

**MENARD COUNTY
UNDERGROUND WATER DISTRICT**

RULES

Adopted May 14, 2013

MENARD COUNTY UNDERGROUND WATER DISTRICT

RULES

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RULES OF THE MENARD COUNTY UNDERGROUND WATER DISTRICT

Section 1 - ADOPTION AND PURPOSE OF RULES

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

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

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.

SECTION 2 - DEFINITIONS

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

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

1 exempt well). This includes the use of water for home landscapes and home gardening on no
2 more than two acres of land.

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

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

6 **3.01 DIRECTORS.**

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

8 (a) Each director must qualify to serve as director in the manner provided by Sections 52.108 and
9 51.079, Texas Water Code.

10 (b) Directors serve staggered four-year terms.

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

12 (d) A director is not entitled to compensation for his service on the board, but may be reimbursed for
13 expenses in carrying out the business of the district.
14

15 **3.02 PURPOSE OF BOARD.** The Board of Directors' purpose is to determine policy and regulate
16 withdrawal of groundwater in such a manner as to conserve and protect the aquifers within the district
17 boundaries. Its responsibilities include the adoption and enforcement of reasonable rules and to exercise
18 its rights, powers and duties to implement the provisions of the District Act and Chapter 36 of the Texas
19 Water Code.
20

21 **3.03 ELECTION OF DIRECTORS.** On the first Saturday in May of the second year after the year in which
22 the District has held its confirmation election, an election shall be held for the election of directors. The
23 five directors receiving the highest number of votes are directors for the district. The three directors
24 receiving the highest number of votes shall serve four-year terms, the remaining two shall serve two-year
25 terms. Thereafter, on the same date in each subsequent second year, the appropriate number of
26 directors shall be elected to the board.
27

28 **3.04 ADMINISTRATION** The Board of Directors shall administer the District in accordance with the
29 provisions of Subchapter C, sections 36.051-36.059 and 36.061-36.068, Texas Water Code.
30

31 **3.05 MEETINGS.** The board will hold regular monthly meetings as established from time to time by
32 resolution. At the request of the president or at least two board members, the board may hold special
33 meetings. All meetings will be noticed and conducted in accordance with the Texas Open Meetings Law.
34

35 **SECTION 4 - GENERAL MANAGER**
36

37 **4.01 AUTHORITY OF MANAGER.** The general manager employed or contracted with by the District of
38 the District shall have full authority to manage and operate the affairs of the District subject only to the
39 orders of the board.
40

41 **4.02 DIRECTOR MAY BE MANAGER.** A director may be employed as general manager of the District.
42 The compensation of a general manager who also serves as a director shall be established by the other
43 directors.
44

45 **SECTION 5 - GENERAL PROCEDURAL PROVISIONS**
46

47 **5.01 COMPUTING TIME.** In computing any period of time prescribed or allowed by these rules,
48 by order of the Board, or by any applicable statute, the day of the act, event or default from which the
49 designated period of time begins to run, is not to be included, but the last day of the period so computed
50 is to be included, unless it be a Saturday, Sunday or legal holiday, in which event the period runs until
51 the end of the next day which is neither a Saturday, Sunday nor a legal holiday.

52 **5.02 TIME LIMIT.** Applications, requests, or other papers or documents required or permitted to
53 be filed under these rules or by law must be received for filing at the District's office at Menard, Texas.

1 The date of receipt and not the date of posting is determinative.

2
3 **5.03 METHODS OF SERVICE UNDER THE RULES.** Except as otherwise expressly provided
4 elsewhere in these Rules, any notice or document required by these Rules to be served or delivered
5 may be delivered to the recipient, or the recipient's authorized representative, in person, by courier
6 receipted delivery, by certified mail sent to the recipient's last known address, or by telephonic document
7 transfer to the recipient's current telecopier number.

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

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

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

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

22
23 **5.05 PROCEDURES NOT OTHERWISE PROVIDED FOR:** If, in connection with any hearing, the Board
24 determines that there are no statutes or other applicable rules resolving particular procedural questions
25 then before the Board, the Board will direct the parties to follow procedures consistent with the purpose of
26 these Rules and Chapter 36 of the Texas Water Code.

27 28 29 **SECTION 6 -- ENFORCEMENT OF RULES**

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

39
40 **6.02 INSTITUTION OF SUIT.** If it appears that a person has violated, is violating, or is threatening to
41 violate any provision of the District Rules, the District may institute and conduct a suit for enforcement of
42 these rules pursuant to provisions of Chapter 36.102 of the Texas Water Code, as amended.

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

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

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

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

1 **SECTION 7 – WASTE**

2
3 **7.01 PROHIBITION OF WASTE**

4
5 (a) Groundwater, whether from a permitted or non-permitted well, shall not be produced within, or
6 used within or without the District, in such a manner or under such conditions as to constitute waste as
7 defined in Rule 2(qq) hereof.

