

**RULES OF THE FOX CROSSING
WATER DISTRICT**

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10 March 2010**

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RULES OF THE FOX CROSSING WATER DISTRICT

Board of Directors

W.D. Henry- President

Don Barnett-Vice President

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CHAPTER 1. GENERAL PROVISIONS
SUBCHAPTER A: GENERAL

§1.1 PURPOSE OF RULES.

(a) The purpose of these Rules of the Fox Crossing Water District, which is a “Hybrid” Water District, is to implement the powers and duties of the District under its enabling Act, Chapters 36 and 49, Water Code, and other applicable laws and to establish the general policies and procedures of the District.

(b) The District's Rules are promulgated under the District's statutory authority to achieve the following objectives: to provide for conserving, preserving, protecting, and recharging of the groundwater or of a groundwater reservoir or its subdivisions in order to control subsidence, or prevent waste of groundwater. The District's orders, rules, regulations, requirements, resolutions, policies, guidelines, or similar measures have been implemented to fulfill these objectives.

(c) The Rules of the Fox Crossing Water District will guide, define, and achieve the District goals of water conservation and pollution prevention in an effort to preserve, protect, and enhance the groundwater within the District's jurisdictional boundaries. .

§1.2 USE AND EFFECT OF RULES.

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

(b) Except as otherwise specified, these rules are effective **on the date of adoption by the Board of Directors**. References to Chapters 36 and 49, Water Code, include subsequent revisions and are effective upon the effective date of these Rules or upon the effective date of subsequent amendments to Chapters 36 and 49, Water Code.

§1.3 AMENDING RULES.

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

§1.4 HEADINGS AND CAPTIONS.

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

§1.5 CONSTRUCTION OF RULES.

(a) Unless otherwise expressly provided for in these Rules, the past, present and future tense shall each include the other; the masculine, feminine and neuter gender shall each include the other; and the singular and plural number shall each include the other.

(b) The verbs “may,” “can,” “might,” “should,” or “could” are used when an action is optional or may not apply in every case. The verbs “will,” “shall,” or “must” are used when an action is required. The verb “cannot” is used when an action is not allowed or is unachievable. The verb “may not” is used when permission is denied or an action is prohibited.

§1.6 SEVERABILITY.

In case any one or more of the provisions contained in these Rules shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability may not affect any other Rules, or provisions hereof, and these Rules shall be construed as if such invalid, illegal, or unenforceable rule or provision had never been contained herein.

§1.7 SAVINGS CLAUSE.

If any section, sentence, paragraph, clause, or part of these Rules should be held or declared invalid for any reason by a final judgment of the courts of this state or of the United States, such decision or holding may not affect the validity of the remaining portions of these Rules; and the Board does hereby declare that it would have adopted and promulgated such remaining portions irrespective of the fact that any other sentence, section, paragraph, clause, or part thereof may be declared invalid.

§1.8 COMPUTING TIME.

In computing any period of time prescribed or allowed by these Rules, by order of the Board, or by any applicable statute, the day of the act, event, or default from which the designated period of time begins to run, is not to be included, but the last day of the period so computed is to be included, unless it be a Saturday, Sunday, or legal holiday on which the District is closed, in which event the period runs until the end of the next day that is neither a Saturday, Sunday, or a legal holiday on which the District is closed.

§1.9 TIME LIMITS.

Applications, requests, or other papers or documents required or permitted to be filed under these Rules must be received for filing at the District, within the time limit, if any, for such filing. . The date of receipt and not the date of posting is determinative.

§1.10 REGULATORY COMPLIANCE.

Where District rules and regulations are more stringent than those of other governmental entities, the District rules and regulations shall control, provided the rules and regulations are within the scope of the District’s statutory authority and are not otherwise preempted by state or federal law.

SUBCHAPTER B: GENERAL OPERATIONS

§1.20 MEETINGS OF THE BOARD.

The Board of Directors will hold regular meetings at least quarterly. . In addition, the Board may hold special meetings at the request of the President or two Directors. . All Board meetings will be held in accordance with Chapter 551 of the Texas Government Code.

§1.30 ELECTION OF THE BOARD OF DIRECTORS

The Board of Directors will stand for election as provided in the provisions of Chapter 49.103 of the Texas Water Code. As stated in Chapter 49.103 (b) An election shall be held on the uniform election date, established by the Election Code, in May of each even-numbered year to elect the appropriate number of directors; and Chapter 49.103(e) Section 49.002 notwithstanding, in all areas of conflict the provisions of Subsections (a) and (b) shall take precedence over all prior statutory enactments.

SUBCHAPTER C: RULEMAKING PROCEDURES

§1.40 APPLICABILITY.

This subchapter applies to rulemaking by the District but does not apply to internal personnel rules or practices, bylaws, statements regarding internal management or organization, or other statements not of general applicability.

§1.41 PUBLIC HEARINGS ON PROPOSED RULES.

(a) The Board shall hold at least one public hearing on proposed rules prior to adoption of the proposed rules as final rules.

(b) The Board may appoint a hearing examiner to serve as the presiding officer and to conduct the public hearings on the proposed rules.

(c) Public 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, on proposed rules.

§1.42 NOTICE OF PUBLIC HEARINGS ON PROPOSED RULES.

(a) The Board will set a time and place for any public hearing on proposed rules of the District.

(b) The District shall give prior notice of the public hearing at least twenty (20) days before the public hearing by posting the notice in the location where notices of the District's Board meetings are posted and by publishing the notice in one or more newspapers of general circulation within the District, unless the Board determines an emergency to public health or safety exists.

(c) The notice shall advise the public of the following:

- (1) the proposed agenda;
- (2) the date, place, and time the public hearing is to be convened;
- (3) the date and time by which written comments must be filed with the District; and
- (4) the place at which written comments must be filed with the District.

§1.43 ADOPTION OF RULES AND MANAGEMENT PLAN.

(a) The Board may adopt proposed rules as final rules at any time or proposed Management Plan as the final Management Plan at any time after the completion of the public hearing(s) and after the close of the written comment period.

(b) The Board will compile its rules and Management Plan and make them available for public use and inspection at the District's principal office.

CHAPTER 2.

REGISTRATION, PERMITS, FEES, AND OTHER REQUIREMENTS

SUBCHAPTER A: SCOPE AND APPLICABILITY

§2.1 REGISTRATION OF EXISTING WELLS

(a) Except for those types of wells listed in Subsection (c) wells existing on the date of adoption of these Rules may be voluntarily registered on forms approved by the District. Wells voluntarily registered may also file for Historical Use Status as provided in Section 2.5.

(b) Registration of an existing, exempt well will provide the well owner or well operator of the well with evidence that the well existed before the effective date of these Rules for purposes of determining historical user status, as provided in Section 2.5. Registration of an existing, exempt well will also include the well in the spacing protections provided by Chapter 6.

(c) To maintain Historical User Status, a person who purchases property must notify the district of the transfer of ownership of any existing well, or if the well is not registered must register the well with the District within 90 days of transfer of title of the property where the well is located.

2.2 REGISTRATION OF NEW WELLS.

(a) All new wells, except for those types of wells listed in Subsection 2.1(c), must be registered by the well owner or well operator, or the water well driller prior to being drilled, equipped or completed.

