RULES OF THE MID-EAST TEXAS GROUNDWATER CONSERVATION DISTRICT

Effective October 24, 2023

(Proposed Amendments in Redline)

RULE REVISION RECORD

The history of each specific Rule is noted following that Rule.

Date Adopted/Repealed	Effective Date	Affected Rules
September 1, 2005	September 1, 2005	Original Adoption
August 28, 2008	September 23, 2008	Repeal of September 1, 2005 Rules
August 28, 2008	September 23, 2008	Original Adoption
April 24, 2012	May 8, 2012	Amend Rules 1.1, 2, 3.1, 3.2, 3.5, 3.6, 4.2, 4.3, 5.6, 6.3, 8.1, 8.2, 8.4, 8.5, 8.9, 8.10, 9.1, 9.2, 9.3, 9.4, 9.6, 9.7, 9.8, 9.9, 10.1, 10.2, 10.3, 10.4, 11.2, 12.1, 12.5, 13.2, 14.1, 14.2, 14.5, 15.3 Repeal Rules 4.4, 8.3 Add Rules 9.10, 14.6—14.41
October 22, 2013	December 17, 2013	Amend Rules 4.3, 5.6, 5.7, 8.4
January 23, 2018	January 23, 2018	Amend Rules 1.1, 1.3, 1.5, 1.7, 2, 3.3, 4.2, 5.6, 5.7, 6.1, 6.3, 7.1, 7.3, 8.1, 8.2, 8.4, 8.10, 9.1, 9.3, 9.4, 10, 10.1, 10.2, 10.3, 11.2, 14.4, 14.5, 14.6, 14.9, 14.10, 14.13, 14.14, 14.15, 14.18, 14.22, 14.23, 14.24, 14.34, 15.5 Repeal Rules 10.4, 14.19 Moved 14.17 to 14.41
August 27, 2019	August 27, 2019	Amend Rules 2, 4.3, 6.3(C), 10.3, 14.4, Repeal Rules 3.6, 10.3(E)(3), 14.9(D) Add Rule 16
October 24, 2023	October 24, 2023	Amend Rule 1.1

Rule 1: GENERAL PROVISIONS

1.1 Authority to Promulgate Rules

The Mid-East Texas Groundwater Conservation District (the District) is a political subdivision of the State of Texas. The District was created by Acts of the 77th Legislature (2001) codified as Chapter 8866, Special District Local Laws Code ("Chapter 8866"), which grants the District all of the rights, powers, privileges, authority, functions, and duties provided under the general law of this state, including Texas Water Code Chapter 36, applicable to groundwater conservation districts created under Section 59, Article XVI, of the Texas Constitution.

In an election held on November 1, 2002, District voters confirmed the creation of the District. As a duly created and confirmed groundwater conservation district, the District may exercise any and all statutory authority or power conferred under Chapter 8866 and under Chapter 36 of the Texas Water Code, including the adoption and enforcement of rules under Section 36.101 Rule Making Power. All references to statutory provisions in these Rules are to those provisions as may be amended from time to time.

A. A person with a real property interest in groundwater in the district may file a petition with the district to request the adoption of a rule.

B. Petitions must be submitted in writing to the district office and must comply with the following requirements:

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

(2) each petition must be signed, and state the name and address of each person signing the petition.

(3) each petition must include:

(a) a brief description of the petitioner's real property interest in groundwater in the district;

(b) a brief explanation of the proposed rule;

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

(d) an allegation of injury or inequity that could result from the failure to adopt the proposed rule; and

(e) signed by at least 50 persons at least 18 years of age with a real property interest in groundwater in the District.

C. The General Manager may reject any petition for failure to comply with the requirements of Subsection (b) of this section and shall provide notice to the petitioner of the reason for the rejection.

D. Within 90 days after submission of a petition that complies with this section, the Board shall either deny the petition, stating its reasons for denial in the minutes of the board meeting or in a letter providing a written explanation to the petitioner, or initiate rulemaking proceedings as provided by Section 36.101, Water Code.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

Amended *April 24, 2012 by* Board Order; *effective May 8, 2012.*

Amended *January 23, 2018 by* Board Order; *effective January 23, 2018.*

Amended *October 24, 2023 by* Board Order, *effective October 24, 2023.*

1.2 District Boundaries

The District includes all territory located within Leon, Madison, and Freestone counties.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

1.3 Purpose of the Rules

The District Rules are promulgated under Chapter 8866 and the Texas Water Code Chapter 36 authority to make and enforce rules to provide for the conservation, preservation, protection, and recharge of groundwater and aquifers within the District, while recognizing the ownership and rights of the owners of the land and their lessees and assigns in groundwater. These rules are adopted to protect property rights, balance the conservation and development of groundwater to meet the needs of this state, and use the best available science in the conservation and development of groundwater.

These Rules, and any orders, requirements, resolutions, policies, directives, standards, guidelines, groundwater management plan, or other regulatory measures implemented by the Board, have been promulgated to fulfill these objectives. These Rules may not be construed to limit, restrict, or deprive the District or Board of any exercise of any power, duty, or jurisdiction conferred by Chapter 8866, Texas Water Code Chapter 36, or any other applicable law or statute.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

Amended *January 23, 2018 by* Board Order; *effective January 23, 2018.*

1.4 Effective Date

These Rules and any amendment are effective on the effective dates indicated following each subsection.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

1.5 Action on Rules

A. The Board may from time to time, following notice and public hearing, amend or revoke these Rules or adopt new Rules.

B. The Board may adopt an emergency Rule without prior notice or hearing, or with an abbreviated notice and hearing.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

Amended *January 23, 2018 by* Board Order; *effective January 23, 2018.*

1.6 Regulatory Compliance

All wells located within the District, owners of those wells, and others under the jurisdiction of the District, shall comply with all applicable Rules, orders, regulations, requirements, resolutions, policies, directives, standards, guidelines, or any other regulatory measures implemented by the District.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

1.7 Variances

Any exceptions or variances to the requirements imposed by District Rules shall be considered on a case-by-case basis and may apply to one or more wells. A request for variance shall be submitted in writing and include the reasons for the request. A variance from any requirements contained in an operating permit requires an application for an amendment.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

Amended *January 23, 2018 by* Board Order; *effective January 23, 2018.*

Rule 2: DEFINITIONS

In the administration of its duties, the District follows the definition of terms as follows, unless the context indicates a contrary meaning:

Acre-foot - the amount of water necessary to cover one acre of land one foot deep, or about 325,000 gallons.

Agent - one who is authorized to act for or in place of another; a representative. For purposes of these Rules, this includes a person who reasonably appears to have authority to act for another, regardless of whether actual authority has been conferred.

Agricultural Crop - Repealed *August 27, 2019 by* Board Order; *effective August 27, 2019.*

Agricultural Purpose - means the use of groundwater for:

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

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

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

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

(5) engaging in wildlife management as defined in Texas Tax Code Section, Sec. 23.51(7); and,

(6) raising or keeping equine animals.

Annular Space - the space between the casing and borehole wall.

Aquifer - a geologic formation that will yield water to a well in sufficient quantities to make the production of water from this formation feasible for beneficial use.

Aquifer Mining - a condition where the average available recharge of an aquifer or portion of an aquifer is less than the annual production from that aquifer or that portion of that aquifer. For purposes of these Rules, the terms "aquifer overdrafting," "reduction of artesian pressure," and the "drawdown of the water table or aquifer" shall mean aquifer mining.

Artesian Pressure - where water is confined in an aquifer under pressure so that the water will rise in the well casing or drilled hole above the bottom of the confining bed overlying the aquifer.

Beneficial Use - the use of groundwater for:

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

(2) exploring for, producing, handling, or treating oil, gas, sulphur, or other minerals; or any other purpose that is economically useful and beneficial to the user.

Board - the Board of Directors of the Mid-East Texas Groundwater Conservation District.

Cap - covering on a well capable of preventing surface pollutants from entering the well and sustaining a weight of at least 400 pounds and constructed in such a way that the covering cannot be easily removed by hand.

Casing - a watertight pipe installed in an excavated or drilled hole, temporarily or permanently, to maintain the hole sidewalls against caving; to advance the borehole; in conjunction with cementing or bentonite grouting, to confine groundwater to its respective zones of origin; and to prevent surface contaminant infiltration.

(1) Plastic casing--National Sanitation Foundation (NSF-WC) or American Society of Testing Material (ASTM) F-480 minimum SDR 26 approved water well casing.

(2) Steel Casing--New ASTM A-53 Grade B or better with a minimum weight and thickness of American National Standards Institute (ANSI) schedule 10.

(3) Monitoring wells may use other materials, such as fluoropolymer (Teflon), glass-fiber-reinforced epoxy, or various stainless steel alloys.

Certificate of Registration - the certificate issued under Rules 8.1 and 8.2 by the District to show that an existing exempt well has been registered and is authorized to operate or to authorize the drilling and operation of a new exempt well.

Chapter 36 - means Chapter 36 of the Texas Water Code, as amended.

Closed Loop Geothermal Well - a vertical closed system well used to circulate water through the earth as a heat source or heat sink.

Commercial Purpose - the use of groundwater to supply water to properties or establishments that are in business to build, supply or sell products, or provide goods, services or repairs and that use water in those processes, or to supply water to the business establishment primarily for employee and customer conveniences (i.e. flushing of toilets, sanitary purposes, or limited landscape watering).

Community Water System - a public water system that has the potential to serve at least 15 residential connections on a year-round basis or serves at least 25 residents on a

year-round basis.

Completion or Complete - sealing off access of undesirable water or constituents to the well bore by utilizing proper casing and annular space positive displacement or pressure tremie tube grouting or cementing (sealing) methods. Same as surface completion.

Conservation - those water saving practices, techniques, and technologies that will reduce the consumption 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.

Dewatering well - an artificial excavation that is constructed to produce groundwater to lower the water table or potentiometric surface and that is not used to produce or to facilitate the production of minerals under a state regulatory program.

Desired Future Condition - The desired, quantified condition of groundwater resources (such as water levels, water quality, spring flows, or volumes) for a specified aquifer within a management area at a specified time or times in the future as defined by participating groundwater conservation districts within a groundwater management area as part of the joint planning process.

Deteriorated Well - a well that, because of its condition, will cause or is likely to cause pollution of any water in the State, including groundwater, or allows loss of groundwater through seepage or casing breeches.

Director - an appointed member of the Board of Directors of the District.

Discharge - the volume of water that passes a given point within a given period of time. The amount of water that leaves an aquifer by natural or artificial means.

District - the Mid-East Texas Groundwater Conservation District (METGCD) or one of its authorized representatives.

District Office - the office of the District as established by the Board.

Domestic and Livestock Public Water Supply System - for purposes of setting production limits under Rule 6.3.E, a community water system, retail water utility, or retail public water utility providing water service solely or substantially solely for domestic use or for consumption by livestock or poultry.

Domestic Use or Purpose - use of groundwater by a residence to support essential domestic activity, including but not limited to: uses inside the residence; watering lawns, flower beds, shrubs, trees shading the residence, or of a garden or orchard that produces vegetables and fruit for consumption within the residence and not for sale; and protection of foundations.

Drill - drilling, equipping, completing wells, or modifying the size of wells or well pumps/motors (resulting in an increase in production volume capability) whereby a drilling or service rig must be on location to perform the activity.

Enforcement Action - an action taken by the District to enforce District Rules, orders, or permits, or any other law within its enforcement authority.

Enforcement Hearing - a hearing held under Rule 14.41.

Exempt Well - a well exempted under Rule 8.9 for which the owner is not required to obtain an operating permit.

Export Permit - an authorization issued by the District allowing the export of a specific quantity of groundwater withdrawn from a well inside the boundaries of the district for use outside the boundaries of the District for a designated time period.

Groundwater or Underground Water - water percolating beneath the earth's surface.

Groundwater Management Plan - a management plan developed by the District pursuant to Texas Water Code Section 36.1071.

Groundwater Production Rights - right by contract, lease or ownership to produce water from an identified surface acreage.

Groundwater Reservoir - a specific subsurface water-bearing reservoir having ascertainable boundaries and containing groundwater.

Hearings Body or Hearings Board - the Board, any committee of the Board, or a Hearings Officer at any hearing held under District Rules.

Hearings Officer - a person appointed by the Board to conduct a hearing on a permit, rule, or enforcement action.

Industrial Use or Purpose - use of groundwater primarily in the building, production, manufacturing, or alteration of a product or goods, or to wash, cleanse, cool, or heat such goods or products.

Incidental Use - a minor beneficial use of water incident to but not the primary purpose of the overall water use. Export of water outside the District by a permittee that totals 5% or less, but in no case more than 5,000,000 gallons, of the permittee's annual permitted pumpage is considered incidental use (15.34 acre foot).

Investigation Report - a report prepared by the District summarizing its investigation of a possible violation of law and making a recommendation to the Board regarding any further action.

Irrigating Agricultural Crops – means the use of groundwater for irrigation of:

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

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

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

Irrigation - use of groundwater to supply water for application to plants or land in order to promote growth of plants, turf, or trees, other than for domestic use or purpose.

Livestock Use or Purpose - use of groundwater to provide water to domesticated horses, cattle, goats, sheep, swine, poultry, ostriches, emus, rheas, exotic deer and antelope, and other similar animals involved in farming or ranching operations. Dogs, cats, birds, fish, reptiles, small mammals, potbellied pigs, and other animals typically kept as pets are not considered livestock. Livestock-type animals kept as pets or in a pet-like environment are not considered livestock although providing water to such pets may be considered domestic use when associated with a residence.

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

Modeled Available Groundwater - the maximum amount of groundwater available from a particular groundwater source, as evidenced by best available groundwater availability model, that, if produced annually, will achieve the desired future condition established for that groundwater source.

Monitor or Monitoring Well - an artificial excavation constructed to measure or monitor the quality or quantity or movement of substances, elements, chemicals, or fluids beneath the surface of the ground. Included within this definition are piezometer wells, observation wells, and recovery wells. The term shall not include any well that is used in conjunction with the production of oil, gas, coal, lignite, or other minerals.

Non-exempt Well - all wells that are not exempt under Rule 8.9 from obtaining an operating permit. The owner of a non-exempt well is required to obtain an operating permit under Rule 8.2.

Notice of Violation (NOV) - written correspondence from the District notifying a person that they are in violation of law, including violation of a District Rule, Order, or permit or other law within the District's enforcement authority.

Open Meetings Act - chapter 551, Texas Government Code.

Operating Permit - authorization issued under Rule 8.4, which is required to drill and operate within the District a non-exempt well, as defined in this Rule 2.

Owner - a person who has the right to produce groundwater from a particular parcel of land, either by ownership, contract, lease, easement, or any other estate in the land.

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

Piezometer Well - a well of a temporary nature constructed to monitor well standards for the purpose of measuring water levels or used for the installation of a piezometer (a device constructed and sealed to measure hydraulic head at a point in the subsurface) resulting in the determination of locations and depths of permanent monitor wells.

