

Rules of the Rolling Plains Groundwater Conservation District

ORIGINALLY ADOPTED: January 18, 2001

REVISED: July 19, 2001

REVISED: December 19, 2002

REVISED: April 17, 2003

REVISED: September 18, 2003

The rules of the Rolling Plains Groundwater Conservation District, as amended, are hereby published, as of September 18, 2003:

In accordance with Section 59 of Article XVI of the Texas Constitution; Chapter 36 of the Texas Water Code; Haskell/Knox Underground Water Conservation District Enabling Act, 73rd Leg., R.S., ch. 1028, 1993 Tex. Gen. Laws 4435; Act of April 24, 2001, 77th Leg., R.S., ch. 38, 2001 Tex. Gen. Laws 68; and Act of May 30, 2003, 78th Leg., R.S., ch. 992, 2003 Tex. Gen. Laws 2896, the following rules are hereby ratified and adopted as the rules of this District by its Board. Each rule as worded herein has been in effect since the date of passage and as may be hereafter amended. All rules or parts of rules, in conflict with these rules, are hereby repealed. Rolling Plains Groundwater Conservation District first adopted rules on January 18, 2001, and adopted amendments to its rules on July 19, 2001, December 19, 2002, April 17, 2003, and September 18, 2003.

The rules, regulations, and modes of procedure herein contained are and have been adopted to simplify procedures, avoid delays, and facilitate the administration of the water laws of the State and the rules of this District. To the end that these objectives are attained, these rules will be so construed.

These rules may be used as guides in the exercise of discretion, where discretion is vested. However, under no circumstances and in no particular case may these rules be construed as a limitation or restriction upon the exercise of powers, duties, and jurisdiction conferred by law. These rules will not limit or restrict the amount and accuracy of data or information that may be required for the proper administration of the law.

ROLLING PLAINS
GROUNDWATER CONSERVATION DISTRICT
DISTRICT RULES

SECTION 1. DEFINITIONS AND CONCEPTS	5
Rule 1.1 Definitions of Terms.....	5
Rule 1.2 Purpose of Rules	7
Rule 1.3 Use and Effect of Rules.....	7
Rule 1.4 Amending of Rules.....	7
Rule 1.5 Headings and Captions.....	7
Rule 1.6 Construction	7
Rule 1.7 Methods of Service Under the Rules.....	7
Rule 1.8 Severability	8
SECTION 2. BOARD.....	8
Rule 2.1 Purpose of Board	8
Rule 2.2 Board Structure and Officers.....	8
Rule 2.3 Meetings	8
Rule 2.4 Committees.....	9
Rule 2.5 Ex Parte Communications	9
SECTION 3. DISTRICT STAFF	9
Rule 3.1 General Manager.....	9
Rule 3.2 Delegation of Authority.....	9
SECTION 4. DISTRICT RECORDS	10
Rule 4.1 Minutes and Records of the District.....	10
Rule 4.2 Certified Copies	10
SECTION 5. SPACING AND LOCATION REQUIREMENTS	10
Rule 5.1 Spacing Requirements	10
Rule 5.2 Location Requirements.....	10
SECTION 6. PRODUCTION LIMITATIONS.....	11
Rule 6.1 Maximum Allowable Production	11
SECTION 7. OTHER DISTRICT ACTIONS AND DUTIES	12
Rule 7.1 District Management Plan	12
Rule 7.2 Aquifer Storage and Recovery (ASR).....	12
SECTION 8. TRANSFER OF GROUNDWATER OUT OF THE DISTRICT:	12
Rule 8.1 Permit Required	12
Rule 8.2 Groundwater Transport Regulatory Fee	13
SECTION 9. DEPOSITS FOR WELL DRILLING PERMITS.....	14
Rule 9.1 Deposits.....	14
SECTION 10. REGISTRATION AND PERMITS.....	14
Rule 10.1 Registration and Grandfathering of Existing Wells.....	14
Rule 10.2 Registration and Permitting of New Wells.....	15
Rule 10.3 General Permitting Policies and Procedures	16
Rule 10.4 Permit Provisions	17
Rule 10.5 Exemptions	17