8
9 (b) Any person producing or using groundwater shall use every reasonable precaution, in
10 accordance with reasonable methods, to stop and prevent waste of such water.

11
12 (c) No person shall pollute or harmfully alter the character of the groundwater reservoir of the District
13 by means of salt water or other deleterious substance admitted from some other stratum or strata or from
14 the surface of the ground.

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

16
17 **8.01 SEALING PROHIBITED WELLS.** a) The District may, upon obtaining a court order, seal
18 wells that are prohibited from withdrawing groundwater within the District, to ensure that a well is not
19 operated in violation of the District Rules. A well may be sealed when:

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

27
28 b) The well may be sealed by physical means, and tagged to indicate that the well has been sealed
29 by the District, and other appropriate action may be taken as necessary to preclude operation of the well
30 or to identify unauthorized operation of the well.

31 c) Tampering with, altering, damaging, or removing the seal of a sealed well, or in any other way
32 violating the integrity of the seal, or pumping of groundwater from a well that has been sealed constitutes
33 a violation of these rules and subjects the person performing that action, as well as any well owner or
34 primary operator who authorizes or allows that action, to such penalties as provided by the District Rules.
35

36 **SECTION 9. WELL REGISTRATION**

37
38 **9.01 -- WELL REGISTRATION**

39 Well Registration is required for all existing and future wells, whether exempt or non-exempt in the
40 District and shall be filed with the District on a form and in the manner required by the District.
41

42 **9.02 PREREGISTRATION FOR ALL NEW WELLS.** Prior to the drilling of any new well, a
43 completed application for the drilling of a well (Notice of Intent to Drill) must be filed with the District on its
44 prescribed forms.
45

46 **9.03 WELL REGISTRATION INFORMATION.** Preregistration (Notice of Intent to Drill) forms for
47 new wells and well registration forms for existing wells predating the adoption of these Rules shall include
48 the following information:

- 49 (1) name and address of the well owner;
50
51

- (2) location or proposed location of the well, including the county, section, block, survey number, abstract number, longitude and latitude, acreage or lot size, and the number of feet to the nearest non-parallel property lines;
- (3) distance in feet to nearest well;
- (4) well use or proposed use;
- (5) location of use or proposed use;
- (6) The following information shall be included, to the extent known for an existing well, and within thirty days following completion for a new well:
 - (i) date drilled;
 - (ii) well depth;
 - (iii) casing type and size
 - (iv) pump type;
 - (v) pump HP; and
 - (vi) gallons per minute (GPM) being produced.
- (7) signed statement by the applicant indicating:
 - (i) Whether the well is used, or proposed to be used, for domestic purposes on 10 acres or more of land or is exempt from permitting; and
 - (ii) that the applicant for a new well will furnish the District with a completed Well Registration form within 30 days after completion of the well;
- (8) Such additional data as may be required by the Board.
- (9) The preregistration (Notice of Intent to Drill) and/or registration forms shall be signed by the owner of the land or his duly appointed agent, including a partner, operator, driller, or any other person who has the authority to construct the well and/or operate the well for the proposed use.
- (10) In order to provide for the registration of existing water wells that are subject to the rules and regulations of the District, it shall be the policy of this Board that District personnel and/or designated agents acting for the District may register wells drilled and equipped within the District which the land owner or his/her agent has not registered; provided that such wells were not drilled, equipped, and operated (pumped) in such a manner as to violate any rules and regulations of the District..

9.04 PRELIMINARY DETERMINATION OF EXEMPT STATUS. The District staff will review the preregistration application filed and make a preliminary determination as to whether the well meets drilling and operating permit exclusions and exemptions provided in these Rules and Section 36.117 of the Texas Water Code. The District staff must inform the applicant of their determination within five (5) business days. If the preliminary determination is that the well is exempt from the requirements for an operating or transport permit, the applicant may begin drilling immediately upon receiving of notification of the determination.

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

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

SECTION 10. PERMITS

10.01 DRILLING PERMIT REQUIRED FOR NON-EXEMPT WELLS.

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

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

4 However, water wells drilled after September 1, 1997, to supply water for hydrocarbon production
5 activities must meet the spacing requirements of the district unless no space is available within 300
6 feet of the production well or central injection station. These wells must be registered with the district
7 before drilling (§36.117(e)).
8

9 (c) Drilling a well without a permit or operating a well at a higher rate of production than the rate
10 approved for the well is declared to be illegal, wasteful per se, and a nuisance
11

12 (d) Permits are required for wells:

- 13 (1) all wells, other than those used solely for domestic or livestock used on a tract of land larger
14 than 10 acres which are drilled and completed to produce less than 25,000 gallons per day or
15 are otherwise exempt by law;
16 2) wells used for domestic and livestock use on tracts 100 acres or less in size that are less than
17 400 feet deep and equipped to produce more than 9 gpm.
18 (3) that produce or will produce water used for Industrial and/or manufacturing purposes;
19 (4) that produce or will produce water used for commercial and/or municipal purposes;
20 (6) that produce or will produce water used for irrigation; and
21 (6) that produce or will produce water for all other non-exempt uses.
22

