



***CLEAR FORK
GROUNDWATER
CONSERVATION DISTRICT***

RULES AND REGULATIONS

ORIGINALLY ADOPTED:
November 3, 2003

AMENDED:
February 2, 2004
April 22, 2004
April 2, 2013

Mission Statement:

To establish and protect groundwater rights of landowners, and preserve this resource for generations to come.

TABLE OF CONTENTS

PREAMBLE	1
SECTION 1. DEFINITIONS AND CONCEPTS	1
SECTION 2. BOARD.....	6
SECTION 3. DISTRICT STAFF.....	7
SECTION 4. GENERAL REGISTRATION REQUIREMENTS.....	8
SECTION 5. GENERAL PERMITTING POLICIES AND PROCEDURES	9
SECTION 6. DEPOSITS FOR PERMITS	15
SECTION 7. WELL SPACING AND PRODUCTION REQUIREMENTS	15
SECTION 8. REQUIREMENT OF DRILLER’S LOG, CASING, PUMP DATA AND REPORTING.....	17
SECTION 9. WELL LOCATION AND COMPLETION/PLUGGING.....	18
SECTION 10. REPLACING A REGISTERED WELL.....	19
SECTION 11. WASTE, WASTE PREVENTION, AND BENEFICIAL USE/PURPOSE	19
SECTION 12. REGISTRATION OF PERSONS AUTHORIZED TO DRILL WELLS AND INSTALL PUMPS.....	20
SECTION 13. HEARINGS.....	20
SECTION 14. INVESTIGATIONS AND ENFORCEMENT	31
SECTION 15. FINAL ORDERS OF THE BOARD AND OTHER PROCEDURES	34
SECTION 16. TRANSFER FEES.....	37
SECTION 17. MANAGEMENT PLAN.....	37
SECTION 18. GENERAL RULES.....	37
RULE 18.9 PRODUCTION LIMITS:.....	39
APPENDIX A TEXAS DEPARTMENT OF LICENSING AND REGULATION.....	40

PREAMBLE

In accordance with the terms and provisions of Article XVI Section 59 of the Constitution of Texas, Chapter 36 of the Texas Water Code, and HB 3674 as enacted by the 77th Texas Legislature, the following rules are hereby ratified and adopted by the Clear Fork Groundwater Conservation District to carry out the mandate of the District to provide for the conservation, preservation, protection, recharging, and prevention of waste of groundwater, and of groundwater reservoirs or their subdivisions, and to control subsidence caused by withdrawal of water from those groundwater reservoirs or their subdivisions.

These rules were developed through a public process involving public hearing and public input, with the intent to develop a regulatory program that is fair and impartial. In developing these rules, the District considered all groundwater uses and needs, groundwater ownership and rights established by law, and the public interest in conservation, preservation, protection, recharging, and prevention of waste of groundwater, and of groundwater reservoirs or their subdivisions, and in controlling subsidence caused by withdrawal of groundwater from those groundwater reservoirs or their subdivisions, consistent with the objectives of Section 59 of Article XVI of the Texas Constitution. Nothing in these rules shall be construed as granting the authority to deprive or divest a landowner, including a landowner's lessees, heirs, or assigns, of the groundwater ownership and rights established by law, recognizing, however, that Section 36.002 of the Texas Water Code does not prohibit the District from limiting or prohibiting the drilling of a well for failure or inability to comply with minimum well spacing or tract size requirements adopted by the District; affect the ability of the District to regulate groundwater production as authorized under Sections 36.113, 36.116, or 36.122, or otherwise under Chapter 36 of the Texas Water Code, or a special law governing the District; or require that a rule adopted by the District allocate to each landowner a proportionate share of available groundwater for production from the aquifer based on the number of acres owned by the landowner.

These rules are effective May 2, 2013, and amended those rules previously in effect as of April 22, 2004.

These rules are and have been adopted to simplify procedures, avoid delays, save expense, and facilitate the administration of the water laws of the State by the District. These rules are to be construed to attain those objectives.

SECTION 1. DEFINITIONS AND CONCEPTS

RULE 1.1 DEFINITIONS:

- (a) **“Abandoned Well”** – shall mean a well that had not been in use for six consecutive months. A well is considered to be in use in the following cases: (1) a non-deteriorated well which contains the casing, pump, and pump column in good condition; or (2) a non-deteriorated well which has been capped.

- (b) **“Acre”** – shall mean survey recorded unit of land measurement equaling 43,560 square feet.
- (c) **“Acre-foot”** – shall mean the volume of water that will cover an area of one acre to a depth of one foot (approx. 325,851 gallons).
- (d) **“Agricultural crop”** – shall mean food or fiber commodities grown for resale or commercial purposes that provide food, clothing, or animal feed.
- (e) **“Applicant”** – shall mean the owner of the groundwater rights and owner of the land on which a well(s) or proposed well(s) is/are located or this owner’s designee, agent, or other authorized person.
- (f) **“Aquifer”** – shall mean a formation or group of saturated geologic units capable of storing and yielding water in usable quantities.
- (g) **“Beneficial Use or Beneficial Purpose”** – shall mean a use as described in Rule 12.3 herein.
- (h) **“Board”** – shall mean the Board of Directors of the Clear Fork Groundwater Conservation District.
- (i) **“Casing”** – shall mean a tubular watertight structure installed in an excavated or drilled hole to maintain the well opening.
- (j) **“Commercial Irrigation System”** – shall mean any water distribution device, installed above ground or below ground that applies water to the surface or subsurface of the earth and is used to irrigate land intended for commercial use. Water delivery devices used to water lawns and for non-commercial use are not considered commercial irrigation systems.
- (k) **“Conservation”** – shall mean practices, techniques and technologies that will reduce the consumption of water, reduce the loss or waste of water, improve efficiency in the use of water, or increase the use of recycled water.
- (l) **“De-watering well”** -- means a well used to remove water from a construction site or excavation, or to relieve hydrostatic uplift on permanent structures.
- (m) **“Deteriorated Well”** – shall mean a well, the condition of which will cause, or is likely to cause, pollution of groundwater in the District.
- (n) **“District”** – shall mean Clear Fork Groundwater Conservation District.
- (o) **“District Act”** – shall mean Acts of the 77th Legislature (2001), HB 3674, as may be amended.

- (p) **“Drilling Permit”** – shall mean a permit for a water well issued or to be issued by the District allowing a water well to be drilled.
- (q) **“Exploratory Hole”** – shall mean any hole drilled to a depth greater than the top of any stratum containing groundwater, as “groundwater” as is defined in Chapter 36, Texas Water Code, as amended, for the purpose of securing geological or other information, which may be obtained by penetrating the earth with a drill bit, and includes what is commonly referred to in the industry as “water well test holes,” “slim hole test” or seismograph test holes” and the like.
- (r) **“Gallons Per Minute” (gpm)** – shall mean the amount the water in U.S. gallons that a well or well system is capable of delivering or is actually delivering per minute.
- (s) **“Groundwater”** – shall mean water percolating below the surface of the earth but does not include water produced with oil in the production of oil and gas.
- (t) **“Hearing Examiner”** – shall mean a person appointed by the Board to conduct a hearing or other proceeding.
- (u) **“Landowner”** – shall mean the person who bears ownership of the groundwater rights and who is identified in Section 36.002 of the Texas Water Code.
- (v) **“Monitoring well”** – shall mean a well installed to measure some property of the groundwater or aquifer it penetrates, and that does not produce more than 5,000 gallons of groundwater per year.
- (w) **“Open or Uncovered Wells”** – shall mean an excavation at least ten feet in depth dug for the purpose of producing groundwater that is not covered or capped as required by the Texas Water Code.
- (x) **“Permitted Well”** – shall mean a well that: (1) is permitted with the District in accordance with Section 4 or 5 of the District Rules; (2) (a) was drilled prior to February 16, 2004 and for which a well enrollment was filed with the district prior to March 31, 2004 or (b) was drilled on or after February 16, 2004 and was permitted by the district.
- (y) **“Person”** – shall mean any individual, partnership, firm, governmental agency, political subdivision, corporation, or other legal entity.
- (z) **“Pollution”** – shall mean the alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water in the District that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or to public health, safety or welfare, or impairs the usefulness of the water for any lawful or reasonable purpose.

- (aa) **“Presiding Officer”** – shall mean President, Vice-President, Secretary or other Board member presiding at any hearing or other proceeding, or a Hearing Examiner conducting any hearing or other proceeding.
- (bb) **“Registered Well”** – shall mean and include any artificial excavation to produce, or that is producing, water for any purpose that is not subject to the District’s drilling permit requirements.
- (cc) **“Rules”** – shall mean the rules of the District compiled in this document and as may be supplemented or amended from time to time.
- (dd) **“Temporary Well Registration”** – shall mean a registration for any artificial excavation to produce, or that is producing, water for any purpose, until such time when a completed well log and well registration form is received by the Manager in the District Office.
- (ee) **“Texas Open Meetings Law”** – shall mean Chapter 551, Government Code.
- (ff) **“Texas Open Records Law”** – shall mean Chapter 552, Government Code.
- (gg) **“Waste”** – shall be defined by Chapter 36.001 (8), Texas Water Code and Section 12 herein.
- (hh) **“Water meter”** – shall mean a water flow measuring device that can accurately record the amount of groundwater produced during a measured time.
- (ii) **“Well”** – shall mean any facility, device, or method used to withdraw groundwater from the groundwater supply within the District.
- (jj) **“Well Owner”** – shall mean the person who owns the well that is the subject of the rule using the term.
- (kk) **“Well Operator”** – shall mean the person who operates the well or water distribution system supplied by the well that is the subject of the rule using the term.
- (ll) **“Well System”** – shall mean a well or group of wells tied to the same distribution system.
- (mm) **“Withdraw”** – shall mean extracting groundwater by pumping or by another method.
- (nn) **“Windmill”** – shall mean a wind-driven or hand-driven device that uses a piston pump to remove groundwater.
- (oo) **“Animal Feeding Operation”** – shall mean a lot or facility (other than an aquatic animal production facility) where animals have been, are, or will be stabled or confined and fed or maintained for a total of 45 calendar days or more in any 12-month period,

and the animal confinement areas do not sustain crops, vegetation, forage growth, or postharvest residues in the normal growing season over any portion of the lot or facility.

