifying, under penalty of law, that the information submitted and attached to the application was prepared under the direction or supervision of the authorized operator and is, to the best of the knowledge and belief of the authorized operator, true, accurate and complete;
    - k. A statement certifying, under penalty of law, that the authorized operator will operate the well in accordance with the rules of the District and regulations of the State of Texas; and
    - l. An affidavit confirming that the evidence submitted to support the

validation of the historic use of the grandfathered non-exempt use well is to the best of the knowledge and belief of the person providing the evidence is true and correct and that all available information concerning groundwater production during the validation period has been provided to the Victoria County Groundwater Conservation District.

13. An application for the validation of historic use of a grandfathered well field shall include the following information and any other information the General Manager may determine to be of need to be considered administratively complete:
  - a. The name and address of the well field owner;
  - b. The exact location of each grandfathered non-exempt use well in the well field including a geographic coordinate, street address, and nearest intersection;
  - c. The well registration number of each grandfathered non-exempt use well in the well field;
  - d. The well registration application identification of each grandfathered non-exempt use well in the well field;
  - e. A statement confirming the use of each grandfathered well in the well field in a manner that qualifies as non-exempt use during the historic use validation period.
  - f. Specification of the year during the historic use validation period for which historic use is being validated;
  - g. Specification of the aggregate amount of groundwater produced in acre-feet by the grandfathered well field during the validation year;
  - h. Specification of the purpose of use of the groundwater produced by the grandfathered well field during the validation year;
  - i. A description of the evidence supplied with the application to be used to validate the historic use of the grandfathered well field;
  - j. A statement certifying, under penalty of law, that the information submitted and attached to the application was prepared under the direction or supervision of the authorized operator and is, to the best of the knowledge and belief of the authorized operator, true, accurate and complete;
  - k. A statement certifying, under penalty of law, that the authorized operator will operate the grandfathered well field in accordance with the rules of the District and regulations of the State of Texas; and
  - l. An affidavit confirming that the evidence submitted to support the validation of the historic use of the grandfathered well field is to the best of the knowledge and belief of the person providing the evidence is true and correct and that all available information concerning groundwater production during the historic use validation period has been provided to the Victoria County Groundwater Conservation District.
14. An application for the validation of historic use of a grandfathered well system shall include the following information and any other information

the General Manager may determine to be of need to be considered administratively complete:

- a. The name and address of the well system owner;
- b. The exact location of the well including a geographic coordinate, street address, and nearest intersection;
- c. The well registration number;
- d. The well registration application identification;
- e. A statement confirming the use of each grandfathered well in the well system in a manner that qualifies as non-exempt use during the historic use validation period;
- f. Specification of the year during the historic use validation period for which historic use is being validated;
- g. Specification of the aggregate amount of groundwater produced in acre-feet by the grandfathered well system during the validation year;
- h. Specification of the purpose of use of the groundwater produced by the grandfathered well system during the validation year;
- i. A description of the evidence supplied with the application to be used to validate the historic use of the grandfathered well system;
- j. A statement certifying, under penalty of law, that the information submitted and attached to the application was prepared under the direction or supervision of the authorized operator and is, to the best of the knowledge and belief of the authorized operator, true, accurate and complete;
- k. A statement certifying, under penalty of law, that the authorized operator will operate the grandfathered well system in accordance with the rules of the District and regulations of the State of Texas; and
- l. An affidavit confirming that the evidence submitted to support the validation of the historic use of the grandfathered well system is to the best of the knowledge and belief of the person providing the evidence is true and correct and that all available information concerning groundwater production during the historic use validation period has been provided to the Victoria County Groundwater Conservation District.

## **SECTION 4: PERMITS**

### **RULE 4.1: GENERAL PERMITTING POLICIES AND PROCEDURES**

1. All permits are granted subject to these rules, the district management plan, orders of the Board, and the laws of the State of Texas.
2. A production permit confers only the authority to operate a well, well field, or well system under the provisions of these rules.
3. The conditions of a production permit may be modified or amended pursuant to the provisions of these rules.
4. A drilling permit confers only the authority to drill and complete a well under the provisions of these rules.
5. The conditions of a drilling permit may be modified or amended pursuant to the provisions of these rules.
6. A transport permit confers only the authority to transport groundwater produced under production permits issued by the District under the provisions of these rules.
7. The conditions of a transport permit may be modified or amended pursuant to the provisions of these rules.
8. A production permit with conditions related to the aggregation of authorized groundwater production for a grandfathered well field or a grandfathered well system that is amended or proposed to be amended by incorporating the authorized groundwater production amount of a non-grandfathered non-exempt use well or wells shall be considered a non-grandfathered well field or non-grandfathered well system and subject to the rules related to non-grandfathered non-exempt use wells, non-grandfathered well fields, and non-grandfathered well systems.
9. The activities authorized by a permit issued by the District are expressly prohibited upon termination, expiration, violation, or revocation of the permit by the District.
10. An authorized operator invalidates and renders all associated permits void and terminated upon operation of a non-exempt use well, non-exempt use well field, or non-exempt use well system for a purpose of use other than those purpose of uses authorized by the related production permit or permits unless the appropriate amendments have been approved by the Board.
11. A well owner, well owner agent, or authorized operator changes the grandfathered status of grandfathered well, grandfathered well field, or grandfathered well system if the purpose of use is changed from the historic purpose of use.
12. Each application for a drilling permit, production permit, transport permit, production permit renewal, transport permit renewal, or permit amendment requires a separate application.
13. An incorporated municipality may consider all contiguous land within its corporate limits that is located within the District to be under its control for