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

- 25 (1) name and address of the well operator, or authorized person to whom the permit is issued.
26 (2) name and address of the fee owner of the land on which the well is to be drilled.
27 (3) location of the proposed well or including the county, section, block, survey, abstract, latitude
28 and longitude coordinates, and the number of feet to the nearest property lines;
29 (4) The location of all wells located within a mile radius of the proposed well, and the names and
30 addresses of the owners of said wells.
31 (5) distance in feet to nearest well if less than 2640 feet;
32 (6) nature or purpose of proposed well use;
33 (7) location of proposed use;
34 (8) well status - new, producing, abandoned, capped, or plugged;
35 (9) well description including:
36 (i) date drilled;
37 (ii) well depth;
38 (iii) casing type and size;
39 (iv) surface completion;
40 (v) pump type;
41 (vi) pump HP; and
42 (vii) gallons per minute (GPM) being produced.
43 (viii) maximum quantity of water proposed to be produced each month
44 (ix) a statement that the applicant will comply with the District's management plan and rules.
45 (x) a statement that the applicant will comply with well plugging guidelines and report closure to
46 the commission
47 (10) such additional data as may be required by the Board.
48 (11) date permit is issued.
49

50 (f) All permits issued or well sites authorized under these Rules are conditional, and the Board may
51 revoke its authorization if the person to whom the authorization was issued does not comply with the
52 Rules of the District; does not comply with the terms and conditions stated in the drilling permit; or

1 abandons the well. The District shall provide reasonable notice and opportunity for hearing before
2 revoking the authorization.
3
4

5 **10.02 PERMIT APPLICATION PROCEDURES.**

6 (a) The Board shall issue or cause to be issued a drilling permit for a properly spaced well upon
7 proper application executed, sworn to, and filed by the owner or his/her agent with the District ,
8 accompanied by the required deposits or fees, containing the matters specified below, and approved at a
9 hearing of the Board pursuant to Rule 10.03 A drilling permit is required for each new non-exempt well,
10 or for alteration in size or pumping capacity of existing wells, except in the case of a dry hole where
11 another well may be drilled, at the applicant's own risk, using the same permit subject to the requirements
12 of Sections 10.02-10.06. All applications shall be in writing, on forms provided by the District and contain
13 the information called for in the application form and shall be prepared in accordance with all instructions
14 which may have been issued by the Board with respect to the filing of an application. An application shall
15 be considered properly filed when completed, signed, sworn to and tendered to the District or to a person
16 duly designated by the District to receive the same. Otherwise, the application will not be considered.

17 (b) Rules for entities filing applications:

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

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

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

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

28 (4) In the case of an estate or guardianship, the application shall be signed by the duly appointed
29 guardian or representative of the estate.
30

31 (c) Such applications shall be submitted on forms supplied by the District and shall include the
32 following:

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

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

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

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

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

43 (6) An agreement by the applicant that the completed well registration form (furnished by the
44 District) and well report will be furnished to the District by the applicant upon completion of this
45 well and prior to the production of water therefrom (except for such production as may be
46 necessary to the drilling and testing of such well.)
47
48
49

50 **10.03 NOTICE OF PERMIT HEARING.** Once the district receives an administratively complete original
51 application for a permit, permit renewal, or permit amendment, the Manager shall, at least ten days prior
52 to the hearing date, issue a written notice indicating a date and time for a hearing by the Board on the
53 application in accordance with these rules. Not less than ten days before the hearing, notice of the

1 hearing shall be mailed to the applicant and shall be published in a newspaper of general circulation
2 within the county.

3 As many applications may be scheduled for one hearing as the manager deems necessary. Any
4 person that wishes to be heard as a potential party to a hearing must, at least five business days prior to
5 the hearing date, provide the District with written notice of that person's intent to appear at the hearing. If
6 the Manager decides to contest the application, he/she must, at least ten (10) business days prior to the
7 hearing date, provide the applicant with written notice of his/her intent to contest the application.

8 Hearings may be held in conjunction with any regular or special meeting of the Board which are
9 noticed and conducted pursuant to the Texas Open Meetings Law, Chapter 551 Texas Government Code
10 and shall be conducted in accordance with Rule 15.3.

11
12 **10.04 FACTORS TO BE CONSIDERED BY THE BOARD IN ISSUING A PERMIT.** In determining
13 whether to issue a permit, and in setting the terms of the permit, the Board will consider the purposes of
14 the District Act, and other relevant factors, including but not limited to :

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

25
26 The application may be granted in whole, in part, or may be amended.

27
28 If neither the manager of the District nor any other person contests the application, the Board shall
29 grant the permit.