SECTION 11. REWORKING AND REPLACING A WELL	18
Rule 11.1 Procedures	18
SECTION 12. WELL COMPLETION	19
Rule 12.1 Standards of Completion for All Wells.....	19
Rule 12.2 Re-completions	20
SECTION 13. PROHIBITION AGAINST WASTE AND POLLUTION	20
Rule 13.1 Prohibition Against Waste and Pollution	20
SECTION 14. HEARINGS	20
Rule 14.1 Types of Hearings.....	20
Rule 14.2 Notice and Schedule of Hearings	21
Rule 14.3 General Procedures for Permit Hearings.....	22
Rule 14.4 Appearance; Presentation; Time for Presentation; Ability to Supplement; Conduct and Decorum; Written Testimony	22
Rule 14.5 Evidence; Broadening the Issues.....	23
Rule 14.6 Recording	23
Rule 14.7 Continuance.....	24
Rule 14.8 Filing of Documents; Time Limit; Computing Time.....	24
Rule 14.9 Report.....	24
Rule 14.10 Board Action	24
Rule 14.11 Request for Rehearing and Appeal.	25
Rule 14.12 Rulemaking Hearings Procedures.....	25
SECTION 15. METERING	25
Rule 15.1 Metering Required	25
Rule 15.2 Wells Subject to Metering.....	26
Rule 15.3 Types of Meters	27
Rule 15.4 Pre-Existing Meters and Alternative Measuring Methods.....	28
Rule 15.5 Accuracy Verification.....	28
Rule 15.6 Removal and Disabling of Meters	29
Rule 15.7 Meter Reading and Groundwater Use Reporting	29
Rule 15.8 Prohibition and Enforcement	29
Rule 15.9 Location of Meters.....	30
SECTION 16. INVESTIGATIONS AND ENFORCEMENT.....	30
Rule 16.1 Right to Inspect and Test Wells	30
Rule 16.2 Conduct of Investigation	30
Rule 16.3 Rule Enforcement.....	30
Rule 16.4 Sealing of Wells.....	31
Rule 16.5 Covering of Wells.....	31
SECTION 17. FEES	32
Rule 17.1 Fees of the District	32
Rule 17.2 Payment of Fees	32
Rule 17.3 Failure to Make Fee Payments.....	32
Rule 17.4 Enforcement.....	33

SECTION 1. DEFINITIONS AND CONCEPTS

Rule 1.1 Definitions of Terms

In the administration of its duties, the Rolling Plains Groundwater Conservation District follows the definitions of terms set forth in the District Act, Chapter 36 of the Texas Water Code, and other definitions as follows:

- 1) “Acre-foot” means the amount of water necessary to cover one acre of land one foot deep, or about 325,000 gallons of water.
- 2) “Agriculture” has the meaning assigned by Chapter 36, Texas Water Code.
- 3) “Board” means the Board of Directors of the District.
- 4) “Commission” means the Texas Commission on Environmental Quality and its successor agencies.
- 5) “Deteriorated well” means a well, the condition of which will cause, or is potentially likely to cause, pollution of any water in the District.
- 6) “De-watering well” means a well used to remove water from a construction site or excavation, or to relieve hydrostatic uplift on permanent structures.
- 7) “District” means the Rolling Plains Groundwater Conservation District.
- 8) “District Act” means the Haskell/Knox Underground Water Conservation District Enabling Act, 73rd Leg. R.S., ch. 1028, 1993 Tex. Gen. Laws 4435 as amended by Act of April 24, 2001, 77th Leg., R.S., ch. 38, 2001 Tex. Gen. Laws 68 and Act of May 30, 2003, 78th Leg., R.S., ch. 992, 2003 Tex. Gen. Laws 2896; and the non-conflicting provisions of Chapter 36, Texas Water Code.
- 9) “District office” means the office of the District as established by resolution of the Board.
- 10) “Drilling permit” means a permit for a water well issued or to be issued by the District allowing a water well to be drilled.
- 11) “Existing well” means a well drilled and completed on or before December 19, 2002.
- 12) “Groundwater” means water percolating below the surface of the earth, but does not include water produced with oil in the production of oil and gas.
- 13) “Hearing body” means the Board, any committee of the Board, or a Hearing Examiner at any hearing held under the authority of the District Act.
- 14) “Injection well” includes:
 - a) An air conditioning return flow well used to return water used for heating or cooling in a heat pump to the aquifer that supplied the water;
 - b) A cooling water return flow well used to inject water previously used for cooling;
 - c) A drainage well used to drain surface fluid into a subsurface formation;
 - d) A recharge well used to replenish the water in an aquifer;