- the purposes of evaluating the spacing and production limitations and application performance conditions of the District.
14. A 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 for the purposes of evaluating the spacing and production limitations and application performance conditions of the District.
  15. Applications for a permit shall be submitted on the form designed by the District and contain the information requested by the application form.
  16. Applications for a drilling permit shall be submitted and sworn to by the landowner or landowner agent.
  17. Applications for a production permit shall be submitted and sworn to by the landowner or landowner agent who has submitted an application for a drilling permit for a well for which the production permit is being sought or the well owner or well owner agent of the well for which the production permit is being sought.
  18. Production permit applications for non-grandfathered wells shall be accompanied by well registration applications for any unregistered well that currently exist on the same tract of land or adjoining tracts of land owned by the applicant.
  19. Applications must be executed under oath.
  20. The tract or tracts of land associated with an application for a permit shall be accessible to District representatives for inspection and the landowner or authorized operator agrees to cooperate fully in any reasonable inspection of the well and well site by the District representatives.
  21. The District shall issue written notice indicating a date and time for a hearing on an application for a permit in accordance with these rules after the application is determined by the District to be administratively complete.
  22. The District may schedule a hearing and action on as many applications for a permit at one hearing as deemed necessary and appropriate.
  23. The applicant of a permit application shall attend the hearings and meetings at which the Board conducts hearings or considers action related to the permit application.
  24. The District shall designate an application for a permit administratively complete when all information available to the applicant which has been determined to be necessary to fully consider the application for a permit is submitted to the District.
  25. Permits authorizing the production of groundwater for non-exempt uses are subject to Board approval.
  26. Permits authorizing the drilling of non-grandfathered non-exempt use wells that are not replacement wells are subject to Board approval.
  27. Permits authorizing the production of groundwater for non-exempt uses shall be executed by the authorized operator and notarized by a public notary prior to production of groundwater under the production permit.
  28. 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.
29. Whenever special permit terms and conditions are inconsistent with other permit provisions or these rules, the special terms and conditions will prevail.
  30. Violation of the permit terms, conditions, requirements, or special provisions, including producing amounts of groundwater in excess of authorized groundwater production, is punishable by civil penalties as provided by these rules and the revocation of the permit.
  31. Providing the landowner, landowner agent, or authorized operator can show good cause, and the Board finds good cause, the District may waive or modify an application requirement of the District.

## **RULE 4.2: PERMITTING POLICIES AND PROCEDURES RELATED TO DRILLING PERMITS**

1. A person shall not begin to drill a well for which a drilling permit has not been issued by the District unless such activity has been exempted by Chapter 36 of the Texas Water Code.
2. A person shall not drill a well for which a drilling permit has been issued by the District without the permit in possession and on the premises unless such activity has been exempted by Chapter 36 of the Texas Water Code.
3. Non-grandfathered wells are subject to the completion and location requirements set forth in these rules at the time the well was drilled.
4. A person drilling a well shall provide the District with notice of intent to place casing in the borehole at least two hours and not more than three hours before placing casing in the borehole.
5. The General Manager of the District may, without notice, issue a drilling permit authorizing the drilling of a non-grandfathered well to be operated for exempt uses provided the application is designated administratively complete and the proposed well location satisfies the spacing rules of the District.
6. The General Manager of the District may, without notice, issue drilling permits authorizing the drilling of a replacement well provided the application is designated administratively complete in accordance with these rules.
7. A drilling permit shall be valid for 180 days.
8. A landowner agent filing an application for a permit to drill a well shall provide documentation demonstrating the authority to act on behalf of the landowner.
9. A landowner or landowner agent may proceed at his own risk to drill or have drilled the well for which a drilling permit has been issued by the District.
10. A landowner or landowner agent may request a public hearing and the consideration of an application for drilling permit by the Board.

11. An application for a drilling permit for an exempt use well shall include the following information and any other information the General Manager may determine to be of need to be considered administratively complete:
  - a. The name and address of the landowner;
  - b. The location of the proposed well including a geographic coordinate, street address, and nearest intersection;
  - c. A statement confirming that the intended use of the proposed well qualifies as exempt use;
  - d. The capacity of the proposed well including the maximum rates of groundwater production the landowner or landowner agent intends to have the well constructed to provide;
  - e. Statements confirming that the proposed well will be located such that the well spacing requirements of these rules will be satisfied;
  - f. The applicant shall provide a location map or property plat drawn on a scale that adequately details:
    - i. The well site;
    - ii. The property lines;
    - iii. The location of other existing wells on the subject tract;
    - iv. The location of the existing use(s) on the subject tract;
    - v. The location of any existing or proposed on-site wastewater system;
    - vi. 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.
  - h. A statement certifying, under penalty of law, that the information submitted and attached to the application was prepared under the direction or supervision of the landowner or landowner agent and is, to the best of the knowledge and belief of the landowner or landowner agent, true, accurate and complete; and
  - i. A statement certifying, under penalty of law, that the landowner or landowner agent will operate the grandfathered well system in accordance with the rules of the District and regulations of the State of Texas.

#### **RULE 4.3: PERMITTING POLICIES AND PROCEDURES RELATED PRODUCTION PERMITS**

1. The operation of a non-exempt use well, non-exempt use well field, or non-exempt use well system shall be conducted in a non-wasteful manner.
2. A person shall not operate a non-exempt use well prior to obtaining, from the District, a production permit authorizing the operation of the non-grandfathered non-exempt use well.
3. An authorized operator of a non-exempt use well, well field, or well system shall submit to the District an application to amend any drilling permits, production permits, and transport permits within ninety days of acquiring

- said permits by the transfer of the land or groundwater rights associated with the said drilling permits, production permits, and transport permits.
4. An authorized operator shall not operate a non-exempt use well unless groundwater production is monitored in a manner to satisfy the groundwater production reporting requirements of these rules.
  5. Production permits for non-grandfathered well fields and non-grandfathered well systems shall specify monitoring requirements including the designation of at least two monitoring wells.
  6. Production permits for non-grandfathered well fields and non-grandfathered well systems shall specify performance conditions related to water level decline.
  7. Groundwater production under a production permit of a non-grandfathered well field and non-grandfathered well system shall be reduced or cease until the conditions related water level decline are satisfied based on water levels observed from the monitoring wells designated on the production permit.
  8. The applicant for a production permit may be required to provide groundwater management information including a water conservation plan, drought management plan, and determination of groundwater availability.
  9. An application for a production permit for a non-grandfathered well with a proposed groundwater production capacity of 360,000 gallons per day or more, an application for a production permit for a non-grandfathered well field with a proposed aggregate capacity of 360,000 gallons per day or more, or an application for a production permit for a non-grandfathered well system with a proposed aggregate capacity of 360,000 gallons per day or more shall contain the following information:
    - a. Determination of groundwater availability;
    - b. Rate of yield and drawdown;
    - c. Specific capacity;
    - d. Efficiency of the well;
    - e. Transmissivity;
    - f. Coefficient of storage;
    - g. Hydraulic conductivity;
    - h. Recharge or barrier boundaries, if any are present; and
    - i. Thickness of the aquifer.
    - j. Time-drawdown Calculation. The amount of drawdown predicted at the non-exempt use well or wells to be permitted and at the boundary of the tract of contiguous property owned or controlled by the landowner on which the well or wells to be permitted will be located for the time frames of five years, ten years, and thirty years.
    - k. Distance-drawdown Calculation. The distance(s) from the non-exempt use well or wells to be permitted to the nearest location where drawdown is predicted to be five feet and the outer edges of the cone(s)-of-depression shall be determined for the time frames of five years, ten years, and thirty years.