(b) The owner, operator, or water well driller shall register the new well by completing an application form provided by the District and submitting the application to the District for review

and approval. District staff will review the application and make a preliminary determination of whether the well meets the exemptions from permitting and will inform the registrant of their determination.

(c) If the staff's preliminary determination is that the well is exempt, the registrant may begin drilling or other activity immediately upon receiving the approved registration.

(d) If the preliminary determination is that the well is not exempt, the District staff will inform the registrant of any further application information or fees required to process the application as a permit application.

(e) If the preliminary determination is that the well is not exempt, the well may not be drilled, equipped, completed, or substantially altered without first obtaining the appropriate permit or amendment thereto from the District.

(f) A violation of this Rule occurs on the first day the drilling, equipping, completion, or alteration without the appropriate registration or permit begins and continues each day thereafter until the appropriate registration or permit is issued.

(g) A registration will expire and be considered null and void by the District if the well is not drilled within six months of the date the registration is approved. The registrant must file a new registration application and receive approval from the District before drilling may commence.

§2.3 PERMIT REQUIREMENTS FOR NEW NON EXEMPT WELLS.

(a) Except as otherwise stated in Section 2.5, a permit from the District is required prior to drilling, equipping, completing, operating, or producing groundwater from any non-exempt well within the District. It is a violation of these Rules for a well owner or well operator, water well driller, or any other person acting on behalf of the well owner or well operator, to drill, equip, complete, operate, or produce groundwater from a non-exempt well within the District without first obtaining the proper permit or permit amendment.

(b) A well must remain properly permitted unless and until the power source is disconnected or the well casing or discharge pipe is capped or plugged.

(c) An application for a permit, permit amendment, or permit renewal shall be submitted in accordance with Subchapter B of this Chapter.

(d) The District may issue the following types of permits:

- (1) Drilling Permits;
- (2) Operating Permits; and
- (3) Transportation Permits.

§2.4 EXEMPTIONS FROM WELL PERMITTING.

(a) The following wells are not required to have a permit from the District:

(1) a well used solely for domestic use, or for providing water for livestock or poultry, that is located on a tract of land greater than 10 acres and is drilled, completed, or equipped so that it is incapable of producing more than 25,000 gallons of groundwater a day;

(2) a 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 Railroad Commission of Texas provided that the person holding the Railroad Commission permit is responsible for drilling and operating the water well and the well is located on the same lease or field associated with the drilling rig;

(3) a water well authorized under a permit issued by the Railroad Commission of Texas under Natural Resources Code Chapter 134, provided the withdrawals are no greater than the amount necessary for mining activities specified in the Railroad Commission permit, regardless of any subsequent use of the water;

(4) leachate wells, extraction wells, injection wells, relief wells, dewatering wells, and monitoring wells that produce less than 5,000 gallons of groundwater per year; or

(5) a well in existence on the date these rules are adopted if the well is registered in accordance with Section 2.1.

(b) A well exempt under Subsection (a) will lose its exempt status and the well owner or well operator must obtain a permit to continue operating the well if the well is subsequently used for a purpose or in a manner that is not exempt under Subsection (a).

(c) A well owner or well operator of a well exempt under Subsection (a)(3) shall report monthly to the District:

(1) the total amount of water withdrawn during the month;

(2) the quantity of water necessary for mining activities; and

(3) the quantity of water withdrawn for other purposes.

(d) A water well exempt under Subsection (a) shall be equipped and maintained so as to conform to the District's rules requiring installation of casing, pipe, and fittings to prevent the escape of groundwater from a groundwater reservoir to any reservoir not containing groundwater and to prevent the pollution or harmful alteration of the character of the water in any groundwater reservoir.

(e) The driller of a well exempted under Subsection (a) shall file the drilling log with the District.

(f) Groundwater withdrawn from a well exempt from permitting under this section and subsequently exported outside the boundaries of the District requires notice to the District and is subject to any applicable production and export fees.

(g) A water well exempt under subsection (a)(2) and (a)(3) must either be plugged or transferred to the owner of the surface estate within 90 days after the exploration or mining operations are

complete and the well owner or well operator shall provide notice to the District that the plugging or transfer is complete.

§2.5. HISTORICAL USER STATUS.

- (a) A well owner or well operator of an existing well that was completed and operational prior to the adoption date of these rules may, along with a well registration, also file a claim for historical user status. Historical user status shall be presumed valid until such time it can be evaluated and verified by the Board.
- (b) A request for historical user status must be filed within 180 days from the date these rules are adopted by the Board and include the following information to the extent the information exists and is available to the applicant through the exercise of reasonably diligent efforts:
 - (1) the year in which the well was drilled;
 - (2) the purpose for which the well was drilled and the types of subsequent use of the water; and
 - (3) any other information deemed necessary by the Board.
- (c) Well owners or well operators who meet the requirements of this section and submit the appropriate information with their registration application will be granted historical user status and classified as historical users.
- (d) If the District adopts rules limiting groundwater production, the District may preserve groundwater use by historical users to the maximum extent practicable.
- (e) Historical user status is granted conditionally and is dependent on the amount of groundwater withdrawn, purpose of use, place of use and point of withdrawal. Historical user status is not a vested right of the permittee and may not be transferred by the permittee except to a person who purchases the point of withdrawal or to a replacement well. The Board will transfer a historical user status designation to a replacement well at the amount the replaced well historically pumped or to a person who purchases or otherwise receives ownership of a well owned by a historical user provided that the new well owner or well operator maintains the same purpose and place of use of the groundwater and fulfills any applicable requirements of the District. Historical user status may be revoked by the Board if it was obtained by misrepresentation or failure to disclose relevant facts.
- (f) The District will hold all claims for Historical User Status and will verify the information provided once the Board establishes adequate financing and staffing. Once Historic Use Claims have been approved by the District Board, those wells deemed by the Board of Directors with historic uses will receive priority in permitting and protection under the Managed Available Groundwater (MAG) for the District.
- (g) The District reserves the right to amend this section to expand the historical user classification to include additional permittees based on the hydrogeological conditions of the aquifer and other data and information collected by the District.

SUBCHAPTER B: APPLICATION REQUIREMENTS AND PROCESSING

§2.10 PREPARATION OF AN APPLICATION.

(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.

(c) Completeness of an Application. An application shall be considered administratively complete if it includes all information required to be included in the application; is properly completed, and signed; is accompanied by payment of all applicable fees, including any penalties or past due fees; and includes any maps, documents, or supplementary information requested by the Board or staff.

(d) Action on Incomplete Applications. 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 or District staff is missing, false, or incorrect. Applicants submitting incomplete applications will be notified by the District in writing.

§2.11 REQUIREMENTS FOR APPLICATIONS.

(a) A separate application is required for each well.

(b) Content Requirements. An application must contain the following information in sufficient detail to be acceptable to the District:

(1) Minimum Requirements. All applications shall include the following:

(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 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) the proposed location(s) of use of the water from the well;
- (F) the proposed casing size and pump capacity;
- (G) evidence that the water withdrawn under the permit will be put to a beneficial, non-wasteful use at all times and that the applicant will comply with all District Rules, orders, and permit provisions;
- (H) 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;
- (I) a water conservation plan, if the applicant is required by law to have a water conservation plan;
- (J) a drought contingency plan, if the applicant is required by law to have a drought contingency plan; and
- (K) any other information deemed necessary for the evaluation of the application.