- (pp) **“Concentrated Animal Feeding Operation”** (“CAFO”) – means any animal feeding operation with the number of animals established in TCEQ’s rules, including at least 37,500 chickens (other than laying hens), or that has been designated by the TCEQ’s Executive Director as a CAFO because it is a significant contributor of pollutants into or adjacent to water in the state.
- (qq) **“Desired Future Condition”** – means a quantitative description, adopted in accordance with Section 36.108, Texas Water Code, of the desired, condition of the groundwater resources in a Management Area at one or more specified future times.
- (rr) **“Groundwater Management Area”** – means an area designated and delineated by the Texas Water Development Board as suitable for the management of groundwater resources.
- (ss) **“Modeled Available Groundwater”** – means the amount of water determined by the Executive Administrator of the Texas Water Development Board and that may be produced on an average annual basis to achieve the Desired Future Condition of the aquifer as determined under Section 36.108 of the Texas Water Code.
- (tt) **“Water”** – shall mean groundwater or underground water.

RULE 1.2 PURPOSE OF RULES: These rules are adopted to implement applicable provisions of the District Act and Ch. 36, Water Code, and accomplish the purposes set forth therein and in Section 59, Article XVI, Texas Constitution.

RULE 1.3 USE OF EFFECT OF RULES: The District uses these rules as guides in the exercise of the power conferred by law and in the accomplishment of the purposes of the District Act. They may not be construed as a limitation or restriction of the exercise of any discretion, nor be construed to deprive the District or Board of the exercise of any powers, duties, or jurisdiction conferred by law, nor be construed to limit or restrict the amount and character of data or information that may be required to be collected for the proper administration of the District Act and applicable law.

RULE 1.4 AMENDING OF RULES: The Board may, following notice and hearing amend these rules or adopt new rules from time to time.

RULE 1.5 HEADINGS AND CAPTIONS: This section and other headings and captions contained in these rules are for reference purposes only. They do not affect the meaning or interpretation of these rules in any way.

RULE 1.6 CONSTRUCTION: Construction of words and phrases are governed by the Code Construction Act, Chapter 311, Texas Government Code.

RULE 1.7 METHODS OF SERVICE UNDER THESE RULES: Except as otherwise expressly provided in these rules, any notice or documents required by these rules to be served or delivered may be delivered to the recipient, or the recipient's authorized representative, (1) in person, (2) by agent, (3) by courier receipted delivery, (4) by certified mail sent to the recipient's last known address, or (5) by telephonic document transfer to the recipient's current telecopier number. Service by mail is complete upon deposit in a post office or other official depository of the United States Postal Service. Service by telephonic document transfer is complete upon transfer, except that any transfer occurring after 5:00 p.m. will be deemed complete on the following business day. If service or delivery is by mail, and the recipient is either required to act or respond or has the right to act or respond within a proscribed time after service, three days will be added to the prescribed time period. Where service by one or more methods has been attempted and failed, service is complete upon notice by publication in a generally circulated newspaper in Fisher County.

RULE 1.8 TIME:

- (a) **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 Sunday or legal holiday, in which event the period runs until the end of the next day which is neither a Sunday nor a legal holiday.
- (b) **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 Board's offices at Roby, Texas, within the time limit, if any, for such filing. The date of the receipt and not the date of posting is determinative.

RULE 1.9 SEVERABILITY: If any one or more of the provisions contained in these rules are for any reason held to be invalid, illegal, or unenforceable in any respect, the invalidity, illegality, or unenforceability may not affect any other rules or provisions of these rules, and these rules must be construed as if such invalid, illegal or unenforceable rules or provision had never been contained in these rules.

SECTION 2. BOARD

RULE 2.1 PURPOSE OF BOARD: The Board was created to determine policy and regulate the withdrawal of groundwater within the boundaries of the District in order to

conserve, preserve, and protect the groundwater within the District, and to exercise its rights, powers, and duties in a way that will effectively and expeditiously accomplish the purposes of the District Act and applicable law. The Board's responsibilities include, but are not limited to, the adoption, implementation, and enforcement of the District's rules and other orders.

RULE 2.2 BOARD STRUCTURE, OFFICERS: The Board consists of the members appointed and qualified as required by the District Act and applicable law. The Board will elect one of its members to serve as President and in each even-numbered year at its regular June meeting (if there is not a June meeting, at its next regular meeting) to preside over Board meetings and proceedings; one to serve as Vice President to preside in the absence of the President; one to serve as Secretary to keep a true and complete account of all meetings and proceedings of the Board; and one to serve as Treasurer to oversee the District's finances. Members and officers serve until their successors are elected or appointed and sworn in accordance with the District Act, applicable law, and these rules.

RULE 2.3 MEETINGS: The Board will hold a regular meeting at least once a quarter. At the request of the President, or by written request of at least two members, the Board may hold special meetings. All Board meetings will be held according to the Texas Open Meetings Law.

RULE 2.4 COMMITTEES: The President may establish committees for formulation of policy recommendations to the Board, and to research and study issues of importance to the District. The President may appoint the chair and membership of the committees. Committee members serve at the pleasure of the President.

SECTION 3. DISTRICT STAFF

RULE 3.1 MINUTES AND RECORDS OF THE DISTRICT: All official documents, reports, records, and minutes of the District will be available for public inspection and copying in accordance with the Texas Public Information Act.

RULE 3.2 DISTRICT OFFICE: The District will maintain its office at 601 W. South 1st, Roby, Texas 79543, business hours Monday – Friday 8:00 a.m. – 4:30 p.m. The mailing address: P.O. Box 369, Roby, Texas 79543. The telephone number: 325-776-2730. The email address is clearforkgcd@gmail.com, or as may be changed by the Board from time to time.

RULE 3.3 DISTRICT STAFF: The Board may employ or contract with a person to perform such services as General Manager for the District as the Board may from time to time specify. The Board may delegate to the General Manager full authority to manage and operate the affairs of the District subject only to orders of the Board.

SECTION 4. GENERAL REGISTRATION REQUIREMENTS

- RULE 4.1 GENERAL:** All water wells must be registered with the District. Existing nonexempt and exempt wells shall be registered immediately. Wells that have been enrolled under the District's previous rules satisfy the registration requirement. New nonexempt wells shall be registered immediately upon completion pursuant to a drilling permit. New exempt wells shall be registered immediately upon completion pursuant to an approved Preregistration/Notice of Intent to Drill. If the owner or operator of a registered well plans to change the type of use of the groundwater, increase the withdrawal rate, or substantially alter the size of the well or well pump in a manner that does not require a permit, the well must be re-registered on a new registration form.
- RULE 4.2 PRE-REGISTRATION/NOTICE OF INTENT TO DRILL:** For all proposed new exempt and nonexempt wells, the owner of the proposed new well, or the well operator or any other person acting on behalf of the owner of the proposed new well must file a Notice of Intent to Drill a New Well (Notice of Intent) prior to drilling the proposed new well. If it is believed by the person filing the Notice of Intent that the proposed new well will be exempt under these rules, then the Notice of Intent must reflect the basis for the exemption, and must be approved by the District prior to drilling the new well. Within 5 (five) calendar days from receipt of a Notice of Intent, the District's General Manager shall (1) determine whether the well is exempt under the District's rules, (2) complete the District Use Only section at the end of the Notice of Intent indicating whether the well is exempt, and (3) return a copy of the completed Notice of Intent by facsimile, email or mail to the address(es) and facsimile number(s) set forth in the Notice of Intent. If the District's determination is that the well is exempt, drilling may begin immediately upon receiving the approved Notice of Intent. Upon completion of the new exempt well, a registration form must be completed and filed. If the District's determination is that the well is nonexempt, a drilling permit application must be filed and approved by the District before drilling may begin.
- RULE 4.3 REGISTRATION:** All wells must be registered. Existing nonexempt and exempt wells shall be registered immediately. New nonexempt wells shall be registered immediately upon completion pursuant to a drilling permit. New exempt wells shall be registered immediately upon completion pursuant to an approved pre-registration.
- RULE 4.4 EMERGENCY:** In the event of an emergency during the drilling of a new exempt well or with an existing well, as defined by the well driller or well service operator, as applicable, an exempt well may be reworked prior to re-registration. The registration requirement will be waived for a 48-hour period.
- RULE 4.5 RE-REGISTRATION:** If the owner or operator of a registered well plans to change the type of use of the groundwater, increase the withdrawal rate, or

substantially alter the size of the well or well pump in a manner that does not require a permit, the well must be re-registered on a new registration form.

