

**MENARD COUNTY
UNDERGROUND WATER DISTRICT**

RULES

Adopted February 12 , 2003

MENARD COUNTY UNDERGROUND WATER DISTRICT

RULES

TABLE OF CONTENTS

	Page
Section 1 - Adoption and Purpose of Rules	1
Section 2 - Definitions	1
Section 3 - Board	5
Section 4 - General Manager	5
Section 5 - General Procedural Provisions	5
Section 6 - Enforcement of Rules	6
Section 7 - Prohibition of Waste	7
Section 8 - Capping or Sealing of Wells	7
Section 9 - Well Registration	7
9.04 Preliminary Determination of Exempt Status	8
9.05 Violation of District Rules	8
Section 10 - Permits	8
10.01 Drilling Permit Required for Non-Exempt Wells	8
10.02 Permit Application Procedures	9
10.03 Notice of Permit Hearing	10
10.04 Factors to be Considered in Issuing a Permit	10
10.05 Time Limit for Well Completion Following Issuance of Permit	11
10.06 Requirement of Driller's Well Report, Casing and Pump Data	11
10.07 Permit Term	11
10.08 Revocation and Forfeiture	12
10.09 Limitations of Permitted Production	12
Section 11 - Well Spacing	13
11.01 Minimum Spacing of Wells	13
11.02 Exceptions to Spacing Rule	14
Section 12 - Transportation of Water from the District	14
Section 13 - Deposits and Fees	19
Section 14 - Administrative Fees	19

RULES OF THE MENARD COUNTY UNDERGROUND WATER DISTRICT

Section 1 - ADOPTION AND PURPOSE OF RULES

1
2 **1.01 The Rules of the Menard County Underground Water District are hereby published as**
3 **of the 12th day of February, 2003**

4 These Rules are adopted and ratified pursuant to Section 59 of Article XVI of the Texas
5 Constitution, and with Acts of the 70th Legislature (1987), p.2010, Ch. 439, S.B. 1525 (hereinafter the
6 "District Act") and Chapters 35 and 36 of the Texas Water Code, as the rules of the Menard County
7 Underground Water District. Each rule as worded herein has been in effect since the date of passage
8 and as may be hereafter amended.
9

10 **1.02 Purpose of Rules.** The rules, regulations, and modes of procedure set forth hereunder are
11 and have been adopted for the purpose of conserving, preserving, protecting and recharging the
12 groundwater in the District and are adopted under the District's statutory authority to prevent waste and
13 protect rights of owners of interests in groundwater.
14

15 **1.03 Use and Effect of Rules.** These rules shall be used as guides in the exercise of the powers
16 conferred by law and in the accomplishment of the District Act. They shall not be construed as a limitation
17 or restriction upon the exercise of any discretion, where such is authorized; nor shall they in any event be
18 construed to deprive the Board of the exercise of any powers, duties, or jurisdiction conferred by law, nor
19 may they be construed to limit or restrict the amount and character of data or information which may be
20 required for the proper administration of the District Act and laws of the State of Texas.
21

22 **1.04 Amending of Rules.** The Board may, following proper notice and hearing, amend these
23 Rules or adopt new rules from time to time.
24

25 **1.05 Suspension of Rules.** Except for the Rules governing Transport Permits, the Board may
26 suspend or waive a rule, in whole or in part, upon the showing of good cause or when, in the discretion of
27 the Board, the particular facts or circumstances render such waiver of the Rule appropriate in a given
28 instance.
29

30 **1.06 Severability.** If any provision of any Rule or its application to any person or circumstance is
31 held invalid, illegal, or unenforceable, the invalidity does not effect other provisions or applications of the
32 Rule which can be given effect without the invalid provision or application, and to this end, the
33 provisions of the Rule are severable.
34

35 **1.07 Heading and Captions.** The section and other headings and captions contained in these
36 rules are for reference purposes only and do not affect in any way the meaning or interpretation of these
37 Rules.
38

SECTION 2 - DEFINITIONS

39
40 **2.01** In the administration of its duties the Menard County Underground Water District defines
41 terms as set forth in Chapter 36 of the Texas Water Code. Unless the context indicates a contrary
42 meaning, the specific terms hereinafter defined shall have the following meaning in these rules:
43
44

45 (a) (a) **"Abandoned Well"** means a well that has not been used for six consecutive months. A well is
46 not considered to be abandoned in the following cases:

47 (1) it is a non-deteriorated well which contains the casing, pump, and pump column in good
48 condition; or

49 (2) it is a non-deteriorated well which has been capped.

50 (b) **"Acre-foot"** is the amount of water necessary to cover one acre of land to a depth of one
51 foot, approximately 325,851 gallons.

- 1 (c) **"Agent"** means the person authorized to act on behalf of the landowner with respect to
2 transactions involving the Menard County Underground Water District.
- 3 (d) **"Agricultural crop"** means food or fiber grown for resale or commercial purposes that provides
4 human or animal food, or clothing.
- 5 (e) **"Agricultural well"** means any well devoted solely to raising food for consumption by humans and
6 animals, or fiber for clothing. If any part of the well production is used for any other purpose,
7 including processing of food or fiber, the well does not qualify as an agricultural well.
- 8 (f) **"Applicant"** means the owner of the land on which the well(s) or proposed well(s) are
9 located, unless the landowner authorizes another person to act on his/her behalf with respect to
10 transactions involving the District.
- 11 (g) **"Authorized Well Site"** means:
12 (1) The location of a proposed well on an application duly filed with the District until such
13 application is denied; or
14 (2) The location of a proposed well on a valid permit. (An authorized well site is not a permit to
15 drill); or
16 (3) A well which produces in excess of 25,000 gallons of water per day and which was in
17 existence at the time the District was created or at the time the area was annexed into the District
18 and is not considered to be an abandoned well or deteriorated well; or
19 (4) A well drilled after the District was created or after the area was annexed into the District that
20 has a properly completed Well Registration on file in the District office and such well has not been
21 "abandoned" by the well owner.
- 22 (h) **"Beneficial Use"** means
23 1) agricultural, gardening, domestic, stock raising, municipal, mining, manufacturing, industrial,
24 commercial, recreational, purposes; or
25 2) exploring for, producing, handling, or treating oil, gas, sulphur or other minerals;
- 26 (i) **"Bentonite"** means a sodium hydrous aluminum silicate clay mineral (montmorillonite)
27 commercially available in powdered, granular, or pellet form which may be mixed with potable
28 water and used to provide a seal in the annular space between the well casing and borehole wall
29 or used in the plugging of wells.
- 30 (j) **"Board"** means the Board of Directors of the Menard County Underground Water District,
31 consisting of five (5) duly elected members.
- 32 (k) **"Capped Well"** means a well that is closed or capped with a covering capable of preventing
33 surface pollutants from entering the well and sustaining weight of at least 400 pounds and
34 constructed in such a way that the covering cannot be easily removed by hand.
- 35 (l) **"Casing"** means a tubular watertight structure installed in the excavated or drilled hole,
36 temporarily or permanently, to maintain the hole sidewalls against caving, and, along with
37 cementing and/or bentonite grouting, to confine groundwater to its zone of origin and prevent
38 surface contaminant infiltration. Casing diameter is the inside diameter of a well casing.
- 39 (m) **"Cement"** means a neat Portland construction cement mixture of not more than seven (7)
40 gallons of water per 94-pound sack of dry cement, or a cement slurry which contains cement
41 along with bentonite, gypsum, or other additives. All manufacturer's recommendations regarding
42 water content for the mix must be strictly adhered to.
- 43 (n) **"Completion"** means sealing off the access of undesirable water to the well bore by proper
44 casing and/or cementing procedures and adherence to State standards for completion.
- 45 (o) **"Deteriorated Well"** means a well, the condition of which will cause, or is likely to cause,
46 pollution of groundwater.
- 47 (p) **"District"** means the Menard County Underground Water District, with its principal office in
48 Menard, Texas. Where applications, reports, and other papers are required to be filed with or
49 sent to "the District", this means the District's Headquarters, the address of which is 210 E. San
50 Saba Avenue, P. O. Box 1215, Menard, Texas 76859.
- 51 (q) **"Domestic Well"** means a well that will produce water to be used exclusively to supply the needs
52 of a single household for drinking, washing, cooking, landscape watering, family gardening and
53 watering of domestic animals, for which no monetary consideration is given or received. (An
54 exempt well). This includes the use of water for home landscapes and home gardening on no
55 more than two acres of land.