(2) Transportation Permit Requirements. An application for a transportation permit shall include the following additional information:

- (A) the location of the proposed receiving area for the water to be transferred 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 included in 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.
- (F) the source of water to be transported out of the District shall be a well that is non-exempt and is permitted by the District.
- (G) Water used for emergency purposes such as for firefighting may be transported by truck out of the District on a per incident basis without need for a transport permit. Likewise occasional transport by truck out of the District of water for support of county or state construction or paving projects may be made without need for a transport permit.

(c) Hydrogeological Assessment and Aquifer Test Report. An applicant for a new well, other than a replacement well, that involves production of more than 1200 acre-feet of groundwater annually, or an amendment to an existing permit that would increase production to more than 1200 acre-feet of groundwater annually shall submit to the District a current hydrogeological assessment of the projected effects of the requested groundwater use and an aquifer test report as part of the application.

(1) The hydrogeological assessment must address information required by the District. The assessment must address the ultimate planned use of the well and the impacts of that use. The assessment shall be prepared by Professional Geoscientist. The assessment shall include hydro geological information addressing and specifically related to the proposed water pumpage levels at the proposed pumpage site. Applicants may not rely solely on assessments or reports previously filed with or by the District. The Board shall make the final determination of whether a hydrogeological assessment meets the requirements of the subsection. An application will not be considered administratively complete unless the assessment is approved by the board.

(2) An aquifer test report must be submitted within 60 days of the date the well construction is completed. The well must be equipped for the test to produce water at the rate similar to its ultimate planned use, and the report must address the impacts of that information required by the District. The report must address the impacts of that use including the area of influence, drawdown, recovery time, and other pertinent information required by the District. The report must address the ultimate planned use of the well and the impacts of that use. The report shall be prepared by a Professional Geoscientist. Applicants may not rely solely on studies or reports previously filed with or prepared by the District. The Board shall make the final determination of whether an aquifer test report meets the requirements of the subsection. Failure to submit an aquifer test report is a violation of these Rules and shall be grounds for cancellation of the permit.

(d) 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.

§2.12 SCHEDULING AND NOTICE OF HEARING ON AN APPLICATION.

(a) Staff Recommendation. Once an application has been declared administratively complete, District staff will perform a technical review of the application and prepare a staff recommendation to the Board. The staff recommendation will 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 District will schedule the application for a hearing at a regular or special meeting of the Board. The District may schedule hearings for additional dates, times, and places if the hearing is to be presided over by a hearings examiner, and 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. The District 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:

(3) the name of the applicant;

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

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

(6) 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; and

(7) any other information the District deems relevant or appropriate.

§2.13 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 presiding 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 the hearing from time to time and from place to place without providing notice under Section 2.12 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 the presiding officer closes the record, 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.

§2.14 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 Chapter 36, Water Code and is accompanied by the prescribed fees and whether the applicant is in compliance with the District's rules.

(b) 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) the amount and purposes of use for which water is needed;
- (2) whether the proposed use of water is dedicated to a beneficial, non-wasteful use;

(3) 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;

(4) 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;

(5) 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; and

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

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

§2.15 TERM OF PERMITS.

(a) Permit terms are as follows:

(1) 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 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 three years, unless otherwise stated on the permit. The Board may issue an operating permit with a term longer than three years, but not to exceed five years, when doing so aids the District in the performance of its duties and accomplishing the goals of the Act. The Board may issue an operating permit with a term of less than three years for the purpose of causing the permit to align with a renewal schedule established by the Board.

(3) Transportation 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.

§2.16 PERMIT ISSUANCE AND FORMAT

(a) Permit Contents. The permit shall include the following information in a format approved by the Board of Directors:

(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 District 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 District must notify the permittee and file a copy of the endorsement or corrected permit in the District's official records.

§2.17 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 Chapter 36, Water Code, 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. Upon the sale of the well covered by the permit, written notice must be given by the permittee to the District within 90 days.

(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. 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. 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.

§2.18 PERMIT RENEWAL.

(a) Well owners or well operators shall make application to renew permits required under these Rules prior to the expiration of the permit term on an abbreviated form provided by the District. The well owner or well operator shall indicate on the renewal application form whether any changes to the well, well operations, purpose of use, or special conditions have occurred.

(b) Permit renewals may be approved by the District without notice or hearing if the amount of authorized withdrawal remains the same or decreases and the conditions of operation listed in the

permit have not changed, or the Board may, on its own motion, schedule the permit renewal for a public hearing.

(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 under Section 2.12.

(d) If a well has not been drilled within nine months of the date the permit was granted, the permit will not be renewed under this section, and the well owner or well operator must submit an application for a new well.

(e) 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.

§2.19 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.

(b) Amendment Types:

(1) Minor amendments include a request to:

(A) change the name or address of the well owner or well operator without any change in use;

(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; and

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

(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 District 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 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.

§2.20 PERMIT REVOCATION, CANCELLATION, OR MODIFICATION.

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

(b) After notice and an opportunity for 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, or (iii) failure to comply with any applicable Rules, regulations, fee schedule, special provisions, requirements, or orders of 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.

§2.21 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. .

§2.22 TEMPORARY EMERGENCY APPROVALS.

(a) Basis for Temporary Emergency Permit. The District may issue a temporary emergency permit that authorizes the withdrawal of water from a well not currently drilled or permitted, or from a permitted well that has already pumped the full amount authorized by the permit. An application for a temporary emergency permit must present sufficient evidence that:

- (1) no suitable alternative supply of water is immediately available to the applicant; and
- (2) an emergency need for the groundwater exists such that issuance of the permit is necessary in order to prevent an immediate and serious threat to human life or health or to prevent extensive and severe property damage or economic loss to the applicant or intended recipient of the water.

(b) Action on Request. The District may rule on any application for a temporary emergency permit without notice, hearing, or further action by the Board, or with such notice and hearing as the Board deems practical and necessary under the circumstances. The District may deny an application for a temporary emergency permit on any reasonable ground, including, but not limited to, a determination that the applicant is currently in violation of these Rules or Chapter 36, Water Code, that the applicant has a previously unresolved violation on record with the District, or that the application does not meet the requirements of this Rule. Written notice of the ruling shall be given to the applicant. Any applicant may appeal the District's ruling by filing, within ten business days, a written request for a hearing before the Board. The Board will hear the applicant's appeal at the next available regular Board meeting.

(c) Board notification. The District shall inform the Board of any temporary emergency permits granted. On the motion of any Board member, and a majority concurrence in the motion, the Board may overrule the action.

(d) Permit Fee. The permit fee to be assessed for a temporary emergency permit under this Rule shall be the same as a permit issued under Section 2.14.

(e) Term of Temporary Emergency Permit. No temporary emergency permit may be issued unless an application for a permit issued under Section 2.14 has been filed with the District addressing the same well. The term of any temporary emergency permit issued by the District under this rule shall extend only until the Board makes a final decision on the application for the permit under Section 2.14.

§2.23 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.