Plugging - an absolute sealing of the well bore, resulting in the permanent closure of a well in accordance with approved State and District standards.

Pollution - the alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water that renders the water harmful, detrimental, or injurious to humans, animals, vegetation, or property, or to public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any reasonable purpose.

Pollution Source - a person, business, corporation, industry, operation, activity, or event, whether intentional or unintentional that causes, allows, or enables contaminants to be discharged to the environment, thereby causing pollution.

Potable Water - water that is suitable for human consumption, or can be made suitable for human consumption by primary filtration or chemical disinfection.

Presiding Officer - The individual designated to preside during a meeting or during a hearing on a permit, rule, or enforcement action. See also Hearings Board and Hearings Officer.

Public Water Supply Well - A well that produces the majority of its water for use by a public water system as defined in 30 Texas Administrative Code §290.38(47).

Public Water System - a system as defined in 30 Texas Administrative Code Chapter 290

for providing water for human consumption to the public.

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

Rate of Withdrawal - the amount of groundwater withdrawn or anticipated to be withdrawn over a specific period of time expressed in gallons per minute.

Recharge - the fraction of water, either from precipitation falling on the exposed formations that contain an aquifer or from losses from streams that flow over the exposed aquifer formations, that infiltrates into the subsurface and eventually enters the saturated portion of the aquifer.

Recovery Well - a well constructed for the purpose of recovering undesirable groundwater for treatment or removal of contamination.

Respondent - an individual who receives a Notice of Violation or other correspondence from the District regarding the individual's noncompliance with District Rules or other law within the District's enforcement authority.

Retail Water Utility or Retail Public Water Utility - as defined by Texas Water Code Section 13.002 and 30 Texas Administrative Code Section 291.3, any person, corporation, public utility, water supply corporation, municipality, political subdivision or agency operating, maintaining, or controlling within the District facilities for providing potable water service for compensation.

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

Sealing a well - placing an official seal, tag, or label on a well or its equipment, to indicate that further pumping of groundwater, or operation of the well is unauthorized and will be in violation of District Rules.

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

State of Texas Plugging Report - the report that a person who plugs a well is required to complete under 16 Texas Administrative Code Section 76.700(2).

State of Texas Well Report - the report that every well driller who drills, completes, deepens, or alters a well is required to complete under the Texas Department of Licensing and Regulation Rules, as defined in 16 Texas Administrative Code Sections 76.10 and 76.700(1). Also commonly referred to as the driller's log.

Subdivision - a tract or parcel of land for which a plat is required in accordance with Chapter 232 of the Texas Local Government Code.

Substantial Alteration of a Well - to change the physical or mechanical characteristics of a well, its equipment, production capabilities, or its purpose or location of use of the water produced in a way that may impact the level of fees the well is subject to or may impact whether an operating permit or amendment to an operating permit is required. This does not include repair of well equipment, well houses or enclosures, or replacement with comparable equipment.

Test Well - a well drilled for the intended purpose of investigating the geologic or hydrologic conditions in the subsurface, or for assessing the availability and quantity of water.

Water Table - the upper boundary of the saturated zone in an unconfined aquifer.

Well - a hole, shaft, or excavation constructed for the purpose of extracting, injecting, monitoring, or otherwise accessing water in the subsurface.

Well Pumps and Equipment - devices and materials used to obtain water from a well, including the seals and safeguards necessary to protect the water from contamination.

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

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

Amended *April 24, 2012 by* Board Order; *effective May 8, 2012.*

Amended *January 23, 2018 by* Board Order; *effective January 23, 2018.*

Amended *August 27, 2019 by* Board Order; *effective August 27, 2019.*

Rule 3: REPORTING AND RECORDKEEPING

3.1 Well Drilling, Completion, and Water Data Reporting

A. Within 60 days from (1) the cessation of drilling, for a well that will not be completed; (2) completion; (3) deepening; or (4) otherwise altering a well, a copy of the State of Texas Well Report to the District shall be submitted to the District by the water well driller.

B. All geophysical or lithological well logs shall be submitted to the District within 60 days from the date the log is run.

C. All pump test data, water level data, water quality data, or any other data pertinent to a well shall be submitted to the District within 60 days after the data are compiled.

D. The well owner and the well owner's agent, such as the water well driller or hydrologist, are equally responsible for compliance with this Rule 3.1

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

Amended *April 24, 2012 by* Board Order; *effective May 8, 2012.*

3.2 Annual Water Use Report

The production from all wells required under Rule 8.2 to obtain an operating permit must be metered using a device or an approved method that is within plus or minus 5% of accuracy, installed at the well owner's expense. The well owner shall keep a record of monthly water production. Calendar year annual water use shall be reported to the District prior to April 1st of the following year, unless the District imposes alternate recordkeeping and reporting requirements in the operating permit for the well.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

Amended *April 24, 2012 by* Board Order; *effective May 8, 2012.*

3.3 Water Exported Out of the District

When water produced from a well inside the boundaries of the District is being exported out of the District under an export permit, the annual water use report required by Rule 3.2 must also show the amount of water exported out of the District and the amount of water used inside the District.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

Amended *January 23, 2018 by* Board Order; *effective January 23, 2018.*

3.4 Plugging Report

Within 30 days after plugging the well, the person plugging the well shall submit to the District a copy of the State of Texas Plugging Report. The well owner and the well owner's agent are equally responsible for compliance with this requirement.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

3.5 Monitoring Well Report

The following water quality data shall be obtained for each monitoring well and submitted to the District:

A. Semi-annually, a water analysis for chloride, conductivity, fluoride, iron, nitrate (as nitrogen), manganese, pH, sulfate, total hardness, total dissolved solids, total coliform bacteria, calcium, carbonate/bicarbonate, and magnesium. Conductivity and pH values may be measured in the field. The other constituents shall be analyzed in a State approved laboratory. The data

from the analysis performed during January are due on March 1st and the data from the analysis performed during July are due on September 1st.

B. Semi-annually, one depth to water measurement. This report is due at the same time as the report required in Rule 3.5.A.

C. Copies of all water quality sampling results done for any purpose. These data are due within 60 days after the results are compiled.

D. The well owner and the well owner's agent, such as the person performing the sampling, are equally responsible for compliance with this Rule 3.5.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

Amended *April 24, 2012 by* Board Order; *effective May 8, 2012.*

3.6 Repealed *August 27, 2019 by* Board Order; *effective August 27, 2019.*

Rule 4: WATER WELLS ASSOCIATED WITH OIL, GAS, AND MINING ACTIVITIES

4.1 District Jurisdiction Over Water Wells Associated with Oil, Gas, and Mining Activities

The District has authority over water wells used to supply water for activities related to the exploration or production of hydrocarbons or minerals.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

4.2 District Jurisdiction Over Water Wells Permitted by the Railroad Commission of Texas

A. A water well drilled or operated under a permit issued by the Railroad Commission of Texas is under the exclusive jurisdiction of the Railroad Commission and is exempt from regulation by the district, except as provided by this rule.

B. Groundwater produced in an amount authorized by a Railroad Commission permit may be used within or exported from the District without obtaining an operating permit or an export permit.

C. To the extent groundwater is produced in excess of Railroad Commission authorization, the holder of the Railroad Commission permit must apply to the District for the appropriate permit for the excess production and is subject to the applicable regulatory fees.

D. Groundwater produced from a well under the jurisdiction of the Railroad Commission is generally exempt from District fees. However, the District may impose either a production fee or an export fee on groundwater produced from an otherwise exempt mine well that is used for municipal purposes or by a public utility. Any fee imposed by the District under this subsection may not exceed the fee imposed on other groundwater producers in the District.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

Amended *April 24, 2012 by* Board Order; *effective May 8, 2012.*

Amended *January 23, 2018 by* Board Order; *effective January 23, 2018.*

4.3 Water Wells Associated With Oil and Gas Activities

A. Rig Supply Wells

(1) No permit is required for the drilling of a water well used solely to supply water for a rig that is actively engaged in drilling or exploration operations for an oil or gas well permitted by the RRC if:

(f) Person holding RRC permit for the drilling rig is responsible for drilling and operating the water well.

(g) The water well is located on the same lease or field associated with the drilling rig.

(2) In this Rule 4.3, a rig that is actively engaged in drilling or exploration operations for an oil or gas well permitted by the Railroad Commission includes a drilling or workover rig and "exploration operations" include well completion and workover operations.

(3) A rig supply well must register with the District as provided in Rule 8.1.

(4) A rig supply well must comply with the well construction standards as provided in Rule 12.

(5) The driller of a rig supply well must submit to the District the drilling log as provided in Rule 3.1.A.

(6) A rig supply well shall be plugged in accordance with Rule 7.1.

B. Other Water Wells Associated with Oil and Gas Activities

(1) A well that does not fall or no longer falls under the definition of a rig supply well in this Rule 4.3.A, must comply with all District Rules and must obtain an operating permit under Rule 8.

(2) An injection water supply well drilled for hydrocarbon activities associated with an oil or gas well drilled after September 1, 1985 that does not penetrate the base of usable quality water must comply with all District Rules and must obtain an operating permit under Rule 8.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

Amended *April 24, 2012 by* Board Order; *effective May 8, 2012.*

Amended *October 22, 2013* by Board Order; *effective December 17, 2013*.

Amended *August 27, 2019* by Board Order; *effective August 27, 2019*.

Rule 5: WELL LOCATION AND SPACING

5.1 Preamble

The purpose of these well spacing requirements is to promote groundwater conservation, provide for long-term availability of groundwater resources, reduce localized depletion of groundwater, prevent interference between wells, and prevent the degradation of groundwater quality.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

5.2 Applicability

The requirements of this Rule 5 apply to all wells drilled within the District unless specifically noted. As authorized by Texas Water Code Section 36.116, some of the required distances are more stringent than those required by 16 Texas Administrative Code Section 76.100 ~~76.1000~~, as amended.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

5.3 Authorized Well Location

After a certificate of registration or an operating permit has been issued, the well must be drilled within 10 yards (30 feet) of the location specified in the certificate of registration or operating permit, and not elsewhere. If the well should be commenced or drilled at a different location, the drilling or operation of such well may be enjoined by the Board pursuant to Chapter 36, Texas Water Code.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

5.4 Determining Distances of a Tract Bordered By a Public Roadway

In determining the minimum distances set out in this Rule 5, it is permissible to use the centerline of a public roadway to calculate the distance required for the setback of a tract bordered by such a roadway.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

5.5 Spacing from Potential Sources of Pollution

A. All wells must comply with the location standards of 16 Texas Administrative Code § 76.100 ~~76.1000~~ and with the minimum required separation distance for on-site sewage facilities of 30 Texas Administrative Code §285.91 (10), which dictate horizontal distance from potential sources of pollution. § 76.100 ~~Section 76.1000~~ excludes monitoring wells, environmental soil borings, dewatering wells, piezometer wells, and recovery wells from these requirements. Such wells may be located where necessity dictates.

B. Public Water Supply Wells must comply with the 150-foot sanitary control easements as required by Title 30 Texas Administrative Code Chapter 290.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

5.6 Spacing From Property Lines and Other Wells

A. All new wells shall be located a minimum horizontal distance from any existing wells and property lines as required by 16 Texas Administrative Code § 76.100 ~~Section 76.1000~~, unless covered by the more stringent spacing requirements of this Rule.

B. The following spacing restrictions apply for a new well.

(1) No closer than 50 feet from the property line of any adjoining landowner.

(2) Non-exempt wells capable of producing at a rate up to and including 500 gallons per minute and completed in the Carrizo-Wilcox, Queen City-Sparta, or Yegua-Jackson sands shall be spaced a minimum of 1,000 feet from any other well completed in the same sands.

(3) Non-exempt wells capable of producing at a rate in excess of 500 gallons per minute and completed in the Carrizo-Wilcox, Queen City-Sparta, or Yegua-Jackson sands shall be spaced a minimum of 1,500 feet from any other well completed in the same sands.

(4) The required spacing for all other non-exempt wells completed in other aquifers in the District will be considered on a case-by-case basis.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

Amended *April 24, 2012 by* Board Order; *effective May 8, 2012.*

Amended *October 22, 2013 by* Board Order; *effective December 17, 2013*.

Amended *January 23, 2018 by* Board Order; *effective January 23, 2018.*

5.7 Variance to Spacing Requirements

A. The owner of a proposed new water well who, due to the peculiarities of the property shape or the local geology or hydrology, may need to locate a well closer than the spacing requirements of Rule 5.6 may apply for a variance.

B. The spacing limitations of these rules may be reduced or increased by the Board upon demonstration ~~either~~ that such spacing is overly protective of neighboring wells or ~~is~~ insufficiently protective of neighboring wells.

C. If the applicant presents waivers signed by the adjoining landowner(s) stating that they have no objection to the proposed location of the well site, the spacing requirements of these rules will not apply to the new well location. Copies must ~~shall~~ be submitted with the application for a variance before ~~to the District office prior to~~ drilling the proposed water well. Such a waiver or easement will affect drilling options on the property of the owner granting it by causing the distance requirements from property lines and between water wells to be adjusted inward on the property for which the waiver is granted. The District shall not accept reciprocal waivers or easements from adjoining property owners if the waivers or easements would involve the same portion of the adjoining properties.

D. Providing an applicant can show good cause why a new well should be allowed to be drilled closer than the required spacing of Rule 5.6, the issue of spacing requirements will be considered at a contested case hearing. If the Board chooses to grant an operating permit for a well location that does not meet the spacing requirements, the Board may limit the production of the well to ensure no injury is done to the adjoining landowners or the aquifer.

E. The spacing requirements of Rule 5.6 do not apply to wells drilled on the same property by the same well owner.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

Amended *October 22, 2013 by* Board Order; *effective December 22, 2013*.

Amended *January 23, 2018 by* Board Order; *effective January 23, 2018.*

Rule 6: PRODUCTION LIMITS

6.1 Preamble

Rule 6 limits the production of groundwater as authorized by Chapter 8866 and Texas Water Code Sections 36.101 and 36.116. This method of limiting groundwater is appropriate based on the hydrogeologic conditions of the aquifers in the District and is consistent with the District's comprehensive Groundwater Management Plan developed and adopted under Texas Water Code Section 36.1071.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

Amended *January 23, 2018 by* Board Order; *effective January 23, 2018.*

6.2 Production Limits for All Wells Requiring an Operating Permit

The District shall set production limits on all wells requiring an operating permit under Rule 8 on a case-by-case basis during the permitting process set out in Rule 8. These production limits shall be established on the basis provided in Rule 6.3.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

6.3 Setting Production Limits

A. To minimize as far as practicable the drawdown of the water table or the reduction of artesian pressure, to protect property rights, to prevent interference between wells, to prevent degradation of water quality, or to prevent waste, the district by rule will regulate the production of groundwater.

B. The production limit for a well requiring an operating permit shall be set at an annual amount that the District determines does not unreasonably affect existing groundwater and surface water resources or existing permit holders.