30
31
32 **10.05 TIME LIMIT FOR WELL COMPLETION FOLLOWING ISSUANCE OF PERMIT.**

33 (a) Any drilling permit granted hereunder shall remain valid if the work permitted shall have been
34 completed within **six (6)** months from the filing date of the application. It shall thereafter be void,
35 provided, however, that the District, for good cause, may extend the life of such permit for an additional
36 **four (4)** months if an application for such extension shall have been made to the District during the first
37 **six (6)** month period. Provided, further, that when it is made known to the District that a proposed project
38 will take more time to complete, the District, upon receiving written application may grant such time as is
39 reasonably necessary to complete such project.

40
41 (b) If a newly drilled well is a dry hole or the production is marginal, the drilling permit may be used to
42 drill another well, at the applicant's own risk, until a producing well is discovered and completed
43 provided that:

- 44 (1) the dry hole or marginal well is properly plugged;
45 (2) the new location for another well meets all of the spacing requirements of the District;
46 (3) the driller furnishes to the District a properly completed well report and/or well plugging report on
47 each newly drilled well; and
48

49
50 **10.06 REQUIREMENT OF DRILLER'S WELL REPORT, CASING AND PUMP DATA**

51 (a) Complete records shall be kept and reports thereof made to the District concerning the drilling,
52 maximum production potential, equipping and completion of all wells drilled either by a licensed driller or
53 an individual land owner. Such records shall include an accurate driller's log, any electric log which shall

1 have been made, and such additional data concerning the description of the well, its potential, hereinafter
2 referred to as "maximum rate of production" and its actual equipment as may be required by the District.
3 Such records shall be filed with the District within 60 days after the completion of the well.
4

5 Subject to the Water Well Drillers rules, every licensed well driller shall deliver either in person, by
6 fax, e-mail, or send by first-class mail, a photocopy of the State Well Report to the District within 60 days
7 from the completion or cessation of drilling, deepening, or otherwise altering a well.

8 No person shall produce water from any well hereafter drilled and equipped within the District, except
9 that necessary to the drilling and testing of such well and equipment, unless or until the District has been
10 furnished an accurate driller's log, any electric log which shall have been made, and a registration of the
11 well correctly furnishing all available information required on the forms furnished by the District.
12

13 **10.07 PERMIT TERM.**

14 A drilling permit becomes an operating permit upon proper completion of a producing well and grants
15 a permanent right to the well owner to produce water in the amount stated therein, and in accordance
16 with the terms of the permit setting the rate, quantity, purpose and location of the production, until there is
17 a change, or proposed change, in any of the following:
18

- 19 (1) amount of water produced
- 20 (2) location of the well
- 21 (3) purpose of use of the water
- 22 (4) location of use of the water
- 23 (5) ownership of the well

24 (6) a finding by the District in accordance with 10.08(c) that a) a decline in aquifer levels has
25 persisted for a period of a year or more following the establishment of baseline levels in four quadrants of
26 the District and b) a finding by the District, following notice and a public meeting, that it is necessary to
27 reduce permitted production in order to conserve and preserve the District's groundwater supplies .

28 Upon the occurrence, or proposed occurrence of any change in any one or more conditions 1-5 set
29 forth above, the well owner must file a new application for a well permit with the District, to be acted
30 upon in the same manner, and in accordance with the same procedures hereinabove set forth in Rules
31 10.02 -10.06 as for an original permit application.

32 Upon the occurrence of condition 6, the District will notify all permit holders in the affected quadrant
33 or other division of the District and forward to them applications for new permits, which applications will be
34 acted upon as set forth in Rules 10.02 - 10.06. All permits within the quadrant or division, except for
35 existing use permits issued for wells which were producing prior to February 10, 2003, will be reduced
36 proportionately.
37

38 **10.08 REVOCATION AND FORFEITURE**

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

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

46 (2) Failure to abide by the rules of the district concerning drilling permits, and by the terms and
47 limitations of the permit itself, is a violation of the law and/or the rules of the district and subjects
48 the land owner, the driller, and the pump installer to legal action by the district. A violation occurs
49 on the first day the drilling, alteration, or operation of a well begins and continues each day
50 thereafter until the appropriate permits are approved
51

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

4 (c) The District shall maintain monitor wells within the District boundaries which shall be
5 measured quarterly to establish baseline data for water level declines. Based on studies of no
6 less than five-year's duration, if the District determines that pumping within the District is
7 depleting the aquifer, the District may, upon notice and hearing, reduce the volume of production
8 of a permitted well.
9

10 **10.09 LIMITATIONS ON PERMITTED PRODUCTION..** In order to conserve, preserve and protect
11 the underground water resources of the county and implement, pursuant to § 38. 108 of the Texas Water
12 Code, the Desired Future Conditions adopted by Groundwater Management 7 for the District on July 29,
13 2010, permits issued under Sections 10 and 12 of these Rules shall be limited to a total annual
14 production of 2,194 acre feet in the Edwards –Trinity aquifer, 1,015 acre feet in the Hickory aquifer, and
15 and 741 acre-feet in the Ellenburger-San Saba aquifer. Once the production limits have been reached
16 within each aquifer, no further operating or transport permits will be issued in those respective aquifers
17 until either:

18 a) a permit terminates because of the occurrence of one of the events set forth in Rule 10.07(1)
19 through (5); or

20 (b) a permit has been forfeited pursuant to Rule 10.08.
21
22

23 SECTION 11. WELL SPACING

24 11.01 – MINIMUM SPACING OF WELLS

25 (1) Distance Requirements. (a) Wells shall be drilled at least four hundred (400) feet from the
26 nearest existing well or authorized well site and at least fifty (50) feet from the nearest property line;
27 and
28

29 (b) The Board, in order to prevent waste or confiscation of property, may grant exceptions to permit
30 drilling within shorter distances than those described when the Board shall determine that such
31 exceptions are necessary either to prevent waste or confiscation of property, except that no
32 subdivision of property made subsequent to the adoption of the original spacing requirement will be
33 considered in determining whether or not property is being confiscated within the terms of the
34 spacing requirements.
35

36 (c) A well must be located a minimum horizontal distance of 50 feet from a water-tight sewage facility
37 or a liquid waste collection facility.
38

39 (d) A well must be located a minimum horizontal distance of 150 feet away from any contamination
40 area such as existing or proposed livestock or poultry yard, privies, and septic system absorption
41 fields.
42

43 (e) No well may be located within 500 feet of a sewage treatment plant, solid waste disposal site,
44 land irrigated by sewage plant effluent, sewage wet well, sewage pumping station, or drainage
45 structure or facilities containing industrial waste discharges or sewage treatment system water.
46

47 (f) The Board reserves the right in particular subterranean water zones and/or reservoirs to enter
48 special orders increasing or decreasing distances provided by this rule.
49

50 (2) Well Density.
51
52
53

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

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

14 In applying this rule, if the property is "Drilled to Density", the District may issue a drilling permit
15 for a test well or a replacement well. The land owner or his agent must within 4 months of the
16 issuance of the permit or extension date thereof declare in writing which well he desires to produce.
17 Within 30 days after determining which well will be retained for production, the well that is not to be
18 produced shall be plugged and a properly completed Plugging Report shall be submitted to the
19 District on forms supplied by the District. Failure to abide by the rules of the district concerning the
20 plugging of these wells is a violation of the law and/or the rules of the district and subjects the land
21 owner to legal action by the district. A violation occurs at the end of the 30 day period and continues
22 each day thereafter until the appropriate action is taken to plug the well.

23 **11.02 EXCEPTIONS TO SPACING RULE**

24 (a) In order to protect vested property rights, to prevent waste, to prevent confiscation of property, or
25 to protect correlative rights, the Board may grant exception to the above spacing regulations. This rule
26 shall not be construed so as to limit the power of the Board, and the powers stated are cumulative only of
27 all other powers possessed by the Board.
28

29 (b) If the property is "Drilled to Density" and one of the properly spaced wells is incapable of
30 producing in excess of five (5) gpm, the District may issue an additional permit for that property.
31

32 (c) If an exception to such spacing regulations is desired, the application shall be submitted by the
33 applicant in writing to the Board at its District Office on forms furnished by the District. The application
34 shall explain the circumstances justifying an exception to the spacing provisions. The application shall be
35 accompanied by a plat or sketch. The plat or sketch shall show thereon the property lines in the
36 immediate area and shall show accurately to scale all wells within one (1) mile of the proposed well site.
37 The application shall also contain the names and addresses of all property owners adjoining the tract on
38 which the well is to be located and the ownership of the wells within one mile of the proposed location.
39 Such application and plat shall be certified by some person actually acquainted with the facts who shall
40 state that all the facts therein are true and correct.
41

42 (d) Such exception may be granted ten (10) days after written notice has been given to the applicant
43 and all adjoining owners and all well owners within one mile of the proposed location and after a public
44 hearing at which all interested parties may appear and be heard, and after the Board has decided that an
45 exception should be granted. Provided, however, that if all such owners execute a waiver in writing
46 stating that they do not object to the granting of such exception, the Board may thereupon proceed to
47 decide upon the granting or refusing of such application without notice of hearing except to the applicant.
48 The applicant may also waive notice or hearing or both.
49

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

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

SECTION 12. TRANSPORTATION OF WATER FROM THE DISTRICT

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 transport 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.. 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) the name of the end-user of the water to be transported;
- (6) use of water to be transported;
- (7) the number of acre-feet of water proposed to be used for each purpose
- (8))the time schedule for construction and/or operation of the facility;
- (9) 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;
- (10) the volume of water to be transported monthly;
- (11) for transport permits exceeding 200 acre-feet/ year, 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 and the effect on the adopted Desired Future Conditions of the District ;