SUBCHAPTER C: REQUIREMENTS OF WELL OWNERS AND WELL OPERATORS OF NON EXEMPT HIGH VOLUME WELLS

§2.40 REPORTS.

(a) Pumpage and Export Reports.

(1) Each permit holder shall maintain records of monthly production from each permitted well, including all information required by Section 2.17(4).

(2) Each permit holder shall submit an "Annual Well Production Report" to the District on forms approved by the District within 30 days of the end of the District's pumpage reporting period. Reports submitted after the 30-day deadline will be considered late. If it has not already been provided to the District, the report shall include the driller's log, a description of the casing and pumping equipment, and the capacity of the well.

(3) Any entity holding a permit issued by the Railroad Commission of Texas under Texas Natural Resources Code Chapter 134 that authorizes the drilling of a water well shall report annually to the District:

(A) the total amount of water withdrawn each month;

(B) the quantity of water necessary for mining activities;

(C) the quantity of water withdrawn for other purposes; and

(D) The Report shall include, if it has not already been provided to the District, the driller's log, a description of the casing and pumping equipment, and the capacity of the well.

(b) Water Quality Reports.

(1) All public water system permittees required by statute or regulation to conduct water quality analyses (including public water systems) shall, at the time of obtaining results of the analyses, submit a duplicate copy to the District.

(2) If a public water system is required by the TCEQ to notify its customers that water fails to meet TCEQ standards, the permittee shall immediately notify the District by submitting a copy of the TCEQ's report.

§2.41 FEES AND PAYMENT OF FEES.

(a) Application and other Administrative Fees. The Board shall establish a schedule of administrative fees at an amount that does not unreasonably exceed the cost to the District of performing the function for which the fees are charged. Wells used by the District solely for monitoring purposes are exempt from application fees, registration fees, and well log deposits.

(b) Export fees. The District may establish an export fee in accordance with Chapter 36, Water Code. The export fee rate will be established by Board resolution and the fee rate will be included in the District's fee schedule. Export fees will not be applied to:

(1) the export of groundwater from the District for incidental use as defined in Chapter 2 of these Rules;

(2) the export of groundwater for an agricultural operation that overlaps or is adjacent to the District boundary; or

(3) 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.

(c) **Production Fees.** The District may establish a production fee in accordance with the Act and Chapter 36, Water Code. The Production Fee Rate will be established by Board resolution.

(d) **Payment of Fees.** All administrative fees are due at the time of application or registration unless otherwise specified by the Board. Export fees and production fees shall be paid upon receipt of a fee statement from the District. The validity of any permit is contingent upon payment of any applicable export or production fee, and if the fee is not paid within 45 days of the date of the fee statement, the permit may be cancelled by the Board. The Board by resolution may establish procedures for the payment of export or production fees in installments.

(e) **Alternate Fees.** The Board may, by resolution, establish fee rates for pumpage of water from different aquifers at variable fee rates in order to provide an incentive to make greater use of one aquifer over another aquifer.

(f) **Minimum Fees.** For fees that are based on amount of withdrawal, the Board may, by resolution, establish a minimum fee for small amounts of withdrawal.

(g) **Historical User Application Fee.** The Board may, by resolution, establish a fee for review of claims of historical user status received more than 180 days after the effective date of these Rules.

(h) **Inspection and Plan Review Fees.** The Board may, by resolution, establish fees for: the inspection of wells, meters, or other inspection activities; development plans, or other 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, wellbore casing size, size of transporting facilities, or amounts of water exported.

(i) **Exceptions.** In unusual instances of hardship, the Board may establish a payment schedule.

(j) **Returned Check Fee.** The Board may, by resolution, 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's depository.

(k) **Well Log Deposit.** The Board may, by resolution, establish a Well Log Deposit to be held by the District for return to the depositor if well logs are submitted to the District within sixty (60) days following surface completion of the well.

(l) **Adoption of Fee Rates.** The Board shall adopt a schedule of fees establishing the rate for each authorized fee by resolution. Once adopted the fee rates remain in effect until altered or repealed by Board action. Any change in the fee rates or amendments to the fee schedule shall be adopted at the same meeting as the annual budget or following a public hearing called for the purpose of considering changes to the fee rate schedule.

CHAPTER 4. MEASURING METHODS

[This chapter is not used by the District at the time these Rules were adopted. However the District reserves the right to use this section at some future date.]

CHAPTER 5. GENERAL PROVISIONS AND PROHIBITIONS

§5.1 GENERAL PROHIBITION.

Groundwater produced from within the District may not be used in such a manner or under such conditions as to constitute waste. No person may intentionally or negligently commit waste.

§5.2 SUBSURFACE POLLUTION.

No person may pollute or harmfully alter the character of the groundwater reservoirs of the District by operating or constructing a well in a manner that causes or allows the introduction of salt water pollutants or other deleterious matter from another stratum or from the surface of the ground.

§5.3 SURFACE POLLUTION.

No person may pollute or harmfully alter the character of the groundwater reservoirs of the District by activities on the surface of the ground that cause or allow pollutants to enter the groundwater reservoirs through the well head or well bore.

§5.4 ORDERS TO PREVENT WASTE/POLLUTION.

After providing notice to affected parties and opportunity for a hearing, the Board may adopt orders to prohibit or prevent waste or pollution. If the factual basis for the order is disputed, the Board shall direct that an evidentiary hearing be conducted prior to entry of the order. If the Board determines that an emergency exists, requiring the immediate entry of an order to prohibit waste or pollution and protect the public health, safety, and welfare, it may enter a temporary order without notice and hearing provided, however, the temporary order shall continue in effect for the lesser of fifteen (15) days or until a hearing can be conducted.

CHAPTER 6. REGULATION OF WELL SPACING AND PRODUCTION

SUBCHAPTER A: GENERAL PROVISIONS

§6.1 PURPOSE.

The purpose of this chapter is to achieve the District's statutory goals of conserving, preserving, protecting, and recharging the groundwater resources within the District by establishing aquifer management requirements consistent with Chapter 36, Water Code, and appropriate to the aquifer system.

§6.2 APPLICABILITY.

All permitted wells are required to meet the well spacing and production regulations set forth in this chapter.

§6.3 BASIS FOR LIMITATION OF WELL SPACING AND PRODUCTION.

The requirements of this chapter are based on the District's statutory authority to regulate the spacing of water wells and the production of groundwater in order to minimize the drawdown of the water table or the reduction of artesian pressure, to control subsidence, to prevent interference between wells, to prevent degradation of water quality, or to prevent waste.

SUBCHAPTER B: SPACING REQUIREMENTS

§6.10 DRILLING WELLS AT UNAPPROVED LOCATIONS PROHIBITED.

It is a violation of these Rules for a well owner or well operator, or water well driller to drill a new well that does not comply with the spacing and location requirements of this subchapter.

§6.11 MINIMUM SPACING APPLICABLE TO ALL NEW WELLS.

All new wells must comply with the spacing and location requirements promulgated by the Texas Department of Licensing and Regulation and set forth under Title 16, Texas Administrative Code Chapter 76, Water Well Drillers and Pump Installers Rules.