C. In no event may the annual production amount exceed three acre feet per year per acre of surface area designated in the application as production area for the well.

(1) The production area designated in the application must be owned by the applicant or must be area in which the applicant has acquired groundwater production rights, all of which must be contiguous to the property where the producing well is located.

(2) The production area may not include the production area assigned to any other well.

(3) This section does not apply to groundwater production from any groundwater reservoir or subdivision of a groundwater reservoir that does not have a designated Desired Future Condition.

D. Production limits shall apply in applications for new wells and applications to increase production from historic wells.

E. In determining the annual production limit for a Public Water Supply System well, the service area of the community water system or utility is considered the production area, less any production area assigned to any other permitted well.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

Amended *April 24, 2012 by* Board Order; *effective May 8, 2012.*

Amended *January 23, 2018 by* Board Order; *effective January 23, 2018.*

Amended *August 27, 2019 by* Board Order; *effective August 27, 2019.*

Rule 7: PLUGGING, CAPPING, AND SEALING OF WELLS

7.1 Plugging Wells

A. Not later than the 180th day after the date a landowner or other person who possesses a deteriorated well learns of its condition and location, the well shall be plugged in accordance with the Rules of the Texas Department of Licensing and Regulation, 16 Texas Administrative Code, Chapter 76, as amended. It is the responsibility of the landowner to ensure that such a well is plugged in order to prevent pollution of the groundwater and to prevent injury to persons. Not later than the 30th day after the date the well is plugged, a State of Texas Plugging Report shall be submitted to the District

as required by Rule 3.4.

B. If the owner fails to plug the well in compliance with State law, the District may:

(1) following the procedures of Rule 15.6, go on the land and plug the well. Reasonable expenses incurred by the District in plugging a well constitute a lien on the land on which the well is located pursuant to Texas Water Code Section 36.118; or

(2) as authorized by Texas Occupations Code, Section 1901.256, otherwise enforce Texas Occupations Code Section 1901.255 related to landowners having an abandoned or deteriorated well located on their property.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

Amended *January 23, 2018 by* Board Order; *effective January 23, 2018.*

7.2 Capping Wells

A well that is open at the surface in a non-deteriorated condition must be capped to prevent waste, pollution, or prevent deterioration. The well shall remain capped until conditions that led to the capping are eliminated. If the owner fails to cap the well in compliance with District Rules, the District may do so. Reasonable expenses incurred by the District in capping a well constitute a lien on the land on which the well is located pursuant to Texas Water Code Section 36.118.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

7.3 Sealing Wells

A. The District may require the sealing of a well that is in violation of District Rules or that the District has prohibited from producing groundwater.

B. If the District believes that continued operation of a well may cause a threat of imminent endangerment to human health, safety, or the environment, the District may require the sealing of a well on an emergency basis. In such a case, the District shall provide for notice and hearing no later than the next regularly scheduled Board meeting.

C. If the District requires the sealing of a well and the owner fails to seal the well, the District may seal the well following the procedures of Texas Water Code Section 36.123 and Rule 15.6.

D. A well shall be sealed by physical means and tagged to indicate that the well has been sealed as required by the District. The seal is intended to preclude

operation of the well and identify unauthorized operation of the well.

E. Tampering with, altering, damaging, removing, or violating the seal of a sealed well in any way, or pumping groundwater from a well that has been sealed constitutes a violation of District Rules and subjects the person who performs that action, as well as the well owner to enforcement under District Rules.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

Amended *January 23, 2018 by* Board Order; *effective January 23, 2018.*

Rule 8: REGISTRATION AND PERMITTING

8.1 Registration of Exempt Wells

A. Existing ~~Historic~~ Wells

(1) An existing ~~historic~~ well is a well located within the District that was drilled and properly completed on or before September 23, 2008.

(2) All ~~historic~~ wells exempt from the requirement of obtaining an operating permit must be registered with the District.

(3) The well owner must file with the district, on a form obtained from the District, an application for a certificate of registration.

(4) After review and the determination by the General Manager that the well qualifies as an exempt well, the District will issue a certificate of registration.

(5) Changes to the well or its operation may change the status of the well and thereafter require an operating permit.

B. New Water Wells

(1) A new water well is a water well that is drilled or properly completed after September 23, 2008, or an existing well that has been substantially altered after September 23, 2008.

(2) Prior to drilling the well, the owner shall apply for a certificate of registration on a form obtained from the District.

(3) After review and the determination by the General Manager that the proposed groundwater use qualifies the well for an exemption and that its proposed location complies with the minimum spacing distances of Rule 5, the District will issue a certificate of registration, which will allow the owner to commence drilling and production. If the General Manager determines the proposed groundwater use does not qualify for an exemption, or if there are any other problems with the registration, the registration application shall be returned with an explanation. The applicant may then either apply for a permit or appeal the General Manager's decision to the Board.

(4) Changes to the well or its operation may change the status of the well and thereafter require an operating permit.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

Amended *April 24, 2012 by* Board Order; *effective May 8, 2012.*

Amended *January 23, 2018 by* Board Order; *effective January 23, 2018.*

8.2 Operating Permits for Non-Exempt Wells

A. Type of Permits. The District shall issue the following types of permits:

(1) Drilling Permits;

(2) Operating Permits;

(3) Historic Use Permits; and

(4) Export Transport Permits.

B. Operating Permit Required

(1) All non-exempt wells must obtain an operating permit. An application for a new non-exempt well must be filed, and a drilling permit approved before drilling may commence.

(2) The owner shall submit to the District an operating permit application on a form obtained from the District.

(3) Once the owner has submitted the application and all required information and the General Manager has deemed the application administratively complete, the application will be referred to the Board for consideration.

~~**(4)** Unless otherwise specified by the Board, drilling must commence~~

~~within 180 days after issuance of the operating permit, unless an extension is granted for good cause.~~

(4) The minimum amount granted as historic use for a well that was in existence on January 1, 2011, shall be the maximum amount of groundwater withdrawn and put to a beneficial use for any one calendar year between January 1, 2005, and December 31, 2011. A permittee may request historical user status and an historic use permit under this subsection by filing an application for Historic Use, including supporting evidence of beneficial use during the historic use period.

C. Historic Use Status

The District seeks to manage the groundwater resources in the District and achieve the Desired Future Conditions while protecting existing water wells and historic users to the maximum extent practicable.

(1) Designation of Historic Use Status

Authorization issued by the District for groundwater withdrawals for a specified amount and type of use from a registered water well, permitted non-exempt water well, or registered exempt use water well existing and operational prior to or on January 1, 2026, may be designated under a historic use status certification and subject to any and all applicable rules, regulations, protection, and requirements set forth by the District.

(2) Transfer of Historic Use Status

Historic use status is not a vested right of the permittee or well owner. The District may transfer a historic use status designation upon receiving an administratively complete approved Permit Application Form stating a request for a permit amendment specific to a request in Change of Ownership, provided the amendment does not increase the amount of withdrawal or change the purpose of use, the place of use, or the point of withdrawal. The application must comply with all appropriate District rules and regulations relating to permit amendments relative to a change in ownership status.

(3) Historic Period and Historic Use

The historic period is designated as the period between January 1, 2010, and December 31, 2025, and use will be determined based on the maximum amount of groundwater withdrawn and put to a beneficial use in any one calendar year during this period. The Historic Use Designation Certificate issued by the District shall state the acreage encompassed in the historic use designation, the purpose of use, the place of use, the point of withdrawal, and the amount of groundwater withdrawn during the designated calendar year of the historic period.

(4) Revocation of Historic Use Status

Historic user status may be revoked by the Board for violation of any terms or conditions of the certificate, obtaining the certificate by misrepresentation or failure to disclose relevant facts, or failure to comply with any applicable rules, regulations, fee schedule, special provisions, requirements, or orders of the District.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

Amended *April 24, 2012 by* Board Order; *effective May 8, 2012.*

Amended *January 23, 2018 by* Board Order; *effective January 23, 2018.*

8.3 Mitigation Plans ~~Repealed *April 24, 2012 by* Board Order; *effective May 8, 2012.*~~

A. In order to ensure no unreasonable effects on existing groundwater and surface water resources or existing permit holders, and to allow for the highest practicable level of groundwater production while achieving the desired future conditions, the District shall require a mitigation plan, acceptable to the District, to be included in the application to mitigate the effectof the drawdown of artesian pressure or the level of the water table upon the registered exempt use or permitted well owners potentially affected by that water well or wells. The mitigation plan, at permit issuance, shall be incorporated into the permit. The plan shall include but not be limited to:

a. The actions and procedures to be taken by the holder of the drilling and operating permit in the event that pumping causes the water level in a registered or permitted well to drop to an unacceptable level.

b. The actions and procedures to be taken by the holder of the drilling and operating permit in the event that the pumping from the permitted well causes the water to become objectionable or renders the water unusable to a registered or permitted well owner.

c. The actions and procedures to be taken by the holder of the drilling and operating permit in the event that pumping causes the well casing or equipment to be damaged so that the recorded quality or quantity of water cannot be produced by the registered or permitted well owner.

d. The plan shall also include measures to be taken in cases where the reduction of artesian pressure causes an emergency to arise that may threaten human or animal health, safety, or welfare.

e. The plan shall also contain a specifically enumerated time schedule for the execution of the mitigation plan.

B Subsection A only applies to an application to withdraw in excess of 1,500 acre-feet of groundwater annually.

8.4 Decision and Issuance of Operating Permits

A. The District shall promptly act on each administratively complete application for an operating permit.

B. Within 60 days after the date an operating permit application or application to amend an operating permit is determined to be administratively complete, the application shall be referred to the Board.

C. In issuing permits, the district shall manage total groundwater production on a long-term basis to achieve an applicable desired future condition and consider:

(1) the modeled available groundwater determined by the executive administrator;

(2) the executive administrator's estimate of the current and projected amount of groundwater produced under exemptions granted by district rules and Section 36.117;

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

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

(5) yearly precipitation and production patterns.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

Amended *April 24, 2012 by* Board Order; *effective May 8, 2012.*

Amended *October 22, 2013 by* Board Order; *effective December 17, 2013*.

Amended *January 23, 2018 by* Board Order; *effective January 23, 2018.*

8.5 Operating Permit Term

Operating permits issued by the District are valid for a period of 5 years, unless a shorter permit term is specified as a special permit condition. Such a special permit condition may include the need for additional data regarding the impact of the well on the aquifer or surrounding wells. The District reserves the authority to adopt, revise, and supersede rules applicable to wells subject to an operating permit.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

Amended *April 24, 2012 by* Board Order; *effective May 8, 2012.*

8.6 Aggregation of Withdrawal

In issuing an operating permit, the authorized withdrawal for a given well may be aggregated with the authorized withdrawal from other permitted wells designated by the District. Applicable spacing requirements and production allowances will be considered in determining whether or not to allow aggregation of withdrawal. For the purpose of categorizing wells by the amount of groundwater production, where wells are permitted with an aggregate withdrawal, the total authorized withdrawal will be assigned to the wells in aggregate, rather than allocating to each well its pro rata share of production. This will allow a well owner, with a number of water wells that supply a single well system, to apply for an operating permit for the well system without being required to apply for a separate operating permit for each individual well.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

8.7 Operating Permit Provisions

All operating permits are granted subject to District Rules, orders of the Board, and Chapter 36 of the Texas Water Code. In addition to any special provisions or other requirements included in the operating permit, each operating permit must contain the following standard permit provisions:

A. This permit is granted in accordance with District Rules and acceptance of this permit constitutes an acknowledgment and agreement that the permittee will comply with the terms, conditions and limitations set forth in this permit, as well as the District Rules.

B. The operation of the well for the authorized withdrawal must be conducted in a non-wasteful manner.

C. Withdrawals must be metered by the owner using a device or an approved method that is within plus or minus 5% of accuracy. An annual water use report shall be submitted as required by District Rule 3.2.

D. The well site must be accessible to District representatives for inspection, and the permittee agrees to cooperate fully in any reasonable inspection of the well and well site by the District representatives, which will be conducted according to District Rule 15.6.

E. The application pursuant to which this permit has been issued is incorporated in this permit, and this permit is granted on the basis of and 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.

F. Violation of this permit's terms, conditions, requirements, or special provisions, including pumping amounts in excess of authorized withdrawal may subject the permittee to an enforcement action under District Rule 15.

G. The permittee will use reasonable diligence to protect groundwater quality and will follow well plugging guidelines at the time of well closure.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

8.8 Emergency Authorization to Drill and Operate a Well

If necessary to prevent an imminent threat to public health or safety, the General Manager may grant an emergency authorization to drill and operate either an exempt or non-exempt well. The applicant for such authorization must show that there is an imminent threat to public health or safety, that no suitable alternative source is immediately available to the applicant, and that an emergency need for groundwater exists. An emergency authorization may be issued without notice or hearing.

Within 90 days of issuance of an emergency authorization, the well owner shall apply for a certificate of registration or operating permit. Such application will be processed according to Rule 8.1 or 8.2, as applicable. If no registration application (exempt well) or operating permit application (non-exempt well) is received by the District within that 90 day period, the emergency authorization will expire.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

8.9 Wells Exempt From Obtaining an Operating Permit

The following wells are exempt from obtaining an operating permit. If any of the well conditions are changed so that the well no longer qualifies for the exemption, it must obtain an operating permit.

A. A well used solely for domestic use, for providing water to livestock, poultry, or wildlife if the well is drilled, completed, or equipped so that it is incapable of producing more than 35 gallons of groundwater per minute, unless the well will be used to supply water for a subdivision of land for which a plat approval is required by Chapter 232, Local Government Code.

B. A well used solely to supply water for a rig that is actively engaged in drilling or exploration operations permitted by the Railroad Commission of Texas:

(1) Provided that the person holding the permit is responsible for drilling and operating the water well; and

(2) The well is located on the same lease or field on which the drilling rig is located or is in close proximity to the drilling rig.

~~C~~. A water well drilled for temporary use to supply water for a rig actively engaged in drilling a groundwater production well permitted by the district.

A well authorized under a permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code, or for production from such a well to the extent the withdrawals are required for mining purposes regardless of any subsequent use of the water.

D. A well drilled and completed solely for purposes of aquifer testing, including a test well, or for monitoring water levels or water quality, as long as the well is used solely for those purposes.

E. A well whose production is used wholly or substantially wholly for growing plants in a greenhouse operation or in a water conservation drip irrigation system in which the water is distributed to the plant in a closed (piped) system and is applied directly to the soil or growing medium at the plant.