- I. Well interference Calculation. For multiple wells in a well field, calculations shall be made to determine how groundwater production from multiple wells will affect drawdown in other wells for the time frames of five years, ten years, and thirty years.
10. Applications for production permits for a non-grandfathered well with a proposed groundwater production capacity of 360,000 gallons per day or more, production permits for a non-grandfathered well field with a proposed aggregate capacity of 360,000 gallons per day or more, or production permits for a non-grandfathered well system with a proposed aggregate capacity of 360,000 gallons per day or more shall contain the information demonstrating achievement of the following performance conditions:
- a. Performance Condition 1. The proposed operation of the well, well field, or well system shall not cause drawdown of the water table or artesian pressure in the aquifer greater than five feet at the boundary of the tract of contiguous property owned or controlled by the landowner on which the proposed well will be located. The evaluation of calculated drawdown shall be based upon a minimum of two years of simulated continuous pumping. Upon request by the Board, the applicant shall use a model accepted by the Board for indicating the compliance with this condition.
  - b. Performance Condition 2. The proposed well, well field, or well system shall not cause or contribute to the intrusion of saltwater into freshwater aquifers by causing the interface between saltwater and freshwater to migrate inland or upward. Upon request by the Board, the applicant shall use a model accepted by the Board for indicating the compliance with this condition.
  - c. Performance Condition 3. The proposed well, well field, or well system shall not cause the water flow gradients between the aquifers within the District and water bodies designated by the District to be altered during drought conditions. Demonstrations of such shall describe the relationship of water level declines in the aquifer within tract of contiguous property owned or controlled by the landowner on which the proposed well will be located relative to surface elevations and the relationship of any such declines to the continued viability of seeps and springs.
  - d. Performance Condition 4. The proposed well, well field, or well system shall not adversely affect surface water and groundwater exchanges. Demonstrations of such shall describe the relationship of water levels to surface water bodies.
  - e. Performance Condition 5. The proposed well, well field, or well system shall not adversely affect groundwater quality at the boundary of the tract of contiguous property owned or controlled by the landowner on which the proposed well will be located. Demonstrations of such shall describe the relationship between groundwater production from the proposed well and total dissolved

solid (TDS) levels. The applicant must demonstrate that the impact of the proposed groundwater production will not:

- i. Result in an increase of TDS concentration beyond 1,500 mg/l at the boundary of the associated area of control if the historical average TDS concentration calculated for the well site is below 1,300 mg/l; or
  - ii. Result in an increase of TDS concentration above 1,700 mg/l at the boundary of the associated area of control if the historical average TDS concentration calculated for the well site is below 1,500 mg/l; or
  - iii. Result in an increase of TDS concentration above 2,000 mg/l at the boundary of the associated area of control if the historical average TDS concentration calculated for the well site is below 1,700 mg/l; or
  - iv. Result in an increase of TDS concentration above 2,500 mg/l at the boundary of the associated area of control if the historical average TDS concentration calculated for the well site is below 2,000 mg/l; or
  - v. Result in an increase of TDS concentration above 3,000 mg/l at the boundary of the associated area of control if the historical average TDS concentration calculated for the well site is below 2,500 mg/l.
11. The District shall condition production permits for non-grandfathered non-exempt use wells, non-grandfathered well fields, and non-grandfathered well systems in order to comply with the Desired Future Conditions as established under Chapter 36 of the Texas Water Code and documented in the District management plan.
  12. The District shall condition production permits for non-grandfathered non-exempt use wells, non-grandfathered well fields, and non-grandfathered well systems in order to preserve, conserve and protect the availability and quality of the aquifers within the boundary of the District.
  13. Production permits for a non-grandfathered well with a proposed groundwater production capacity of 360,000 gallons per day or more, production permits for a non-grandfathered well field with a proposed aggregate capacity of 360,000 gallons per day or more, or production permits for a non-grandfathered well system with a proposed aggregate capacity of 360,000 gallons per day or more shall contain the following performance conditions:
    - a. Performance Condition 1. The operation of the well, well field, or well system shall not cause drawdown of the water table or artesian pressure in the aquifer greater than five feet at the boundary of the tract of contiguous property owned or controlled by the landowner on which the proposed well will be located.
    - b. Performance Condition 2. The well, well field, or well system shall not cause or contribute to the intrusion of saltwater into freshwater aquifers by causing the interface between saltwater and freshwater

to migrate inland or upward.

- c. Performance Condition 3. The well, well field, or well system shall not cause the water flow gradients between the aquifers within the District and water bodies designated by the District to be altered during drought conditions.
  - d. Performance Condition 4. The well, well field, or well system shall not adversely affect surface water and groundwater exchanges.
  - e. Performance Condition 5. The well, well field, or well system shall not adversely affect groundwater quality at the boundary of the tract of contiguous property owned or controlled by the landowner on which the proposed well will be located. The impact of groundwater production under the permit shall not:
    - i. Result in an increase of TDS concentration beyond 1,500 mg/l at the boundary of the associated area of control if the historical average TDS concentration calculated for the well site at the time of permitting by the District is below 1,300 mg/l; or
    - ii. Result in an increase of TDS concentration above 1,700 mg/l at the boundary of the associated area of control if the historical average TDS concentration calculated for the well site at the time of permitting by the District is below 1,500 mg/l; or
    - iii. Result in an increase of TDS concentration above 2,000 mg/l at the boundary of the associated area of control if the historical average TDS concentration calculated for the well site at the time of permitting by the District is below 1,700 mg/l; or
    - iv. Result in an increase of TDS concentration above 2,500 mg/l at the boundary of the associated area of control if the historical average TDS concentration calculated for the well site at the time of permitting by the District is below 2,000 mg/l; or
    - v. Result in an increase of TDS concentration above 3,000 mg/l at the boundary of the associated area of control if the historical average TDS concentration calculated for the well site at the time of permitting by the District is below 2,500 mg/l.
14. Production permits issued by the District for non-grandfathered wells, non-grandfathered well fields, and non-grandfathered well systems shall be valid for a term set by the District which shall not exceed five years from the date of issuance.
15. Production permits shall specify the following:
- a. The permit identification number;
  - b. The well registration number or numbers of the associated well or wells;
  - c. The volume of groundwater that may be produced from the