SECTION 5. GENERAL PERMITTING POLICIES AND PROCEDURES

RULE 5.1 DRILLING AND OPERATING PERMITS REQUIRED:

- (a) Permits Required: No person may drill, operate, equip, complete, or alter the size of a well or well pump without first obtaining a permit or approved pre-registration, as applicable, from the District as provided by statutory law and these rules. All existing exempt wells that have been enrolled need not apply for a permit. All future exempt wells need only file a pre-registration form with the District. All existing nonexempt wells must obtain a Production Permit from the District. All proposed nonexempt wells must obtain a Drilling and Production Permit (otherwise known as a Consolidated Drilling and Production Permit) from the District.
- (b) Permit Amendment Required: A permit amendment is required prior to any deviation from the permit terms regarding the maximum amount of groundwater to be produced from a well, ownership of a well or permit, the location of a proposed well, the purpose of use of the groundwater, the location of use of the groundwater, or the drilling and operation of additional wells, even if aggregate withdrawals remain the same.
- (c) Absent an express reservation of rights in the transferor, the transfer of ownership of the well(s) designated by a permit is presumed to transfer ownership of the permit, and the transfer of the land and well site on which the well is located is presumed to transfer ownership of the well. The ownership of a permit may be transferred separately from the ownership of a well or place of use, subject to these Rules and permit conditions. If a transferor retains any interest in the permit, the District may issue a second permit to the transferee that contains the benefits severed and transferred. The District may thereafter amend the permit of the transferor accordingly, along with any appropriate conditions relevant to the transfer imposed by the District. The District shall limit the amount of production authorized in the transfer of a permit to a different location of use to the amount of water produced and beneficially used by the transferor under the original permit.
- (d) The District shall schedule a hearing for all activities for which a permit or permit amendment is required.

RULE 5.2 PERMIT EXEMPTIONS:

- (a) The following wells used for the activities described in this subsection do not require a drilling or operating permit:
 - (1) a well used solely for domestic use or for providing water for livestock or poultry if the well is located or to be located on a tract of land larger than 10 acres and

drilled, completed, or equipped so that it is incapable of producing more than 25,000 gallons of groundwater a day;

- (2) a water well used solely to supply water for a rig that is actively engaged in drilling or exploration operations for an oil or gas well permitted by the Railroad Commission of Texas provided that the person holding the permit is responsible for drilling and operating the water well and the water well is located on the same lease or field associated with the drilling rig; or
 - (3) a water well authorized under a permit issued by the Railroad Commission of Texas under Chapter 134, Texas Natural Resources Code, or for production from the well to the extent the withdrawals are required for mining activities regardless of any subsequent use of the water.
- (b) For purposes of an exemption under this subsection, the terms “livestock use” and “poultry use” do not include livestock or poultry operations that fall under the definition of “Animal Feeding Operation” or “Concentrated Animal Feeding Operation” set forth in the District’s definitions.
- (c) Notwithstanding Subsection (b), the District may require an exempt well to be permitted by the District and to comply with all District rules in order to be operated if:
- (1) the groundwater withdrawals that were exempted under Subsection (a)(2) are no longer used solely to supply water for a rig that is actively engaged in drilling or exploration operations for an oil or gas well permitted by the Railroad Commission of Texas; or
 - (2) the groundwater withdrawals that were exempted under Subsection (a)(3) are no longer necessary for mining activities or are greater than the amount necessary for mining activities specified in the permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code.
- (d) An entity holding a permit issued by the Railroad Commission of Texas under Chapter 134, Texas Natural Resources Code, that authorizes the drilling of a water well shall report monthly to the District:
- (1) the total amount of water withdrawn during the month;
 - (2) the quantity of water necessary for mining activities; and
 - (3) the quantity of water withdrawn for other purposes.
- (e) Well spacing requirements apply to all exempt wells except a well exempted under Section 4.

- (f) A district may not deny an application for a permit to drill and produce water for hydrocarbon production activities if the application meets all applicable rules as promulgated by the District.
- (g) A water well exempted under this rule shall:
 - (1) be registered with the District; and
 - (2) be equipped and maintained so as to conform to the District's rules requiring installation of casing, pipe, and fittings to prevent the escape of groundwater from a groundwater reservoir to any reservoir not containing groundwater and to prevent the pollution or harmful alteration of the character of the water in any groundwater reservoir.
- (h) The driller of a well exempt under this rule must file the drilling log with the District within 45 days of well completion.
- (i) A well to supply water for a subdivision of land for which a plat approval is required by Chapter 232, Local Government Code, is not exempted under Subsection (b).
- (j) Groundwater withdrawn from a well exempt under this rule and subsequently transported outside the boundaries of the District is subject to any applicable production and export fees under Sections 36.122 and 36.205.
- (k) This rule applies to water wells, including water wells used to supply water for activities related to the exploration or production of hydrocarbons or minerals. This chapter does not apply to production or injection wells drilled for oil, gas, sulphur, uranium, or brine, or for core tests, or for injection of gas, saltwater, or other fluids, under permits issued by the Railroad Commission of Texas.

RULE 5.3 GENERAL PERMIT APPLICATION REQUIREMENTS:

- (a) When to apply: A drilling or production permit application or amendment to an existing permit must be filed and approved, and a permit or amended permit issued by the District, prior to commencing the drilling or production activity for which approval is requested in the application.
- (b) Who must apply: The application must establish the applicant's legal authority to drill and operate the well(s) over the land at issue and to place the groundwater to the beneficial use described in the application. The application may be signed, filed, or pursued by a duly authorized representative as long as the application includes the applicant's written delegation of authority to the representative. If the applicant is a business or governmental entity, or combination of individuals, the application must reflect the authority of the individual(s) who file the application to bind the applicant.

- (c) Required contents of applications: Each application shall be in writing and sworn to, and completed on a form provided by the District, and shall be prepared in accordance with and contain the information called for in the application form, and shall include the following information relevant to the appropriate type of application to be filed, as that information is identified and requested on the District's application form:
- (1) the name and mailing address of the applicant and the owner of the land on which each well will be located;
 - (2) documentation establishing (A) authority to construct and operate each well for the proposed use, (B) the amount and description of acreage from which the wells will withdraw groundwater, and (C) authority to withdraw groundwater from the acreage identified in subsection (c)(2)(B) of this rule;
 - (3) the exact proposed location of each well to be drilled or modified as provided in the application, and a map or diagram indicating the location of each well;
 - (4) a statement of the nature and purpose of the proposed use and the amount of water to be used for each purpose (such as public water supply, industrial, irrigation), and documentation of the need for the quantity of water requested for each purpose; and
 - (5) the approximate dates drilling and then pumping are to begin.
 - (6) the estimated rate at which water will be withdrawn from each well;
 - (7) the date the permit is to expire if the well(s) is/are not drilled or if the existing well(s) is/are not properly completed to meet all statutory and regulatory requirements for the intended purpose of use;
 - (8) a declaration that the water withdrawn under the permit be put to beneficial use at all times;
 - (9) the location of the use of the water requested to be withdrawn;
 - (10) the proposed conditions and restrictions, if any, placed on the rate and amount of withdrawal;
 - (11) a declaration that the applicant will comply with the District's rules and all groundwater use permits and plans promulgated pursuant to the District's rules;
 - (12) a declaration that the applicant will comply with the District's Management Plan;
 - (13) a declaration that the applicant will comply with all District well plugging and capping guidelines and report closure to the Texas Commission on Environmental Quality;

- (14) the duration the operating permit is proposed to be in effect, if greater than the default term of years under these rules; and
- (15) if groundwater is proposed to be transferred out of the District, a description of the following issues and submission of documents relevant to these issues:
 - (A) the availability of water in the District and in the proposed receiving area during the period for which the water supply is requested;
 - (B) the projected effect of the proposed transfer on aquifer conditions, depletion, subsidence, or effects on existing permit holders or other groundwater users within the District; and
 - (C) how the proposed transfer is consistent with the approved regional water plan and certified District Management Plan.
- (16) a declaration that the applicant will furnish to the District a completed well registration and log upon completion of this well and prior to the production of water therefrom (except for such production as may be necessary to the drilling and testing of such well).

RULE 5.4 PROCESSING AND ACTING ON PERMITS:

- (a) Filing: An application shall be considered filed when properly made out, completed, signed, tendered to, and actually received by the District or a person duly designated by the District to receive the same.
- (b) Declaration of Administrative Completeness: The applicant must provide the District with the information required by the District to declare that the application is administratively complete. If the District provides a written list of application deficiencies, the applicant shall have 60 (sixty) calendar days to fully respond to the General Manager's satisfaction, after which a deficient application expires. The applicant may request an extension of this 60-day period or a ruling on the administrative completeness of its application by filing a written request with the District. The District will set an applicant's request under this rule on its next regularly scheduled Board meeting agenda, with three (3) calendar days notice compliant with the Texas Open Meetings Act. The Board will consider and take action on an applicant's request under this rule at this meeting.
- (c) Within 60 (sixty) calendar days after the date the District has determined that the application is administratively complete, the General Manager will issue a written notice of the initial, preliminary hearing on the application in accordance with these rules. The initial, preliminary hearing shall be held within 35 (thirty-five) calendar days after the setting of the date.

- (d) The hearing shall be conducted in accordance with the procedures established in these rules.
- (e) A finding by the Board, after notice and hearing, that false information has been supplied in a permit application is grounds for partial or full revocation of the permit. The notice, hearing and other procedural requirements applicable to this rule shall be governed by the rules governing permit hearings.

RULE 5.5 TIME DURING WHICH A PERMIT SHALL REMAIN VALID:

- (a) **Drilling Permit Term:** Any drilling permit granted hereunder shall be valid if the work permitted shall have been completed within four (4) months from the filing date of the application. It shall therefore be void. Provided, however, that the General Manager, for good cause, may extend the life of such permit for an additional four (4) months if an application for such extension shall have been made to the Board during the first four (4) months period. Provided, further, that when it is made known to the Board that a proposed project will take more time to complete, the Board, upon receiving written application may grant such time as a reasonably necessary complete such project.
- (b) **Production Permit Terms:** Unless specified otherwise by the Board or these rules, an Operating Permit is effective for a period of time ending on December 31st of the second year after which it is issued. If renewed, such permits shall thereafter be effective for two-year terms from the initial expiration date unless specified otherwise by the Board. The permit term will be shown on the permit. A permit applicant requesting a permit term longer than the default two years must substantiate its reason for the longer term and its need to put groundwater to beneficial use throughout the proposed permit term.
- (c) **Permit Renewal:** Renewal applications shall be filed with the District no later than 60 calendar days prior to the expiration of the permit term. Operating Permits will not be renewed unless the well has been drilled at the time of the renewal application. The General Manager may rule on any renewal application that seeks renewal with the identical permit conditions in the existing permit without notice, hearing, or further action by the Board, or with such notice and hearing as the General Manager deems practical and necessary under the circumstances. Any permit holder seeking renewal may appeal the General Manager's ruling by filing, within twenty (20) calendar days of notice of the General Manager's ruling, a written request for a hearing before the Board. The Board will hear the applicant's appeal at the next available regular Board meeting. The General Manager shall inform the Board of any renewal applications granted or denied. On the motion of any Board member, and a majority concurrence in the motion, the Board may overrule the action of the General Manager. The General Manager may authorize an applicant for a permit renewal to continue operating under the conditions of the prior permit, subject to any changes necessary under proportional adjustment regulations or these rules, for any period in which the renewal application is the subject of a hearing.