§6.12 ENFORCEMENT OF SPACING

After authorization to drill a well has been granted under a registration or permit, the well, if drilled, must be drilled within 50 feet of the location specified in the registration or permit. If the well should be commenced or drilled at a different location, or if any new well is drilled in violation of the spacing requirements of these Rules, the drilling or operation of such well may be enjoined by the Board pursuant to these Rules and Chapter 36, Water Code and the District may seek civil penalties against the well driller and well owner or well operator.

SUBCHAPTER C: PRODUCTION LIMITS

§6.20 PERMIT ALLOCATION.

The maximum annual quantity of water that may be withdrawn from a permitted well within the District shall be the amount authorized in the permit. The permit allocation shall be based on the amount of groundwater the Board determines can be reasonably put to a beneficial, non-wasteful use by the permittee and is subject to any production limits or other requirements imposed by the Board.

§6.21 MANAGED AVAILABLE GROUNDWATER PRODUCTION LIMITS.

Pending collection of additional hydrogeologic and other scientific data, production is not limited, except to the extent necessary to ensure that the groundwater is put to a beneficial, non-wasteful use. However, in order to accomplish the purposes of Chapter 36, Water Code, and achieve the stated purposes and goals of the District, including managing the sustainability of the aquifers and preventing significant, sustained water-level declines within the aquifers, the Board reserves the right to amend this section in the future to establish any production limits necessary on new or existing permits. All permits are issued subject to any future production limits adopted by the District.

After the Texas Water Development Board issues the managed available groundwater (MAG) amounts for this District, the Board will deduct estimated aggregate exempt uses and shall issue permits up to the remaining MAG. If necessary, existing permits may be amended to ensure the District achieves the desired future condition established during the joint planning process in accordance with Section 36.108, Water Code.

The District may apply to the Texas Water Development Board through the Groundwater Management Area process to alter the managed available groundwater (MAG) as material changes in groundwater demand occur within the District.

CHAPTER 7. DRILLING, EQUIPPING AND CONSTRUCTION OF NEW WELLS

§7.1 APPLICABILITY.

The requirements of this chapter are applicable to all wells drilled in the District, including exempt wells.

§7.2 RECORDS.

(a) Complete records shall be kept and reports thereof made to the District concerning the drilling, equipping, and completion of all wells drilled in the District. Such records shall include an accurate driller's log, depth to water, any electric log that shall have been made, and such additional data concerning the description of the well, its discharge, and its equipment as may be required by the Board. Such records shall be filed with the District within sixty (60) days after drilling of the well.

(b) No person may operate any well drilled and equipped within the District, except operations necessary to the drilling and testing of such well and equipment, unless or until the District has been furnished an accurate driller's log, any special purpose log or data generated during well development, and a registration of the well correctly furnishing all available information required on the forms furnished by the District.

§7.3 DRILLING AND COMPLETION OF WELLS.

(a) Drilling and completion of wells must satisfy all applicable requirements of the Texas Commission on Environmental Quality and the Texas Department of Licensing and Regulation, and any additional well construction standards adopted by the District.

(b) All wells must be completed in accordance with the well completion standards set forth under the requirements promulgated by the Texas Department of Licensing and Regulation and set forth under Title 16, Texas Administrative Code Chapter 76, Water Well Drillers and Pump Installers Rules.

§7.4 SUSPENSION

The District may suspend an authorization for a well registration or permit for failure to comply with the requirements of this chapter.

CHAPTER 8. ABANDONED, OPEN AND UNCOVERED WELLS

§8.1 REGISTRATION AND SEALING.

(a) Any owner or lessee of land on which an open or uncovered well or an abandoned well is located must register the well with the District.

(b) Any well not registered with the District shall be classified as abandoned.

§8.2 MINIMUM STANDARDS.

(a) Capping of Open or Uncovered Wells.

(1) At a minimum, open or uncovered wells must be capped in accordance with these Rules and in accordance with the standards set forth in the Texas Water Well Drillers and Pump Installers Administrative Rules, Title 16, Chapter 76, Texas Administrative Code.

(2) The owner or lessee shall keep the well capped with a water tight covering capable of sustaining weight of at least 400 pounds except when the well is in actual use. The covering for a capped well must be constructed with a water tight seal to prevent entrance of surface pollutants into the well itself, either through the wellbore or well casing.

(b) Plugging of Abandoned Wells.

(1) All abandoned wells must be plugged in accordance with standards set forth in the Texas Water Well Drillers and Pump Installers Administrative Rules, Title 16, Chapter 76, Texas Administrative Code.

(2) Prior to plugging a well, the well owner or well operator shall notify the District in writing of their plans to plug the well. It is a violation of these Rules for any water well driller or pump installer to plug an abandoned well for which the District has not received prior written notice. The District may require the well owner or well operator to take a

water sample and have a water quality analysis conducted as part of, or prior to, the plugging operation at the well owner's or well operator's expense.

(3) A copy of any plugging report required by Texas Department of Licensing and Regulation shall be submitted to the District.

§8.3 ENFORCEMENT.

If the owner or lessee or operator of a well fails or refuses to cap or plug the well in compliance with this rule and District standards after being requested to do so in writing by an officer, agent, or employee of the District, then, upon Board approval, any person, firm or corporation employed by the District may go onto the land (pursuant to Section 36.118, Water Code) and plug or cap the well safely and securely. Pursuant to Chapter 11 of these Rules, penalties shall be applicable in cases of failure or refusal to plug abandoned wells or cap wells not currently in use.

§8.4 LIEN FOR RECOVERY OF EXPENSES INCURRED BY DISTRICT.

(a) Reasonable expenses incurred by the District in plugging or capping a well will be assessed to the landowner and shall constitute a lien on the land on which the well is located.

(b) The District shall perfect the lien by filing in the deed records of the county where the well is located an affidavit, executed by any person conversant with the facts, stating the following:

- (1) the existence of the well;
- (2) the legal description of the property on which the well is located;
- (3) the approximate location of the well on the property;
- (4) the failure or refusal of the owner or lessee, after notification, to close the well after the notification;
- (5) the closing of the well by the District, or by an authorized agent, representative, or employee of the District; and
- (6) the expense incurred by the District in closing the well.

CHAPTER 9. WATER CONSERVATION

§9.1 CONSERVATION POLICY.

The District may implement conservation policies through various programs initiatives and incentives including public education, technical assistance, special programs, through grants and loans, from support by various local, state, and federal programs, industries, foundations, non profits, public and private individuals, corporations, partnerships, and other interest groups that will further the District's goals of cost-effective water conservation, pollution prevention, and waste prevention of the District's water resources.

§9.2 WATER CONSERVATION PLANS.

Each *well owner or well operator* who is required to prepare, adopt, and implement a water conservation plan by another agency of the State of Texas or by any water wholesale provider shall submit a copy of that plan to the District for the District's files in order to assist the District in monitoring the success of water conservation efforts within the District.

CHAPTER 10. DROUGHT

§10.1 PURPOSE.

The purpose of this chapter is to provide guidelines to well owners and well operators and water users within the District regarding groundwater availability and use in response to drought or other uncontrollable circumstances that have disrupted the normal availability of groundwater supplies, causing localized or regional water availability and water quality emergencies. This chapter establishes procedures intended to preserve the availability and quality of water during such conditions.