- 1 (r) **“Drilling Permit”** means a permit issued by the District for the drilling, re-working, re-drilling or re-
 2 equipping of a properly spaced well that may produce more than 25,000 gallons of water per day
 3 (17.4 gallons per minute).
- 4 (s) **“Drilled to Density”** means no more than a cumulative total of four (4) wells shall be permitted
 5 per survey section consisting of 640 acres, more or less (that is, 1 well per 160 acres).
- 6 (t) **“Exempt Well”** means any well for which the District is prohibited from requiring a permit under
 7 Texas Water Code § 36.117. In general, § 36.117 exempts wells for domestic and livestock
 8 watering use which are equipped with pumps that cannot produce more than 25,000 gallons per
 9 day, and certain wells for hydrocarbon production. Wells used to supply water to facilities used
 10 primarily for feeding livestock are exempt; however, wells used to irrigate pasture land or crops
 11 are not exempt. For all purposes herein, an exempt well shall be exempt from permitting
 12 requirements, but shall comply with the registration requirements set forth hereunder in Section
 13 9.
- 14 (u) **“Groundwater”** means water percolating below the earth’s surface within the District, but does
 15 not include water produced with oil in the production of gas and oil.
- 16 (v) **“Installer”** means an individual who installs or repairs pumps and equipment for hire or
 17 compensation.
- 18 (w) **“Monitoring well”** is a well used to measure some property of the groundwater aquifer it
 19 penetrates.
- 20 (x) **“Open or Uncovered Well”** means any artificial excavation drilled or dug for the purpose of
 21 producing groundwater and that is not capped or covered as required by the Texas Water Code.
- 22 (y) **“Open meeting law”** is defined by Chapter 551, Texas Government Code.
- 23 (z) **“Operating permit”** the permit issued by the district pursuant to Section 9 hereunder for a water
 24 well which is not an exempt well, allowing groundwater to be withdrawn from a well in a
 25 designated amount for a designated purpose for a designated time within the District boundaries..
- 26 (aa) **“Operator”** means and includes any person, firm, partnership, or corporation or other legal
 27 entity that has the right to produce water from the land either by ownership, contract, lease,
 28 easement or any other estate in the land.
- 29 (bb) **“Permitted Well”** means any artificial excavation drilled or dug for the purpose of producing
 30 groundwater that:
 31 (1) is not exempt as defined by Section 36.117 the Water Code;
 32 (2) is equipped to produce more than 25,000 gallons of water per day; and
 33 (3) is in compliance with the District’s permitting requirements.
- 34 (cc) **“Person”** means any individual, partnership, firm, state governmental agency, political
 35 subdivision, corporation or other legal entity.
- 36 (dd) **“Plugging”** means an absolute sealing of the well bore.
- 37 (ee) **“Pollution”** is the alteration of the physical, thermal, chemical, or biological quality of, or the
 38 contamination of, any water in the District that renders the water harmful, detrimental, or injurious
 39 to humans, animal life, vegetation, or property or to public health, safety, or welfare, or impairs
 40 the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.
- 41 (ff) **“Power of Attorney”** means a form signed by an owner of land granting authority to another
 42 person to act on his/her behalf with respect to transactions involving the District.
- 43 (gg) **“Preregistration”** means the completion of an Exempt Well Registration Form prior to the
 44 drilling and production of water.
- 45 (hh) **“Presiding Officer”** means the President, Vice-President, Secretary, or other Board Member
 46 presiding at any hearing or other proceeding.
- 47 (ii) **“Public records law”** is defined by Chapter 552, Government Code.
- 48 (jj) **“Pump installation”** means the procedures employed in the placement, and preparation for
 49 operation, of equipment and materials used to obtain water from a well, including construction
 50 involved in establishing seals and safeguards as necessary to protect the water from
 51 contamination. The term includes repairs to an existing pump.
- 52 (kk) **“Production”** means all water withdrawn from the ground, measured at the well head.
- 53 (ll) **“Registered Well”** means and includes any artificial excavation to produce or that is producing
 54 water for any purpose that has been properly recorded with the District.

- 1 (mm) “**Rules**” are the rules of the District compiled herein, as may be amended or supplemented
2 from time to time.
- 3 (nn) “**Transport Permit**” means an authorization issued by the District for the transfer or transport of
4 a specific amount of groundwater out of the District for a designated period of time for a
5 designated purposed..
- 6 (oo) “**Transportation facility**” is any system for transporting water, which may include a pipeline,
7 channel, ditch, watercourse or other natural or artificial facilities, or any combination of such
8 facilities, pertaining to any or all water which is produced from a well or wells located or to be
9 located within the District, any or all of which is used or intended for use outside the boundaries of
10 the District.
- 11 (pp) “**Undesirable Water**” means water that is injurious to human health, to vegetation, to land, or to
12 fresh water, or water that can cause pollution.
- 13 (qq) “**Waste**” means any one or more of the following:
14 (1)Withdrawal of groundwater from a groundwater reservoir at a rate and in an amount that
15 causes or threatens to cause intrusion into the reservoir of water unsuitable for agricultural,
16 gardening, domestic, or livestock raising purposes;
17 (2)The flowing or producing of wells from a groundwater reservoir if the water produced is not
18 used for beneficial purpose;
19 (3)The escape of groundwater from a groundwater reservoir to any other reservoir or geologic
20 strata that does not contain groundwater;
21 (4)The pollution or harmful alteration of groundwater in a groundwater reservoir by saltwater or
22 by other deleterious matter admitted from another stratum or from the surface of the ground;
23 (5)Willfully or negligently causing, suffering, or permitting groundwater to escape into any river,
24 creek, natural watercourse, depression, lake, reservoir, drain, sewer, street, highway, road, or
25 road ditch, or onto any land other than that of the owner of the well unless such discharge is
26 authorized by permit, rule, or order issued by the Texas Natural Resource Conservation
27 Commission under chapter 26; or
28 (6)Groundwater pumped for irrigation that escapes as irrigation tailwater onto land other than that
29 of the owner of the well unless permission has been granted by the occupant of the land receiving
30 the discharge; or
31 (7)for water produced from an artesian well, “waste” has the meaning assigned by Section 11.205
32 of the Texas Water Code..
- 33 (rr) “**Water**” or “**Underground Water**” means groundwater.
- 34 (ss) “**Well**” or “**Water Well**” means and includes any artificial excavation constructed for the purpose
35 of exploring for or producing or withdrawing groundwater, together with any device employed for
36 such withdrawal.
- 37 (tt) “**Well operator**” means a person who operates a well or water distribution system supplied by a
38 well.
- 39 (uu) “**Well Report**” means a record , made at the time of drilling, showing the depth, thickness,
40 character of the different strata penetrated, location of any water bearing strata, depth, size and
41 character of casing installed, together with any other data or information required by the State or
42 this Board and recorded on forms prescribed either by the State regulatory agency with
43 jurisdiction thereof or by this Board .
- 44 (vv) “**Well system**” means a group of wells connected or tied together by a pipeline and/or storage
45 facilities.
- 46 (ww) “**Withdraw**” means the act of extracting groundwater from beneath the land surface by
47 pumping or some other method.
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SECTION 3 - BOARD