- (d) **Basis for Partial or Full Renewal:** While there is no automatic right of renewal, an application for renewal will be approved if the General Manager or Board finds that the applicant's continued use of groundwater will remain in compliance with the terms, provisions, and requirements of the applicant's current permit and the District Act and rules, subject to adjustment by the General Manger or Board for any new production limits or proportional adjustment requirements that may be applicable to the renewed permit, and that the permit holder states that there is a continuing need to put the same amount of groundwater to beneficial use throughout the term of renewal.
- (e) **Basis for Outright Denial:** The General Manager or Board may deny a renewal application only on grounds that the applicant is in violation of the District's rules, the District Act, or Chapter 36, Texas Water Code, or that the applicant has a previous violation on record with the District, which has become a final order of the District's Board and is no longer subject to a motion for rehearing before the District, that has not been corrected or overturned by a court, including, but not limited to, being current on payment of all fees to the District. The District has the burden of proof regarding establishment of any such violation. This subsection shall not be interpreted in a manner that creates a standard in connection with the renewal of a permit that would preclude the District from lawfully revoking a permit for violation of the permit terms, the District's rules or Act, or Chapter 36, Texas Water Code.
- (f) **Renewal Application Requirements:** The District will timely provide a form for an application for renewal prior to expiration of the permit term. The renewal application will be a streamlined application and will not include all of the elements required for an original application.

SECTION 6. DEPOSITS FOR PERMITS

- RULE 6.1 DEPOSITS:** For all other wells, a temporary water well permit must be obtained prior to drilling. In order to receive a temporary water well permit, an application must be filed with the District, a \$100 deposit must be paid to the District, and the District must find that the well is in accordance with the specifications set out in Section 7, Interim Well Spacing Rules.
- RULE 6.3 RETURN:** Upon completion of a well for which a permit was obtained, an applicant may receive a refund of the deposit by delivering to the District office the drilling log for the well.

SECTION 7. WELL SPACING AND PRODUCTION REQUIREMENTS

- RULE 7.1 SPACING AND LOCATION OF EXISTING WELLS:** Wells drilled prior to the Effective Date of these rules are not subject to spacing requirements of this rule except that these existing wells shall have been drilled in accordance with state law in effect, if any, on the date such drilling commenced.

RULE 7.2 WELL SPACING RULES: In order to prevent waste and ensure the beneficial use of groundwater, the District determines that, wells should be spaced as follows.

Maximum Production Rate (gpm)	Well Spacing (feet)
Below: 25	No requirement
25-175	350
175-300	500
300-above	750

RULE 7.3 SETBACK: No well shall be drilled closer than 50 ft. to a property line, with the exception for wells drilled with-in Municipal Boundaries and follow Section 76.100 of the Texas Department of Licensing and Regulation Water Well Drillers and Pump Installers Administrative Rules. If adjoining property has a well at 50', wells shall be a minimum of 100' apart, unless the production of wells would require increased spacing requirements to be followed.

RULE 7.4 WAIVER FOR NEIGHBORING WELL SPACING: An exception to property line spacing rule may be granted if the neighboring property owner files a waiver granting the drilling of a well in violation of the spacing limits. A waiver must be obtained from the District and notarized by the neighboring property owner. A board hearing of each waiver with both adjacent property owners present, will be required before the waiver is approved by the board.

RULE 7.5 EXCEPTIONS TO SPACING REQUIREMENTS:

- (a) The Board may grant exceptions to the spacing requirements of the District if the requirements of this section are met.
- (b) If an exception to the spacing requirements of the District is desired, the person seeking the exception shall submit an application to the Board and provide written notice of the application to all owners of adjacent property and owners of registered wells located on adjacent property. In the application, the applicant must explain the circumstances justifying an exception to the spacing requirements of the District. The application must include a plat or sketch, drawn to scale, one inch equaling 200 feet. The application

and plat must be certified by some person actually acquainted with the facts who shall state that the facts contained in the application and plat are true and correct, and that notice was sent to each of the appropriate property and well owners.

- (c) The Board shall conduct a hearing within 65 (sixty-five) calendar days after the application is administratively complete, and no sooner than 20 (twenty) calendar days after the applicant's notice was sent to each of the appropriate property and well owners. The District shall post notice and conduct the public hearing in accordance with Section 11 of the District's rules. Provided, however, if all owners of adjacent property and owners of registered wells execute a waiver in writing, stating that they do not object to the granting of the exception, the Board may proceed, upon notice to the applicant only and without hearing, and determine the outcome of the application. The applicant may waive notice or hearing or both.
- (d) If the applicant presents waivers signed by all landowners and well owners whose property or permitted wells would be located within the applicable minimum distance established under these Rules from the proposed well site stating that they have no objection to the proposed location of the well site, the Board, upon the General Manager's recommendation, may waive certain spacing requirements for the proposed well location.

RULE 7.6 MAXIMUM ALLOWABLE PRODUCTION: In an effort to protect the aquifers in the District and achieve the Desired Future Conditions by minimizing the drawdown of the water table, preventing the reduction of artesian pressure, preventing the interference between and among wells, preventing the degradation of water quality and to prevent waste, the maximum allowable annual production amount shall be three (3) acre-feet of groundwater per contiguous surface acre owned, leased or from which there is otherwise authorization for the permit holder to withdraw groundwater. Upon consideration of the permitting criteria in Rule 13.2, the Board may lower the amount of maximum allowable annual production where the evidence before the Board reflects the downward adjustment is merited. If the permit applicant or any party qualifying to participate in the permitting hearings requests a downward adjustment from the maximum allowable annual production amount, the District may require one or more pump tests, a hydrogeological study, or the presentation of other evidence relevant to the request.

SECTION 8. REQUIREMENT OF DRILLER'S LOG, CASING, PUMP DATA AND REPORTING

RULE 8.1 RECORDS AND LOGS:

- (a) Complete records shall be kept and reports thereof made to the District concerning the drilling, productive capacity, equipping and completion of all wells drilled either by a licensed driller or an individual owner. Such records shall include an accurate driller's

log, and any electric log, geophysical log and pump test information, if available, and such additional data concerning the description of the well, its productive capacity, hereinafter referred to as “maximum rate of production,” and its equipment as may be required by the District. Such records shall be filed with the District within 30 days after completion of the well.

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

RULE 8.2 METERS, RECORDKEEPING AND REPORTING:

Groundwater withdrawals from each and every well or well system except a well exempt under Rule 5.2(a)(1) shall be measured by a meter or other alternative measuring method acceptable to the District. A permit holder must read each water meter and record the meter readings and the actual amount of withdrawal in a log at least monthly. If the District grants authority to utilize an alternative measuring method, the permit holder must record in a log the monthly withdrawal from each well using the District-approved alternative measuring method. The log(s) containing these periodic recordings shall be available for inspection by the District at reasonable business hours and copies of such logs must be furnished to the District upon request. A report must be filed with the District by January 20th of each year reporting the annual withdrawal for the previous calendar year for each and every well except a well exempt under Rule 5.2(a)(1).

SECTION 9. WELL LOCATION AND COMPLETION/PLUGGING

RULE 9.1 RESPONSIBILITY:

After a drilling permit has been issued, the well, if drilled, must be drilled within 10 feet of the location specified on the permit, unless water is not found, then the driller may move up to 2100’ in any direction from the proposed drilling site on the application, provided it is not closer to property lines or existing wells that would cause the well location to be in violation of Section 7 of these rules, per permit application.

RULE 9.2 COMPLETION/PLUGGING OF WELL:

- (a) All water wells drilled within the District shall be completed or plugged in accordance with the Administrative Rules of the Texas Department of Licensing and Regulation, 16 Texas Administrative Code, Chapter 76, Water Well Drillers and Pump Installers (Appendix A of these rules).

- (b) A violation of the Administrative Rules of the Texas Department of Licensing and Regulation, 16 Texas Administrative Code, Chapter 76, Water Well Drillers and Pump Installers shall be considered a violation of District Rules and disposition of such violations shall be in accordance with Section 15 of the District rules.

SECTION 10. REPLACING A REGISTERED WELL

RULE 10.1 REWORKING AND REDRILLING:

- (a) Redrilling a well that does not increase the production capacity or change the purpose of use of an enrolled or permitted well or exempt registered well requires a drilling permit, which is authorized upon approval by the Board. The Board may consider a request under this rule at a regularly scheduled Board meeting.
- (b) A well redrilled under this rule shall typically be located within 30 feet of the originally approved well, as long as requirements under Rule 9 are met; provided, however, the Board shall have discretion to authorize a well to be redrilled under this rule up to 150 feet from the original location upon good cause if requirements under Rule 9 are met.

SECTION 11. WASTE, WASTE PREVENTION, AND BENEFICIAL USE/PURPOSE

RULE 11.1 WASTE MEANS ANY ONE OR MORE OF THE FOLLOWING:

Waste means the definition assigned by the Texas Water Code Chapter 36.001(8){a-g}.