§10.2 APPLICABILITY.

This chapter applies to all well owners and well operators and all other water users located within the District's jurisdictional area.

The District may apply these Rules to all groundwater aquifers and water-bearing formations located within its jurisdictional boundaries.

§10.3 DROUGHT CONDITION.

The District shall define and declare drought and its specific stages according to the Palmer Drought Severity Index as published by the Texas Water Development Board or similar agency. The index ranges from 4 (Extremely Wet) to -4 (Extreme Drought) --- see Table 10.1 -- and takes into account hydrologic factors such as recent precipitation, evaporation, and soil moisture. Upon declaration of a drought stage of "Moderate drought" or worse, water well owners or well operators or users are encouraged to implement the corresponding drought measures stipulated in any drought plan of the owner, operator, or user.

4.0 or more	extremely wet
3.0 to 3.99	very wet
2.0 to 2.99	moderately wet
1.0 to 1.99	slightly wet
0.5 to 0.99	incipient wet spell
0.49 to -0.49	near normal
-0.5 to -0.99	incipient dry spell
-1.0 to -1.99	Mild drought
-2.0 to -2.99	moderate drought

-3.0 to -3.99	severe drought
-4.0 or less	extreme drought

§10.4 WATER QUALITY.

The District may monitor groundwater quality of water supply wells along or near the saline water line or elsewhere in the District as it determines necessary.

§10.5 AQUIFER EMERGENCY WARNINGS.

(a) When the concentration of Total Dissolved Solids increases above Safe Drinking Water Standards in any groundwater well(s) within the District or other contamination or hazardous conditions affecting groundwater quality or groundwater quantity exist, an Aquifer Emergency Warning may be declared by the Board of Directors.

(b) During an Aquifer Emergency Warning the District may:

- (1) initiate further detailed analysis to determine whether significant changes have occurred in the water quality;
- (2) encourage permittees and other water users within the District to identify and implement measures to conserve water and reduce groundwater pumpage; and
- (3) encourage the interconnection of public and private water systems to prevent health hazards and localized water shortages or depletions.

§10.6 DROUGHT MANAGEMENT PLANS

Each *well owner or well operator* who is required by another agency or political subdivision of the state to maintain a drought management plan shall submit a copy of the plan to the District for the District's files in order to assist the District in monitoring the success of drought management efforts within the District .

CHAPTER 11. ENFORCEMENT

§11.1 NOTICE AND ACCESS.

Pursuant to Section 36.123, Water Code, any authorized officer, agent, employee, or representative of the District, when carrying out technical and other investigations necessary to the implementation of the Rules or the Act, and may enter upon private property for the purpose of inspecting and investigating conditions relating to the withdrawal, waste, water quality, pollution, or contamination of groundwater or other acts covered by the these Rules or the Texas Water Code. The District will make every reasonable attempt to schedule a time to inspect the property when it is convenient with the property owner.

§11.2 SHOW CAUSE ORDERS AND COMPLAINTS.

The Board, either on its own motion or upon receipt of sufficient written protest or complaint, may at any time, after due notice to all interested parties, cite any person owning or operating a well within the District, or any person in the District violating the Act, these Rules, or an Order of the Board. Under the citation, that person is ordered to appear before the Board in a public hearing and require him to show cause why an enforcement action should not be initiated or why his operating authority or permit should not be suspended, cancelled, or otherwise restricted and limited, for failure to abide by the terms and provisions of the permit, these Rules, or the Act.

§11.3 CONDUCT OF INVESTIGATION.

When investigations or inspections require entrance upon private property, such investigations and such inspections shall be conducted at reasonable times, and shall be consistent with all applicable rules and regulations concerning safety, internal security, and fire protection. The persons conducting such investigations shall identify themselves and present District identification upon request by the owner, operator, lessee, management in residence, or person in charge.

§11.4 SEALING OF WELLS.

(a) The District may seal wells that are prohibited by the Act, Rules, or Board orders from withdrawing groundwater within the District when the District determines that such action is reasonably necessary to assure that a well is not operated in violation of the Act, Rules, or Board orders. This authorization to seal a well or to take other appropriate action to prohibit the withdrawal of groundwater extends to, but is not limited to, the following circumstances in which: (i) a permit has been granted, but the applicable fees have not been paid within the time period provided for payment; (ii) representations have been made by the well owner or well operator that no groundwater is to be withdrawn from a well during a particular period; (iii) no application has been made for a permit to withdraw groundwater from an existing well that is not excluded or exempted from the requirement that a permit be obtained in order to lawfully withdraw groundwater; (iv) the Board has denied, cancelled, or revoked a permit; (v) permit conditions have not been met; or (vi) a threat of, or potential for, contamination to the aquifer exists.

(b) The well may be physically sealed by the District, and if sealed by the District, the well shall then be red-tagged to indicate that the well has been sealed. Other appropriate action may be taken as necessary to preclude operation of the well or to identify unauthorized operation of the well.

(c) Tampering with, altering, damaging, or removing the seal or red tag of a sealed or red tagged well, or in any other way violating the integrity of the seal or red tag, or the pumping of groundwater from a well that has been sealed or red tagged shall constitute a violation of these Rules and shall subject the person performing that action, as well as any well owner or well operator who authorizes or allows that action, to such penalties as provided by the Act and these Rules.

§11.5 REQUEST FOR INJUNCTIVE RELIEF.

If it appears that a person has violated, is violating, or is threatening to violate any provision of the Act or any Rule, permit, Board order, or other order of the District, the Board may institute and conduct a suit in the name of the District for injunctive relief, for recovery of a civil penalty, or for both injunctive relief and penalty.

§11.6 PENALTIES FOR LATE PAYMENT OF FEES.

The District may adopt a schedule for penalties resulting from late payment of fees at some future date, by Resolution of the Board of Directors.

§11.7 EMERGENCY ORDERS.

The District will develop Emergency Contingency Plans to deal with water quality or water quantity emergencies. Public hearings on Emergency Contingency Plans shall be conducted by the Board prior to adoption. To implement Emergency Contingency Plans, the District may adopt emergency orders of either a mandatory or prohibitory nature, requiring remedial action by a permittee or other party responsible for the emergency condition.

§11.8 CIVIL PENALTIES

- (a) The District may enforce these Rules by injunction or other appropriate remedy in a court of competent jurisdiction.
- (b) Any person who violates any District Rule is subject to a civil penalty as provided by the Section 36.102, Water Code, and as assessed by a court of competent jurisdiction.
- (c) All civil penalties recovered by the District shall be paid to the **Fox Crossing Water District**.
- (d) A penalty under this section is in addition to penalties provided under the Act.

CHAPTER 12. DEFINITIONS

§12.1 APPLICABILITY.

- (a) The District employs two types of definitions. . General definitions apply to all Rules of the District. Specific definitions apply only to the chapter in which they are located. Specific definitions applying only to a particular chapter are set out in that chapter.
- (b) The District follows the definitions of terms set forth in Chapter 36, Water Code and other definitions as set forth herein.

§12.2 DEFINITIONS.