F. A well that would otherwise be considered a commercial well if:

(1) the water is used solely for domestic purposes as defined in Rule 2, and

(2) the well is drilled, completed, or equipped so that it is incapable of producing more than 35 gallons of groundwater per minute.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

Amended *April 24, 2012 by* Board Order; *effective May 8, 2012.*

8.10 Change in Well Conditions or Operations, and Permit Renewal, Amendment, and Revocation

A. Change in Well Conditions or Operations

No person may take any of the following actions related to a well located in the District without notifying and receiving authorization from the District: (1) change the type of use (purpose) for which the well was originally authorized; (2) change the place of use of the water produced from the well; (3) alter the size or depth of a well, the well pump, or its pumping volume; (4) plug a well; or (5) abandon a well. Such changes may be processed administratively, may require an amendment to an existing operating permit, may make an exempt well be required to obtain an operating permit, and may make a well subject to the production limits of Rule 6.

B. Change in Use That Requires a Well to Have an Operating Permit

If the type of use of a well, the production of groundwater from a well, or the capability to produce groundwater from a well is changed in any manner that results in the well no longer qualifying as an exempt well, an operating permit shall be required. It is the responsibility of the owner of such a well to apply for an operating permit no later than 90 days prior to making the changes that render such well subject to this Rule.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

Amended *April 24, 2012 by* Board Order; *effective May 8, 2012.*

Amended *January 23, 2018 by* Board Order; *effective January 23, 2018.*

Rule 9: FEES

9.1 Water Use Fees

A. Production fees shall be paid to the District for water produced from a well that operated pursuant to an operating permit or required to have an operating permit. The production fee rate shall be established by the Board. The rate will be applied to prior year's actual or calculated total volume pumped. The District will review the account of any permittee changing the purpose of use for a well from a non-exempt use to an exempt use to determine if additional production fees are due.

B. The production fee may not exceed:

(1) $0.25 per acre-foot for water used for irrigating agricultural crops, and

(2) $0.17 per thousand gallons for water used for any other purpose.

C. The District may impose a reasonable fee or surcharge for an export fee using one of the following methods:

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

(2) a maximum ~~combined~~ production fee of $0.17 per thousand gallons of water used and an ex~~po~~rt fee of $0.212 ~~$0.17~~ per thousand gallons of water exported ~~used~~.

D. Unless otherwise provided by the Board of Directors, the annual production fee for a well required to obtain an operating permit shall be paid within 60 days following notification by the District. ~~Production fees of $50.00 or less may be waived for purposes of administrative convenience.~~

E. The District is prohibited from using revenues obtained from export fees to prohibit the export of groundwater outside of the District, but may use export fees for paying expenses related to enforcement of Chapter 36 the Texas Water Code, or District Rules.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

Amended *April 24, 2012 by* Board Order; *effective May 8, 2012.*

Amended *January 23, 2018 by* Board Order; *effective January 23, 2018.*

9.2 Other Administrative Fees

As authorized by Section 36.205, the Board shall establish fees for administrative acts of the District. These fees may not unreasonably exceed the costs to the District of providing the administrative function for which the fee is charged.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

Amended *April 24, 2012 by* Board Order; *effective May 8, 2012.*

9.3 Export Permit Application Processing

The Board may adopt an export permit application fee for export permits under Rule 10 that will cover all reasonable and necessary costs to the District for processing the application. The application fee for a permit to export groundwater out of the District may not exceed the fees that the District imposes for processing applications for non-exempt wells for the use of groundwater within the District.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

Amended *April 24, 2012 by* Board Order; *effective May 8, 2012.*

Amended *January 23, 2018 by* Board Order; *effective January 23, 2018.*

9.4 Inspection and Plan Review Fees

The Board may establish fees for: inspection activities including the inspection of wells and meters; plan reviews; special inspection services requested by other entities; or other similar services that require significant involvement of District personnel or its agents. Fees may be based on the amount of the District's time and involvement, number of wells, well production, well bore, casing size, size of transporting facilities, or amounts of water exported.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

Amended *April 24, 2012 by* Board Order; *effective May 8, 2012.*

Amended *January 23, 2018 by* Board Order; *effective January 23, 2018.*

9.5 Special Fees

Wells drilled in aggregate, such as closed loop heat exchange wells, may qualify for reduced fees for review, registration, and inspection. The fee rate will be based on review and inspection time on a case-by-case basis.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

9.6 Exceptions

If a regulated water utility is unable to pass through to its customers the cost of paying production fees assessed under Rule 9.1 due to delay in obtaining regulatory approval, or in other unusual instances of hardship, the Board may grant exceptions and establish a payment schedule. Such exceptions shall be applied consistently.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

Amended *April 24, 2012 by* Board Order; *effective May 8, 2012.*

9.7 Excess Pumpage Fees

The Board may establish additional production fees for any pumpage exceeding the permitted pumpage volume.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

Amended *April 24, 2012 by* Board Order; *effective May 8, 2012.*

9.8 Returned Check Fee

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

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

Amended *April 24, 2012 by* Board Order; *effective May 8, 2012.*

9.9 Accounting Fee

The Board may establish a fee for permittee-requested accounting of pumpage reports, production fee payments, or other accounting matters pertaining to the permittee's account that the District does not routinely maintain in its records. Should a District error be discovered, the accounting fee, if any, will be fully refunded. Permittees may request one review of their account per fiscal year without charge.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

Amended *April 24, 2012 by* Board Order; *effective May 8, 2012.*

9.10 Fee Schedule

The Board may establish a Fee Schedule listing the fee rate for each fee enumerated above. A fee rate approved by the Board shall remain in effect until amended or repealed by Board action.

Adopted *April 24, 2012 by* Board Order; *effective May 8, 2012.*

Rule 10: EXPORT OF GROUNDWATER OUT OF THE DISTRICT

10.1 Permit Required

Groundwater produced from within the District may not be exported outside the District's boundaries unless the Board has issued the well owner an export permit. The requirements of this rule are applicable without regard to the manner the water is transported out of the district. For purposes of this section, the following activities are not considered to be an export of groundwater:

A. the export of groundwater from the District for incidental use;

B. the export of groundwater for an agricultural operation that overlaps or is adjacent to the District boundary; or

C. the export of groundwater that occurs as a result of the distribution of water within a single, aggregate system of a retail public water system that overlaps the District boundary.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

Amended *April 24, 2012 by* Board Order; *effective May 8, 2012.*

Amended *January 23, 2018 by* Board Order; *effective January 23, 2018.*

10.2 Application

An application for an export permit must be filed on a form obtained from the District and must include a copy of an operating permit, plus the following information:

A. The availability of water in the District and in the proposed receiving area during the period for which the water supply is requested, including:

(1) The location of the proposed receiving area for the exported water as evidenced by a contract with the end-user, unless the applicant is the end-user;

(2) Information describing alternate sources of supply that might be utilized by the applicant, and the feasibility and practicability of utilizing such supplies; and

(3) A description of the amount and purposes of use for which water is needed in the proposed receiving area.

B. The projected effect of the proposed export on aquifer conditions, depletion, subsidence, or effects on existing permit holders or other groundwater users within the District, including:

(1) A hydrogeologic report by a registered professional engineer or professional geoscientist assessing the impact of the proposed well on existing wells and the aquifer;

(2) Information describing the projected effect of the proposed exporting of water on aquifer conditions, depletion, subsidence, or effects on existing permit holders or other groundwater users within the District; and

(3) The names and addresses of the property owners, and the location of their water wells, within a two (2) mile radius of the location of the well(s).

C. The statement of compliance with the approved regional water plan and approved District Management Plan, including:

(1) A description of how the proposed export is consistent ~~not inconsistent~~ with the current approved regional water plan ~~or State Water Plan~~; and

(2) A technical description of and a construction time schedule for the transportation facilities.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

Amended *April 24, 2012 by* Board Order; *effective May 8, 2012.*

Amended *January 23, 2018 by* Board Order; *effective January 23, 2018.*

10.3 Review of Applications, Permit Terms and Provisions, Periodic Permit Reviews, And Permit Renewals

A. Applications for export permits will be reviewed under the procedures of Rule 8.4 and this Rule and are subject to the hearing procedures provided in Rules 14.4, 14.5, and 14.6.

B. In determining whether to issue a permit to export groundwater out of the District, the Board must be fair, impartial, and nondiscriminatory and shall consider the factors considered when deciding whether to issue an operating permit and the following:

(1) The availability of water in the District and in the proposed receiving area during the period for which the water supply is requested;

(2) The projected effect of the proposed export on aquifer conditions, depletion, subsidence, or effects on existing permit holders or other groundwater users within the District;

(3) The approved regional water plan and approved district management plan.

C. The District may not deny an operating permit based on the fact that the applicant seeks to export groundwater outside of the District and may not impose more restrictive permit conditions on exporters than the District imposes on existing in-District users, unless:

(1) Such limitations apply to all subsequent new permit applications and increased use by historic users, regardless of type or location of use; and

(2) Bear a reasonable relationship to the District management plan; and

(3) Such limitations are reasonably necessary to protect existing use.

D. In addition to conditions provided by Section 36.1131, Texas Water Code, the export permit shall specify:

(1) The amount of water that may be exported out of the District; and

(2) The period for which the water may be exported, which shall be:

(a) At least three years if construction of a conveyance system has not been initiated prior to the issuance of the permit, and shall be automatically extended to the term of 30 years if construction of a conveyance system is begun before the expiration of the initial term; or

(b) At least 30 years if construction of a conveyance system has been initiated prior to the issuance of the permit.

E. The District may periodically review the amount of water that may be exported under an export permit.

(1) During such a periodic review, the District may limit the amount if the following factors warrant the limitation:

(a) The 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 export on aquifer conditions, depletion, subsidence, or effects on existing permit holders or other groundwater users within the District;

(c) The approved regional water plan and approved District management plan.

(2) Such a review may not take place more frequently than the period provided for the renewal of operating permits under Rule 8.5. After the review, more restrictive permit conditions may only be imposed if:

(a) Such limitations apply to all subsequent new permit applications and increased use by historic users, regardless of type or location of use;

(b) Bear a reasonable relationship to the District management plan;

(c) Such limitations are reasonably necessary to protect existing use.

(d) Such limitations are necessary after considering the factors provided in Rule 14.9.E for renewal of the underlying operating permit(s).

(3) Repealed *August 27, 2019 by* Board Order; *effective August 27, 2019*.

F. Well owners or well operators may make application to renew Export Permits required under these Rules prior to the expiration of the permit term. Export Permit renewals may be approved by the General Manager without notice or hearing if the amount of authorized export remains the same or decreases and the conditions listed in the permit have not changed, or the General Manager may refer the permit renewal to the Board. Export permits will renew automatically to a term that is not shorter than the term of the operating permit for the production of water to be transferred that is in effect at the time of the permit renewal, ~~extension~~ and for each additional term for which that operating permit for production is renewed or remains in effect. The renewed Export Permit continues to be subject to conditions contained in the permit as issued before the renewal unless amended by Board action.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

Amended *April 24, 2012 by* Board Order; *effective May 8, 2012.*

Amended *January 23, 2018 by* Board Order; *effective January 23, 2018.*

Amended *August 27, 2019 by* Board Order; *effective August 27, 2019.*

Rule 11: REWORKING AND REPLACING A WELL

11.1 Reworking a Well

A. No authorization from the District is required to rework, re-drill, or re-equip a well in a manner that will not change the well status under District Rules.

B. Prior to reworking, re-drilling, or re-equipping a well that increases the size of the column pipe or the production rate (gallons per minute), the owner shall apply for an operating permit or permit amendment, whichever is applicable.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

11.2 Replacement Wells

Authorization from the District is required prior to replacing an existing well with a replacement well.

A. A replacement well must be completed in the same aquifer as the well it replaces and may not be drilled, equipped, or completed so as to increase the rate of production.

B. A replacement well must comply with the minimum spacing requirements of Rule 5, and must be drilled within 500 feet of the well to be replaced. The well being replaced must be plugged.

C. If the application meets spacing and production requirements and satisfies the requirements of District Rules, the General Manager may approve the application without notice or hearing.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

Amended *April 24, 2012 by* Board Order; *effective May 8, 2012.*

Amended *January 23, 2018 by* Board Order; *effective January 23, 2018.*

Rule 12: WELL CONSTRUCTION STANDARDS

12.1 State Standards Applicable

Construction of wells and installation of pumps shall be in accordance with the Texas Occupations Code Chapter 1901, "Water Well Drillers" and Chapter 1902, "Water Well

Pump Installers," as amended and the rules of the Texas Department of Licensing and Regulation, 16 Texas Administrative Code, Chapter 76, as amended, and additional standards as required in this Rule.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

Amended *April 24, 2012 by* Board Order; *effective May 8, 2012.*

12.2 Additional Well Construction Standards

All public water supply wells must be completed using the engineer-designed criteria approved by the Texas Commission on Environmental Quality under 30 Texas Administrative Code Chapter 290.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

12.3 Watertight Sanitary Seal

To prevent pollutants from entering the wellhead, all wells shall be completed with a watertight sanitary seal. Any existing well not meeting this requirement is required to comply with this Rule at the time the well head is next removed. Wells with odd-sized casing or those having well heads for which there is no factory made watertight sanitary seal available shall be completed or modified in such a manner that shall meet the intent of this Rule.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

12.4 Inspection Port

All wells shall be equipped with an inspection port with a diameter of 3/4-inch or greater, inspection tube, or some other means that will allow free and clear access to the water table for the purposes of measuring water levels or disinfecting a well. Control boxes, pipes, fittings, or other wellhead equipment shall not hinder access to the inspection port. Any existing well not meeting this requirement is required to comply with this Rule at the time the well head is next removed.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

12.5 Re-Completions

A. The landowner shall have the continuing responsibility of ensuring that a well does not allow commingling of undesirable water and fresh water or the unwanted loss of water through the well bore to other porous strata.

B. If a well is allowing the commingling of undesirable water and fresh water or the unwanted loss of water, and the casing in the well cannot be removed and the well re-completed within the applicable rules, the casing in the well shall be perforated and cemented in a manner that will prevent the

commingling or loss of water. If such a well has no casing, then the well shall be cased and cemented, or plugged in a manner that will prevent such commingling or loss of water.

C. The Board may direct the landowner to take steps to prevent the commingling of undesirable water and fresh water, or the unwanted loss of water.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

Amended *April 24, 2012 by* Board Order; *effective May 8, 2012.*

12.6 Responsibility for Compliance

The well owner and the well owner's agent, such as the water well driller or pump installer, are equally responsible for compliance with Rule 12.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

Rule 13: WASTE

13.1 Waste means any one or more of the following:

A. 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.

B. The flowing or producing of wells from a groundwater reservoir if the water produced is not used for a beneficial purpose.

C. The escape of groundwater from one groundwater reservoir to any other reservoir or geologic strata that does not contain groundwater.

D. 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.

E. Willfully or negligently causing, suffering, or allowing groundwater to escape into any river, creek, natural watercourse, depression, lake, reservoir, drain, sewer, street, highway, road, or road ditch, or onto any land other than that of the owner of the well unless such discharge is authorized by permit, rule, or order issued by the commission under Chapter 26 "Water Quality Control."

F. Groundwater pumped for irrigation that escapes as irrigation tailwater onto land other than that of the owner of the well unless permission has been

granted by the occupant of the land receiving the discharge.