- associated well, well field, or well system;
  - d. The authorized purpose of use;
  - e. The date the production permit was issued;
  - f. The term of the production permit;
  - g. The authorized operator of the associated well, well field, or well system; and
  - h. The special conditions, if any, established for the permit by the Board.
16. Authorized operators shall submit applications to renew production permits for non-grandfathered non-exempt use wells, non-grandfathered non-exempt use well fields, and non-grandfathered well systems no later than ninety days prior to the date of permit expiration.
  17. Groundwater production from all non-exempt use wells must be measured by the authorized operator using a device or method that is accurate within 10% of the actual production and reported to the District.
  18. Non-grandfathered non-exempt use wells, non-grandfathered well fields, and non-grandfathered well systems authorized to produce 360,000 gallons of groundwater per day or more shall provide monthly water level measurements from at least of two monitoring wells completed in the same aquifer or aquifers located at a distance not greater than 700 feet and less than 100 feet from the non-grandfathered non-exempt use wells, non-grandfathered well fields, and non-grandfathered well systems.
  19. Non-grandfathered non-exempt use wells, non-grandfathered well fields, and non-grandfathered well systems authorized to produce 360,000 gallons of groundwater per day or more shall provide annual measurements of 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.
  20. Water level and water quality measurements collected to satisfy production permit conditions shall be submitted to the District no later than March 31 of the following year.
  21. Groundwater production authorized by the District for non-exempt use wells of a well field or well system may be aggregated in accordance with these rules.
  22. Permits issued by the District are conditioned by the provisions of these rule in addition to any special provisions or other requirements incorporated into the permit by the Board.

#### **RULE 4.5: AGGREGATION OF WELL PRODUCTION**

1. The District may issue a production permit for well fields and well systems that includes conditions related to the aggregation of authorized groundwater production.
2. A production permit with conditions related to the aggregation of authorized groundwater production for a well field or well system shall

- identify the specific wells authorized to produce groundwater under the production permit.
3. The District shall issue a production permit with aggregated authorized production conditions for grandfathered well fields and grandfathered well systems that are consistent with the pattern of operation of the grandfathered well field or the grandfathered well system during the historic use validation period.
  4. The aggregate authorized groundwater production amount of a production permit for a grandfathered well field or a grandfathered well system shall not exceed the sum of all groundwater produced from the grandfathered non-exempt use wells of grandfathered well field or a grandfathered well system operated during the validation year.
  5. The aggregate authorized groundwater production amount of a production permit for a non-grandfathered well field or a non-grandfathered well system shall not exceed the sum of the groundwater production that the wells of the field or system would be eligible for individually under these rules.
  6. The District shall issue a production permit with aggregate authorized production conditions for non-grandfathered well fields that authorizes the authorized operator to produce the aggregated authorized production from any non-exempt use well of the non-grandfathered well field.
  7. The District shall issue a production permit with aggregate authorized production conditions for non-grandfathered well systems that authorizes the authorized operator to produce from a single non-exempt use well up to 150% of the annual authorized groundwater production amount of that specific non-exempt use well of the non-grandfathered non-exempt use well so long as the sum of all groundwater production from non-exempt use wells of the non-grandfathered well system does not exceed the aggregated authorized production conditions.

#### **RULE 4.6: PERMITTING POLICIES AND PROCEDURES RELATED TRANSPORT PERMITS**

1. A person shall not transport groundwater out of the District without a transport permit issued by the District if a permit is required according to these rules.
2. A person shall not produced groundwater from a well, well field, or well system for transport out of the District without a production permit issued by the District.
3. A person is not required to obtain a transport permit for the transportation of less than 10 acre-feet of groundwater per year, the transportation of groundwater that is part of a manufactured product manufactured within the District, or groundwater 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 the original adoption of the rules of the District.
4. An application for a transport permit shall be submitted to the District and

include the following information:

- a. The name and mailing address of the applicant;
- b. A statement of the nature and purpose of the proposed use of groundwater in the receiving area and the amount of water to be used for each purpose;
- c. A statement describing the availability of water in the proposed receiving area;
- d. A water conservation plan for the receiving area;
- e. Information on the proposed transportation project including:
  - i. 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;
  - ii. The availability of water in the proposed receiving area during the period for which the water supply is requested, including:
    1. The amount of surface water available for any purpose;
    2. The amount of groundwater available for any purpose and from any other groundwater source;
    3. The conservation measures in place or to be implemented in the receiving area; and
    4. The projected water demand and proposed water sources for the receiving area as listed in the State and Regional Water Plans;
  - iii. 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;
  - iv. The projected effect of the proposed transfer on aquifer conditions, depletion, subsidence, existing permit holders or other groundwater users within the District;
  - v. 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;
  - vi. A specific description of the proposed transportation facilities;
  - vii. A statement giving the time within which the proposed construction is to begin;
  - viii. A statement giving the length of time required for the proposed use of water, and the amount of water to be used;
  - ix. Information on the method or methods of transportation; and
  - x. Identify any other liquids that could be substituted for the fresh groundwater and possible sources for such liquid including quantity and quality.
- f. The location of the subject wells, subject well fields, or subject well systems;

- g. Any additional information that the applicant believes is relevant to the District's decision related to the issuance of a transport permit; and
  - h. 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.
- 5. Applications for transport permits are subject to the hearing procedures provided by these rules.
- 6. 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.

#### **RULE 4.7: DECISION AND ISSUANCE OF PERMITS**

- 1. The Board shall consider the management plan of the District, rules of the District, and other relevant information such as information provided by the applicant and interested parties when making decisions regarding the issuance of permits.
- 2. The General Manager of the District shall present an application for a production permit, transport permit, or amendment of a permit to the Board for final decision if no person, including the General Manager of the District, contests the application.
- 3. The Board may issue a permit or refer an application to a hearing examiner for a hearing.