Unless the context clearly indicates a contrary meaning, the following words and terms shall have the following meanings in these Rules:

- (1) **“Abandoned well”** - a well that has not been used for six consecutive months. . A well is considered to be in use in the following cases:
 - (A) a non-deteriorated well that contains the casing, pump, and pump column in good condition; or
 - (B) a non-deteriorated relief well;
 - (C) a non-deteriorated well that has been capped.
- (2) **“Acre Foot”** - the volume of water necessary to cover one acre of land one foot deep or 325,851 gallons.
- (3) **“Act”** - the District's enabling legislation: Chapter 779, Acts of the 69th Legislature, Regular Session, 1985, in conjunction with Chapter 36, Water Code.
- (4) **“Aggregate System”** – two or more wells that are permitted by the District for a total aggregate withdrawal.
- (5) **“Aggregate Withdrawal”** - the amount of water withdrawn from two or more wells permitted for a total pumpage volume of all wells in the aggregate.
- (6) **“Agriculture or Agricultural”** - any use or activity involving agriculture as defined in Section 36.001, Water Code, including but not limited to aquaculture; irrigation to cultivate the soil to produce crops; the practice of floriculture, viticulture, silviculture, and horticulture, including nursery grower operations; raising, feeding, or keeping animals for breeding or production of food or fiber or other products with a tangible commercial value; planting cover crops, wildlife management; or raising or keeping equine animals.
- (7) **“Aquifer”** - a geologic formation with water in sufficient quantities to make the production of water from this formation feasible for beneficial use.
- (8) **“Artesian Zone”** - a zone 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.
- (9) **“AWWA”** - American Water Works Association
- (10) **“Beneficial Use”** - the use of groundwater in a nonwasteful manner for one or more economically beneficial purposes including but not limited to agricultural use, domestic use, stock-raising, municipal use, mining, industrial use including manufacturing, commercial use, non-agricultural irrigation, recreational use, oil and gas operations, or other uses including extraction for the purposes of remediation, injection operations, or leachate operations.
- (11) **“Board”** - the Board of Directors of the Fox Crossing Water District.

- (12) **“Capped Well”** – a well that is closed or capped with a covering capable of preventing surface pollutants from entering the well and sustaining weight of at least 400 pounds. . A well cap must be constructed in such a way that the covering cannot be easily removed by hand. .
- (13) **“Casing”** – a watertight pipe installed in an excavated or drilled hole, temporarily or permanently, to maintain the hole sidewalls against caving, advance the borehole, and in conjunction with cementing or bentonite grouting, to confine the groundwaters to their respective zones or origin, or to prevent surface contaminant infiltration. .
- (14) **“Cement Grout”** - a mixture of water and cement, which may also include a bentonite clay component.
- (15) **“Commercial Use”** - a well used to supply water to properties or establishments in business to provide goods or services or repairs and use water either in those processes or incidental to the maintenance of the property or establishment including landscape irrigation; or a well used to supply water to a business establishment primarily for employee and customer sanitary purposes.
- (16) **“Conservation”** - those water saving practices, techniques, and technologies that will reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water, or increase the recycling and reuse of water so that more water is made available for future or alternative uses.
- (17) **“Director”** - an elected or appointed member of the Board of Directors of the Fox Crossing Water District.
- (18) **“De-watering Well”** – an artificial excavation that is constructed to produce groundwater for the purpose of lowering the water table or potentiometric surface in order to prevent flooding in an excavation, mine, construction project, building or other economic activity and is not primarily for the purpose of utilizing the groundwater that is produced.
- (19) **“Discharge”** - the volume of water that passes a given point within a given period of time.
- (20) **“District”** - the Fox Crossing Water District.
- (21) **“Domestic Use”** - the use of water by an individual or a household to support domestic activity. Such use may include water for drinking, washing, or culinary purposes; for irrigation of lawns, or of a family garden or orchard; for water of domestic animals; and for water recreation including aquatic and wildlife enjoyment. If the water is diverted, it must be diverted solely through the efforts of the user. Domestic use does not include water used to support activities for which consideration is given or received or for which the product of the activity is sold.
- (22) **“Drill”** - drilling, equipping, completing wells, or modifying the size of wells or well pumps/motors (resulting in an increase in pumpage volume) whereby a drilling or service rig must be on location to perform the activity.

- (23) **“Drilling Permit”** – a permit issued by the district authorizing a well owner or well operator to drill or otherwise construct a water well.
- (24) **“Exempt Well”** - a well that is exempt from the requirement to obtain a permit under Section 2.5 of these Rules.
- (25) **“Export”** – the transfer of groundwater out of the District
- (26) **“Export Fee”** – a fee assessed by the District for groundwater that is exported out of the District. The fee may be assessed against pumpage from permitted and unpermitted wells.
- (27) **“Extraction well”** - a well used to extract contaminated fluids from the subsurface for the purpose of conducting an environmental remediation.
- (28) **“Fees”** - charges imposed by the District pursuant to a Rule, an Order, or the Act.
- (29) **“Fiscal Year”** - the business year of the District beginning September 1 of each year and ending on August 31 of the following year.
- (30) **“Groundwater”** - water located beneath the earth's surface but does not include water produced with oil and gas production or water that is discharged from a relief well or associated piezometers.
- (31) **“Groundwater Reservoir”** - a specific subsurface water-bearing reservoir having ascertainable boundaries and containing groundwater.
- (32) **“Hazardous Conditions”** - any groundwater quality condition that may be detrimental to public health or affect the beneficial use of water from the aquifer.
- (33) **“High Volume Wells”**- shall mean any wells which are equipped and/or capable of producing 25,000 or more gallons per day, are not exclusively used for providing groundwater to domestic and livestock use, and are not required to be permitted under the Rules of Fox Crossing Water District. This definition will include those wells used for supply municipal and water supply companies.
- (34) **“Historical Use”** – shall mean well owners to whom permits have been issued by the District and owners of registered wells
- (35) **“Hydrogeological Report”** - a report that identifies the availability of groundwater in a particular area and formation, and also addresses the issues of quantity and quality of that water and the impacts of pumping that water on the surrounding environment including impacts to nearby or adjacent wells.
- (36) **“Incidental Use”** - a minor beneficial use of water incident to but not the primary purpose of the overall water use. Transport 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).
- (37) **“Industrial Use”** - the use of water integral to the production of primary goods or services provided by industrial, manufacturing or commercial facilities and used

primarily in the building, production, manufacturing, or alteration of a product or goods, or a well used to wash, cleanse, cool, or heat such goods or products. Industrial use includes the use of water in the generation of electricity by means other than hydroelectric, including the use of water for cooling purposes, for uses associated with plant personnel, fire protection at the facility, and in maintaining associated property and facilities including mitigation and habitat areas.