- e) A saltwater intrusion barrier well used to inject water into a freshwater aquifer to prevent the intrusion of salt water into the freshwater;
 - f) A sand backfill well used to inject a mixture of water and sand, mill tailings, or other solids into subsurface mines;
 - g) A subsidence control well used to inject fluids into a non-oil or gas producing zone to reduce or eliminate subsidence associated with the overdraft of fresh water; or
 - h) A closed system geothermal well used to circulate water, other fluids, or gases through the earth as a heat source or heat sink.
- 15) "Landowner" means the person who bears ownership of the land surface.
 - 16) "Leachate well" means a well used to remove contamination from soil or groundwater.
 - 17) "Monitoring well" means a well installed to measure some property of the groundwater or aquifer it penetrates, and does not produce more than 5,000 gallons of groundwater per year.
 - 18) "New well" means a well that was not yet drilled and completed on or before December 19, 2002.
 - 19) "Open meetings law" means Chapter 551, Texas Government Code.
 - 20) "Person" includes corporation, individual, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, or any other legal entity.
 - 21) "Pollution" means 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 or public enjoyment of the water for any lawful or reasonable use.
 - 22) "Presiding officer" means the President, Vice-President, Secretary, or other Board member presiding at any meeting, hearing, or other proceeding.
 - 23) "Rules" means the rules of the District compiled in this document and as may be supplemented or amended from time to time.
 - 24) "Section" means the land designated by a survey number found in the Baylor, Haskell and Knox County Survey Maps, Texas General Land Office - Archives Division, Austin, Texas.
 - 25) "Texas Public Information Act" means Chapter 552, Texas Government Code.
 - 26) "Use for a beneficial purpose" has the meaning assigned by Chapter 36, Texas Water Code.
 - 27) "Waste" has the meaning assigned by Chapter 36, Texas Water Code.
 - 28) "Water meter" means a water flow-measuring device that can accurately record the amount of groundwater produced during a measured time.
 - 29) "Well" shall mean a water well, injection well, recharge well, dewatering well, or monitoring well used to withdraw groundwater from the groundwater supply within the District.
 - 30) "Well owner" or "well operator" means the person who owns the land upon which a well is located or is to be located or the person who operates a well or a water distribution system supplied by a well.

- 31) “Well system” means a well or group of wells tied to the same distribution system.
- 32) “Withdraw” means extracting groundwater by pumping or by another method.
- 33) “Windmill” means a wind-driven or hand-driven device that uses a piston pump to remove groundwater.

Rule 1.2 Purpose of Rules

These rules are adopted to achieve the provisions of the District Act and accomplish its purposes.

Rule 1.3 Use and Effect of Rules

The District uses these rules as guides in the exercise of the powers conferred by law and in the accomplishment of the purposes of the District Act. They may not be construed as a limitation or restriction on 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.

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

The 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

A reference to a title, rule or section without further identification is a reference to a title, chapter or section. Construction of words and phrases is governed by the Code Construction Act, Subchapter B, Chapter 311, Government Code.

Rule 1.7 Methods of Service Under the 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, in person, by agent, by courier receipted delivery, by certified mail sent to the recipient's last known address, or 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 has the right, or is required, to do some act within a prescribed time after service, three days will be added to the prescribed period. Where service by one of more methods has been attempted and failed, the service is complete upon notice publication in a newspaper of general circulation in Haskell, Knox and Baylor Counties.

Rule 1.8 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 for conserving, preserving, protecting, and recharging 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. The Board's responsibilities include, but are not limited to, the adoption and enforcement of reasonable rules and other orders.

Rule 2.2 Board Structure and Officers

The Board consists of the members appointed and qualified as required by the District Act. The Board will elect one of its members to serve as President, to preside over Board meetings and proceedings; one to serve as Vice President, to preside in the absence of the President; and one to serve as Secretary, to keep a true and complete account of all meetings and proceedings of the Board. The Board will elect officers every other year. Members and officers serve until their successors are appointed and sworn in accordance with the District Act and these rules.

Rule 2.3 Meetings

The Board will hold a regular meeting at least once quarterly as the Board may establish from

time to time by resolution. At the request of the President, or by written request of at least three 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 appoint the chair and membership of the committees. Committee members serve at the pleasure of the President.

Rule 2.5 Ex Parte Communications

- a) Board members may not communicate, directly or indirectly, about any issue of fact or law in any contested case before the board, with any agency, person, party, or their representatives except on notice and opportunity for all parties to participate.
- b) Notwithstanding Subsection (a) of this Rule, a Board member may communicate ex parte with other members of the Board, the General Manager, employees, or attorneys of the District as long as such communication does not violate other applicable law. Subsection (a) of this Rule does not apply to a Board member who abstains from voting on any matter in which ex parte communications have occurred.