G. Unless the water from an artesian well is used for a purpose and in a manner in which it may be lawfully used on the owner's land, it is waste and unlawful to willfully cause or knowingly permit the water to run off the owner's land or to percolate through the stratum above which the water is found.

H. Drilling or operating a well or wells without a required permit or producing groundwater in violation of a District Rule adopted under Texas Water Code § 36.116(a) (2).

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

13.2 Waste Prevention

A. Groundwater may not be produced within, or used within or outside of the District, in such a manner as to constitute waste as defined in these Rules.

B. No person may 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.

C. Waste, as that term is defined in Section 13, is prohibited.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

Amended *April 24, 2012 by* Board Order; *effective May 8, 2012.*

13.3 Emergency Temporary Order to Prevent Waste or Pollution

If the District determines that there exists an imminent threat to public health, safety, or welfare due to groundwater waste or pollution, the Board may issue an emergency temporary order to protect public health, safety, or welfare. Such emergency temporary order may be issued without notice and hearing provided, however, the temporary order shall continue in effect for the lesser of fifteen (15) days or until an enforcement hearing under Rule 14.41 can be conducted. The 10 day notice period of Rule 14.41 may be suspended in order to meet the 15-day deadline of this Rule 13.3.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

Rule 14: PROCEDURAL RULES

14.1 Actions on Management Plan, Bylaws, Administrative Fee Schedule, and Budget

A. Once the District has developed a proposal involving its Management Plan, bylaws, administrative fee schedule, or budget, the District will schedule the matter for a public hearing.

B. Notice required by the Open Meetings Act and Chapter 36 shall be provided for the meeting.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

Amended *April 24, 2012 by* Board Order; *effective May 8, 2012.*

14.2 Hearing on Rules Other Than Emergency Rules

A. Once the District has developed a proposal involving its Rules, other than Emergency Rules, the District will schedule a public hearing.

B. Notice required by the Open Meetings Act and Chapter 36 shall be provided for the hearing.

C. In addition to the notice required by the Open Meetings Act, not later than the 20th day before the date of the hearing, notice shall be provided as follows:

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

(2) Provide notice to the county clerks of Madison, Leon, and Freestone counties;

(3) Publish notice in one or more newspapers of general circulation in Madison, Leon, and Freestone counties; and

(4) Provide notice by mail, facsimile, or electronic mail to any person who has requested notice under Rule 14.2.F. Failure to provide notice under this Rule 14.2.C(4) does not invalidate an action taken by the District at a rulemaking hearing.

D. Notice of the hearing on the proposed Rules shall include:

(1) A brief explanation of the subject of the rulemaking hearing, including a statement that the District's Board of Directors will

consider changes to District Rules, which will serve as the public hearing on the matter.

(2) The time, date, and location of the hearing.

(3) The agenda of the hearing.

(4) A statement that the proposed Rules are available to be reviewed or copied at the District Office prior to the hearing.

(5) A statement that the District will accept written comments and give the deadline for submitting written comments.

(6) A statement that oral public comment will be taken at the hearing.

E. Copies of the proposed Rules shall be available at the District Office during normal business hours at least 20 days prior to the hearing.

F. A person may submit to the District a written request for notice of a rulemaking hearing. A request is effective for the remainder of the calendar year in which the request is received by the District. To receive notice of a rulemaking hearing in a later year, a person must submit a new request.

G. To ensure that written comments about the proposed Rules will be considered by the Board, such written comments should be submitted to the District at least 5 days prior to the scheduled hearing.

H. Anyone interested in the proposal may attend the hearing and comment on the proposed Rules.

I. The District shall make and keep in its files a court reporter transcription or an audio or video recording of the hearing.

J. The Board shall issue an order or resolution reflecting its decision.

K. The effective date of the order or resolution shall be the date the Board takes final action unless the order provides for a later effective date. Any appeal authorized by Texas Water Code Chapter 36, Subchapter H shall run from the effective date, because it is the date on which all administrative appeals to the district are final.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

Amended *April 24, 2012 by* Board Order; *effective May 8, 2012.*

14.3 Adoption of Emergency Rules

A. The District may adopt an emergency rule without following the notice and hearing provisions of Rule 14.2, if the Board:

(1) Finds that a substantial likelihood of imminent peril to the public health, safety, or welfare, or a requirement of state or federal law, requires adoption of a rule on less than 20 days' notice; and

(2) Prepares a written statement of the reasons for its finding under Rule 14.3.A(1).

B. An emergency rule under this Rule 14.3 must be adopted at a meeting of the Board subject to the requirements of the Open Meetings Act. Notice required by the Open Meetings Act shall be provided.

C. Except as provided by Rule 14.3.D., a rule adopted under this Rule may not be effective for longer than 90 days.

D. If notice of a hearing under Rule 14.2 is given before the emergency rule expires under Rule 14.3.C, the emergency rule is effective for an additional 90 days.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

14.4 Actions on Permits and Other Well Authorizations

A. The District's General Manager or the Board may approve a permit application or a permit renewal in application as provided by this section.

(1) Once the application that is subject to the hearing requirement has been deemed administratively complete, the District shall notify the applicant to publish in a newspaper of general distribution a public notice to include: the application information, the General Manager's recommendations and the deadline date for submitting a protest.

(2) The District will accept written comments through the 10th day following the last date of the published notice. Written comments received by the deadline date will be considered in General Manager's recommendations; written comments received after the deadline date will not be considered in staff recommendations.

(3) A person with a personal, justiciable interest in groundwater may protest the permit application subject to the hearing requirement by filing a written protest by the deadline date stated in the published notice. If a timely protest is filed, the permit application shall be

scheduled for a preliminary hearing within 60 days after the date it is deemed administratively complete.

(4) In the absence of a timely filed protest, the General Manager may approve the application subject to the hearing requirement for an amount up to the amount requested on the application without first scheduling a hearing or any further Board action. The General Manager may also refer the matter to the Board of Directors and schedule the application for the next available public hearing before the Board.

(5) The applicant may contest the permit action by filing a formal request for a contested case hearing within twenty (20) days after the General Manager's action on the permit. If contested by the applicant, the permit application shall be scheduled for a preliminary hearing.

B. An application that does not require a hearing and conforms with these rules may be approved by the General Manager without any further Board action.

(1) An application for an amount less than or equal to fifty-six (56) acre feet per year does not require a hearing.

(2) An application for a well used solely to supply water for activities related to the exploration or production of hydrocarbons permitted by the Texas Railroad Commission does not require a hearing if:

(a) The person holding the permit is responsible for drilling and operating the water well; and

(b) The well is located on the same lease or field on which the exploration or production of hydrocarbons is taking place.

(c) In this section, a well used solely to supply water for activities related to the exploration or production of hydrocarbons permitted by the Texas Railroad Commission includes operations necessary to drill, complete and maintain the well for the purpose of producing hydrocarbons and excludes secondary recovery and water flood operations.

C. An application for certificate of registration may be approved by the District's General Manager without further Board action. Denial of a certificate of registration for a new exempt well shall be referred to the

Board ~~for action under~~.

D. The following applications may be approved by the District's General Manager without further Board action. Denial of the application shall be referred to the Board for action:

(1) An application for renewal of an operating permit provided that:

(a) the application is submitted in a timely manner and accompanied by any required fees; and

(b) the permit holder is not requesting a change related to the renewal that would require a permit amendment;

(2) An application for an amendment to transfer ownership of operating permit;

(3) An application for a replacement well; or.

(4) An emergency authorization to drill and operate a well.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

Amended *January 23, 2018 by* Board Order; *effective January 23, 2018.*

Amended *August 27, 2019 by* Board Order; *effective August 27, 2019.*

14.5 Preparation of an Application for a Permit.

A. **Form of Application.** Application for a well registration, permit, permit amendment, or permit renewal shall be made on forms provided by the District. Applications shall be in writing and sworn to.

B. **Proper Registrant, Applicant, or Declarant.** The application must be submitted and signed by the well owner or well operator, or an authorized agent of the well owner or well operator. The agent may be required to provide the District with a notarized authorization from the landowner.

Amended *April 24, 2012 by* Board Order; *effective May 8, 2012.*

Amended *January 23, 2018 by* Board Order; *effective January 23, 2018.*

14.6 Requirements for Applications.

A. A separate application is required for each well.

B. **Content Requirements**. An application must include all the information requested by this rule unless waived in writing by the General Manager. An

incomplete application will be returned to the applicant.

(1) **Minimum Requirements.** All applications must include the following information:

(a) the name, mailing address, and phone number of the applicant and the owner of the property on which the well is or will be located;

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

(c) a detailed statement of the nature and purpose of the various proposed uses and the amount of groundwater proposed to be used for each purpose, including the anticipated pumpage volumes for each year of the permit term, the number of cultivated acres being irrigated and estimated crop type, if applicable, and any alternative water sources being used by the applicant;

(d) the location of the well and the estimated maximum instantaneous rate at which water will be withdrawn from the well; and for a proposed aggregate system, a description of the system and the estimated annual pumpage for the system;

(e) Except for wells or well fields not capable of producing more than 250 gallons per minute in aggregate with all wells included in the permit or well field, a report detailing the projected effect of the proposed withdrawal on the aquifer or any other aquifer conditions, depletion, subsidence, or effects on existing registered exempt use well owners, permit holders, or other groundwater users in the district; in the case of wells capable of producing over 500 gallons per minute in aggregate with all wells included in the permit or well field, the report must be signed by a professional engineer or professional geoscientist;

(f) the proposed location(s) of use of the water from the well;

(g) the proposed casing size and pump capacity;

(h) evidence that the water withdrawn under the permit will be put to a beneficial, non-wasteful use at all times including, for an application where the applicant is not the end user, a

contract with the end user detailing the purpose use, place of use, amount of groundwater to be used and the price per 1,000 gallons, and that the applicant will comply with all District Rules, orders, and permit provisions;

(i) a water well closure plan or a declaration that the applicant will comply with well plugging and capping guidelines set forth in these Rules and will report well closures to the District;

(j) a water conservation plan, if the applicant is required by law to have a water conservation plan;

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

(l) the names and addresses of all landowners contiguous to the property where the well is to be located.

(2) **Additional Requirements**. An application for an export permit must include the following additional information:

(a) the location of the proposed receiving area for the water to be exported and the availability of water in the district and in the proposed receiving area during the period for which the water supply is requested;

(b) a detailed statement of the nature and purpose of the various proposed uses in the proposed receiving area and the amount of groundwater to be used for each purpose;

(c) information describing the projected effect of the proposed exportation of water on aquifer conditions, depletion, subsidence, and existing permit holders or other groundwater users within the District;

(d) evidence that the project is not inconsistent with the current approved regional water plan or State Water Plan; and

(e) a technical description of the facilities to be used for transportation of the groundwater and a time schedule for construction thereof.

C. **Fees Included with Application**. The application must be accompanied by the application processing fee, inspection fee, or other fees as appropriate. Such fees must be paid before an application may be declared

administratively complete. Application processing fees are non-refundable.

Adopted *April 24, 2012 by* Board Order; *effective May 8, 2012.*

Amended *January 23, 2018 by* Board Order; *effective January 23, 2018.*

14.7 Scheduling and Notice of Hearing on an Application.

A. **Staff Recommendation.** Once an application has been declared administratively complete by the General Manager, District staff will perform a technical review of the application and prepare a staff recommendation to the Board. The staff recommendation shall include a summary of the facts related to the application and staff's recommendations for Board action on the application.

B. **Scheduling of Hearing.** Unless these Rules specifically provide that a hearing is not required for an application, the General Manager or Board will schedule the application for a hearing at a regular or special meeting of the Board. The Board may schedule hearings for additional dates, times, and places if the hearing is to be presided over by a hearings examiner. The General Manager or Board may schedule more than one application for consideration at a hearing. Well registrations do not require a hearing or Board action.

C. **Notice of Hearings on Applications.** The General Manager shall give notice of all hearings involving permit applications in the following manner:

(1) Notice of the date, time, and location of the hearing shall be sent to the applicant in writing at least ten calendar days before the date of the hearing by certified mail, return receipt requested. The notice to the applicant shall include the staff recommendation on the application.

(2) Notice of the hearing shall be published at least once in a newspaper of general circulation within the District. The date of publication may not be less than ten calendar days before the date of the hearing.

(3) A copy of the notice shall be posted at the District office and 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. **Contents of Notice.** The notice shall include:

(1) the name of the applicant;

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

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

(4) a brief explanation of the proposed permit or permit amendment, including any requested amount of groundwater, the purpose of the proposed use, and any change in use;

(5) any other information the General Manager or Board deems relevant or appropriate.

Adopted *April 24, 2012 by* Board Order; *effective May 8, 2012.*

14.8 Hearing Procedures.

A. **General Provisions**. Hearings on permit matters will be conducted by a quorum of the Board or an individual to whom the board has delegated the responsibility to preside as a hearings examiner. The board president, or another board member designated by the president, or the hearings examiner shall serve as the presiding officer for the hearing.

B. **Hearing Registration**. The District may require each person who attends a hearing to submit a hearing registration form stating the person's name, address, whom the person represents, and whether the person wishes to testify.

C. **Conduct of Hearings**. Hearings will be conducted in the manner the presiding officer deems most suitable to conveniently, inexpensively, and expeditiously provide a reasonable opportunity for interested persons to submit relevant data, views, or arguments, in writing or orally. In addition, the presiding officer may:

(1) convene the hearing at the time and place specified in the notice;

(2) set any necessary additional hearing dates;

(3) establish the order for presentation of evidence;

(4) administer oaths to all persons presenting testimony;

(5) examine persons presenting testimony;

(6) limit testimony or the presentation of evidence to persons who, in the residing officer's determination, are affected by the subject matter of the hearing;

(7) allow testimony to be submitted in writing and may require that written testimony be sworn to;

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

(9) prescribe reasonable time limits for testimony and the presentation of evidence.

D. **Continuance**. The presiding officer may continue a hearing from time to time and from place to place without providing notice by announcing at the hearing the time, date, and location of the continued hearing.

E. **Recording**. The District shall prepare and keep a record of each hearing in the form of either minutes, or audio or video recording, or court reporter transcription, or the report described by Subsection (F) of this section. If a hearing is transcribed at the request of a party to the hearing, the presiding officer may assess the costs associated with producing the transcript to one or more parties. If a hearing involves a contested application, then the District shall keep a record of the hearing in the form of audio or video recording or a court reporter transcription.

F. **Report**. The presiding officer shall submit a report to the Board not later than the 30th day after the date a hearing is concluded, unless the hearing was conducted by a quorum of the board. If the hearing was conducted by a quorum of the board, the presiding officer shall determine at the presiding officer's discretion whether to prepare and submit a report to the Board under this section. The report must include:

(1) a summary of the subject matter of the hearing;

(2) a summary of the evidence or public comments received; and

(3) the presiding officer's recommendations or a proposal for decision for board action on the subject matter of the hearing.