- (12) identification of 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;
- (13) a water conservation plan and a drought management plan;
- (14) for transport permits exceeding 200 acre-feet/year, an environmental impact statement
- (15) for transport permits exceeding 200 acre-feet/ year, a socio-economic study showing the impact on the District economy and community of removing the water from the District
- (16) 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.
- (17) 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;
- (18) additional information that may be required by the Board;
- (19) 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 and the district's adopted Desired Future Conditions, or effects on existing permit holders or other groundwater users within the district;
- (v) The projected effect on surface water resources of 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 2,194 acre-feet annually from the Edwards-Trinity (Plateau) aquifer, 1,015 acre-feet annually from the Hickory aquifer, and 741 acre-feet annually from the Ellenburger- San Saba aquifer.

(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.

SECTION 15 - HEARINGS

Rule 15 sets forth circumstances and procedures for holding formal hearings on the specific topics stated. Nothing in this Rule 15 will preclude the District Board from including as a standard Board meeting agenda item an allotted time for public comment and said agenda item for public comment will not be considered a hearing as defined by this Rule 15.

RULE 15.1 RULE MAKING HEARING

- A.** Once the District has developed a proposal involving changes to District Rules or the District Management Plan the District Board will set a date at which the public hearing on the proposed rules or management Plan will be held. The public meeting may take place as part of, or separately from, a regular monthly board of directors' meeting. A board meeting at which the proposed Rules or Management Plan is considered under this rule will be considered the hearing on the proposal and fulfills the requirement, if any, for a hearing.
- B.** The Manager shall provide notice of all rulemaking hearings in accordance with the Open Meetings Act.
- C.** In addition to the notice required by the Open Meetings Act, not later than the 20th day before the date of the hearing, notice shall be provided as follows:
 - (1) Post notice in a location readily accessible to the public at the District office;
 - (2) Provide notice to the county clerks of Menard, County;
 - (3) Publish notice in a newspaper of general circulation in Menard County; and
 - (4) Provide notice by mail, facsimile, or electronic mail to any person who has requested notice under Rule 15.1.F. Failure to provide notice under this Rule 15.1.C(4) does not invalidate an action taken by the District at a hearing under Rule 15.1.
- D.** Notice of the hearing on the proposal required by Rule 12.1.C. will include:
 - (1) A statement that District's Board of Directors will consider proposed changes to the District's Rules or Management Plan, and a brief summary of the substance of those changes.
 - (2) The time, date, and location of the hearing.

- (3) The agenda of the hearing.
 - (4) A statement that the proposal is available to be reviewed or copied at the District Office prior to the hearing.
 - (5) A statement that the District will accept written comments and give the deadline for submitting written comments.
 - (6) A statement that oral public comment will be taken at the hearing.
- E.** Copies of the proposal will be available during normal business hours at the District and posted on the District's website for a period of twenty (20) days prior to the hearing.
 - F.** A person may submit to the District a written request for notice of hearings conducted under Rule 15.1. A request is effective for the remainder of the calendar year in which the request is received by the District.
 - G.** Anyone with an interest in the proposed rules or management plan may submit written comments on the proposal to the District at least 5 business days prior to the scheduled hearing at which the proposal will be considered by the Board.
 - H.** Anyone with an interest in the proposed rules or management plan may attend the hearing and make oral comments at the time designated for comments.
 - I.** The District will make and keep in its files an audio recording of the hearing, written minutes of the hearing, and any written comments submitted at the hearing.
 - J.** The Board will issue a written order or resolution reflecting its decision and the proposal that the Board approves will be attached to that written order or resolution.
 - K.** The effective date of the written order will be the date on which the Chairman of the District Board signs the order or resolution. The order or resolution will include a statement that the proposal becomes effective and final on that date. Any appeal authorized by Texas Water Code Chapter 36, Subchapter H will run from that effective date.
 - L.** If in the course of the deliberation during the hearing, the Board decides to substantially change the proposal, the Board will "continue" or postpone the matter until a future Board meeting. Prior to consideration of the substantially changed proposal, the District will provide a notice and opportunity for comment and hold a hearing on the substantially changed proposal. It is solely within the discretion of the Board what constitutes a substantial change to a proposal under this Rule.

RULE 15.2 ADOPTION OF EMERGENCY RULES

- A.** The District may adopt an emergency rule without following the notice and hearing provisions of Rule 15.1, if the Board:
 - (1) Finds that a substantial likelihood of imminent peril to the public health, safety, or welfare, or a requirement of state or federal law, requires adoption of a rule on less than 20 days' notice; and
 - (2) Prepares a written statement of the reasons for its finding under Rule 15.2.A(1).
- B.** An emergency rule under this Rule 15.2 must be adopted at a meeting of the Board subject to the requirements of the Open Meetings Act. Notice required by the Open Meetings Act shall be provided.
- C.** Except as provided by Rule 15.2.D a rule adopted under this Rule may not be effective for longer than 90 days.