3.01 DIRECTORS.

The District is governed by a board of five (5) directors.

(a) Each director must qualify to serve as director in the manner provided by Sections 52.108 and 51.079, Texas Water Code.

(b) Directors serve staggered four-year terms.

(c) A director serves until his successor has been qualified.

(d) A director is not entitled to compensation for his service on the board, but may be reimbursed for expenses in carrying out the business of the district.

3.02 PURPOSE OF BOARD. The Board of Directors' purpose is to determine policy and regulate withdrawal of groundwater in such a manner as to conserve and protect the aquifers within the district boundaries. Its responsibilities include the adoption and enforcement of reasonable rules and to exercise its rights, powers and duties to implement the provisions of the District Act and Chapter 36 of the Texas Water Code.

3.03 ELECTION OF DIRECTORS. On the first Saturday in May of the second year after the year in which the District has held its confirmation election, an election shall be held for the election of directors. The five directors receiving the highest number of votes are directors for the district. The three directors receiving the highest number of votes shall serve four-year terms, the remaining two shall serve two-year terms. Thereafter, on the same date in each subsequent second year, the appropriate number of directors shall be elected to the board.

3.04 ADMINISTRATION The Board of Directors shall administer the District in accordance with the provisions of Subchapter C, sections 36.051-36.059 and 36.061-36.068, Texas Water Code.

3.05 MEETINGS. The board will hold regular monthly meetings as established from time to time by resolution. At the request of the president or at least two board members, the board may hold special meetings. All meetings will be noticed and conducted in accordance with the Texas Open Meetings Law.

SECTION 4 - GENERAL MANAGER

4.01 AUTHORITY OF MANAGER. The general manager employed or contracted with by the District of the District shall have full authority to manage and operate the affairs of the District subject only to the orders of the board.

4.02 DIRECTOR MAY BE MANAGER. A director may be employed as general manager of the District. The compensation of a general manager who also serves as a director shall be established by the other directors.

SECTION 5 - GENERAL PROCEDURAL PROVISIONS

5.01 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, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor a legal holiday.

5.02 TIME LIMIT. Applications, requests, or other papers or documents required or permitted to be filed under these rules or by law must be received for filing at the District's office at Menard, Texas. The date of receipt and not the date of posting is determinative.

5.03 METHODS OF SERVICE UNDER THE RULES. Except as otherwise expressly provided elsewhere in these Rules, any notice or document required by these Rules to be served or delivered

1 may be delivered to the recipient, or the recipient's authorized representative, in person, by courier
2 receipted delivery, by certified mail sent to the recipient's last known address, or by telephonic document
3 transfer to the recipient's current telecopier number.

4 Service by mail is complete upon deposit in any depository of the United States Postal Service. Service
5 by telephonic document transfer is complete upon transfer, except that any transfer occurring after 5:00
6 p.m. in the recipient's time zone shall be deemed to be completed the following business day.

7 If service is by mail, and the recipient has the right, or is required, to do some act within a prescribed
8 period of time after service, three days will be added to the prescribed period from the date of deposit in
9 the post office.

10 Where service by other methods has proved impossible, the service is complete upon publication of
11 notice in a newspaper with general circulation in the District.

12
13 **5.04 MINUTES AND RECORDS OF THE DISTRICT:** All official documents, reports, records and minutes
14 of the District will be available for public inspection and copying in accordance with the Texas Open
15 Records Act. Upon written application of any person, the District will furnish copies of its public records.
16 Persons who are furnished copies may be assessed a copying charge, pursuant to policies established
17 by the Manager. A list of charges for the copies will be furnished by the District.

18
19 **5.05 PROCEDURES NOT OTHERWISE PROVIDED FOR:** If, in connection with any hearing, the Board
20 determines that there are no statutes or other applicable rules resolving particular procedural questions
21 then before the Board, the Board will direct the parties to follow procedures consistent with the purpose of
22 these Rules and Chapter 36 of the Texas Water Code.

23 24 25 **SECTION 6 -- ENFORCEMENT OF RULES**

26
27 **6.01 SHOW CAUSE ORDERS AND COMPLAINTS:** The Board, either on its own motion or upon
28 receipt of sufficient written protest or complaint, may at any time, after due notice to all interested parties,
29 cite any person operating within the District to appear before it in a public hearing and require him or her
30 to show cause why his or her operating authority or permit should not be suspended, canceled, or
31 otherwise restricted and limited, for failure to comply with the Rules, orders or regulations of the Board or
32 the relevant statutes of the State, or for failure to abide by the terms and provisions of the permit or
33 operating authority itself. The matter of evidence and all other matters of procedure at any such hearing
34 will be conducted in accordance with these rules of procedure and practice.

35
36 **6.02 INSTITUTION OF SUIT.** If it appears that a person has violated, is violating, or is threatening to
37 violate any provision of the District Rules, the District may institute and conduct a suit for enforcement of
38 these rules pursuant to provisions of Chapter 36.102 of the Texas Water Code, as amended.

39 (1) the District may enforce these rules by injunction, mandatory injunction, or other appropriate
40 remedy in court;

41 (2) The Board may recover reasonable civil penalties pursuant to such suit, not to exceed \$5,000 per
42 day per violation, and each day of a continuous violation constitutes a separate violation.

43 (3) Penalty under this rule is in addition to penalties which may be imposed pursuant to any other law
44 of the State; and

45 (4) If the District prevails in any suit to enforce its rules the District may seek and the Court shall
46 grant, in the same action, recovery of attorney's fees, costs for expert witnesses, and other costs
47 incurred by the District before the Court.

48 49 **SECTION 7 – WASTE**

50 51 **7.01 PROHIBITION OF WASTE**

52
53 (a) Groundwater, whether from a permitted or non-permitted well, shall not be produced within, or
54 used within or without the District, in such a manner or under such conditions as to constitute waste as
55 defined in Rule 2(qq) hereof.