#### **RULE 4.8: ACCEPTANCE OF PERMITS**

- 1. Acceptance of the permit by the authorized operator constitutes acknowledgment of and agreement to comply with all of the terms, provisions, conditions, limitations, and restrictions in the permit and these rules.
- 2. Failure by the authorized operator to appeal the District's decision regarding a permit constitutes acceptance of the permit.

#### **RULE 4.9: PERMIT RENEWAL**

- 1. The District shall renew a production permit, with or without amendment, for which an administratively complete application for the renewal of a production permit has been submitted provided the District determines that:
  - a. The quantity of available groundwater within the boundary of the District at the time of renewal is not less than the quantity of available groundwater within the boundary of the District at the time when the production permit was originally issued by the District;
  - b. The authorized operator is not in violation of these rules;

- c. The relevant facts and circumstances related to evaluating the spacing requirements and production limitations of the District have not changed such that these requirements and limitations would not be satisfied; and
  - d. The District has not determined that the continued permitted production for the well would cause damage to the aquifer.
2. The General Manager of the District may authorize an authorized operator of a non-exempt use well, well field, or well system for which an applications to renewal a production permit or transport permit 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 the period of time during which the renewal application is the subject of a contested case hearing.

#### **RULE 4.10: PERMIT VIOLATIONS**

1. Production permits issued by the District shall be considered violated under the following circumstances:
  - a. The authorized operator produces any amount of groundwater greater than the amount authorized by the applicable production permit from a non-exempt use well, well field, or well system.
  - b. A person produces any amount of groundwater from a non-exempt use well, well field, or well system without a valid production permit issued by the Board.

#### **RULE 4.11: WAIVERS AND VARIANCES OF DISTRICT RULES**

1. Providing the landowner, landowner agent, or authorized operator can show good cause, and the Board finds good cause, the District may waive or modify any rule or requirement of the District.
2. The landowner, landowner agent, or authorized operator of a subject well, subject well field, or subject well system for which a waiver or variance is sought is responsible for providing the necessary information for the Board to fully evaluate the waiver request or variance request.
3. The landowner, landowner agent, or authorized operator of a subject well, subject well field, or subject well system shall provide sufficient evidence to support a finding of "good cause" as part of the waiver and variance request.
4. The landowner, landowner agent, or authorized operator of a subject well, subject well field, or subject well system is responsible for attempting to obtain the waivers and identifying any required waivers that were not obtained and reason the waiver was not obtained in instances in which the rules of the District allow for exceptions contingent on waiver by adjoining or adjacent landowners.
5. Administratively complete waiver and variance requests shall be scheduled for consideration by the Board at the next regularly scheduled meeting of the Board provided adequate notice is made prior to the meeting.
6. The consideration of the waiver and variance request as well as the permit

- hearings and consideration of the permit applications may be scheduled at the same meeting.
7. The public hearings and consideration of the applications for a permit or application for an amendment related to the waiver request shall be held only after the waiver and variance request has been considered by the Board and proper notice has been made.
  8. Waiver and variance requests shall be delivered to the District with the following information:
    - a. Identification of the applications related to the waiver and variance request.
    - b. A waiver and variance request shall include a description of the related applications, including application identification numbers, to which the request applies.
    - c. A description of the types of applications being submitted, a description of the property location, and identification of the landowner.
    - d. Identification of the specific rules and specific requirements of the District rules from which the landowner, landowner operator, or authorized agent of a subject well, subject well field, or subject well system seeks relief.
    - e. Statement as to whether total waiver of the requirements or a partial waiver with a variance request is being sought.
    - f. A detailed description of the requested variance if a partial waiver with a variance is requested.
    - g. The duration of time the variance would be necessary.
    - h. A detailed description of the basis for the waiver request including a statement regarding why the specific requirements must be waived or varied, the impact if the request is not approved, and any performance conditions the landowner, landowner agent, or authorized operator would find acceptable if the waiver and variance request were to be approved.
    - i. A list of documentation, if any, included supporting waiver and variance request.
    - j. A statement certifying under penalty of law that the waiver and variance request was prepared under the direction or supervision of the landowner, landowner agent, or authorized operator and that the information submitted is, to the best of his or her knowledge and belief, true, accurate and complete.
    - k. A statement that the signee is either the landowner, authorized to act for the landowner, authorized operator of the subject well, subject well field, or subject well system for which a waiver or variance is sought.
    - l. The dated signature of the landowner, landowner agent, or authorized operator of the subject well, subject well field, or subject well system for which a waiver or variance is sought.
    - m. The name of the signee printed below his or her signature.

## **SECTION 5: WELL SPACING REQUIREMENTS**

### **RULE 5.1: WELL SPACING REQUIREMENTS OF NON-GRANDFATHERED WELLS**

1. The District shall regulate the spacing of non-grandfathered wells 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.
2. A non-grandfathered well to be located on an unplatted property shall not be drilled in a location that is closer than fifty feet to the property line of a landowner other than the subject landowner unless waived by the other landowner in writing.
3. A non-grandfathered well to be located on a lot of a platted subdivision shall not be drilled in a location that is closer than fifty feet to the perimeter of the subdivision and shall be drilled in a location that is within the area designated as the "Authorized Drilling Area" on the subject lot of subdivision plat.
4. A non-grandfathered well to be located on a lot of a platted subdivision shall not be drilled in a location that is closer than fifty feet to the property line of a landowner other than the subject landowner if the subdivision plat does not designate an area as the "Authorized Drilling Area" on the subject lot unless waived by the other landowner in writing.
5. A non-grandfathered non-exempt use well shall not be located in a location that is closer to a well registered with the District and owned by a person other than the subject landowner than 1 foot for every one gallon-per-minute of the maximum authorized production rate per minute of the subject well.
6. Waivers regarding well spacing requirements submitted with an application for a drilling permit shall contain the printed name and signature of the adjacent landowner or adjacent landowner agent and state that he or she has no objection to the proposed location of the well site.
7. The spacing requirements related to spacing from property lines of a drilling permit may be reduced by the District if the landowner or landowner agent presents waivers signed by the adjoining landowner.
8. All relevant county and state standards regarding location of wells shall be complied with by any person drilling a well.
9. All spacing requirements within these rules shall be complied with by any person drilling a well.
10. Providing a landowner, landowner agent, or authorized operator can show good cause to waive or vary a well spacing requirement for a non-grandfathered non-exempt use well and submits the necessary information for the consideration of a waiver and variance request, the spacing requirements of the subject well shall be considered during the permitting process.