RULE 11.2 WASTE PREVENTION:

- (a) Groundwater shall not be produced within, or used within or without the District, in such a manner as to constitute waste as defined in Rule 12.1 hereof.
- (b) No person shall pollute or harmfully alter the character of the groundwater reservoir of the District by means of salt water or other deleterious matter admitted from some other stratum or strata or from the surface of the ground.
- (c) No person shall commit waste as that term is defined in Rule 1.1 (kk).

RULE 11.3 CATEGORIES OF BENEFICIAL USE OR BENEFICIAL PURPOSE:

- (a) Agricultural, gardening, domestic, stock raising, municipal, mining, manufacturing, industrial, commercial, recreational, or pleasure purposes;
- (b) Exploring for, producing, handling, or treating oil, gas, sulphur, or other minerals; or

- (c) Any other purpose that is useful and beneficial to the user.

**SECTION 12. REGISTRATION OF PERSONS AUTHORIZED TO DRILL
WELLS AND INSTALL PUMPS**

RULE 12.1 REGISTRATION OF WATER WELL DRILLERS:

- (a) It is a violation of District rules for any person to be actively engaged in the commercial drilling of a well in the District without first having been registered with the District.
- (b) Only person who are licensed water well drillers, in good standing with the Texas Department of Licensing and Regulation and whose license validity is verified with the District are allowed to commercially drill water wells within the District.
- (c) Registration with the District shall be on forms provided by the District and be in accordance with and contain information called for on the form.

RULE 12.2 REGISTRATION OF WATER WELL PUMP INSTALLERS:

- (a) It is a violation of District rules for any person to be actively engaged in the commercial installation of a water well pump in the District without first having been registered with the District.
- (b) Only persons who are licensed water well pump installers, in good standing with the Texas Department of Licensing and Regulation and whose license validity is verified with the District are allowed to commercially install water well pumps within the District.
- (c) Registration shall be on forms provided by the District and shall be in accordance with the information called for on the form.

SECTION 13. HEARINGS

RULE 13.1 GENERAL RULES OF PROCEDURE FOR HEARING:

The District conducts four general types of hearings: (1) hearings involving permit matters governed by 13.2, in which the rights, duties, or privileges of a party are determined after an opportunity for an adjudicative hearing; (2) rulemaking hearings involving matters of general applicability that implement, interpret, or prescribe the law or District policy, or that describe the procedure or practice requirements of the District governed by Rule 13.3; (3) hearings on the Desired Future Conditions governed by Rule 13.4; and (4) show cause hearings governed by Rule 14.3(b). Any matter designated for hearing before the Board may be conducted by a Presiding Officer and quorum of the Board or referred by the Board for hearing before a

Hearings Examiner. A permit hearing may be conducted by the State Office of Administrative Hearings if requested under Rule 15.3(e).

- (a) Hearings conducted by the District will be conducted in such a manner as the Board deems most suitable to the particular case. It is the purpose of the Board to obtain all the relevant information and testimony pertaining to the issue before it as conveniently, inexpensively and expeditiously as possible without prejudicing the rights of either applicants or protestants. The Presiding Officer may conduct the preliminary and evidentiary hearings or other proceedings in the manner the Presiding Officer deems most appropriate for the particular hearing. The Presiding Officer has the authority to:
- (1) set hearing dates, other than the preliminary hearing date for permit matters set by the General Manager in accordance with these rules;
 - (2) convene the hearing at the time and place specified in the notice for public hearing;
 - (3) establish the jurisdiction of the District concerning the subject matter under consideration;
 - (4) rule on motions and on the admissibility of evidence and amendments to pleadings;
 - (5) designate and align parties and establish reasonable time limits and the order for testimony and presentation of evidence;
 - (6) administer oaths to all persons presenting testimony;
 - (7) examine witnesses;
 - (8) issue subpoenas when required to compel the attendance of witnesses or the production of papers and documents;
 - (9) require the taking of depositions and compel other forms of discovery under these Rules—discovery will be conducted upon such terms and conditions, and at such times and places, as directed by the Hearings Examiner or Presiding Officer; unless specifically modified by order of the Hearings Examiner or Presiding Officer, discovery will be governed by, and subject to the limitations set forth in, the Texas Rules of Civil Procedure. In addition to the forms of discovery authorized under the Texas Rules of Civil Procedure, the parties may exchange informal requests for information, either by agreement or by order of the Hearings Examiner or Presiding Officer;
 - (10) ensure that information and testimony are introduced as conveniently and expeditiously as possible, without prejudicing the rights of any party to the proceeding;

- (11) conduct public hearings in an orderly manner in accordance with these Rules;
 - (12) recess any hearing from time to time and place to place;
 - (13) reopen the record of a hearing for additional evidence when necessary to make the record more complete;
 - (14) exercise any other appropriate powers necessary or convenient to effectively carry out the responsibilities of presiding officer; and
 - (15) permit hearings may be conducted informally when, in the judgment of the Hearings Examiner or Presiding Officer, the conduct of a proceeding under informal procedures will result in a savings of time or cost to the parties, lead to a negotiated or agreed settlement of facts or issues in controversy, and not prejudice the rights of any party. If all parties reach a negotiated or agreed settlement that settles the facts or issues in controversy, the proceeding will be considered an uncontested case and the General Manager will summarize the evidence, including findings of fact and conclusions of law based on the existing record and any other evidence submitted by the parties at the hearing.
- (b) After giving proper notice, hearings may be held in conjunction with any regular or special-called meeting of the Board or hearings may be scheduled at other times as deemed appropriate by the Board. All hearings will be held at the District's office unless the Board determines that another location would be more appropriate for a specific hearing.
- (c) **REPORTING:** Hearings and other proceedings will be recorded by audio cassette tape, digital recorder, or, if requested by any party or at the discretion of the Presiding Officer, by a certified shorthand reporter. The District does not prepare transcriptions of the public of hearings or other proceedings recorded on any of the District's equipment, but will arrange for a party in interest to have access to the recording. The cost of reporting or transcribing a permit hearing may be assessed by the Presiding Officer.
- (1) If a proceeding other than a permit hearing is recorded by a reporter, and a copy of the transcript of testimony is ordered by any person, the testimony will be transcribed and the original transcript filed with the papers of the proceeding at the expense of the person requesting the transcript of testimony. Copies of the transcript of testimony of any hearing or other proceeding thus reported may be purchased from the reporter.
 - (2) On the request of a party to a contested hearing, the Presiding Officer shall have the hearing transcribed by a court reporter. The Presiding Officer may assess any court reporter transcription costs against the party that requested the transcription or among the parties to the hearing. Except as provided by this subsection, the presiding officer may exclude a party from further participation in a hearing for failure to pay in a timely manner costs assessed against that party

under this subsection. The Presiding Officer may not exclude a party from further participation in a hearing as provided by this subsection if the parties have agreed that the costs assessed against that party will be paid by another party.

- (3) If a hearing is uncontested, the Presiding Officer may substitute minutes or the hearing report required under these rules and § 36.410 of the Texas Water Code for a method of recording the hearing provided by Subsection 36.410(a).

RULE 13.2 PERMIT HEARINGS:

- (a) Notices of all permit hearings of the District shall be prepared by the General Manager, and shall, at a minimum, state the following information:

- (1) the name and address of the applicant;
- (2) the name or names of the owner or owners of the land if different from the applicant;
- (3) the time, date, and location of the hearing;
- (4) the address or approximate proposed location of the well, if different than the address of the applicant; and
- (5) 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;
- (6) a general explanation of the manner by which a person may contest the application, including information regarding the need to appear at the hearing or submit a motion for continuance on good cause under these rules; and
- (7) any other information the Board or General Manager deems relevant and appropriate to include in the notice.

- (b) Not later than 10 days prior to the date of the hearing, notice shall be:

- (1) posted by the General Manager, with the Board President's approval, at a place readily accessible to the public in the District Office;
- (2) provided by the General Manager, with the Board President's approval, to the County Clerk of Fisher County as applicable, whereupon the County Clerk shall post the notice on a bulletin board at a place convenient to the public in the county courthouse annex;
- (3) provided to the applicant by regular mail; and

- (4) provided to any person who has requested notice under subsection (c) of this rule by regular mail, facsimile, or electronic mail.
- (c) A person may request notice from the District of a hearing 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 a 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. Failure to provide notice under this subsection does not invalidate an action taken by the district at the hearing.
- (d) The Board shall conduct an evidentiary hearing on a permit or permit amendment application if a party appears to protest that applications or if the General Manager proposes to deny an application in whole or in part, unless the applicant or other party in a contested hearing requests the District to contract with the State Office of Administrative Hearings to conduct the evidentiary hearing. If no one appears at the initial, preliminary hearing and the General Manager proposes to grant the application, the permit or permit amendment application is considered to be uncontested, and the Board may delegate authority to the General Manager to act on the permit application without conducting an evidentiary hearing on the application. Unless one of the parties in a contested hearing requests a continuance and demonstrates good cause for the continuance, the Board may conduct the preliminary and evidentiary hearings on the same date.
- (e) Admissibility of Evidence: Except as modified by these Rules and to the extent consistent with these rules and Chapter 36 of the Texas Water Code and the District Act, the Texas Rules of Evidence govern the admissibility and introduction of evidence; however, evidence not admissible under the Texas Rules of Evidence may be admitted if it is of the type commonly relied upon by reasonably prudent persons in the conduct of their affairs. In addition, evidence may be stipulated by agreement of all parties. It is intended that needful and proper evidence shall be conveniently, inexpensively and speedily produced while preserving the substantial rights of the parties to the proceedings. When a proceeding will be expedited and the interests of the parties not substantially prejudiced, testimony may be received in written form. The written testimony of a witness, either in narrative or question and answer form, may be admitted into evidence upon the witness being sworn and identifying the testimony as a true and accurate record of what the testimony would be if given orally. The witness will be subject to clarifying questions and to cross-examination, and the prepared testimony will be subject to objection.
- (f) Limiting Number of Witnesses: The right is reserved to the Board in any proceeding to limit the number of witnesses appearing whose testimony may be merely cumulative.
- (g) Conclusion of Hearing Conducted by the District:

- (1) Closing the Record; Final Report: At the conclusion of the presentation of evidence and any oral argument, the Hearings Examiner or Presiding Officer may either close the record or keep it open and allow the submission of additional evidence, exhibits, briefs, or proposed findings and conclusions from one or more of the parties. No additional evidence, exhibits, briefs, or proposed findings and conclusions may be filed unless permitted or requested by the Hearings Examiner or Presiding Officer. After the record is closed, the Hearings Examiner or Presiding Officer shall prepare and submit a report to the Board, applicant, and each person who provided comments or each designated party not later than the 30th day after the date a hearing is concluded. The report will include a summary of the evidence, together with the Hearings Examiner's findings and conclusions and recommendations for action.
- (2) Upon completion and issuance of the Hearings Examiner's or Presiding Officer's report, a copy will be submitted to the Board and delivered to each party to the proceeding. In a contested case, delivery to the parties will be by certified mail. If the hearing was conducted by a quorum of the board and if the Presiding Officer prepared a record of the hearing as provided by Texas Water Code § 36.408(a), the presiding officer shall determine whether to prepare and submit a report under this section, but shall not be required to prepare a report. If a report is prepared, then prior to Board action any party in a contested case may file written exceptions to the Hearings Examiner's or Presiding Officer's report, and any party in an uncontested case may request an opportunity to make an oral presentation of exceptions to the Board. Upon review of the report and exceptions, the Hearings Examiner or Presiding Officer may reopen the record for the purpose of developing additional evidence, or may deny the exceptions and submit the report and exceptions to the Board. The Board may, at any time and in any case, remand the matter to the Hearings Examiner or Presiding Officer for further proceedings.
- (h) Time for Board Action on Certain Permit Matters: In the case of hearings involving original permit applications, or applications for permit renewals or amendments, the Hearings Examiner's or Presiding Officer's report should be submitted, and the Board should act, within 60 calendar days after the close of the hearing record.
- (i) In deciding whether or not to issue or amend a drilling or operating permit, and in setting the permitted volume and other terms of a permit, the Board must consider whether:
 - (1) the application contains accurate information and conforms to the requirements prescribed by Chapter 36, Texas Water Code;
 - (2) each water well complies with spacing and production limitations identified in these rules;
 - (3) the proposed use of water does or does not unreasonably affect existing groundwater and surface water resources or existing permit holders;

- (4) the proposed use of water is dedicated to a beneficial use;
 - (5) the proposed use of water is consistent with the District's Management Plan;
 - (6) the applicant agrees to avoid waste and achieve water conservation;
 - (7) the applicant has agreed that reasonable diligence will be used to protect groundwater quality and that the applicant will follow well plugging guidelines at the time of well closure; and
 - (8) for those hearings conducted by SOAH as provided for under these rules, the Board shall consider the Proposal for Decision and Findings of Fact and Conclusions of Law issued by SOAH.
- (j) In deciding whether or not to issue or modify a permit, and in setting the permitted volume and other terms of a permit, the Board must consider whether the data from monitoring wells within the source aquifer or other evidence reflects:
- (1) an unacceptable level of decline in water quality of the aquifer;
 - (2) that the permit terms are necessary to prevent waste and achieve water conservation;
 - (3) that any modification of the permit will minimize as far as practicable the unacceptable drawdown of the water table or the unacceptable reduction of artesian pressure;
 - (4) that the permit terms are necessary to avoid unreasonable interference between and among wells;
 - (5) that the permitted activity will not result in subsidence; and
 - (6) that the permit terms are necessary to avoid impairment of Desired Future Conditions.
- (k) In issuing permits, the Board shall consider the relevant criteria, observe the relevant restrictions and exercise the authority set forth in Sections 36.113, 36.1131, and 36.122 of the Texas Water Code. The Board may impose an export fee on groundwater withdrawn and subsequently transported outside the boundaries of the District in accordance with Sections 36.122 and 36.205 of the Texas Water Code. The Board shall manage total groundwater production on a long-term basis to achieve an applicable Desired Future Condition and consider:
- (1) the Modeled Available Groundwater;

- (2) the Texas Water Development Board Executive Administrator's estimate of the current and projected amount of groundwater produced under exemptions under these rules and Section 36.117 of the Texas Water Code;
 - (3) the amount of groundwater authorized under permits previously issued by the District;
 - (4) a reasonable estimate of the amount of groundwater that is actually produced under permits issued by the District; and
 - (5) yearly precipitation and production patterns.
- (l) The District may not impose any restrictions on the production of groundwater for use outside of the District other than imposed upon production for in-district use, and shall be fair, impartial, and nondiscriminatory. The district may periodically review the amount of water that may be transferred out of District and may limit the amount.
- (m) **HEARINGS CONDUCTED BY THE STATE OFFICE OF ADMINISTRATIVE HEARINGS:** If timely requested by the applicant or other party to a contested hearing in accordance with Rule 15.3(e), the District shall contract with the State Office of Administrative Hearings to conduct the hearing on the application. All hearings that are required to be held by the State Office of Administrative Hearings shall be conducted as follows:
- (1) The Board shall determine whether the hearing will be held in Travis County or at the District Office or other regular meeting place of the Board, after considering the interests and convenience of the parties, and the expense of a contract with the State Office of Administrative Hearings.
 - (2) The party requesting that the hearing be conducted by the State Office of Administrative Hearings shall pay all costs associated with the contract for the hearing and shall make a deposit with the District in an amount that is sufficient to pay the estimated contract amount before the hearing begins. If the total cost for the contract exceeds the amount deposited by the paying party at the conclusion of the hearing, the party that requested the hearing shall pay the remaining amount due to pay the final price of the contract. If there are unused funds remaining from the deposit at the conclusion of the hearing, the unused funds shall be refunded to the paying party.
 - (3) Upon execution of a contract with the State Office of Administrative Hearings and receipt of the deposit from the appropriate party or parties, the District's Presiding Officer shall refer the application in accordance with the contract. The Presiding Officer's referral shall be in writing and shall include procedures established by the Presiding Officer; a copy of the permit application, all evidence admitted at the preliminary hearing, the District's rules, the District Management Plan, and the District Act; and guidance regarding the permitting criteria to be addressed in

a Proposal for Decision and Findings of Fact and Conclusions of Law to be prepared by the State Office of Administrative Hearings.

- (4) A hearing conducted under this rule is governed by the State Office of Administrative Hearings' procedural rules, in Subchapters C, D, and F, Chapter 2001, Texas Government Code and, to the extent, not inconsistent with these provisions, any procedures established by the Presiding Officer.
- (5) The District's Board shall conduct a hearing within 45 calendar days of receipt of the Proposal for Decision and Findings of Fact and Conclusions of Law issued by the State Office of Administrative Hearings, and shall act on the application at this hearing or no later than 60 calendar days after the date that the Board's final hearing on the application is concluded in a manner consistent with Section 2001.058, Texas Government Code. At least 10 calendar days prior to this hearing, the Presiding Officer shall provide written notice to the parties of the time and place of the Board's hearing under this subsection by mail and facsimile, for each party with a facsimile number.

RULE 13.3 RULEMAKING HEARINGS:

- (a) **GENERAL PROCEDURES FOR RULEMAKING HEARINGS:** The Presiding Officer will conduct the rulemaking hearing in the manner the presiding officer deems most appropriate to obtain all relevant information pertaining to the subject of the hearing as conveniently, inexpensively, and expeditiously as possible. A quorum of the District's Board will participate in all rulemaking hearings, which will render a hearing report unnecessary.
- (b) **SUBMISSION OF PUBLIC COMMENTS:** Any interested person may submit written statements, protests or comments, briefs, affidavits, exhibits, technical reports, or other documents relating to the subject of the hearing. Such documents must be submitted no later than the time of the hearing; provided, however, that the presiding officer may grant additional time for the submission of documents. Any person desiring to testify on the subject of the hearing must so indicate on the registration form provided at the hearing. The Presiding Officer will establish the order of testimony and may limit the number of times a person may speak, the time period for oral presentations, and the time period for raising questions. In addition, the Presiding Officer may limit or exclude cumulative, irrelevant, or unduly repetitious presentations.
- (c) **CONCLUSION OF RULEMAKING HEARING:** At the conclusion of the hearing, the Board may take action on the subject matter of the hearing, take no action, or postpone action until a future meeting or hearing of the Board. When adopting, amending, or repealing any rule, the District shall:
 - (1) consider all groundwater uses and needs;
 - (2) develop rules that are fair and impartial;

- (3) consider the groundwater ownership and rights described by § 36.002, Texas Water Code;
 - (4) consider the public interest in conservation, preservation, protection, recharging, and prevention of waste of groundwater, and of groundwater reservoirs or their subdivisions, and in controlling subsidence caused by withdrawal of groundwater reservoirs or their subdivision, consistent with the objectives of Section 59, Article XVI, Texas Constitution;
 - (5) consider the goals developed as part of the District Management Plan under § 36.1071, Texas Water Code; and
 - (6) not discriminate between land that is irrigated for production and land that was irrigated for production and enrolled or participating in a federal conservation program.
- (d) **NOTICE OF RULEMAKING HEARINGS:** Notices for all rulemaking hearings must include a brief explanation of the subject matter of the hearing, the time, date, and place of the hearing, location or Internet site at which a copy of the proposed rules may be reviewed or copied, if the District has a functioning Internet site, and any other information deemed relevant by the General Manager or Board. Not less than 20 calendar days prior to the date of a rulemaking hearing, the General Manager shall:
- (1) post notice in a place readily accessible to the public at the District Office;
 - (2) provide notice to the County Clerk of Fisher County;
 - (3) publish notice in one or more newspapers of general circulation in the District;
 - (4) provide notice by mail, facsimile, or electronic mail to any person who has requested notice under Subsection (e) of this rule; and
 - (5) make available a copy of all proposed rules at a place accessible to the public during normal business hours, and post an electronic copy on the District's Internet site, if the District has a functioning Internet site.
- (e) A person may submit to the District a written request for notice of a rulemaking hearing. Such a request is effective for the remainder of the calendar year in which the request is received by the District. To receive notice of a rulemaking hearing in a later year, a person must submit a new request. Failure to provide notice under this subsection does not invalidate an action taken by the District at a rulemaking hearing.
- (f) **EMERGENCY RULES:** The Board may adopt an emergency rule without prior notice and/or hearing if the Board 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 calendar days' notice. The Board shall prepare a written statement of the reasons for this finding. An emergency rule adopted shall be effective for not more than 90 calendar days after its adoption by the Board. The Board may extend the 90-day period for an additional 90 (ninety) calendar days if notice of a hearing on the final rule is given not later than the 90th calendar day after the date the rules is adopted. An emergency rule adopted without notice and/or a hearing must be adopted at a meeting conducted under Chapter 551, Texas Government Code.