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2 (b) Any person producing or using groundwater shall use every reasonable precaution, in
3 accordance with reasonable methods, to stop and prevent waste of such water.
4

5 (c) No person shall pollute or harmfully alter the character of the groundwater reservoir of the District
6 by means of salt water or other deleterious substance admitted from some other stratum or strata or from
7 the surface of the ground.
8

9 **SECTION 8 -- CAPPING OR SEALING OF WELLS**

10 **8.01 SEALING PROHIBITED WELLS.** a) The District may, upon obtaining a court order, seal
11 wells that are prohibited from withdrawing groundwater within the District, to ensure that a well is not
12 operated in violation of the District Rules. A well may be sealed when:
13

- 14 (1) no application has been made for a permit to drill a new water well which is not excluded or
15 exempted; or
16 (2) no application form has been filed for an operating permit to withdraw groundwater from an
17 existing well which comes under the permit requirements as a result of a change in condition set
18 forth in Rule 10.07.
19 (3) no operating permit has been issued prior to the drilling of a non-exempt well; or
20 (4) the Board has denied, canceled or revoked a drilling permit or an operating permit.
21

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

25 c) Tampering with, altering, damaging, or removing the seal of a sealed well, or in any other way
26 violating the integrity of the seal, or pumping of groundwater from a well that has been sealed constitutes
27 a violation of these rules and subjects the person performing that action, as well as any well owner or
28 primary operator who authorizes or allows that action, to such penalties as provided by the District Rules.
29

30 **SECTION 9. WELL REGISTRATION**

31 **9.01 -- WELL REGISTRATION**

32 Well Registration is required for all existing and future wells, whether exempt or non-exempt in the
33 District and shall be filed with the District on a form and in the manner required by the District.
34

35 **9.02 PREREGISTRATION FOR ALL NEW WELLS.** Prior to the drilling of any new well, a
36 completed application for the drilling of a well (Notice of Intent to Drill) must be filed with the District on its
37 prescribed forms.
38

39 **9.03 WELL REGISTRATION INFORMATION.** Preregistration (Notice of Intent to Drill) forms for
40 new wells and well registration forms for existing wells predating the adoption of these Rules shall include
41 the following information:
42

- 43 (1) name and address of the well owner;
44
45 (2) location or proposed location of the well, including the county, section, block, survey number,
46 abstract number, longitude and latitude, acreage or lot size, and the number of feet to the nearest
47 non-parallel property lines;
48 (3) distance in feet to nearest well;
49 (4) well use or proposed use;
50 (5) location of use or proposed use;
51 (6) The following information shall be included, to the extent known for an existing well, and within
52 thirty days following completion for a new well:
53 (i) date drilled;
54

- 1 (ii) well depth;
2 (iii) casing type and size
3 (iv) pump type;
4 (v) pump HP; and
5 (vi) gallons per minute (GPM) being produced.
6 (7) signed statement by the applicant indicating:
7 (i) Whether the well is used, or proposed to be used, for domestic purposes on 10 acres or
8 more of land or is exempt from permitting; and
9 (ii) that the applicant for a new well will furnish the District with a completed Well Registration
10 form within 30 days after completion of the well;
11 (8) Such additional data as may be required by the Board.
12 (9) The preregistration (Notice of Intent to Drill) and/or registration forms shall be signed by the owner
13 of the land or his duly appointed agent, including a partner, operator, driller, or any other person
14 who has the authority to construct the well and/or operate the well for the proposed use.
15 (10) In order to provide for the registration of existing water wells that are subject to the rules and
16 regulations of the District, it shall be the policy of this Board that District personnel and/or
17 designated agents acting for the District may register wells drilled and equipped within the District
18 which the land owner or his/her agent has not registered; provided that such wells were not
19 drilled, equipped, and operated (pumped) in such a manner as to violate any rules and
20 regulations of the District..
21
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23 **9.04 PRELIMINARY DETERMINATION OF EXEMPT STATUS.** The District staff will review the
24 preregistration application filed and make a preliminary determination as to whether the well meets drilling
25 and operating permit exclusions and exemptions provided in these Rules and Section 36.117 of the
26 Texas Water Code. The District staff must inform the applicant of their determination within five (5)
27 business days. If the preliminary determination is that the well is exempt from the requirements for an
28 operating or transport permit, the applicant may begin drilling immediately upon receiving of notification of
29 the determination.

30 If the District determines the well is not exempt, the applicant will proceed in accordance with Rules
31 10.02-10.06 below
32

33 **9.05 VIOLATION OF DISTRICT RULES.** It is a violation of the District Rules for a well owner, well
34 operator, or water well driller to drill any well until a well preregistration (Notice of Intent to Drill) form has
35 been filed with the District and approved.
36

37 **SECTION 10. PERMITS**

38 **10.01 DRILLING PERMIT REQUIRED FOR NON-EXEMPT WELLS.**

39
40 (a) No person shall hereafter begin to drill a new well, or re-work, or re-drill an existing well or
41 increase the size or make other modifications to wells without having first applied to the District and been
42 issued a permit to do so, unless the well after drilling or after other modifications will be exempt as
43 defined in Rule 2(t) and Section 36.117 of the Texas Water Code..

44 (b) No permit shall be required for the drilling of water supply wells exempt under the provisions of
45 Section 36.117, Texas Water Code, as amended (being generally wells used for the production of oil,
46 gas, or other minerals and water wells used in conjunction therewith).

47 However, water wells drilled after September 1, 1997, to supply water for hydrocarbon production
48 activities must meet the spacing requirements of the district unless no space is available within 300
49 feet of the production well or central injection station. These wells must be registered with the district
50 before drilling (§36.117(e)).
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52
53 (c) Drilling a well without a permit or operating a well at a higher rate of production than the rate
54 approved for the well is declared to be illegal, wasteful per se, and a nuisance

- 1
2 (d) Permits are required for wells:
3 (1) all wells, other than those used solely for domestic or livestock use on a tract of land larger
4 than 10 acres which are drilled and completed to produce less than 25,000 gallons per day or
5 are otherwise exempt by law;
6 (2) that produce or will produce water used for Industrial and/or manufacturing purposes;
7 (3) that produce or will produce water used for commercial and/or municipal purposes;
8 (4) that produce or will produce water used for irrigation; and
9 (5) that produce or will produce water for all other non-exempt uses.

10 (e) Permits shall include the following information, submitted on the application forms provided by
11 the District:

- 12 (1) name and address of the well operator, or authorized person to whom the permit is issued.
13 (2) name and address of the fee owner of the land on which the well is to be drilled.
14 (3) location of the proposed well or including the county, section, block, survey, abstract, latitude
15 and longitude coordinates, and the number of feet to the nearest property lines;
16 (4) The location of all wells located within a mile radius of the proposed well, and the names and
17 addresses of the owners of said wells.
18 (5) distance in feet to nearest well;
19 (6) nature or purpose of proposed well use;
20 (7) location of proposed use;
21 (8) well status - new, producing, abandoned, capped, or plugged;
22 (9) well description including:
23 (i) date drilled;
24 (ii) well depth;
25 (iii) casing type and size;
26 (iv) surface completion;
27 (v) pump type;
28 (vi) pump HP; and
29 (vii) gallons per minute (GPM) being produced.
30 (viii) maximum quantity of water proposed to be produced each month
31 (ix) a statement that the applicant will comply with the District's management plan and rules.
32 (x) a statement that the applicant will comply with well plugging guidelines and report closure to
33 the commission
34 (10) such additional data as may be required by the Board.
35 (11) date permit is issued.