11. The Board may establish special conditions related to spacing requirements for a non-grandfathered non-exempt use well provided good cause is found by the Board.
12. The Board may establish special conditions or limit the authorized groundwater production of a non-exempt use well if a waiver or variance related to spacing requirements of a non-grandfathered non-exempt use well is granted to ensure no injury is done to adjoining landowners or the aquifer.

### **RULE 5.2: WELL SPACING REQUIREMENTS OF NON-GRANDFATHERED WELL FIELDS**

1. In addition to the requirements related to well spacing of a non-grandfathered non-exempt use well, a non-grandfathered non-exempt use well of a well field shall not be located in a location that is closer to a well registered with the District and owned by a person other than the subject landowner than 1 foot for every one gallon-per-minute of the combined maximum authorized production rate per minute of the non-exempt use wells of the subject well field.

### **RULE 5.3: WELL SPACING REQUIREMENTS OF NON-GRANDFATHERED WELL SYSTEMS**

1. In addition to the requirements related to well spacing of a non-grandfathered non-exempt use well, a non-grandfathered non-exempt use well of a well system shall not be located in a location that is closer to a well registered with the District and owned by a person other than the landowner than 1 foot for every one gallon-per-minute of the maximum authorized production rate per minute of the non-exempt use wells of the subject well system.

## **SECTION 6: GROUNDWATER PRODUCTION LIMITATIONS**

### **RULE 6.1: GROUNDWATER PRODUCTION LIMITATIONS OF GRANDFATHERED NON-EXEMPT USE WELLS**

1. The District shall issue a production permit with authorized production conditions for a grandfathered non-exempt use well that are consistent with the pattern of operation of the grandfathered non-exempt use well as supported by evidence submitted with the application to validate historic use of the grandfathered non-exempt use well during the historic use validation period.

### **RULE 6.2: GROUNDWATER PRODUCTION LIMITATIONS OF GRANDFATHERED WELL FIELDS**

1. The District shall issue a production permit with aggregated authorized production conditions for a grandfathered well field that are consistent with the pattern of operation of the grandfathered well field as supported by evidence submitted with the application to validate historic use of the grandfathered well field during the historic use validation period.

### **RULE 6.3: GROUNDWATER PRODUCTION LIMITATIONS OF GRANDFATHERED WELL SYSTEMS**

1. The District shall issue a production permit with aggregated authorized production conditions for a grandfathered well system that are consistent with the pattern of operation of the non-grandfathered well system as supported by evidence submitted with the application to validate historic use of the grandfathered well system during the historic use validation period.

### **RULE 6.4: GROUNDWATER PRODUCTION LIMITATIONS OF NON-GRANDFATHERED NON-EXEMPT USE WELLS, NON-GRANDFATHERED WELL FIELDS, AND NON-GRANDFATHERED WELL SYSTEMS**

1. The District shall limit the authorized groundwater production amount of non-grandfathered non-exempt use wells, non-grandfathered well fields, and non-grandfathered well systems in order to conserve, preserve and protect the groundwater resources within the boundary of the District.
2. The District shall limit the authorized groundwater production amount of a production permit of a non-grandfathered non-exempt use well, non-grandfathered well field, or non-grandfathered well system to an amount that does not exceeds 250 gallons per minute per contiguous acre controlled by the permit applicant and associated with the subject application for a production permit.
3. The District shall limit the authorized groundwater production amount of a

- production permit of a non-grandfathered non-exempt use well or non-grandfathered well field to an amount that does not exceed one-half acre-foot per year per contiguous surface acre owned or controlled by the permit applicant and associated with the subject application for a production permit.
4. The District shall limit the authorized groundwater production amount of a production permit of a non-grandfathered well system to an amount that does not exceed one-half acre-foot per year per surface acre owned or controlled by the permit applicant and associated with the subject application for a production permit.
  5. The District may increase the limitation of the authorized groundwater production amount of a production permit of non-grandfathered non-exempt use well, non-grandfathered well field, or non-grandfathered well system beyond one-half acre-foot per year per contiguous surface acre owned or controlled by the landowner or well owner and associated with the subject application for a production permit if the District determines that local hydrogeologic conditions will allow the production of a greater amount of groundwater per year without negatively affecting water levels and water quality at adjoining property lines or otherwise interfere with an adjacent landowner's ability to use groundwater.
  6. An authorized operator shall maintain the ownership or control of groundwater rights associated with the land for the subject production permit or subject production permits sufficient to produce the authorized groundwater production amount specified in the production permit or permits and these rules of the District.
  7. A conveyance of any portion of the groundwater rights associated with the land for a production permit or production permits may result in non-compliance with these rules and invalidation of said production permits.
  8. The Board may limit the authorized groundwater production amount of a production permit of a non-grandfathered non-exempt use well, non-grandfathered well field, or non-grandfathered well system to a greater degree than one-half acre-foot per year per contiguous surface acre owned or controlled by the permit applicant and associated with the subject application for a production permit to ensure no injury is done to adjoining landowners or the aquifer if the Board chooses to grant a drilling permit or production permit for a well, well field, or well system in an area where aquifer conditions are not favorable.
  9. Providing a landowner, landowner agent, or authorized operator can show good cause to waive or vary a production limitations for a non-grandfathered non-exempt use well, non-grandfathered well field, or non-grandfathered well system including allowing greater drawdown to be caused by the operation of the subject well, subject well field, or subject well system and submits the necessary information for the consideration of a waiver and variance request, the production limitations of the subject well, well field, or well system shall be considered during the permit process.

10. The Board may establish special conditions related to production limitations including authorized groundwater production amounts in excess of one-half acre-foot per year per contiguous surface acre owned or controlled by the permit applicant and associated with the subject application for a production permit for a non-grandfathered non-exempt use well, non-grandfathered well field, or non-grandfathered well system provided good cause is found by the Board.
11. The Board shall establish special conditions related to monitoring and performance criteria for a production permit for which the Board has authorized groundwater production amounts in excess of one-half acre-foot per year per contiguous surface acre owned or controlled by the permit applicant and associated with the subject application for a production permit for a non-grandfathered non-exempt use well, non-grandfathered well field, or non-grandfathered well system that are appropriate to demonstrate that the authorized groundwater production amount, if produced, does not cause well interference on adjoining properties, impact the usability of the groundwater or otherwise have a negative impact on groundwater availability and use outside the applicant's property.