SECTION 3. DISTRICT STAFF

Rule 3.1 General Manager

The Board may employ a person to be the General Manager of the District, who is the District's chief administrative officer. The General Manager shall have full authority to manage and operate the affairs of the District subject only to the direction given by the Board through policies and orders adopted by it. The Board will determine the salary and review the position of General Manager each year at the beginning of the third quarter of every fiscal year. The General Manager, with approval of the Board, may employ all persons necessary for the proper handling of the business and operation of the District. Employee salaries shall be set by the Board with recommendations from the General Manager.

Rule 3.2 Delegation of Authority

The General Manager may delegate duties as may be necessary to effectively and expeditiously accomplish those duties, provided that no such delegation may relieve the General Manager from the General Manager's responsibilities under the Texas Water Code, the District Act, and the policies, orders, and permits promulgated by the Board. To the extent not otherwise prohibited by law, the Board may delegate its duties as may be necessary to effectively and expeditiously accomplish those duties.

SECTION 4. DISTRICT RECORDS

Rule 4.1 Minutes and Records of the District

All documents, reports, records, and minutes of the District are available for public inspection and copying under the Texas Public Information Act. Upon written application of any person, the District shall furnish copies of its public records that are not otherwise exempt from disclosure under the Texas Public Information Act or other law. A reasonable copying charge may be assessed pursuant to policies established by the District. A list of the charges for copies shall be furnished by the District.

Rule 4.2 Certified Copies

Requests for certified copies must be in writing. Certified copies will be made under the direction of the Board of Directors. A certification charge and copying charge may be assessed, pursuant to policies established by the Board of Directors. A list of the charges for copies shall be furnished by the District.

SECTION 5. SPACING AND LOCATION REQUIREMENTS

Rule 5.1 Spacing Requirements

- a) Except as provided under Rule 11.1, a well to be drilled subsequent to December 19, 2002 shall not be drilled:
 - 1) within 50 feet from the property line of any adjoining landowner; or
 - 2) within 100 feet of any existing well.
- b) Wells drilled prior to December 19, 2002 shall be drilled in accordance with the rules in effect, if any, on the date such drilling commenced.
- c) A well exempt from permitting under Rule 10.5(a)(3) is exempt from the spacing requirements under Rule 5.1. Other wells exempt from permitting under Rule 10.5 shall comply with the spacing and location requirements under Rules 5.1 and 5.2.

Rule 5.2 Location Requirements

- a) All new wells must comply with the location requirements set forth under this rule, except that leachate wells, monitoring wells, and de-watering wells may be located where necessity dictates.
- b) A well must be located a minimum horizontal distance of **50 feet** from any water-tight sewage facility and liquid-waste collection facility.

- c) A well must be located a minimum horizontal distance of 150 feet from any contamination, such as existing or proposed livestock or poultry yards, privies, and septic system absorption fields.
- d) A well must be located at a site not generally subject to flooding; provided, however, that if a well must be placed in a flood prone area, it must be completed with a watertight sanitary well seal and steel casing extending a minimum of **24 inches** above the known flood level.
- e) No well may be located within five-hundred (500) feet of a sewage treatment plant, solid waste disposal site, or land irrigated by sewage plant effluent, or within three-hundred (300) feet of a sewage wet well, sewage pumping station, or a drainage ditch that contains industrial waste discharges or wastes from sewage treatment systems.
- f) After an application for a well permit has been granted, the well, if drilled, must be drilled within ten (10) yards (30 feet) of the location specified in the permit, and not elsewhere. If the well should be commenced or drilled at a different location, the drilling or operation of such well may be enjoined by the Board pursuant to Chapter 36, Texas Water Code, and these Rules. As described in the Texas Water Well Drillers and Pump Installers Rules, all well drillers and persons having a well drilled, deepened, or otherwise altered shall adhere to the provisions of these Rules prescribing the drilling location and proper completion of wells, as well as the spacing and location requirements set forth under this section.

SECTION 6. PRODUCTION LIMITATIONS

Rule 6.1 Maximum Allowable Production

Subject to Subsections (b) and (c) of this Rule, a well or a well system shall not be operated such that the total annual production from the well or well systems exceeds three (3) acre feet of water per surface acre of land. Only land that is contiguous to the acre where the well is located and owned by the same person that owns the acre where the well is located shall be included in such calculation.