RULE 13.4 HEARINGS ON DESIRED FUTURE CONDITIONS

- (a) Upon receipt of proposed Desired Future Conditions from the Groundwater Management Area's district representatives, a public comment period of 90 calendar days commences, during which the District will receive written public comments and conduct at least one hearing to allow public comment on the proposed Desired Future Conditions relevant to the District. The District will make available at the District Office a copy of the proposed Desired Future Conditions and any supporting materials, such as the documentation of factors considered under Subsection 36.108(d) and groundwater availability model run results. At least 10 calendar days before the hearing conducted und, the Board must post notice that includes:
 - (1) the proposed Desired Future Conditions and a list of any other agenda items;
 - (2) the date, time, and location of the hearing;
 - (3) the name, telephone number, and address of the person to whom questions or requests for additional information may be submitted;
 - (4) the names of the other districts in the District's management area; and
 - (5) information on how the public may submit comments.
- (b) Except as provided by this subsection, the hearing and meeting notice must be provided in the manner prescribed for a rulemaking hearing under Rule 13.3 and Subsection 36.101(d), Texas Water Code.
- (c) After the public hearing, the District shall compile for consideration at the next joint planning meeting a summary of relevant comments received, any suggested revisions to the proposed Desired Future Conditions, and the basis for any suggested revisions.
- (d) As soon as possible after the District receives the Desired Future Conditions resolution and explanatory report from the Groundwater Management Area's district representatives pursuant to Subsection 36.108(d-3), the Board shall adopt the Desired Future Conditions in the resolution and explanatory report that apply to the District. The Board shall issue notice of its meeting at which it will take action on the Desired Future Conditions in accordance with Subsection (a) of this Rule.

SECTION 14. INVESTIGATIONS AND ENFORCEMENT

RULE 14.1 RIGHT TO INSPECT AND TEST WELLS:

Any authorized officer, employee, agent, or representative of the District shall have the right at all reasonable times to enter upon lands upon which a well or wells may be located within the boundaries of the District, to inspect for the purpose of measuring production of water from said well or wells or for employee, agent, or representative of the District shall have the right at all reasonable times to enter upon any lands upon which a well or wells may be located within the boundaries of the District for the purposes of testing the pump and the power unit of the well or wells and of making any other reasonable and necessary inspections and tests that may be required or necessary for the information or any well may be enjoined by the Board immediately upon the refusal to permit the gathering of information as above provided from such well.

RULE 14.2 OPEN WELLS TO BE CAPPED:

Every owner or operator of any land within the District upon which is located any open or uncovered well is, and shall be, required to close or cap the same set forth below and in accordance with Chapter 36, Texas Water Code and subsequent changes thereto:

- (a) The District may require the owner or lessee of land on which an open or uncovered well is located to keep the well closed or capped with a covering capable of sustaining weight of not less than four hundred (400) pounds, except when said well is in actual use by the owner or operator thereof; and no such owner or operator shall permit or allow any open or uncovered well to exist in violation of this requirement.
- (b) Officers, agents and employees the District are authorized to serve or cause to be served written notice upon any owner or operator of a well in violation of this rule, thereby requesting such owner and/or operator to close or cap such well permanently with a covering in compliance herewith.
- (c) In the event any owner or operator fails to comply with such request within ten (10) days after such written notice, any officer, agent, or employee of the District may go upon said land and close or cap said well in a manner complying with this rule and all expenditures thereby incurred shall constitute a lien upon the land where such well is located, provided, however, no such lien shall exceed the sum of One Hundred Dollars (\$100.00) for any single closing. Any officer, agent, or employee of the District, is authorized to perfect said lien by the filing of the affidavit authorized by Section 36.118 of the Texas Water Code. All of the powers and authority granted in such section are hereby adopted by the District, and its officers, agents, and employees are hereby bestowed with all of such powers and authority.

RULE 14.3 ENFORCEMENT OF RULES:

- (a) If it appears that a person has violated or is violating any provision of the District's rules, the District may employ any of the following means, or a combination thereof, in providing notice of the violation:
- (1) **Informal Notice:** The officers, staff or agents of the District acting on behalf of the District or the Board may inform the person of the violation via telephone by informing, or attempting to inform, the appropriate person to explain the violation and the steps necessary to cure the violation. The information received by the District through this informal notice concerning the violation and the date and time of the telephone call will be documented and will remain in the District's files. Nothing in this subsection shall limit the authority of the District to take action, including emergency actions or any other appropriate enforcement action, without prior notice provided under this subsection.
 - (2) **Written Notice of Violation:** The District may inform the person of the violation through written notice of violation. Each notice of violation issued herein shall explain the basis of the violation, identify the rule or order that has been violated or is currently being violated, and list specific required actions that must be satisfactorily completed to cure a past or present violation to address each violation raised, and may include a demand for payment of applicable civil penalties. Notice of a violation issued herein shall be provided through a delivery method in compliance with these rules. Nothing in this Subsection shall limit the authority of the District to take action, including emergency actions or any other appropriate enforcement action, without prior notice provided under this subsection.
 - (3) **Compliance Meeting:** The District may hold a meeting with any person whom the District believes to have violated, or to be violating, a District rule or order to discuss each such violation and the steps necessary to satisfactorily remedy each such violation. The General Manager may conduct a compliance meeting without the Board, unless otherwise determined by the Board or General Manager. The information received in any meeting conducted pursuant to this subsection concerning the violation will be documented, along with the date and time of the meeting, and will be kept on file with the District. Nothing in this subsection shall limit the authority of the District to take action, including emergency actions or any other appropriate enforcement action, without prior notice provided under this subsection.
- (b) **Show Cause Hearing:**
- (1) Upon recommendation of the General Manager to the Board or upon the Board's own motion, the Board may order any person that it believes has violated or is violating any provision of the District's rules to appear before the Board at a public meeting and called for such purpose and to show cause of the reasons an

enforcement action, including the assessment of civil penalties and initiation of a suit in a court of competent jurisdiction in Fisher County, as applicable, should not be pursued against the person made the subject of the show cause hearing. The Presiding Officer may employ the procedural rules in Section 15 of the District's rules.

- (2) No show cause hearing under subsection (b)(1) of this Rule may be conducted unless the District serves, on each person made the subject of the show cause hearing, a written notice 30 (thirty) calendar days prior to the date of the hearing. Such notice shall include all of the following information:
 - (A) the time, date, and place for the hearing;
 - (B) the basis of each asserted violation;
 - (C) the rule or order that the District believes has been violated or is currently being violated; and
 - (D) a request that the person duly appear and show cause of the reasons an enforcement action should not be pursued.
- (3) The District may pursue immediate enforcement action against the person cited to appear in any show cause order issued by the District where the person cited fails to appear and show cause of the reasons an enforcement action should not be pursued.
- (4) Nothing in this rule shall constrain the authority of the District to take action, including emergency actions or any other enforcement action, against a person at any time, regardless of whether the District decides to hold a hearing under this Section.

(c) Remedies:

- (1) The Board shall consider the appropriate remedies to pursue against an alleged violator during the show cause hearing, including assessment of a civil penalty, injunctive relief, or assessment of a civil penalty and injunctive relief. In assessing civil penalties, the Board may determine that each day that a violation continues shall be considered a separate violation. The civil penalty for a violation of any District rule is hereby set at the lower of \$10,000.00 per violation or a lesser amount determined after consideration, during the enforcement hearing, of the criteria in subsection (c)(2) of this rule.
- (2) In determining the amount of a civil penalty, the Board of Directors shall consider the following factors:
 - (A) compliance history;

- (B) efforts to correct the violation and whether the violator makes a good faith effort to cooperate with the District;
 - (C) the penalty amount necessary to ensure future compliance and deter future noncompliance;
 - (D) any enforcement costs related to the violation; and
 - (E) any other matters deemed necessary by the Board.
- (d) The District shall collect all past due fees and civil penalties accrued that the District is entitled to collect under the District's rules. The District shall provide written notice by certified mail, return receipt requested, of a violation of the District's rules and the civil penalties assessed against the person or entity in violation of the District's rules. Any person or entity in violation of these rules is subject to all past due fees and civil penalties along with all fees and penalties occurring as a result of any violations that ensue after the District provides written notice of a violation. Failure to pay required fees will result in a violation of the District's rules and such failure is subject to civil penalties.
- (e) The District may afford an opportunity to the alleged violator to cure a violation through coordination and negotiation with the District. Upon written notification and after 15 (fifteen) calendar days have passed since the date of the certified mailing of the notice of violation without a response or effort to correct a violation and cooperate with the District, the District may initiate a show cause hearing.
- (f) After conclusion of the show cause hearing, the District may commence suit. Any suit shall be filed in a court of competent jurisdiction in Fisher County, as applicable. If the District prevails in a suit brought under this Section, the District may seek and the court shall grant, in the same action, recovery of attorney's fees, costs for expert witnesses, and other costs incurred by the District before the court.