Adopted *April 24, 2012 by* Board Order; *effective May 8, 2012.*

14.9 Action on Applications.

A. Before granting or denying a permit, in whole or in part, the District shall consider whether the application conforms to the requirements prescribed by these Rules and Texas Water Code Chapter 36 and is accompanied by the prescribed fees and whether the applicant is in compliance with the District's rules.

B. An application shall be considered administratively complete if it includes all required information; is signed; is accompanied by payment of all

applicable fees, including any penalties or past due fees; and includes any maps, documents, or supplementary information required by these Rules or necessary to provide adequate information for the Board to make a final decision on the application. A determination of administrative completeness will be made by the General Manager.

C. The District will not take action on an application that is not administratively complete or has not proceeded in a manner consistent with District Rules. An application may be rejected as not administratively complete if the District finds that substantive information required by the application is missing, false, or incorrect. Incomplete applications will be returned to the applicant with a list of deficiencies and may be reconsidered once the deficiencies are corrected.

D. Repealed *August 27, 2019 by* Board Order; *effective August 27, 2019*.

E. In determining whether to issue a permit, and in setting, the terms and provisions of the permit including the maximum authorized withdrawal, the District shall consider the purposes of the District and all other relevant factors, including, but not limited to:

(1) whether the application conforms to the requirements prescribed by Chapter 8866, Texas Water Code Chapter 36 and these rules, and is accompanied by the prescribed fees;

(2) the amount and purposes of use for which water is needed;

(3) whether the proposed use of water is dedicated to a beneficial, non-wasteful use;

(4) whether the proposed use of water is consistent with the District's certified groundwater management plan and any applicable spacing requirements, production limits, and drought restrictions;

(5) whether the proposed use of water unreasonably affects existing groundwater and surface water resources or existing permit holders and the projected effect of the proposed use on aquifer conditions, including depletion, subsidence, spring flow, impacts on groundwater quality, or effects on existing permit holders or other groundwater users within the District;

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

(7) whether the applicant has agreed to avoid waste and achieve water conservation; and

(8) whether the applicant is in compliance with all applicable District rules.

F. The District shall make a written determination granting or denying, in whole or in part, the application.

Adopted *April 24, 2012 by* Board Order; *effective May 8, 2012.*

Amended *January 23, 2018 by* Board Order; *effective January 23, 2018.*

Amended *August 27, 2019 by* Board Order; *effective August 27, 2019.*

14.10 Term of Permits.

A. Permit terms are as follows:

(1) Unless the District issues an extension, a ~~A~~ drilling permit shall be considered null and void by the District if the well is not drilled within six months of the date the permit is issued. The General Manager may grant an extension of the deadline for drilling a new well if the applicant requests the extension before the drilling permit expires and shows good cause for the delay. An extension granted by the General Manager may not exceed one year from the date the drilling permit was granted. If the permit expires, the ~~The~~ applicant must file a new permit application and obtain a new permit before drilling may commence.

(2) Operating Permits are effective for a term of five years, unless otherwise stated on the permit. The Board may issue an operating permit with a term of less than five years for the purpose of causing the permit to align with a renewal schedule established by the Board or by agreement of the permittee.

(3) Export Permits are effective for a term of three years if construction of a conveyance system has not been initiated prior to the issuance of the permit; or 30 years if construction of a conveyance system has been initiated prior to the issuance of the permit. A permit issued for a 3-year permit term shall automatically be extended to 30 years if construction of a conveyance system is begun before the expiration of the initial 3-year term.

B. The permit term will be shown on the permit.

Adopted *April 24, 2012 by* Board Order; *effective May 8, 2012.*

Amended *January 23, 2018 by* Board Order; *effective January 23, 2018.*

14.11 Permit Issuance and Format

A. **Permit Contents**. The permit shall include the following information in a format approved by the General Manager:

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

(2) the state well number or District-assigned well number for the well;

(3) the date the permit is issued;

(4) the date the permit is to expire;

(5) the location of the well(s);

(6) the maximum withdrawal authorized during the permit term;

(7) the type or purpose(s) of use of the groundwater;

(8) the place of use of the groundwater;

(9) the historical user status of the permittee, if applicable;

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

(11) any other conditions, provisions, or restrictions the District prescribes; and

(12) any other information the District deems necessary.

B. **Corrections or Administrative Modifications**. The General Manager, on his own or at the request of the permittee, may make non-substantive corrections or administrative modifications to any permit either by reissuing the permit or by issuing an endorsement to the permit, without observing formal amendment or public notice procedures. The General Manager must notify the permittee and file a copy of the endorsement or corrected permit in the District's official records.

Adopted *April 24, 2012 by* Board Order; *effective May 8, 2012.*

14.12 Permit Conditions

A. All permits are granted subject to these Rules, orders of the Board, and the laws of the State of Texas. Each permit issued shall be subject to the

following conditions:

(1) The permit is granted in accordance with the provisions of the Act in conjunction with Texas Water Code Chapter 36, and the Rules and orders of the District.

(2) The permit confers no vested rights in the holder. The permit may be revoked or suspended or its conditions may be modified or amended pursuant to the requirements of the Act and any applicable Rules and orders of the District.

(3) The drilling and operation of the well for the authorized use shall be conducted in such a manner as to avoid waste, pollution, or harm to the aquifer.

(4) The permittee shall maintain records estimating the amount of groundwater withdrawn each month, the purpose of the withdrawal, and the total amount of water exported, if any. The permittee shall describe the method or technique used to estimate water withdrawn. Such records shall be available for inspection by District representatives. Monthly use shall be reported to the District in the annual pumpage report on a form approved by the District. Immediate written notice shall be given to the District in the event a withdrawal exceeds the quantity authorized by the permit.

(5) The well site shall be reasonably accessible to District representatives for inspection. The permittee agrees to cooperate fully in any reasonable inspection of the well site and related monitoring or sampling by District representatives.

(6) 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 contingent upon the accuracy of the information supplied in that application and in any amendments thereof. A finding that false information has been supplied shall be grounds for immediate revocation of the permit. In the event of conflict between the provisions of the permit and the contents of the application, the provisions of the permit shall control.

(7) Driller's logs must be submitted to the District within sixty (60) days of the drilling of a well. Failure to submit a driller’s log will be grounds for revocation of a permit.

(8) Violation of the permit's conditions, requirements, or special provisions, including pumping amounts in excess of authorized withdrawal, is a violation of these Rules and shall be punishable by

civil penalties as provided by the Act and these Rules. Each day a violation continues is a separate violation, and each day pumping continues after reaching the amount authorized to be withdrawn on the permit constitutes a separate violation.

(9) If special provisions on a permit are inconsistent with other provisions or regulations of the District, the special provisions shall prevail.

(10) Public water system permittees should maintain at least 85 percent accountability. If losses or unaccounted for water exceeds 15 percent, the District may require the public water system permittee to submit a report to the District outlining the steps the permittee will take to improve system accountability. Unaccounted for water is presumed to be waste unless the permittee can provide evidence the water was put to a beneficial use.

B. In addition to the standard permit provisions, the Board may add special permit provisions to address specific circumstances for that permit or pumping location.

C. If the hydrogeological assessment, aquifer test report or other evidence indicates a likelihood of unreasonable off-site impact from well operations, the Board may add a special provision requiring the permittee to install monitoring wells. "Unreasonable off-site impacts" include significant, sustained aquifer drawdown that may impact neighboring wells or result in subsidence.

D. If at any time the board receives evidence that an operating well or well system is causing harm to the aquifer or neighboring properties, causing unreasonable off-site impacts, causing subsidence, the Board may, on its own motion, reopen the permit for additional hearings. At the conclusion of the hearing the Board may revoke, suspend, terminate, cancel, modify or amend the permit in whole or in part as needed to alleviate the harm.

Amended *April 24, 2012 by* Board Order; *effective May 8, 2012.*

14.13 Permit Renewal.

A. Well owners or well operators must make application to renew permits required under these Rules no later than 90 days prior to the expiration of the permit term on a form provided by the District. The applicant must indicate on the renewal application form whether any changes to the well, well operations, purpose of use, place of use, rate of withdrawal, amount of withdrawal, or special conditions have occurred or are planned for the next permit term. The renewal application may include requests to amend the permit.

B. Permit renewals shall be approved by the General Manager without notice or hearing if the amount of authorized withdrawal remains the same or decreases and the other terms and conditions of operation listed in the permit have not changed. The permit may not be renewed if the permit holder: (1) is not in compliance with permit conditions, the District Management Plan or District Rules; (2) has delinquent production fees or other District fees; or (3) has not paid a civil penalty or has otherwise failed to comply with an order resulting from a final adjudication of a violation of a district permit, order, or rule. In the event of noncompliance or delinquent fees, the District shall notify the permit holder of the conditions preventing the automatic renewal of the permit and allow the permit holder an opportunity to correct any noncompliance or pay delinquent fees. Failure of the permit holder to correct any noncompliance or pay delinquent fees within 30 days may result in denial of the renewal application and revocation of the permit.

C. If the well owner or well operator seeks to increase the amount of authorized withdrawal, or otherwise change any of the permit terms or conditions in the renewal application, the application will be scheduled for a hearing and consideration by the Board as an amendment application.

D. If aquifer conditions at or near the well or well field indicate excessive drawdown or subsidence, the Board may renew the permit at a lower authorized withdrawal or with additional special provisions either limiting the rate of withdrawal or requiring other adjustments to mitigate the impact of the groundwater withdrawals. The Board may consider waivers signed by landowners affected by the aquifer drawdown in setting the special permit provisions.

Adopted *April 24, 2012 by* Board Order; *effective May 8, 2012.*

Amended *January 23, 2018 by* Board Order; *effective January 23, 2018.*

14.14 Permit Amendments.

A. It is a violation of these Rules for a permittee to violate any condition, provision, or restriction contained in a permit issued by the District. A

permittee must apply for and receive an amendment to their permit prior to changing any term, provision, or restriction in the permit or any alteration of the well or well pump. An amendment is not required to repair a well or well equipment, well houses or enclosures, or replacement with comparable equipment that does not alter the well capacity or rate of withdrawal.

B. Amendment Types:

(1) Minor amendments include a request to:

(a) change the name or address of the well owner;

(b) decrease the maximum authorized withdrawal;

(c) increase the maximum authorized withdrawal by ten percent or less of the total permitted pumpage for users permitted for more than 12,000,000 gallons annually;

(d) increase the maximum authorized withdrawal by up to 2,000,000 gallons annually for users permitted for 12,000,000 gallons or less;

(e) convert two or more wells individually permitted by the same permittee into an aggregate system under one permit; and

(f) transfer of a permit in its entirety to a new landowner, well owner or well operator.

(2) All other amendments, including all amendments to permits involving the export of groundwater, are major amendments.

C. Minor amendments may be granted by the General Manager without notice, hearing, or further action by the Board. If two or more minor amendments are requested during any permit term for an increase in maximum authorized withdrawal, and the combined increase in volume requested in the amendments exceeds the limits described in Subsection (b) for minor amendments, then the amendment will be considered a major amendment.

D. Major amendments shall be subject to all the requirements and procedures applicable to issuance of a new permit for a new well.

E. An application for permit amendment shall be made on forms supplied by the District and must be accompanied by any applicable application a processing fee established by the Board. No application processing fee will be required from permittees requesting a decrease in maximum authorized

withdrawal.

F. An amendment to change the name of a well owner must be submitted within 90 days of the transfer of ownership, and the owner's name on file with the district shall be responsible for all forms, reports and fees due until the district approves the amendment.

G. If the holder of an operating permit, in connection with the renewal of a permit or otherwise, requests a change that requires an amendment to the permit under district rules, the permit as it existed before the permit amendment process remains in effect until the later of:

(1) the conclusion of the permit amendment or renewal process, as applicable; or

(2) final settlement or adjudication on the matter of whether the change to the permit requires a permit amendment.

H. If the permit amendment process results in the denial of an amendment, the permit as it existed before the permit amendment process shall be renewed without penalty as provided by Rule 14.13.

Adopted *April 24, 2012 by* Board Order; *effective May 8, 2012.*

Amended *January 23, 2018 by* Board Order; *effective January 23, 2018.*

14.15 Permit Revocation, Cancellation, or Modification.

A. A permit is not a vested right of the holder.

B. After notice and hearing, a permit may be revoked, suspended, terminated, canceled, modified, or amended in whole or in part for cause, including, but not limited to (i) violation of any conditions of the permit, (ii) obtaining the permit by misrepresentation or failure to disclose relevant facts, (iii) failure to comply with any applicable statutes, Rules, regulations, fee schedule, permit provisions or special provisions, requirements, or orders of the District, (iv) waste of groundwater, (v) changes in aquifer conditions, (vi) changes to the district plan, (vii) changes to the district rules, or (viii) other actions that the Board determines to be detrimental to the groundwater resources within the District. The permittee shall furnish to the District upon request, and within a reasonable time, any information to determine whether cause exists for revoking, suspending, terminating, canceling, modifying, or amending a permit.

C. The district may initiate an amendment to an operating permit, in connection with the renewal of a permit or otherwise, in accordance with the district's rules. If a district initiates an amendment to an operating

permit, the permit as it existed before the permit amendment process shall remain in effect until the conclusion of the permit amendment or renewal process, as applicable.

Adopted *April 24, 2012 by* Board Order; *effective May 8, 2012.*

Amended *January 23, 2018 by* Board Order; *effective January 23, 2018.*

14.16 Aggregation.

A. In issuing a permit, the authorized withdrawal for a given well may be aggregated, at the discretion of the District, with the authorized withdrawal from other permitted wells designated by the District. The geographic location of each well and integrated distribution systems will be considered in determining whether or not to allow aggregation of withdrawal of groundwater.

B. For the purpose of categorizing wells by the amount of groundwater production, when wells are permitted with an aggregate withdrawal, the aggregate value shall be assigned to the group, rather than allocating to each well its prorated share or estimated production. Water withdrawn from each well shall be independently measured or metered.

Adopted *April 24, 2012 by* Board Order; *effective May 8, 2012.*

14.17 Moved to 14.41 *January 23, 2018 by* Board Order, *effective January 23, 2018*.

14.18 Applicability

Contested case hearings may be requested in connection with the following applications:

A. drilling permits;

B. operating permits;

C. export permits; and

D. major amendments to any existing permit.

Adopted *April 24, 2012 by* Board Order; *effective May 8, 2012.*

Amended *January 23, 2018 by* Board Order; *effective January 23, 2018.*

14.19 Repealed *January 23, 2018 by* Board Order, *effective January 23, 2018*.

14.20 Procedural Options Available to Applicants

A. Applicants filing applications subject to a contested case hearing may respond to the proposed action of the General Manager in the following

manner:

(1) not file a notice of request for contested case hearing and:

(a) if the applicant agrees with the proposed action, and no other affected person requests a contested case hearing, and the matter will be taken directly to the Board for final action as an uncontested matter.