- D. If notice of a hearing under Rule 15.1 is given before the emergency rule expires under Rule 15.2.C., the emergency rule is effective for an additional 90 days.

RULE 15.3 HEARINGS ON PERMITS AND PERMIT AMENDMENTS

- A. In this Rule, “applicant” means a person who is applying for a permit or permit amendment, and “application” means the formal process for applying for a well permit or permit amendment. Under this Rule “permit” shall mean a drilling and production permit or a permit for transport of water.
- B. In accordance with Rule 10.08, the Board may hold a hearing on one or more applications. The decision by the Board to set a hearing will be made at the Board meeting in which the administratively complete application(s) is/are first brought before the Board for consideration. Any hearing will be held as part of a scheduled Board meeting at the regular Board meeting location unless the Board provides for the hearing to be held at a different location
- C. Notice (Sec. 36.404)
- (1) If the Board schedules a hearing on a permit or permit amendment, the District will give notice of the hearing as provided by this section.
 - (2) The notice must include:
 - (a) The name of the applicant;
 - (b) The address or approximate location of the well or proposed well;
 - (c) 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;
 - (d) The time, date, and location of the hearing;
 - (e) A statement that the District will accept written comments on the application and give the deadline for submitting written comments;
 - (f) A statement that oral public comment on the application will be taken at the hearing; and
 - (g) Any other information the Board considers relevant and appropriate.
 - (3) Not later than the 10th day before the date of a hearing, the District will:
 - (a) Post notice in a place readily accessible to the public at the District office;
 - (b) Provide notice to the county clerk; and
 - (c) Provide notice by:
 - (1) Regular mail to the applicant;
 - (2) Regular mail, facsimile, or electronic mail to any person who has requested notice under Subsection (4);
 - (3) Regular mail to any other person entitled to receive notice under District Rules; and
 - (4) Other notification deemed appropriate by the Board.
 - (4) A person may request notice from the District of hearings on a permit or a permit amendment application. The request must be in writing and is effective for the remainder of the calendar year in which the request is received by the District. To receive notice of hearing in a later year, a person must submit a new request. An affidavit of an officer or employee of the District establishing attempted service by first class mail, facsimile, or e-mail to the person in accordance with the information provided by the person is proof that notice was provided by the District.
 - (5) Failure to provide notice under Subsection (3)(c)(ii) does not invalidate an action taken by the District at the hearing.
- D. Hearing Registration (36.405)

The District may require each person who participates in a hearing to submit a hearing registration form stating:

- (1) The person's name;
- (2) The person's address; and
- (3) Whom the person represents, if the person is not there in the person's individual capacity,

E. Hearing Procedures (36.406)

- (1) The hearing must be conducted by a quorum of the Board or Directors, or the Board, at its sole discretion, may appoint a hearing Examiner to preside at and conduct the hearing on the permit or permit amendment. The appointment of a hearing Examiner shall be made in writing. If the hearing is conducted by a quorum of the Board of Directors, the President will preside. If the President is not present, the Board will select one of the Directors present to preside. Notice of all hearings conducted by a quorum of the Board will be made in accordance with the Open Meetings Act.
- (2) The presiding officer may:
 - (a) Convene the hearing at the time and place specified in the notice;
 - (b) Set any necessary additional hearing dates;
 - (c) Designate the parties regarding a contested application;
 - (d) Establish the order for presentation of evidence;
 - (e) Administer oaths to all persons presenting testimony;
 - (f) Examine persons presenting testimony;
 - (g) Ensure that information and testimony are introduced as conveniently and expeditiously as possible without prejudicing the rights of any party.
 - (h) Allow testimony to be submitted in writing and may require that written testimony be sworn to. On the motion of a party to the hearing, the presiding officer may exclude written testimony if the person who submits the testimony is not available for cross-examination by telephone, a deposition before the hearing, or other reasonable means;
 - (i) Continue a hearing from time to time and from place to place without providing notice under Rule 15.3.C. If the continuance is not announced on the record at the hearing, the presiding officer must provide notice of the continued hearing by regular mail to the parties.(36.409)
 - (j) If the Board has not acted on the application, the presiding officer may allow a person who testifies at the hearing to supplement the testimony given at the hearing by filing additional written materials with the presiding officer not later than the 10th day after the date of the hearing. A person who files additional written material with the presiding officer under this subsection must also provide the material at the same time to any person who provided comment at the hearing and to any party to a contested hearing. A persons who receives additional written material under this subsection may file a response to the material with the presiding officer not later than the 10th day after the date the additional material was received.(36.408(g))

F. Evidence. (36.407)

The presiding officer shall:

- (1) Admit relevant evidence; and
- (2) Prescribe reasonable time limits for testimony and the presentation of evidence;

G. Recording. (36.408)

The presiding officer shall prepare and keep a record of each hearing in the form of meeting minutes except in a contested hearing an audio recording shall also be made. On the request of a party to a contested hearing, the hearing shall be transcribed by a court reporter. The costs of such court reporter may be assessed against the party requesting it or among the parties to the hearing. The presiding officer may exclude a party from further participation in the hearing for failure to pay or have paid by others in a timely manner costs assessed against that party under this Rule 15.3.G.