SECTION 15 FINAL ORDERS OF THE BOARD AND OTHER PROCEDURES

RULE 15.1 FINAL ORDERS OF THE BOARD:

A decision by the Board on a permit or permit amendment application is final:

- (a) If a request for rehearing is not filed on time, on the expiration of the period for filing a request for rehearing; or
- (b) If a request for rehearing is filed on time and the Board denies the request for rehearing, on the date the Board denies the request for rehearing; or

- (c) If a request for rehearing is filed on time and the Board grants the request for rehearing:
 - (1) on the final date of the rehearing if the Board does not take further action;
 - (2) if the Board takes further action after rehearing, on the expiration of the period for filing a request for rehearing on the Board's modified decision if a request for rehearing is not timely filed; or
 - (3) if the Board takes further action after rehearing and another request for rehearing on this Board action is timely filed, then Subsections (b) and (c) of this rule shall govern the finality of the Board's decision.

RULE 15.2 REHEARING:

- (a) An applicant in a contested or uncontested hearing on an application or a party to a contested hearing may administratively appeal a decision of the Board on a permit or permit amendment application by requesting written findings and conclusions or a rehearing before the Board not later than the 20th day after the date of the Board's decision.
- (b) On receipt of a timely written request, the Board shall make written findings and conclusions regarding a decision of the Board on a permit or permit amendment application. The Board shall provide certified copies of the findings and conclusions to the person who requested them, and to each person who provided comments or each designated party, not later than the 35th day after the date the Board receives the request. A person who receives a certified copy of the findings and conclusions from the board may request a rehearing before the Board not later than the 20th day after the date the Board issues the findings and conclusions.
- (c) A request for rehearing must be filed in the District's Office and must state clear and concise grounds for the request. If the original hearing was a contested hearing, the person requesting a rehearing must serve copies of the request to all parties to the hearing.
- (d) If the Board grants a request for rehearing, the Board shall, after proper notice, schedule the rehearing not later than the 45th day after the date the request is granted.
- (e) 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.
- (f) The applicant or party to a contested case hearing must exhaust all administrative remedies with the District prior to seeking judicial relief from a District decision on a permit or permit amendment application. An applicant or a party to a contested case hearing dissatisfied with the District's decision must file a written request for a rehearing or for written findings and conclusions within 20 (twenty) calendar days of the Board's decision in order to seek reconsideration of the District's decision. If an applicant or a

party timely files a request for written findings and conclusions, the applicant or party must thereafter file a request for a rehearing within 20 (twenty) calendar days of the District's issuance of the written findings and conclusions. Once all administrative remedies are exhausted with the District, an applicant or a party to a contested case hearing must file suit in a court of competent jurisdiction in Fisher County to appeal the District's decision on a permit or permit amendment application within 60 (sixty) calendar days after the date the District's decision is final. An applicant or party to a contested case hearing is prohibited from filing suit to appeal a District's permitting decision if a request for rehearing was not timely filed.

RULE 15.3 RULES GOVERNING PROTESTS

- (a) **NOTICE OF PROTEST:** In the event anyone should desire to protest or oppose any pending matter before the Board, or desires to prosecute his appeal from action of the Board, a written notice of protest or opposition shall be filed with the Board on or before the date on which such application or matter has been set for hearing. For the convenience of the Board, it is urged that protests be filed at least five days before the hearing date.
- (b) **PROTEST REQUIREMENTS:** Protests shall be submitted in writing with a duplicate copy to the opposite party or parties and shall comply in substance with § 36.416 of the Texas Water Code and the following requirements:
 - (1) each protest shall show the name and address of the protestant and show that protestant has read either the application or a notice relative thereto published by the Board;
 - (2) each protest shall describe the potential protestant's personal justiciable interest related to a legal right, duty, privilege, power or economic interest that is within the District's regulatory authority;
 - (3) each protest shall describe how the justiciable interest may be affected by the activities contemplated by a permit or permit amendment applicant; and
 - (4) each protestant should call attention to any amendment of the application or adjustment which, if made, would result in withdrawal of the protest.
- (c) **CONTESTED APPLICATIONS OR PROCEEDINGS DEFINED:** An application, appeal, motion or proceeding pending before the Board is considered contested when either Protestants or interveners, or both files the notice of protest as above set out and appears at the hearing held on the application, or present a question or questions of law with regard to the application, motion or proceeding. Where neither protestants nor internal so appear and offer testimony or evidence in support of their contentions, or raise a question of law with reference to any pending application, motion or proceeding, the same shall be considered as uncontested.

- (d) In the event of a contested hearing each party shall furnish other parties to the proceeding with a copy of all motion, amendments or briefs filed by him with the Board.
- (e) **REQUEST FOR HEARING AT STATE OFFICE OF ADMINISTRATIVE HEARINGS:** If an application is contested, any party to the hearing may request that the District contract with the State Office of Administrative Hearings to conduct the hearing on the application. A request that the hearing be conducted by the State Office of Administrative Hearings must be made to the Board no later than the date of the preliminary hearing on the application.

SECTION 16. TRANSFER FEES

RULE 16.1 FEES: The District will require a fee of \$0.025 (2.5 cents) per 1000 gallons of water transported outside the District.

SECTION 17. MANAGEMENT PLAN

RULE 17.1 DISTRICT MANAGEMENT PLAN:

- (a) The Board shall adopt a Management Plan, after 10 calendar days' notice otherwise in compliance with the Texas Open Meetings Act, that specifies the acts, procedures, performance and avoidance necessary to minimize as far as practicable the drawdown of the water table or the reduction of artesian pressure, to prevent interference between wells, to prevent degradation of water quality, to prevent waste, and to avoid impairment of a Desired Future Conditions. The District shall use the District's rules to implement the Management Plan.
- (b) The Board will review and readopt or amend the plan at least every fifth year after its last approval by the Texas Water Development Board. If the Board considers a new plan necessary or desirable, based on evidence presented at a hearing, including the District's best available data, groundwater availability, a new plan will be adopted and submitted to the Texas Water Development Board in accordance with Texas Water Development Board rules. The District will amend its plan to address goals and objectives consistent with achieving the Desired Future Conditions within two years of the adoption of the Desired Future Conditions by the Groundwater Management Area.

SECTION 18. GENERAL RULES

RULE 18.1 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 on which the District's office is closed.

RULE 18.2 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. The date of receipt and not the date of posting is determinative.

RULE 18.3 SHOW CAUSE ORDERS AND COMPLAINTS: The Board, either on its own motion or upon receipt of sufficient written protest or complaint, may at any time, after due notice to all interested parties, cite any person operating with the District to appear before it in a public hearing and require time to show cause why his operating authority or permit should not be suspended, canceled, or otherwise restricted and limited, for failure to comply with the orders or rules of the Board or the relevant statutes of the State, or for failure to abide by the terms and provisions of the permit or operation authority itself. The matter of evidence and all other matters of procedure at any such hearing will be conducted in accordance with the rules of procedures and practice.

RULE 18.4 MINUTES AND RECORDS OF THE DISTRICT: All official documents, reports, records and minutes of the District are available for public inspection and copying in accordance with the Texas Public Information Act. Upon written application of any person, the District will furnish copies of its public records, subject to the Provisions of Chapter 552, Texas Government Code. Persons who are furnished copies may be assessed reproduction fees as provided in Chapter 552 and regulations of the Office of the Attorney General.

RULE 18.5 CONTINUANCE: Any meeting, workshop, or hearing may be continued from time to time and date to date without published notice after the initial notice has been provided, in conformity with the Texas Open Meetings Act.

RULE 18.6 PROCEDURES NOT OTHERWISE PROVIDED FOR: If in connection with any hearing, the Board determines that there are no statutes or other applicable rules resolving particular procedural questions then before the Board, the Board will direct the parties to follow procedures consistent with the purpose of these Rules, the District's enabling act, and Chapters 36 and Chapter 49 of the Texas Water Code.

RULE 18.7 REPEAL OF PRIOR REGULATIONS: All of the 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.

RULE 18.8 SAVINGS CLAUSE: If any section, sentence, paragraph, clause, or part of these rules and regulations should be held or declared invalid for any reason by a final judgment of the courts of this state or of the United States, such decision or holding 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.

RULE 18.9 PRODUCTION LIMITS:

- (a) The District may limit the total amount of authorized annual production for any aquifer within the District as the District determines to be necessary based upon the best available hydrogeologic, geographic, groundwater availability models, and other relevant scientific data, including but not limited to noted changes in the water levels, water quality, groundwater withdrawals, annual recharge, or the loss of stored water in the aquifer, to avoid impairment of any Desired Future Condition. The District may establish a series of index or monitoring wells to aid in this determination.

- (b) The District will continue to study what aquifer conditions may indicate that proportional adjustment reductions to the amount of existing permitted production of groundwater are necessary to avoid impairment of the Desired Future Conditions of any of the various aquifers within the District. If this study effort reveals the possibility of impairment of the Desired Future Conditions of any aquifer within the District, the Board may adopt, after appropriate rulemaking notice and hearing, an aquifer-specific Demand Management Plan setting forth a schedule of the actions necessary to avoid impairment of the Desired Future Condition of the aquifer of concern.

APPENDIX A
TEXAS DEPARTMENT OF LICENSING AND REGULATION
16 TEXAS ADMINISTRATIVE CODE
CHAPTER 76
WATER WELL DRILLERS AND PUMP INSTALLERS