- (38) **"Injection well"** - an artificial excavation or opening in the ground made by digging, boring, drilling, jetting, driving, or some other method, and used to inject, transmit, or dispose of industrial and municipal waste or oil and gas waste into a subsurface stratum; or a well initially drilled to produce oil and gas that is used to transmit, inject, or dispose of industrial and municipal waste or oil and gas waste into a subsurface stratum; or a well used for the injection of any other fluid; but the term does not include any surface pit, surface excavation, or natural depression used to dispose of industrial and municipal waste or oil and gas waste.
- (39) **"Leachate well"** - a well used to remove leachate from soil or groundwater. For the purposes of this definition, "leachate" means a liquid that has percolated through or drained from solid waste or hazardous waste and contains soluble, suspended, or miscible materials removed from such waste.
- (40) **"Licensed Water Well Driller"** - any person who holds a license issued by the State of Texas pursuant to the provisions of the Texas Water Well Drillers Act and the substantive rules of the Texas Department of Licensing and Regulation's Water Well Drillers and Pump Installers Program.
- (41) **"Licensed Water Well Pump Installer"** - any person who holds a license issued by the State of Texas pursuant to the provisions of the Texas Water Well Pump Installers Act and the substantive rules of the Texas Department of Licensing and Regulation's Water Well Drillers and Pump Installers Program.
- (42) **"Meter"** - a water flow measurement device that meets AWWA standards for the applicable line size, pressures, and flows, and is properly installed according to the manufacturer's specifications.
- (43) **"Modify"** - to alter the physical or mechanical characteristics of a well, its equipment, or production capabilities. This does not include repair of equipment, well houses or enclosures, or replacement with comparable equipment.
- (44) **"Monitor or Observation Well"** - a well used for collecting water-quality or water-level data.
- (45) **"Mean Sea Level"** - an average sea level reference datum determined by the National Oceanic and Atmospheric Administration. Used as a reference in the measurement of elevations.
- (46) **"Municipal use"** - the use of water in a public water system for residential, commercial, or public and institutional uses, including the application of potable water for irrigation of golf courses, parks and recreational uses.

- (47) **“Nonexempt Well”** - a well required to obtain a permit for the production of groundwater from within the District and required to report groundwater use.
- (48) **“Open or Uncovered Well”** - an artificial excavation at least 10 feet deep and not more than six feet in diameter, that is dug or drilled either for the purpose of producing groundwater, or for injection, monitoring, or de-watering, and is not capped or covered.
- (49) **“Operate or Operations”** - to produce or cause to produce water from a well or to use a well for injection or closed loop heat exchange purposes.
- (50) **“Operating Permit”** – a permit issued by the district authorizing groundwater withdrawals in the amounts and under the conditions stated in the permit.
- (51) **“Overpumpage”** - to produce water from a well in excess of the amount authorized to be withdrawn in accordance with the permitted pumpage volume issued by the District.
- (52) **“Person”** - includes a corporation, individual, organization, cooperative, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, or any other legal entity.
- (53) **“Plug”** - to close a well permanently in accordance with approved District standards.
- (54) **“Potable Water”** – water that is safe for human consumption in that it is free from impurities in amounts sufficient to cause disease or harmful physiological effects.
- (55) **“Potentiometric Surface”** - the elevation to which water from a specific aquifer will rise in a well.
- (56) **“Public Water System”** – a system that provides water for human consumption as defined by the rules of the Texas Commission on Environmental Quality. .
- (57) **“Pumpage or Groundwater Production”** - all groundwater withdrawn from the ground.
- (58) **“Permit Amendment”** - a minor or major change in a permit.
- (59) **“Recharge Zone”** - the area of the aquifer in which water infiltrates the surface and enters the aquifer.
- (60) **“Recreational Use”** – the use of water for fishing, swimming, water skiing, boating, hunting, and other forms of water recreation, including aquatic and wildlife enjoyment, or irrigating a golf course or similar development.
- (61) **“Red Tag”** - an official seal, tag, or label placed on a well or its equipment, or the act of placing the tag or label, to indicate that further pumping of groundwater, or operation of the well, or continuing with other District regulated activities is not permitted by the District, will be in violation of District Rules, and may subject the well owner or well operator to civil suit or penalties.
- (62) **“Relief Well”** – an artesian well and associated piezometers used to maintain the structural integrity of a reservoir embankment system or other similar structures.

- (63) **“Replacement Well”** – a well that is drilled to replace an existing well where (a) the existing well that is being replaced is permanently closed, (b) the replacement well is drilled within 2500 feet from the closed well, and (c) the well will be used to produce the same amount of groundwater and put that groundwater to the same purpose of use as the original well.
- (64) **“Rules”** - standards and regulations promulgated by the District.
- (65) **“Salt dome”** – geologic structure resulting from the upward movement of a salt mass caused by gravitational instability of a low density salt layer overlain by high density layer.
- (66) **“Special Provisions”** - conditions or requirements added to a permit that may be more or less restrictive than the Rules as a result of circumstances unique to a particular situation.
- (67) **“Spring”** - a point(s) of natural discharge from an aquifer.
- (68) **“Stratum”** - a layer of rock having a similar composition throughout.
- (69) **“Surface Completion”** - sealing off access of undesirable water, surface material, or other potential sources of contamination to the well bore by proper casing or cementing procedures.
- (70) **“Subsidence”** – sinking of a portion of the land surface resulting from removal of fluids from subsurface reservoirs such as oil and gas deposits, groundwater, or salt domes.
- (71) **“Total Dissolved Solids”** - a measurement of the quantity of minerals, chemicals, elements, or other matter contained in a state of solution by water.
- (72) **“Transportation Permit”** – a permit issued by the district authorizing transfer of groundwater outside the District’s boundaries.
- (73) **“User”** - a person who produces, distributes, or uses water from the aquifer(s).
- (74) **“Water Level Elevation or Altitude”** - the measure or estimate of a water surface in a well or aquifer as measured in feet relative to mean sea level.
- (75) **“Water Meter Seal”** - a physical seal that is installed in or on the water meter to prevent tampering with meter readings.
- (76) **“Water-Quality Report”** - a report prepared by the Texas Department of Health, the U.S.G.S. or any other governmentally or District-approved laboratory that is the product of testing the water for bacteria, solids, elements, chemicals, or contaminants.
- (77) **“Water Table”** - the upper boundary of the saturated zone in an unconfined aquifer.
- (78) **“Water Tight Seal”** - a seal that prohibits the entrance of liquids or solutions, including water, that may enter through the wellhead and potentially, contaminate the

well.

- (79) **“Water Table Zone”** - that part of the aquifer confined only by atmospheric pressure (water levels will not rise in the well above the water table).
- (80) **“Well”** - any artificial excavation or borehole constructed for the purposes of exploring for or producing groundwater, or for injection, monitoring, or de-watering purposes.
- (81) **“Well Elevation”** - the ground surface elevation of the well bore.
- (82) **“Well Log”** - an accurately kept record made during the process of drilling on forms prescribed by the Texas Department of Licensing and Registration (TDLR), showing the depth of the well bore, thickness of the formations, character of casing installed, together with any other data or information required by the Water Well Drillers Team; or any other special purpose well log that may be available for a given well, such as a gamma ray log, a temperature log, an electric log, or a caliper log.
- (83) **“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.
- (84) **“Well owner or well operator”** means the person who owns the land upon which a well is located or is to be located or the person who operates a well or a water distribution system supplied by a well.
- (85) **“Well Registration”** - the creation of a record of the well by use and a well identification number for purposes of registering the well as to its geographic location and for notification to the well owner or well operator in cases of spills or accidents, data collection, record keeping and for future planning purposes.
- (86) **“Withdraw or Withdrawal”** - the act of extracting groundwater by pumping or any other method, other than the discharge of natural springs.