36
37 (f) All permits issued or well sites authorized under these Rules are conditional, and the Board may
38 revoke its authorization if the person to whom the authorization was issued does not comply with the
39 Rules of the District; does not comply with the terms and conditions stated in the drilling permit; or
40 abandons the well. The District shall provide reasonable notice and opportunity for hearing before
41 revoking the authorization.
42
43

44 **10.02 PERMIT APPLICATION PROCEDURES.**

45 (a) The Board shall issue or cause to be issued a drilling permit for a properly spaced well upon
46 proper application executed, sworn to, and filed by the owner or his/her agent with the District,
47 accompanied by the required deposits or fees, containing the matters specified below, and approved at a
48 hearing of the Board pursuant to Rule 10.03. A drilling permit is required for each new non-exempt well,
49 or for alteration in size or pumping capacity of existing wells, except in the case of a dry hole where
50 another well may be drilled, at the applicant's own risk, using the same permit subject to the requirements
51 of Sections 10.02-10.06. All applications shall be in writing, on forms provided by the District and contain
52 the information called for in the application form and shall be prepared in accordance with all instructions
53 which may have been issued by the Board with respect to the filing of an application. An application shall
54

1 be considered properly filed when completed, signed, sworn to and tendered to the District or to a person
2 duly designated by the District to receive the same. Otherwise, the application will not be considered.

3 (b) Rules for entities filing applications:

4 (1) If the applicant is an individual, the application shall be signed by the applicant or his duly
5 appointed agent.

6 The agent shall be requested to present satisfactory evidence of his authority to represent the
7 applicant, such as lease contract, power of attorney, etc.

8 (2) If the application is by a partnership, the applicant shall be designated by the firm name
9 followed by the words "a Partnership" and the application shall be signed by at least one of the
10 general partners who is duly authorized to bind all of the partners.

11 (3) In the case of a corporation, public district, county or municipality, the application shall be
12 signed by a duly authorized official. A copy of the resolution or other authorization to make the
13 application may be required by the officer or agent receiving the application.

14 (4) In the case of an estate or guardianship, the application shall be signed by the duly appointed
15 guardian or representative of the estate.

16
17 (c) Such applications shall be submitted on forms supplied by the District and shall include the
18 following:

19 (1) All information required pursuant to Rule 10.01 (e) above.

20
21 (2) The type of application - new well, rework, redrill, replacement, or other.

22
23 (3) The proposed use of the well to be drilled, whether test well, irrigation, industrial, or
24 municipal, or other.

25 (4) Farm / Ranch data - Total acreage.

26 (5) Each applicant requesting new or additional production in excess of 500 acre-feet per year
27 shall provide the District with a study by a licensed hydrogeologist or hydrogeological engineer
28 evaluating the impact of the proposed production on aquifer water levels within the District
29 boundaries. The study shall employ a statistically valid trend analysis or computer model, or other
30 method generally acceptable to professional hydrologists and to the District.

31 (6) An agreement by the applicant that the completed well registration form (furnished by the
32 District) and well report will be furnished to the District by the applicant upon completion of this
33 well and prior to the production of water therefrom (except for such production as may be
34 necessary to the drilling and testing of such well.)
35

36 **10.03 NOTICE OF PERMIT HEARING.** Once the district receives an administratively complete original
37 application for a permit, permit renewal, or permit amendment, the Manager shall, at least ten days prior
38 to the hearing date, issue a written notice indicating a date and time for a hearing by the Board on the
39 application in accordance with these rules. Not less than ten days before the hearing, notice of the
40 hearing shall be mailed by certified mail to the applicant and shall be published in a newspaper of general
41 circulation within the county.

42 As many applications may be scheduled for one hearing as the manager deems necessary. Any
43 person that wishes to be heard as a potential party to a hearing must, at least five business days prior to
44 the hearing date, provide the District with written notice of that person's intent to appear at the hearing. If
45 the Manager decides to contest the application, he/she must, at least five (5) business days prior to the
46 hearing date, provide the applicant with written notice of his/her intent to contest the application.

47 Hearings may be held in conjunction with any regular or special meeting of the Board which are
48 noticed and conducted pursuant to the Texas Open Meetings Law, Chapter 551 Texas Government
49 Code.
50

51 **10.04 FACTORS TO BE CONSIDERED BY THE BOARD IN ISSUING A PERMIT.** In determining
52 whether to issue a permit, and in setting the terms of the permit, the Board will consider the purposes of
53 the District Act, and other relevant factors, including but not limited to :

54 (1) The District management plan

- 1 (2) whether the proposed use unreasonably affects existing groundwater and surface water
- 2 resources;
- 3 (3) The quality, quantity, and availability of alternative water supplies
- 4 (4) the impact of granting the permit on other landowners' historical usage and rights in groundwater
- 5 (5) effect on granting the permit on drawdown of the water table or reduction in artesian pressure or
- 6 spring flow
- 7 (6) the applicant has agreed to avoid waste and practice conservation
- 8 (7) the applicant has agreed that reasonable diligence will be used to protect groundwater quality and
- 9 that the applicant will follow plugging guidelines at the time of well closure.

10 The application may be granted in whole, in part, or may be amended.

11 If neither the manager of the District nor any other person contests the application, the Board shall

12 grant the permit.

13 **10.05 TIME LIMIT FOR WELL COMPLETION FOLLOWING ISSUANCE OF PERMIT.**

14 (a) Any drilling permit granted hereunder shall remain valid if the work permitted shall have been

15 completed within **six (6)** months from the filing date of the application. It shall thereafter be void.

16 Provided, however, that the District, for good cause, may extend the life of such permit for an additional

17 **four (4)** months if an application for such extension shall have been made to the District during the first

18 **six (6)** month period. Provided, further, that when it is made known to the District that a proposed project

19 will take more time to complete, the District, upon receiving written application may grant such time as is

20 reasonably necessary to complete such project.

21 (b) If a newly drilled well is a dry hole or the production is marginal, the drilling permit may be used to

22 drill another well, at the applicant's own risk, until a producing well is discovered and completed provided

23 that:

- 24 (1) the dry hole or marginal well is properly plugged;
- 25 (2) the new location for another well meets all of the spacing requirements of the District;
- 26 (3) the driller furnishes to the District a properly completed well report and/or well plugging report on
- 27 each newly drilled well; and

28 **10.06 REQUIREMENT OF DRILLER'S WELL REPORT, CASING AND PUMP DATA**

29 (a) Complete records shall be kept and reports thereof made to the District concerning the drilling,

30 maximum production potential, equipping and completion of all wells drilled either by a licensed driller or

31 an individual land owner. Such records shall include an accurate driller's log, any electric log which shall

32 have been made, and such additional data concerning the description of the well, its potential, hereinafter

33 referred to as "maximum rate of production" and its actual equipment as may be required by the District.