## **SECTION 7 - DRILLING WELLS, REWORKING WELLS, AND REPLACING WELLS**

### **RULE 7.1: DRILLING WELLS**

1. A person drilling a well shall locate the well within the authorized drilling area specified on a drilling permit issued by the District.
2. A person drilling or having drilled a well shall adhere with the well spacing requirements of these rules when locating the well.
3. A person drilling or having drilled, deepened, or otherwise altered a well shall adhere with the well completion requirements of these rules when locating the well.
4. 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.
5. 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.
6. A well shall not be located closer than fifty (50) feet to any potential source of contamination.

### **RULE 7.2: STANDARDS FOR COMPLETION OF WELLS**

1. A person drilling or having drilled a well shall construct the well using methods and materials to minimize the potential for contamination, degradation, or commingling of waters of different chemical quality.
2. A person drilling or having drilled a well shall indicate the method of completion performed for a well on the well driller's log.
3. Non-grandfathered wells must be completed in accordance with the following specifications and in compliance with the local county or incorporated city ordinances:
  - a. The annular space between the borehole wall and the casing of a well shall be filled with an authorized annular space sealant such that:
    - i. The annular space is sealed from ground level to the top of the water producing strata, or
    - ii. The annular space is sealed from ground level to a depth of fifty (50) feet below the land surface, or
    - iii. 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.

- b. 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.
- c. 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.
- d. 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.
- e. All wells shall be constructed so that water bearing strata which are not part of the production zone are not allowed to commingle.
- f. 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.
- g. The well casing shall be capped or completed in a manner that will prevent pollutants from entering the well.
- h. The casing shall be centered in well annular space for the portion of the borehole that will be sealed prior to emplacing the sealant.
- i. The annular space sealant shall be emplaced to produce a seal that is absent of significant voids.
- j. 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.
- k. 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 landowner or landowner agent associated with the application for a drilling permit may request a waiver, in accordance with the waiver and variance procedures of these rules, of the well completion requirements and the issue of well completion requirements shall be considered during the permit process.
- l. The Board may enter special orders and add special permit conditions altering the well completion requirements of a drilling permit if good cause is found by the Board based on the waiver and variance request submitted by the landowner or landowner agent associated with the application for a drilling permit.

### **RULE 7.3: COMMINGLING OF UNDESIRABLE WATER WITH DESIRABLE GROUNDWATER**

1. The landowner or authorized operator shall have the continuing responsibility of ensuring that a well does not allow commingling of undesirable water and desirable groundwater or the unwanted loss of

- water through the wellbore to other porous strata.
2. The casing in a well shall be perforated and cemented in a manner that will prevent the commingling or loss of groundwater if the well is allowing the commingling of undesirable water and desirable groundwater or the unwanted loss of water, and the casing in the well cannot be removed and the well re-completed in accordance with the applicable rules,
  3. A well shall be cased and cemented, or plugged in a manner that will prevent the commingling or loss of water when the well has no casing.
  4. The District may direct the landowner or authorized operator to take steps to prevent the commingling of undesirable water and desirable groundwater or the unwanted loss of water.

#### **RULE 7.4: REWORKING A WELL**

1. A deteriorated well shall be repaired or plugged in accordance with State of Texas rules and regulations.
2. A grandfathered exempt use well may be reworked, re-drilled, or re-equipped without authorization from District if such work will not change the use exemption status of the grandfathered exempt use well.
3. A non-grandfathered exempt use well may be reworked, re-drilled, or re-equipped without authorization from District if such work will not change the use exemption status of the non-grandfathered exempt use well or violate any of the conditions of the drilling permit under which the non-grandfathered exempt use well was drilled and completed.
4. An authorized operator of a grandfathered non-exempt use well may rework, re-drill, or re-equip said well without authorization from District if such work will not violate or cause a violation of any conditions of the production permit under which the grandfathered non-exempt use well is operated.
5. An authorized operator of a non-grandfathered non-exempt use well may rework, re-drill, or re-equip said well without authorization from District if such work will not violate or cause a violation of any conditions of the drilling permit under which the non-grandfathered non-exempt use well was drilled and completed or the production permit under which the non-grandfathered non-exempt use well is operated.

#### **RULE 7.5: REPLACING A WELL**

1. No person shall replace a well that has not been registered by the District or for which a drilling permit has not been issued by the District unless such activity has been exempted by Chapter 36 of the Texas Water Code.
2. A landowner, landowner agent, or authorized operator shall submit an administratively complete application to drill a well as a replacement well.
3. The District may, without notice, issue a drilling permit to drill a well as a replacement well for a grandfathered exempt use well provided the proposed location of the replacement well is located within 100 yards of the grandfathered exempt use well, and the proposed location of the replacement well meets the spacing requirements of these rules or does not increase the degree in which the grandfathered exempt use well

- violated the spacing requirements of a non-grandfathered well.
4. The District may, without notice, issue a drilling permit to drill a well as a replacement well for a grandfathered non-exempt use well provided the proposed location of the replacement well is located within 100 yards of the grandfathered non-exempt use well, the proposed location of the replacement well meets the spacing requirements of these rules or does not increase the degree in which the grandfathered non-exempt use well encroached on property lines or other registered wells owned by a person other than the well owner, and a production permit has been issued by the District and remains in effect.
  5. The District may, without notice, issue a drilling permit to drill a well as a replacement well for a non-grandfathered exempt use well provided the proposed location of the replacement well is located within 100 yards of the registered well, and the proposed location of the replacement well meets the spacing requirements of these rules.
  6. The District may, without notice, issue a drilling permit to drill a well as a replacement well for a non-grandfathered non-exempt use well provided the proposed location of the replacement well is located within 100 yards of the grandfathered non-exempt use well, the proposed location of the replacement well meets the spacing requirements of these rules, and a production permit has been issued by the District and remains in effect.

## **SECTION 8 – DISTRICT FEES**

### **RULE 8.1: ADMINISTRATIVE AND APPLICATION FEES**

1. 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.
2. Administrative fees shall not unreasonably exceed the cost to the District for performing such administrative acts.
3. The District may assess a fee in an amount set by Board resolution to 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.
4. The payments of administrative fees are due at the time when applications are submitted to the District.