(b) if the applicant disagrees with the proposed action, and no other affected person requests a contested case hearing, the applicant may offer to settle the matter. If the matter is settled, the application may be taken directly to the Board for final action. If the matter is unable to be settled, the application may be taken directly to the Board for final action as a contested matter, although one not referred to contested case hearing. The applicant, General Manager, and other affected persons may present their respective positions to the Board and allow the Board to take final action at the Board meeting without a contested case hearing.

(2) file a notice of request for contested case hearing.

B. The Board will process the third-party request in accordance by first determining if the person had a personal justiciable interest in the application. In the event a third-party request is filed and approved, any settlement under one of the alternatives in Subsection (a) requires the consent of the third-party.

C. Applicants choosing not to file a request for a contested case hearing and instead pursue one of the alternatives in Subsection (a), waive any right to a contested case hearing upon the expiration of the filing deadline.

D. The Board is not bound by a settlement agreed to by the parties.

Adopted *April 24, 2012 by* Board Order; *effective May 8, 2012.*

14.21 Persons Entitled to a Contested Case Hearing

The following persons or entities have a personal justiciable interest in and are entitled to a contested case hearing on applicable applications:

A. the applicant for the permit being contested;

B. a person that owns a registered or permitted well that may be adversely impacted if the protested application is granted.

Adopted *April 24, 2012 by* Board Order; *effective May 8, 2012.*

14.22 Requests for Contested Case Hearing

A. A request for a contested case hearing must be in writing and be filed by 5:00 p.m. the last business day before the date of the public hearing on that application for which notice was provided.

B. A contested case hearing request must substantially comply with the following:

(1) give the name, address, daytime telephone number, and fax number, of the person filing the request. If the request is made by a corporation, partnership, or other business entity, the request must identify the entity and one person by name, address, daytime telephone number, and fax number, who shall be responsible for receiving all official communications and documents for the entity;

(2) state the basis upon which the person believes that a contested case hearing is appropriate;

(3) state whether the person requesting the contested case hearing is the applicant for that permit or an applicant for or holder of another groundwater withdrawal permit.

(4) request a contested case hearing;

(5) provide any other information requested in the notice of proposed action and technical summary; and

(6) be verified by an affidavit.

C. Where a request for a contested case hearing is filed by a person other than the applicant, a copy of that request must be served on the applicant at or before the time that the request is filed. The request shall include a certificate indicating the date and manner of service and the name and address of all persons served.

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

Adopted *April 24, 2012 by* Board Order; *effective May 8, 2012.*

Amended *January 23, 2018 by* Board Order; *effective January 23, 2018.*

14.23 Processing of Hearing Requests

A. After a contested case hearing request is timely filed, the General Manager will schedule the request for a preliminary hearing.

B. The Board may contract with SOAH to conduct the preliminary hearing. Following the preliminary hearing, SOAH will provide a proposal for decision to the Board of Directors for action by the Board.

Adopted *April 24, 2012 by* Board Order; *effective May 8, 2012.*

Amended *January 23, 2018 by* Board Order; *effective January 23, 2018.*

14.24 Action by Board

A. The determination of whether a contested case hearing request should be granted is not itself a contested case hearing.

B. The Board will evaluate the contested case hearing request to determine if the person requesting the hearing:

(1) does not have a personal justiciable interest related to the application and deny the contested case hearing request; or

(2) has a personal justiciable interest relating to the application and schedule the application for a contested case hearing.

C. If the Board grants the request for a contested case hearing, the Board shall assign a Hearings examiner or delegate the matter to SOAH. The Hearings examiner shall:

(1) schedule an evidentiary hearing;

(2) adopt a docket control order establishing the discovery schedule, deadlines for submitting dispositive motions, and the hearing dates; and

(3) following the evidentiary hearing, prepare a proposal for decision including proposed findings of fact and conclusions of law, and transmit that proposal to the Board.

D. The Board shall schedule a final hearing where it will consider the evidence and testimony presented during the evidentiary hearing and the hearings examiner's proposal for decision.

E. Following the final hearing, the Board may:

(1) grant the application;

(2) grant the application with conditions; or

(3) deny the application.

Adopted *April 24, 2012 by* Board Order; *effective May 8, 2012.*

Amended *January 23, 2018 by* Board Order; *effective January 23, 2018.*

14.25 Delegation to SOAH

A. By order, the Board may delegate to SOAH the authority to conduct hearings designated by the Board.

B. If the Board refers a contested case hearing to SOAH, then the applicable rules of practice and procedure of SOAH (1 TEX. ADMIN. CODE Ch. 155) govern any contested case hearing of the District, as supplemented by this subchapter.

C. If the Board refers a contested case hearing to SOAH, the administrative law judge who conducts the contested case hearing shall serve as the hearings examiner and consider applicable District rules and policies in conducting the hearing. However, the District may not supervise the administrative law judge.

D. If the Board refers a contested case hearing to SOAH, the District may not attempt to influence the findings of facts or the administrative law judge's application of the law in a contested case hearing except by proper evidence and legal argument.

E. If requested by the applicant or other party to a contested case, a district shall contract with the State Office of Administrative Hearings to conduct the hearing. The party must file such a request not later than the 14th day before the date the evidentiary hearing is scheduled to begin. The Board order granting the contested case hearing may designate a location for the hearing inside the boundaries of the District or in Travis County at a location designated by SOAH. The party requesting the hearing before the SOAH shall pay all costs associated with the contract for the hearing and shall, before the hearing begins, deposit with the district an amount sufficient to pay the contract amount. At the conclusion of the hearing, the district shall refund any excess money to the paying party.

Adopted *April 24, 2012 by* Board Order; *effective May 8, 2012.*

14.26 Conducting a Contested Case Hearing by SOAH

A. When an application is referred to contested case hearing by the Board, the District will file all applicable documents to have the matter referred to SOAH.

B. In referring the case to contested case hearing, the District will:

(1) notify the administrative law judge of the applicable burden of proof for the applicant to establish all of the prima facie elements;

(2) identify for the administrative law judge any additional issues that have been raised in the request(s) for contested case hearing; and

(3) provide the administrative law judge with a written statement of applicable rules and policies of the District.

Adopted *April 24, 2012 by* Board Order; *effective May 8, 2012.*

14.27 Service of Documents

A. For any document filed with the District or the hearings examiner in a contested case, the person filing that document must serve a copy on all parties at or before the time that the request is filed.

B. A document presented for filing must contain a certificate of service indicating the date and manner of service and the name and address of each person served. The District may authorize a document to be filed without a certificate of service but will require the certificate be served within three days thereafter.

Adopted *April 24, 2012 by* Board Order; *effective May 8, 2012.*

14.28 Continuances

A. The Board may continue a hearing related to a contested case under the jurisdiction of the Board from time to time and from place to place.

B. The notice of the hearing must indicate the times and places at which the hearing may be continued.

C. If a hearing is not concluded on the day it begins, the Board shall, to the extent possible, proceed with the hearing on each subsequent working day until the hearing is concluded.

D. Parties to a contested case hearing, with the approval of the hearing examiner, may agree to modify any time limit prescribed by these rules

related to conducting contested case hearings.

Adopted *April 24, 2012 by* Board Order; *effective May 8, 2012.*

14.29 Designation of Parties

The following are parties in all contested cases:

A. the General Manager;

B. the applicant; and

C. a person who is granted a contested case hearing by Board action.

Adopted *April 24, 2012 by* Board Order; *effective May 8, 2012.*

14.30 Discovery

Discovery in contested case proceedings will be governed by Chapter 2001, Subchapter D, TEX. GOV'T CODE and Title 1, Section 155.31, TEX. ADMIN. CODE, as supplemented by this subchapter. Depositions in a contested case shall be governed by TEX. GOV'T CODE §§ 2001.096-2001.102.

Adopted *April 24, 2012 by* Board Order; *effective May 8, 2012.*

14.31 Expenses of Witness or Deponent

A. A witness or deponent in a contested case who is not a party and who is subpoenaed or otherwise compelled to attend a hearing or a proceeding to give a deposition or to produce books, records, papers, or other objects that may be necessary or proper for the purposes of the contested case, is entitled to receive:

(1) 10 cents for each mile for going to and returning from the place of the hearing or deposition if the place is more than 25 miles from the person's place of residence and the person uses the person's personally owned or leased motor vehicle for the travel;

(2) reimbursement of the transportation expenses of the witness or deponent for going to and returning from the place where the hearing is held or the deposition is taken, if the place is more than 25 miles from the person's place of residence and the person does not use the person's personally owned or leased motor vehicle for the travel;

(3) reimbursement of the meal and lodging expenses of the witness or deponent while going to and returning from the place where the

hearing is held or deposition is taken, if the place is more than 25 miles from the person's place of residence; and

(4) $10 for each day or part of a day that the person is necessarily present.

B. Amounts required to be reimbursed or paid shall be reimbursed or paid by the party at whose request the witness appears or the deposition is taken.

C. The District may directly pay a commercial transportation company for the transportation expenses or a commercial lodging establishment for the lodging expenses of a witness or deponent if this section otherwise requires the District to reimburse the witness or deponent for those expenses.

D. The District may not pay a commercial transportation company or commercial lodging establishment or reimburse a witness or deponent for transportation, meal, or lodging expenses at a rate that exceeds the maximum rates provided by law for state employees. The District may not adopt rules that provide for payment or reimbursement rates that exceed those maximum rates.

E. In this section:

(1) "**Commercial lodging establishment**" means a motel, hotel, inn, apartment, or similar entity that offers lodging to the public in exchange for compensation.

(2) "**Commercial transportation company**" means an entity that offers transportation of people or goods to the public in exchange for compensation.

Adopted *April 24, 2012 by* Board Order; *effective May 8, 2012.*

14.32 Evidentiary Matters

A. Evidence that is irrelevant, immaterial, or unduly repetitious shall be excluded.

B. The rules of privilege recognized by law shall be given effect.

C. An objection to an evidentiary offer may be made and shall be noted in the record.

D. Evidence may be received in writing if:

(1) it will expedite the hearing; and

(2) the interests of the parties will not be substantially prejudiced.

E. A copy or excerpt of documentary evidence may be received if an original document is not readily available. On request, a party shall be given an opportunity to compare the copy or excerpt with the original document.

F. A party may conduct cross-examination required for a full and true disclosure of the facts.

G. Witnesses may be sworn and their testimony taken under oath.

H. Official notice may be taken of:

(1) all facts that are judicially cognizable; and

(2) generally recognized facts within the area of the District's specialized knowledge. Each party shall be notified either before or during the hearing, or by reference in a preliminary report or otherwise, of the material officially noticed, including staff memoranda or information. Each party is entitled to an opportunity to contest material that is officially noticed. The special skills or knowledge of District staff may be used in evaluating the evidence.

Adopted *April 24, 2012 by* Board Order; *effective May 8, 2012.*

14.33 Depositions and Subpoenas

A. On its own motion, or on the written request of a party, and on deposit of an amount that will reasonably ensure payment of the estimated total amount, the Board will issue a commission, addressed to the officers authorized by statute to take a deposition, requiring that the deposition of a witness be taken for a contested matter pending before it. Requests for issuance of commissions requiring deposition or subpoenas in a contested case will be in writing and directed to the Board.

B. A party requesting the issuance of a commission requiring deposition or a subpoena will file an original of the request with the District. District staff will arrange for the request to be presented to the Board at its next meeting.

C. In the case of a deposition, the Board will issue a commission addressed to the officer authorized by statute to take a deposition, requiring that the deposition of a witness be taken. The commission shall authorize the issuance of any subpoena necessary to require that the witness appear and produce, at the time the deposition is taken, books, records, papers or other objects that may be necessary and proper for the purpose of the proceeding. Additionally, the commission will require the officer to whom it is addressed to examine the witness before the officer on the date and at the

place named in the commission; and take answers under oath to questions asked the witness by a party to the proceeding, the District, or an attorney for a party or the District. The commission will require the witness to remain in attendance from day to day until the deposition is begun and completed.

D. In the case of a hearing, if good cause is shown for the issuance of a subpoena, and if an amount is deposited that will reasonably ensure payment of the amounts estimated to accrue, the District will issue a subpoena addressed to the sheriff or to a constable to require the attendance of a witness or the production of books, records, papers or other objects that may be necessary or proper for the purpose of the proceeding.

Adopted *April 24, 2012 by* Board Order; *effective May 8, 2012.*

14.34 Ex Parte Communications

A. For applications for which there is a right to a contested case hearing, a member of the Board may not, at any time after the application has been filed and before the Board has taken final action, communicate, directly or indirectly, about any issue of fact or law with any representative of the District, other designated party to the application, or any other person except on notice and opportunity for all parties to participate.

B. Subsection A does not apply if:

(1) the Board member abstains from voting on a matter in which he or she engaged in ex parte communications;

(2) the communications are by and between members of the Board consistent with the Texas Open Meetings Act;

(3) the communications are with District staff or a professional contracted to the District who has not participated in any hearing in the contested case if such communication is for the purpose of using the special skills or knowledge of the staff or professional in evaluating the evidence; or

(4) the communications are with legal counsel representing the Board of Directors.

Adopted *April 24, 2012 by* Board Order; *effective May 8, 2012.*

Amended *January 23, 2018 by* Board Order; *effective January 23, 2018.*

14.35 Remand to Board

A. A hearings examiner may remand an application to the Board as follows:

(1) all timely hearing requests have been withdrawn;

(2) all parties to a contested case reach a settlement so that no facts or issues remain controverted; or

(3) the party or parties requesting the hearing defaults.

B. After remand, the application will be uncontested, and the applicant will either be deemed to have agreed to the action proposed by the General Manager or, if the parties have reached a settlement agreement, the agreement will be presented to the Board for its consideration. District staff will set the application for consideration at a Board meeting.

Adopted *April 24, 2012 by* Board Order; *effective May 8, 2012.*

14.36 Informal Dispositions and Alternative Dispute Resolution

A. An informal disposition of a contested case may be made by:

(1) stipulation;

(2) agreed settlement;

(3) consent order; or

(4) default.

B. The hearings examiner may require the parties enter into mediation or other alternative dispute resolution process. The hearings examiner may also determine how the costs of the alternative dispute procedure shall be apportioned among the parties, appoint an impartial third party as provided by Section 2009.053, Government Code, to facilitate that procedure.

Adopted *April 24, 2012 by* Board Order; *effective May 8, 2012.*

14.37 Certified Questions

A. At any time during a contested case proceeding, on a motion by a party or on the hearings examiner's own motion, the hearings examiner may certify a question to the Board.

B. Issues regarding District policy, jurisdiction, or the imposition of any sanction by the hearings examiner that would substantially impair a party's ability to present its case are appropriate for certification. Policy questions for certification purposes include, but are not limited to:

(1) the District's interpretation of its rules and applicable statutes;

(2) the portion of the Act, the District rules, or other statutes that are applicable to a proceeding; and

(3) whether District policy should be established or clarified as to a substantive or procedural issue of significance to the proceeding.