34 Such records shall be filed with the District within 60 days after the completion of the well.

35 Subject to the Water Well Drillers rules, every licensed well driller shall deliver either in person, by

36 fax, e-mail, or send by first-class mail, a photocopy of the State Well Report to the District within 60 days

37 from the completion or cessation of drilling, deepening, or otherwise altering a well.

38 No person shall produce water from any well hereafter drilled and equipped within the District, except

39 that necessary to the drilling and testing of such well and equipment, unless or until the District has been

40 furnished an accurate driller's log, any electric log which shall have been made, and a registration of the

41 well correctly furnishing all available information required on the forms furnished by the District.

42 **10.07 PERMIT TERM.**

43 A permit grants a permanent right to the well owner to produce water in the amount stated therein,

44 and in accordance with the terms of the permit setting the rate, quantity, purpose and location of the

45 production, until there is a change, or proposed change, in any of the following:

- 1 (1) amount of water produced
- 2 (2) location of the well
- 3 (3) purpose of use of the water
- 4 (4) location of use of the water
- 5 (5) ownership of the well
- 6 (6) a finding by the District in accordance with 10.08(c) that a depletion in aquifer levels has
- 7 persisted for a period of a year or more following the establishment of baseline levels in four quadrants of
- 8 the District and b) a finding by the District, following notice and a public meeting, that it is necessary to
- 9 reduce permitted production in order to conserve and preserve the District's groundwater supplies .

10 Upon the occurrence, or proposed occurrence of any change in any one or more conditions 1-5 set
11 forth above, the well owner must file a new application for a well permit with the District, to be acted
12 upon in the same manner, and in accordance with the same procedures hereinabove set forth in Rules
13 10.02 -10.06 as for an original permit application.

14 Upon the occurrence of condition 6, the District will notify all permit holders in the affected quadrant
15 or other division of the District and forward to them applications for new permits, which applications will be
16 acted upon as set forth in Rules 10.02 - 10.06. All permitted production within the quadrant or division will
17 be reduced proportionately.

18 **10.08 REVOCATION AND FORFEITURE**

19 (a) A permit may be revoked for non-compliance with District rules following notice and a show cause
20 hearing as set forth in Rule 6.02 above;

21 (1) If the well should be commenced or drilled at a different location than the location given on the
22 drilling permit application and the new location is in violation of the District rules, the drilling or
23 operation of such well may be enjoined by the District pursuant to Chapter 36 , Texas Water
24 Code, as amended and/or the District may initiate enforcement proceedings under Rule 6. The
25 District shall have the right to confirm reported distances and inspect the wells or well locations.

26 (2) Failure to abide by the rules of the district concerning drilling permits, and by the terms and
27 limitations of the permit itself, is a violation of the law and/or the rules of the district and subjects
28 the land owner, the driller, and the pump installer to legal action by the district. A violation occurs
29 on the first day the drilling, alteration, or operation of a well begins and continues each day
30 thereafter until the appropriate permits are approved

31 (b) A permit may be forfeited , in whole or in part, for four (4) years non-production from a
32 permitted well. A partial forfeiture shall be made of that portion of a well's permitted production
33 which has not been produced during four consecutive years.

34 (c) The District shall maintain monitor wells within the District boundaries which shall be
35 measured quarterly to establish baseline data for water level declines. Based on studies of no
36 less than five-year's duration, if the District determines that pumping within the District is
37 depleting the aquifer, the District may, upon notice and hearing, reduce the volume of production
38 of a permitted well.

39 **10.09 LIMITATIONS ON PERMITTED PRODUCTION..** In order to conserve, preserve and protect
40 the underground water resources of the county, total combined permitting under Sections 10 and 12 of
41 these Rules shall be limited to a total annual production of of 19,223 acre feet in the Edwards –Trinity
42 aquifer and 159 acre-feet in the Ellenburger-San Saba aquifer, that being the average annual recharge
43 to those respective aquifers within the District boundaries, as estimated by the Texas Water
44 Development Board.

45 Permitted production from the Hickory aquifer within the District boundaries will not exceed 34,360 acre-
46 feet, in accordance with policy of the Hickory Water Control and Improvement District no. 1, and pursuant
47 to the District's policy of cooperation and co-ordination with other groundwater conservation districts.
48 Once the production limits have been reached within each aquifer, no further operating or transport
49 permits will be issued in those respective aquifers until either:

- 50 a) a permit terminates because of the occurrence of one of the events set forth in Rule 10.03(1)
- 51 through (5); or
- 52 (b) a permit has been forfeited pursuant to Rule 10.08.

1
2
3 **SECTION 11. WELL SPACING**
4

5 **11.01 – MINIMUM SPACING OF WELLS**
6

7
8 (1) Distance Requirements. (a) Wells shall be drilled at least four hundred (400) feet from the
9 nearest existing well or authorized well site and at least fifty (50) feet from the nearest property line;
10 and
11

12 (b) The Board, in order to prevent waste or confiscation of property, may grant exceptions to permit
13 drilling within shorter distances than those described when the Board shall determine that such
14 exceptions are necessary either to prevent waste or confiscation of property, except that no
15 subdivision of property made subsequent to the adoption of the original spacing requirement will be
16 considered in determining whether or not property is being confiscated within the terms of the
17 spacing requirements.
18

19 (c) A well must be located a minimum horizontal distance of 50 feet from a water-tight sewage facility
20 or a liquid waste collection facility.
21

22 (d) A well must be located a minimum horizontal distance of 150 feet away from any contamination
23 area such as existing or proposed livestock or poultry yard, privies, and septic system absorption
24 fields.
25

26 (e) No well may be located within 500 feet of a sewage treatment plant, solid waste disposal site,
27 land irrigated by sewage plant effluent, sewage wet well, sewage pumping station, or drainage
28 structure or facilities containing industrial waste discharges or sewage treatment system water.
29

30 (f) The Board reserves the right in particular subterranean water zones and/or reservoirs to enter
31 special orders increasing or decreasing distances provided by this rule.
32

33 (2) Well Density.

34 (a) Subject to paragraph (a) (1) et seq. above, no more than a cumulative total of four 4 wells per
35 survey section (one (1) well per 160 acres), whether drilled prior to or subsequent to enactment of
36 this rule shall be permitted (hereinafter referred to as "drilled to density"). In the event the applicant
37 owns less than a full section, then the number of wells permitted for said tract shall be proportionately
38 reduced. For example, if an owner has 480 acres, $1/160 = x/480$. $3/480=x/480$. The owner may drill 3
39 wells on the property.

40 In determining the total number of permitted wells allowed per tract over 40 acres, if the
41 calculation indicates a fraction of a well up to and including 0.500 of a well, the number shall be
42 rounded down to the last full well; if the calculation indicates a fraction of a well 0.501 of a well and
43 above, the number shall be rounded up to the next full well. District personnel shall use the most
44 current tax roll for obtaining the acreage involved. In the event, the acreage is not listed in the tax
45 roll, then the acreage listed on the ownership map or other legal documentation provided by applicant
46 shall be used.