H. Report. (36.410)

If the Board has appointed a hearing examiner to be the presiding officer at the hearing, the hearing examiner shall submit a report to the Board not later than the 30th day after the date the hearing is concluded. The report must include:

- (1) A summary of the subject matter of the hearing;
- (2) A summary of the evidence received; and
- (3) The presiding officer's recommendations for Board action on the subject matter of the hearing.

A copy of the report shall be provided to the applicant and to each party who provided comments or to each designated party. The applicant and other parties who receive the report may submit to the Board written exceptions to the report within 10 days of issuance of the report.

I. Board Action. (36.411)

The Board shall act on a permit or permit amendment application within 60 days after the final hearing on the application is concluded.

J. Request for Rehearing or Findings and Conclusions. (36.412)

- (1) Not later than the 20th day after the date of the Board's decision, an applicant, or a party to a contested hearing, may administratively appeal a decision of the Board on an application by requesting written findings and conclusions or a rehearing before the Board.
- (2) On receipt of a timely written request, the Board will make written findings and conclusions regarding a decision of the Board on permit or permit amendment. The Board will provide certified copies of the findings and conclusions to the person who requested them, and to each designated party, not later than the 35th day after the date the Board receives the request. The applicant or a party to a contested hearing, may request a rehearing before the Board not later than the 20th day after the date the Board issues the findings and conclusions.
- (3) A request for rehearing must be filed in the District office and must state the grounds for the request. The person requesting a rehearing must provide copies of the request to all parties to the hearing.
- (4) If the Board grants a request for rehearing, the Board will schedule the rehearing not later than the 45th day after the date the request is granted.
- (5) The failure of the Board to grant or deny a request for rehearing before the 91st day after the date the request is submitted is a denial of the request.

K. Decision; When Final. (36.413)

- (1) A decision by the Board on permit or permit amendment is final if:
 - (a) A request for rehearing is not filed on time, on the expiration of the period for filing a request for rehearing; or
 - (b) A request for rehearing is filed on time, on the date:
 - (i) the Board denies the request for rehearing; or
 - (ii) the Board renders a written decision after rehearing.

- (2) An applicant or a party to a contested hearing may file a suit against the District under Texas Water Code § 36.251 to appeal a decision on permit or permit amendment not later than the 60th day after the date on which the decision becomes final. A timely filed request for rehearing is a prerequisite to any such suit.

RULE 15.4 HEARINGS ON ENFORCEMENT ACTIONS

- A.** Once the District has determined that a person has violated any rule under the District's jurisdiction and that the Board is considering taking some action against the person, the District will decide at which Board meeting the enforcement action will be considered. The Board meeting at which the enforcement action is considered under this Rule will be considered the enforcement hearing on the matter and fulfills the requirement.
- B.** The Manger shall post notice in accordance with the Open Meetings Act.
- C.** Notice of the enforcement hearing will be mailed to the respondent by certified mail, return receipt requested, at least ten days prior to the scheduled hearing date. This notice serves as the notice of violation.
- D.** Anyone attending the enforcement hearing may make oral comments at the time designated for comments.
- E.** The Board, at its sole discretion, may administer an oath to the staff, the respondent, and anyone who makes oral comments on the enforcement action.
- F.** The Board, at its sole discretion, may appoint a Hearings Officer or committee of the Board to conduct the enforcement hearing (Hearing Body). Any hearing conducted by a Hearing Body, will be conducted in the same manner as provided in this Rule 15.4. At the close of the enforcement hearing, the Presiding Officer will make a written recommendation to the Board. The recommendation will become part of the record. The Board is not required to approve the recommendation of the Hearing Body.
- G.** The Board will issue a written order reflecting its decision and actions. Actions may include the sealing of the well(s), cancellation of permit(s), civil penalties or injunctions.
- H.** The effective date of the written order will be the date on which the Chairman of the District signs the order or resolution. The order or resolution will include a statement that the order or resolution becomes effective and final on that date. Any appeal authorized by Texas Water Code Chapter 36, Subchapter H will run from that effective date.

REPEAL OF PRIOR REGULATIONS

All of previous rules and regulations of the District have been revised and amended; and except as they are herein republished, they are repealed. Any previous rule or regulation which conflicts with, or is contrary to, these rules is hereby repealed.

SAVINGS CLAUSE

If any section, sentence, paragraph, clause, or part of these rules should be held or declared invalid for any reason by the final judgment of the courts of this state or of the United States, such decision or holding shall 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 of such rules irrespective of the fact that any other sentence, section, paragraph, clause, or part thereof may be declared invalid.