C. If a question is certified, the hearings examiner shall submit the certified issue to the District. District staff will place the certified issue on the agenda of a meeting of the Board. The District will give the hearings examiner and parties 30 day notice of the meeting at which the certified question will be considered. Within ten days after the certified question is filed with the District, parties to the proceeding may file briefs. Within ten days of the filing of such briefs, parties may file responses. Briefs and responses shall be filed with the District with copies served on the hearings examiner. The District will provide copies of the certified questions and any briefs and responses to the Board. The hearings examiner may abate the hearing until the District answers the certified question, or continue with the hearing if the hearings examiner determines that no party will be substantially harmed.

D. The Board will take action and issue a written decision on the certified issue and provide copies to the parties and the hearings examiner. A decision on a certified issue is not subject to a motion for rehearing, appeal or judicial review prior to the issuance of the District's final decision in the proceeding.

Adopted *April 24, 2012 by* Board Order; *effective May 8, 2012.*

14.38 Scheduling of a Meeting of the Board

A. After receiving the proposal for decision or other disposition from the hearings examiner, District staff shall schedule the presentation of the proposal to the Board. The District shall provide 10 day notice to the parties of the date of the final hearing before the Board at which the proposal will be presented and considered. The Board may reschedule the presentation of the proposal. The District will send notice of the rescheduled meeting date to the parties no later than 10 days before the rescheduled meeting.

B. Any party to the contested case hearing may make an oral presentation at the Board meeting in which the proposal for decision in that case is presented to the Board.

C. On the written request of a party to a contested case, the oral proceedings before the Board at which the proposal for decision is presented and oral presentations are made, may be transcribed by a court reporter. A party that desires a transcript of the proceedings shall bear the cost, or the costs will be equally divided between all parties requesting a transcript. If the District

desires a transcript it will bear the costs.

Adopted *April 24, 2012 by* Board Order; *effective May 8, 2012.*

14.39 Reopening the Record.

The Board, on the motion of any party to a contested case or on its own motion, may order the hearings examiner to reopen the record for further proceedings on specific issues in dispute. The order shall include instructions as to the subject matter of further proceedings and the hearings examiner's duties in preparing supplemental materials or revised proposals based upon those proceedings for the Board's adoption.

Adopted *April 24, 2012 by* Board Order; *effective May 8, 2012.*

14.40 Decision in a Contested Case

A. The decision, if adverse to any party, must be in writing or stated in the record and will include findings of fact and conclusions of law separately stated.

B. Findings of fact may be based only on the evidence and on matters that are officially noticed. If set forth in statutory language, findings of fact must be accompanied by a concise and explicit statement of the underlying facts supporting the findings.

C. If a party submits proposed findings of fact, the decision will include a ruling on each proposed finding.

D. If a contested case is presided over by a majority of the Board, then the Board's decision shall be rendered not later than the 60th day after the date on which the hearing is finally closed. If the Board refers a contested case to SOAH, then the Board's decision will be rendered no more than 120 days after the date that the proposal for decision is presented at a final hearing, unless the Board determines that there is good cause for extending the deadline.

E. District staff will notify all parties in a contested case of any decision or order.

F. District staff will send a copy of the decision in a contested case to attorneys of record, or the parties.

G. A party or attorney of record notified by mail is presumed to have been notified on the third day after the date on which the notice is mailed.

Adopted *April 24, 2012 by* Board Order; *effective May 8, 2012.*

14.41 Final Decision: Appeal.

A. **Board Action**. After the record is closed and a permitting matter is submitted to the Board, the Board may take the matter under advisement, continue it from day to day, reopen or rest the matter, refuse the action sought, grant the action sought in whole or part, or take any other appropriate action. Board action takes effect at the conclusion of the meeting in which the Board took the action and is not affected by a request for rehearing.

B. **Requests for Rehearing.** A decision of the Board made under this Rule 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 an appeal may be brought. The Board's decision is final if no request for rehearing is made within the specified time, upon the Board's denial of the request for rehearing, or upon the Board's rendering of 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 a request for rehearing within 90 calendar days of the date of submission will be deemed to be a denial of the request.

C. **Requests for Rehearing of a Contested Case Hearing**. For any matter considered during a contested case hearing, only a party to the contested case proceeding may file a motion for rehearing. On or before the date of filing of a motion for rehearing, the party filing the motion shall mail or deliver a copy of the motion to all parties with certification of service furnished to the District. The motion shall contain:

(1) the name and representative capacity of the person filing the motion;

(2) the style and official docket number assigned by the hearings examiner;

(3) the date of the decision or order; and

(4) the grounds for the motion, including a concise statement of each allegation of error.

D. **Costs of Record on Appeal.** A party who appeals a final decision in a contested case shall pay all costs of preparation of the record of the proceeding that is required to be transmitted to the reviewing court. A charge imposed is considered to be a court cost and may be assessed by the court in accordance with the Texas Rules of Civil Procedure.

E. **Appeal of Final Decision.** Not later than the 60th day after the date on which the decision became final and appealable, parties affected by the final decision of the Board in a contested case may file suit under Tex. Water Code § 36.251, to appeal the decision. A party may not file suit if a motion for rehearing was not timely filed. The record in a contested case hearing shall include the following:

(1) all pleadings, motions and intermediate rulings;

(2) evidence received or considered;

(3) a statement of matters officially noticed;

(4) questions and offers of proof, objections and rulings on them;

(5) summaries of the results of any conferences held before or during the hearing;

(6) proposed findings, exceptions and briefs;

(7) any decision, opinion or report issued by the hearings examiner;

(8) pre-filed testimony;

(9) all memoranda or data submitted to or considered by the hearings examiner; and

(10) the final order and all interlocutory orders.

Adopted *April 24, 2012 by* Board Order; *effective May 8, 2012.*

Moved from 14.17 *January 23, 2018 by* Board Order, *effective January 23, 2018*.

14.42 Enforcement Hearing

A. If the District receives a timely filed written request for hearing from a Respondent who has received a notice of violation from the District, the District shall decide at which Board meeting the enforcement action will be considered. The Board meeting at which the enforcement action is considered under this Rule shall be considered the public hearing on the matter and fulfills the requirement, if any, for a public hearing.

B. Notice required by the Open Meetings Act shall be provided for the meeting.

C. Notice of the enforcement hearing shall be mailed to the Respondent by

certified mail, return receipt requested, at least ten days prior to the scheduled hearing date.

D. Anyone attending the meeting on the enforcement action may make oral comments at the time designated for comments or may submit written comments prior to the close of the record.

E. The Board of Directors may conduct the enforcement hearing or at its sole discretion, it may refer the matter for hearing to a Hearings Board composed of either a single Hearing Officer or committee of the Board of Directors. The Hearings Board shall conduct the enforcement hearing in the same manner as provided in this Rule 14.41. If the matter is referred for hearing, upon completion of the hearing the Hearings Board shall submit a written recommendation to the Board of Directors.

F. At the close of the enforcement hearing, the Board of Directors shall make a decision on the issues before it. If that matter was referred for hearing, the Board of Directors is not required to approve the written recommendation submitted by the Hearings Board. The Board of Directors shall issue a written order or resolution reflecting its decision.

G. The effective date of the written order shall be the date on which the President of the District signs the order or resolution. The order or resolution shall include a statement that the order or resolution becomes effective and final on that date. Any appeal authorized by Texas Water Code Chapter 36, Subchapter H shall run from the effective date, because it is the date on which all administrative appeals to the district are final.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

Amended *April 24, 2012 by* Board Order; *effective May 8, 2012.*

Rule 15: ENFORCEMENT

15.1 Complaints and Investigations

A. All complaints shall be reflected on a District complaint form. These forms are available at the District office and on its website. If a complaint is made verbally, by telephone, or in person, District personnel will ensure that the information is memorialized on a District complaint form. The complainant must inform the District if they want to qualify as an aggrieved party under the citizen suit provision of Texas Water Code §36.119.

B. For purposes of this Rule 15.1 and § 36.119, an aggrieved party is a landowner or other person who has a right to produce groundwater from land that is adjacent to the land on which the well subject to the complaint is located, or who owns or otherwise has a right to produce groundwater from land that lies within one-half mile of the subject well.

C. A complainant may ask to remain anonymous, unless they want to qualify as an aggrieved party under the citizen suit provision of Texas Water Code § 36.119.

D. A District representative will investigate the complaint promptly and will memorialize his findings in a written investigation report.

E. A copy of the investigation report will be sent to the person about whom the complaint was made. If the complainant has provided his name and address, a copy of the investigation report will be sent to the complainant.

F. **Board Consideration of Investigation Reports**

(1) The investigation reports for all complaints must be presented to the Board for consideration not later than 90 days from the date of receipt of the complaint.

(2) Notice of the date, time, and location of the Board meeting at which the investigation report will be considered and a copy of the investigation report shall be mailed to the person about whom the complaint was made and to the complainant by certified mail, return receipt requested, at least ten days prior to the scheduled Board meeting.

(3) At the Board meeting, the Board may decide that there was no violation and close the complaint file. If the Board decides that there has been a violation, it may direct the District staff to issue a notice of violation under Rule 15.2 or initiate civil enforcement under Rule 15.7.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

15.2 Notice of Violation

The District will send a notice of violation to a person who is believed to be in violation of law, including violation of a District Rule, order, or permit. The notice shall include a copy of the investigation report. The notice of violation may require remedial action and may include a penalty. The notice shall provide the opportunity for the respondent to take remedial action and to meet with the District regarding the alleged violation. The respondent will also be provided an opportunity for public hearing under Rule 14.41. Nothing in this Rule 15.2 shall be construed to limit the District's enforcement discretion.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

15.3 Penalty Schedule

The District may assess penalties for non-compliance with District Rules including failure to comply with conditions of a permit issued by the District. Penalties will be assessed in accordance with the following schedule.

Schedule of Penalties for Non-Compliance

Non-Compliant Action	Minimum Penalty
Drilling a well without District authorization	$1,000.0
Producing water from a non-exempt well without an operating	$1,000.00
Violation of District Rule or permit requirement	$250.00
Exceeding production rate or volume specified in operating permit	$1,000.00 plus excess pumpage fees
Substantially altering an existing well prior to obtaining a permit or permit amendment	$500.00

Penalties may be assessed per day per violation, with each day of a continuing violation constituting a separate violation.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

Amended *April 24, 2012 by* Board Order; *effective May 8, 2012.*

15.4 Enforcement Fee

In addition to any penalty authorized by Rule 15.3, if the District is required to incur expenses to enforce District Rules, the person responsible for causing the District to incur the expense shall reimburse the District for such expenses within 10 days after receipt of a demand for payment from the District.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

15.5 Failure to Report Pumpage or Exported Volumes or Water Quality Data

The accurate reporting and timely submission of pumpage and exported volumes and water quality data is necessary for the proper management of groundwater resources. Failure to submit complete, accurate, and timely pumpage, export, and water quality reports as required by Rule 3, may result in the imposition of an enforcement fee under District Rule 15.4.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

Amended *January 23, 2018 by* Board Order; *effective January 23, 2018.*

15.6 Notice and Access to Property

A. The District has authority under Texas Water Code Section 36.123 to enter any public or private property located within the District at any reasonable

time for purposes of inspecting and investigating conditions relating to water quality, wells, or compliance with District Rules, regulations, permits, or orders.

B. The District respects individual property rights and shall endeavor to minimize any inconvenience to property owners while conducting District business. The District shall notify, coordinate, and schedule well and property access in advance with the property owner, his agent, tenant, or other local contact, as determined by information contained in the District well file.

C. Notice is not required if prior written permission to enter land or access wells has been granted by the property owner, his agent, tenant, or other local contact.

D. Investigations or inspections that require entering private property will be conducted at reasonable times. District employees or agents accessing public or private wells or property shall exhibit proper credentials upon request. District employees or agents acting under this authority shall observe all applicable rules and regulations concerning safety, internal security, and fire protection.

E. Inhibiting or prohibiting access to any Board member or District agency or employee who is attempting to conduct an investigation or inspection under District Rules constitutes a violation and subjects the person who is inhibiting or prohibiting access to the penalties authorized in this Rule 15 and Texas Water Code chapter 36.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

15.7 Civil Enforcement

A. As authorized by Texas Water Code Section 36.102, the violation of any District Rule shall be subject to a civil penalty not to exceed $25,000 ~~$10,000.00~~ per day per violation, and each day of a continuing violation constitutes a separate violation.

B. The Board may seek enforcement of such civil penalties by injunction, mandatory injunction, or other appropriate remedy through a suit filed in a court of competent jurisdiction in Leon, Madison, or Freestone counties.

C. In addition, the District may seek, and the court shall grant, recovery of attorney's fees, costs for expert witnesses, and any other costs incurred by the District before the court.

D. All civil penalties assessed by a court under this Rule 15.7 shall be paid to the District.

Adopted *August 28, 2008 by* Board Order; *effective September 23, 2008.*

Rule 16: RULES OF PROCEDURE, CONDUCT, AND DECORUM AT MEETINGS OF THE BOARD OF DIRECTORS

16.1 All Regular, Special, and Emergency Board Meetings will be called and conducted in accordance with the provisions of the Texas Open Meetings Act, Chapter 551, Government Code.

16.2 Regular, Special, and Emergency Board Meetings are open to the public and to representatives of the press and media. Closed Board meetings ("Executive Sessions") are not open to the public or the press, and only those individuals expressly requested or ordered to be present are allowed to attend Executive Sessions.

16.3 Public participation at Board meetings is limited to that of observers unless the Board requests that a member of the public to address the Board or unless the person who wishes to address the Board submits a completed Public Participation Form prior to the beginning of the meeting. The Public Participation Form must list each agenda item the person wishes to address or any item the person would like the Board to consider adding to a future agenda. A sample of the Public Participation Form is attached hereto as Exhibit "A."

A. The Presiding Officer of the meeting may limit the total amount of time each member of the public has to address the Board. The time limit, if any, must be announced at the beginning of the meeting.

B. Profane, insulting or threatening language directed toward any person or racial, ethnic, or gender slurs or epithets will not be tolerated during public comments. These Rules do not prohibit public criticism of the District, the Board of Directors, or the District staff, including criticism of any act, omission, policy, procedure, program, or service. Violation of these rules may result in the following sanctions:

(1) cancellation of a speaker's remaining time;

(2) removal from the Board meeting;

(3) such other civil or criminal sanctions as may be authorized under the Constitution, Statutes, and Codes of the State of Texas.

16.4 From time to time, the Board of Directors may conduct public hearings. These rules of procedure, conduct, and decorum shall also apply to public hearings.

16.5 These Rules of Procedure, Conduct, and Decorum shall be effective immediately upon adoption ~~by the Court~~ and shall remain in full force and effect until amended or repealed.

Adopted *August 27, 2019 by* Board Order; *effective August 27, 2019.*