47 In applying this rule, if the property is "Drilled to Density", the District may issue a drilling permit
48 for a test well or a replacement well. The land owner or his agent must within 4 months of the
49 issuance of the permit or extension date thereof declare in writing which well he desires to produce.
50 Within 30 days after determining which well will be retained for production, the well that is not to be
51 produced shall be plugged and a properly completed Plugging Report shall be submitted to the
52 District on forms supplied by the District. Failure to abide by the rules of the district concerning the
53 plugging of these wells is a violation of the law and/or the rules of the district and subjects the land

1 owner to legal action by the district. A violation occurs at the end of the 30 day period and continues
2 each day thereafter until the appropriate action is taken to plug the well.
3
4

5 **11.02 EXCEPTIONS TO SPACING RULE**

6 (a) In order to protect vested property rights, to prevent waste, to prevent confiscation of property, or
7 to protect correlative rights, the Board may grant exception to the above spacing regulations. This rule
8 shall not be construed so as to limit the power of the Board, and the powers stated are cumulative only of
9 all other powers possessed by the Board.

10 (b) If the property is "Drilled to Density" and one of the properly spaced wells is incapable of
11 producing in excess of five (5) gpm, the District may issue an additional permit for that property.
12
13

14 (c) If an exception to such spacing regulations is desired, the application shall be submitted by the
15 applicant in writing to the Board at its District Office on forms furnished by the District. The application
16 shall explain the circumstances justifying an exception to the spacing provisions. The application shall be
17 accompanied by a plat or sketch, drawn to scale of one (1) inch equaling six hundred sixty (660) feet.
18 The plat or sketch shall show thereon the property lines in the immediate area and shall show accurately
19 to scale all wells within one (1) mile of the proposed well site. The application shall also contain the
20 names and addresses of all property owners adjoining the tract on which the well is to be located and the
21 ownership of the wells within one mile of the proposed location. Such application and plat shall be
22 certified by some person actually acquainted with the facts who shall state that all the facts therein are
23 true and correct.
24

25 (d) Such exception may be granted ten (10) days after written notice has been given to the applicant
26 and all adjoining owners and all well owners within one mile of the proposed location and after a public
27 hearing at which all interested parties may appear and be heard, and after the Board has decided that an
28 exception should be granted. Provided, however, that if all such owners execute a waiver in writing
29 stating that they do not object to the granting of such exception, the Board may thereupon proceed to
30 decide upon the granting or refusing of such application without notice of hearing except to the applicant.
31 The applicant may also waive notice or hearing or both.
32
33

34 (e) An application for an exception to the spacing rule is considered to be contested when a written
35 notice of protest or opposition is filed with the Board on or before the date on which such application has
36 been set for hearing and the protestant(s) or intervener(s) appear at the hearing held on the application.
37 Where neither protestants nor interveners so appear and offer testimony or evidence in support of their
38 contentions, or raise a question of law with reference to any pending application, the application may be
39 considered as non-contested.
40

41 (f) Exceptions to the spacing rule will not be granted for property subdivided after the adoption and
42 effective date of these rules. Owners of property subdivided after that date will be required to furnish
43 water from a single well to all tracts contained within the boundary of 160 acres.
44

45 **SECTION 12. TRANSPORTATION OF WATER FROM THE DISTRICT**
46

12.01 APPLICATION REQUIRED. In order to conserve, preserve, protect, and prevent waste of, the groundwater in the District, all persons or entities desiring to transport groundwater outside of the boundaries of the District must make application and obtain permits from the District before installing and/or operating a transportation facility and/or pipeline and or equipment.

12.02 EXCEPTION. A permit is not required if the groundwater is to be used on the property of a landowner that straddles the district boundary.

12.03 APPLICATION PROCEDURE. Such applications for transport permits shall be on forms provided by the District and shall be in accordance with and contain the information called for in the form of application. Applications not submitted on District forms will not be considered.

(a)Application Requirements: The permit provided for herein must be applied for and filed with the District on the form or forms promulgated by the District hereunder and such permit must be obtained from the District prior to the proposed transporting of water, all in accordance with the provisions of this rule. The application shall be in writing and sworn to and executed by a party having knowledge of the facts called for on the form. Knowingly or unknowingly falsifying information on a permit application will render the application and the permit null and void. The following information shall be provided in or be submitted with an application :

- (1) the name, post office address and place of the principal office or residence of the applicant;
- (2) the name and address of the property owner(s) and the legal description of the land upon which the well(s) are, or will be, located to produce water to be transported;
- (3) the coordinates (latitude and longitude) of the well or wells from which water is to be produced for transport outside the District;
- (4) the names and addresses of the property owners within one mile of the location of the well(s) from which water is to be transported and the location of any wells on those properties;
- (5) use of water to be transported;
- (6) the number of acre-feet of water proposed to be used for each purpose
- (7) the time schedule for construction and/or operation of the facility;
- (8) a complete construction and operations plan that includes, but not limited to, information as to:
 - (i) a technical description of the proposed well(s) and production facility, including the depth of the well(s) the casing diameter, type and setting of the casing, the perforation interval of the casing, cementing information, and the size of the pump(s);
 - (ii) a technical description of the facilities to be used for the conveyance of the water;
- (9) the volume of water to be transported monthly;
- (10) a hydrogeologists's or hydraulic engineer's report on the effect of the proposed transportation on the quantity and quality of water available within the District;
- (11) identification of any other possible sources which could be used for the stated purposes, including but not limited to treated water, reuse water and return flows, together with the quality and quantity of such alternate sources;
- (12) a water conservation plan and a drought management plan;
- (13) an environmental impact statement
- (14) a socio-economic study showing the impact on the District economy and community of removing the water from the District
- (15) a map or plat drawn on a scale not less than one inch equals 660 feet, showing substantially:
 - (i) The location of the existing or proposed well
 - (ii) the location of the existing or proposed water transporting facilities; and
 - (iii) the location of the proposed or increased use or uses.
- (16) to establish baseline data static water levels of existing well(s) within a radius of one mile shall be obtained either form original drillers reports or by measurement of District personnel;
- (17) additional information that may be required by the Board;

- (18) the application must be accompanied by anon-refundable application fee in the amount of \$2500.00.

The District shall determine whether the application, maps, and other materials comply with the requirements of this Act. The District may require amendment of the application, maps, or other materials to achieve necessary compliance.

12.02 NOTICE AND PUBLIC HEARING

Pursuant to Section 36.122 of the Texas Water Code, The District shall give notice of the application and hold a public hearing.

(1) Notice.

(a) The District shall mail, by first class mail, notice of such hearing on the application not less than thirty (30) days before the date set for District consideration of the transportation permit application. Notice shall be mailed to:

- (i) the applicant, whose application has been filed with the District; and
- (ii) the property owners within one (1) mile of the location of the well(s) from which water is to be produced and transported.