### **RULE 8.2: TRANSPORT FEE**

1. The Board, by resolution, shall establish a schedule of fees for transport of groundwater.
2. The District shall impose a reasonable fee or surcharge for transportation of groundwater out of the District.
3. The payments of transport fees are due by January 31 of each year.

### **RULE 8.3: PRODUCTION FEE**

1. The Board, by resolution, shall establish a schedule of fees for the production of groundwater from non-exempt use wells.
2. Production fees, if any, shall be applied to the amount of groundwater actually produced from the non-exempt use well, well field, or well system.
3. Excess production fees shall be applied to any amount of groundwater produced in excess of the authorized groundwater production specified on a production permit for a non-exempt use well, well field, or well system.
4. Payment of production fees shall be due no later than March 1 of each calendar year.

### **RULE 8.4: PAYMENT LATE CHARGE**

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

## **SECTION 9 - WASTE, VIOLATIONS, INVESTIGATIONS, AND ENFORCEMENT**

### **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 produce groundwater 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.
4. No person shall commit waste as that term is defined in these rules.

### **RULE 9.2: VIOLATIONS**

1. Violation of the provisions of Chapter 36 of the Texas Water Code or any other state law related to water wells, groundwater resources, or aquifers constitutes a violation of these rules.
2. Violation of the rules and regulations adopted by the Texas Department of Licensing and Regulation related to water wells, groundwater resources, or aquifers constitutes a violation of these rules.
3. Violation of the rules and regulations adopted by the County of Victoria related to water wells, groundwater resources, or aquifers constitutes a violation of these rules.
4. Any person that violates the rules and regulations of the District is subject to the enforcement provisions of these rules.
5. Any person that violates the permit conditions of a permit issued by the District is subject to the enforcement provisions of these rules.
6. The drilling and completion of a well drilled in violation of any conditions of a drilling permit issued by the District constitutes a violation of these rules.
7. The operation of a well drilled in violation of any conditions of a drilling permit issued by the District constitutes a violation of these rules.
8. The operation of a well operated in violation of any conditions of a production permit issued by the District constitutes a violation of these rules.
9. Failure to report groundwater production in accordance with these rules constitutes a violation of these rules.
10. Failure to register a well drilled and completed after the date of the original adoption of the rules of the District constitutes a violation of these rules.
11. 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 the enforcement provisions of these rules

### **RULE 9.3: NOTICE AND ACCESS TO PROPERTY**

1. Board members, agents of the District, and employees of the District are entitled to access to any and all property within the District to carry out technical and other investigations necessary to the implementation of these rules.
2. Board members, agents of the District, and employees of the District seeking access to property shall give notice in writing or in person or by telephone to the landowner, landowner agent, or authorized producer of the well, as determined by information contained in the associated application or other information on file with the District.
3. Board members, agents of the District, and employees of the District seeking access to property are not required to give notice if prior permission is granted to enter without notice.
4. A landowner, landowner agent, or authorized operator inhibiting or prohibiting access to any board member, agent of the District, and employee of the District who are attempting to conduct an investigation under these rules constitutes a violation and subjects the person to the penalties set forth in the Texas Water Code Chapter 36.102.

### **RULE 9.4: RIGHT TO INSPECT, TEST, AND LOCATE WELLS**

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 upon notice as provided for in these rules, and in accordance with provisions of these rules, to:
  - a. Inspect a well, well field, or well system;
  - b. Read or interpret any meter, weir box or other instrument for the purpose of measuring production of groundwater from wells, well fields, or well systems;
  - c. Determine the production capacity of groundwater from wells, well fields, or well systems;
  - d. Measure the water level or obtain water samples for determining the water quality of groundwater from wells, well fields, or well systems;;
  - e. Test the pump and the power unit of the well or wells;
  - f. Determine the precise geographic coordinates of wells, well fields, or well systems using GPS or other available methods; or
  - g. Make any other reasonable and necessary inspection or test that may be required or necessary for the enforcement of the rules and regulations of the District.
2. The operation of any wells, well fields, or well systems may be enjoined by the Board immediately upon refusal to allow the gathering of information

as provided from wells, well fields, or well systems.

### **RULE 9.5: CONDUCT OF INVESTIGATION**

1. Board members, agents of the District, and employees of the District conducting investigations or inspections that require entrance upon property shall be conducted at reasonable times, and must be consistent with the establishment's rules and regulations concerning safety, internal security, and fire protection.
2. Board members, agents of the District, and employees of the District conducting investigations shall identify themselves and present credentials upon request of the landowner, landowner agent, or authorized operator of the well, well field, or well system.
3. Board members, agents of the District, and employees of the District will cooperate with the landowner and adhere to applicable governmental safety protocols.

### **RULE 9.6: RULE ENFORCEMENT**

1. 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 if it appears that a person has violated, is violating, or is threatening to violate any provision of these rules.
2. The Board may assess penalties in accordance with Chapter 36 of the Texas Water Code against any person violating any provision of these rules.
3. The Board may adopt an enforcement policy.

### **RULE 9.7: SEALING OF WELLS**

1. The District may, following due-process and upon orders from a court, seal wells that are prohibited from producing groundwater within the District by these rules to ensure that a well is not operated in violation of these rules.
2. A well may be sealed when:
  - a. No application has been made for a drilling permit for a new well which is not excluded or exempted; or
  - b. No application has been made for an operating permit to produce groundwater from an existing well that is not excluded or exempted from the requirement that a operating permit be obtained in order to lawfully produce groundwater; or
  - c. The Board has denied, canceled or revoked a drilling permit or an operating permit.
3. A 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.

## **SECTION 10 - HEARINGS, PERMITTING PROCEDURES, AND RULE-MAKING PROCEDURES**

### **RULE 10.1: TYPES OF HEARINGS**

1. 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 rule-making 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.
2. 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.
3. 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.
4. 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**

1. The General Manager, as instructed by the Board, is responsible for giving notice of all permit hearings in the following manner:
  - a. 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.
  - b. 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.
  - c. 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.
- d. 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.
  - e. 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, authorized operator and known groundwater permit holder in the proposed management area.
  - f. 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.
  - g. 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 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: RULE-MAKING 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: Prior to Board action, any interested person may file written exceptions to the Hearing Examiner's report, and 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..

### **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.