(b) Due to the potential impact to wells in areas outside a one (1) mile radius, notice of the hearing on the application shall be published by the District in a newspaper of general circulation in the District. The notices under a) and b) above shall include:

- (i) the name and address of the applicant;
- (ii) the date the application was filed;
- (iii) the location of the well from which the water to be transported is produced or to be produced
- (iv) the purpose for which the water is to be transported.
- (v) the amount of water to be transported monthly;
- (vi) a description of the transportation facility;
- (vii) the time and place of the hearing; and
- (viii) any additional information the District considers necessary.

(2) Hearing.

(a) The District shall conduct a hearing on each application within ninety (90) days of the filing of the administratively complete application.

(b) At the time and place stated in the notice, the District shall hold a hearing on the application. The hearing may be held in conjunction with any regular or special meeting of the District, or a special meeting may be called for the purpose of holding a hearing. Any person may appear at the hearing, in person or by attorney, or may enter his appearance in writing. Any person who appears may present evidence, orally or by affidavit, in support or in opposition to the issuance of the permit, and it may hear arguments.

(c) After the hearing, the District shall make a written decision granting or denying the application. The application may be granted in whole or in part. Any decision to grant a permit, in whole or in part, shall require a majority vote of Directors present.

12.03 FACTORS TO BE CONSIDERED BY THE DISTRICT PRIOR TO APPROVING A PERMIT.

Pursuant to TAC Section 36.122, before approving any permit for transport of groundwater outside of the District boundaries, the District shall consider the following:

- i) the availability of water within the district and in the proposed receiving area during the period for which the water supply is requested
- (ii) the availability of feasible and practical alternative supplies to the applicant
- (iii) the amount and purposes of use in the proposed receiving areas of the water supply

- (iv) the projected effect of the proposed transfer on aquifer conditions, depletion, subsidence, or effects on existing permit holders or other groundwater users within the district; and
- (v) the approved regional water plan and certified district management plans

Such application shall not be approved unless the Board of Directors finds and determines: (a) that the transporting of water for use outside the District applied for will not substantially affect the quantity and quality of water available to any person or property within the District; (b) that all other feasible sources of water, including treated or re-use water, available to the person or entity requesting a permit have been developed and used to the fullest; and (c) that the proposed use, of any part of the proposed use, will not constitute waste as defined under the laws of the State of Texas. In evaluating the application, the District shall consider the quantity of water proposed to be transported; the term for which the transporting is requested; the safety of the proposed transportation facilities with respect to the contamination of the aquifer; the nature of the proposed use; whether the withdrawal of the groundwater requested is reasonable; whether such a withdrawal is contrary to the conservation and use of groundwater; whether the withdrawal is not otherwise detrimental to the public welfare; and such other factors as are consistent with the purposes of the District

12.04 ISSUANCE OF PERMITS

- (1) Upon approval of an application, the District shall issue a permit to the applicant. The applicant's right to transport shall be limited to the extent and purposes stated in the permit.
- (2) A permit shall not be transferable except with the approval of the Board. The transferee must meet all the requirements set forth in Rule 12
- (3) The permit shall be in writing and signed by the Board President and attested by the Board Secretary and it shall contain substantially the following information:
 - (a) the name and address of the person to whom the permit is issued;
 - (b) the location of the well from which water is to be transported;
 - (c) the date the permit is issued;
 - (d) the expiration date of the permit, not to exceed five years from the issue date;
 - (e) the location in which the transported water is to be used;
 - (f) the purpose for which the transported water is to be used;
 - (g) a requirement that the water withdrawn under the transport permit be put to beneficial use at all times
 - (h) the maximum quantity of water to be transported out of the district monthly;
 - (i) any restrictions on the rate of withdrawal
 - (j) the time within which construction of the well transportation facilities, including conveyance facilities and equipment, will be started and completed;
 - (k) a statement that the permittee will comply with all well closure and plugging guidelines of the district
 - (l) a statement that the permittee will comply with any drought contingency plan prescribed by the District.
 - (m) any other information the District prescribes.

12.05 DENIAL OF PERMITS.

- (1) In no event shall the Board approve a permit for transport which, together with all wells permitted pursuant to Rule 10 above, could result in permitting withdrawal of a total number of acre-feet of water supply from the aquifer in excess of 19,223 acre-feet, which is the annual acre-feet of recharge to the Edwards-Trinity aquifer within the boundaries of Menard County, as estimated by the Texas Water Development Board.
- (2) Further, the District reserves the right to reduce the production limits of any, or several, transport wells in the District, when the water levels in the well(s) within one (1) mile distance of such well drop to 85% of their original static water levels.

12.06 PERMIT EXTENSIONS, TRANSFERS AND REVOCATION.

(1) A permittee may apply for an extension of any permit granted under this subsection or for transfer of a permit to another person. The District shall consider and grant or deny such application for extension or transfer of a permit in the same manner as is provided herein for the application for a new permit.

(2) Any permit granted under this subsection shall be subject to revocation for nonuse or waste by the permittee, or for substantial deviation from the purposes or other terms stated in the permit.

12.07 EXPIRATION OF PERMITS.:

A transportation permit shall be issued for a maximum term of five (5) years. Upon expiration of a permit, the transferor must apply for a new permit. Permits will be automatically forfeited if construction of a transportation facility has not commenced within two (2) years of the issuance of the permit.

12.08 FEES.

Fees of one dollar (\$1.00) per acre foot for water used in agriculture, and seventeen cents (\$0.17) per thousand (1,000) gallons for all other uses, may be assessed by the District. Fees are due the first of each month, and are to be included with the monthly pumping report. In order to monitor and maintain the quality of the groundwater and to investigate the feasibility of enhanced recharge

12.09 SPACING OF WELLS..

Water wells to be used for the transportation of water out of the District shall be subject to spacing requirements as described in Rule 11 herein.

12.10 "GRANDFATHERED" WELLS.

The provisions of Sections 10.02 through 10.03 of this subsection shall not apply to transfer operations which commenced prior to March 2, 1997.

12.11 MONITORING AND REPORTING.

(1) All transporting facilities for wells subject to the requirements of this subsection shall be equipped with flow monitoring devices approved by the District and shall be available for District inspection at any time.

(2) The operator of a transportation facility shall be required to keep records and make reports available to the District, during normal business hours, to as to the operation of the transportation facility.

(3) Permittees shall submit reports to the District on a monthly basis, beginning at the time a permit is issued to operate. Such reports shall include, but is not limited to, the volume of water transported during the preceding month.

12.12 RESPONSIBILITY. The owner of the transportation facility shall be charged with strict liability for the prevention of pollution and waste, by reason of the operations of said facility. when the water levels in the well(s) within a one-mile distance of such well drop to 85% of their original static water levels.

SECTION 13 - DEPOSITS AND FEES

13.01 DEPOSITS

Each application for a permit to drill a non-exempt well shall be accompanied by a non-refundable **\$100.00 deposit** which shall be accepted by the District.

Each application for a transport permit shall be accompanied by a non-refundable **\$2500.00 fee**.

SECTION 14 - ADMINISTRATIVE FEES

14.01 Fees

The District shall collect fees for all services provided outside of the District. The fees shall be established by the Board and be reviewed and revised as needed to cover the cost to the District.