- b) Notwithstanding Subsection (a) of this Rule and because of the isolated, localized, and discontinuous nature of the aquifer throughout the District, no person shall be entitled to claim as surface acreage for purposes of calculating the maximum allowable production of a well or well system any land that is located in a separate Section than the Section on which the well or well system is located. To the extent that wells comprising a well system are located on more than one Section, the wells located on a particular Section shall be considered as a separate well system from any wells physically located on another Section or Sections for all purposes under these Rules, including the calculation of the appropriate production limitation for a particular well or well system.
- c) In the event that the well owner does not own the tract of land on which the well is located and no other wells are located on the tract of land, the well owner shall provide evidence to the District of the well owner's authority to claim the production rights for the surface acreage of the tract of land on which the well is located. In the event that the well owner does not own the tract of land on which the well is located and where other wells owned by persons other than such well owner are located on the same tract of land, such well owner or the owner of the land shall provide written evidence to the District establishing how the total right of groundwater production associated with the acreage included in the tract of land is to be allocated amongst the

various wells or well systems located on the land. Failure to provide evidence of such allocation to the satisfaction of the District shall result in all wells located on the tract being shut down by order of the District to cease production for the remainder of the calendar year once the three acre-feet of water per surface acre limit set forth under Subsections (a) and (b) of this Rule has been reached in a given year by the aggregate production of all wells located on the tract.

SECTION 7. OTHER DISTRICT ACTIONS AND DUTIES

Rule 7.1 District Management Plan

The District Management Plan specifies the acts, procedures, performance and avoidance necessary to prevent waste, the reduction of artesian pressure, or the draw-down of the water table.

The District shall use the Rules of the District to implement the Management Plan. The Board will review the plan at least every fifth year. If the Board considers a new plan necessary or desirable, based on evidence presented at hearing, a new plan will be adopted. A plan, once adopted, remains in effect until the adoption of a new plan.

Rule 7.2 Aquifer Storage and Recovery (ASR)

No ASR project shall be operated within the District, unless such person has obtained a permit authorizing the project from the commission and a copy of such permit has been filed with the District prior to the commencement of injection or recovery operations associated with the ASR project. A person applying for a permit from the commission to authorize an ASR project involving an aquifer within the boundaries of the District shall file a copy of the notice of such application and a copy of the application with the District within ten (10) days of publication of notice or of filing of the application with the commission, whichever is earlier.

SECTION 8. TRANSFER OF GROUNDWATER OUT OF THE DISTRICT:

Rule 8.1 Permit Required

- a) No person shall produce groundwater within the District and transport such water for use outside of the district under the following conditions unless the person producing and transporting the water across the boundaries of the District shall obtain a permit to do so from the District:
 - 1) to increase, on or after March 2, 1997, the amount of groundwater to be transferred under a continuing arrangement in effect before that date; or
 - 2) to transfer groundwater out of the district on or after March 2, 1997, under a new arrangement.

- b) The permit to produce water for transport outside of the District shall be applied for and considered by the Board in the same manner as applications for permits for groundwater use inside of the District, except that:
 - 1) a person transporting groundwater outside of the District shall be subject to payment of the Groundwater Transport Regulatory Fee under Rule 8.2; and
 - 2) the Board shall also consider the following additional criteria in reviewing applications for permits to transport water outside of the District:
 - 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) the approved regional water plan and certified district management plan.

Rule 8.2 Groundwater Transport Regulatory Fee

- a) A person transporting groundwater outside of the District shall be subject to payment of the Groundwater Transport Regulatory Fee. The Groundwater Transport Regulatory Fee shall be paid to the District on a monthly basis for water produced from wells located within the District for use outside of the District, which fee shall be established by resolution of the Board and paid to the District no less than 30 days after the end of the given reporting month. In no case shall the Board establish a fee in an amount that exceeds: \$1 per acre-foot of water used for agricultural use; or 17 cents per thousand gallons of water used for any other purpose.
- b) An exempt well is not excused from payment of the Groundwater Transport Regulatory Fee if the groundwater produced from the exempt well is subsequently transported for use outside of the District. The owner of such an exempt well shall identify to the District the amount of water exported from the District on a monthly basis and pay the Groundwater Transport Regulatory Fee to the District in an amount equal to the fee for a non-exempt well for any water actually transported outside of the District.
- c) All owners of non-exempt wells who begin transporting water for use outside of the District before October 1, 2003 shall report to the District the amount of water produced and the amount of water actually exported on a monthly basis. All owners of non-exempt wells who begin transporting water for use on or after October 1, 2003 shall report to the District the amount of water produced and the amount of water actually exported on a monthly basis and shall file annual reports with the District describing the amount of water transported and used. The report shall be filed with the District no later than February 15 of each year on the appropriate form provided by the District and shall state the following:
 - 1.) the name of the owner;
 - 2.) the well, permit or registration numbers of each well that is producing water for transport;

- 3.) the total amount of groundwater produced from each well or well system during the immediately preceding calendar year;
 - 4.) the total amount of groundwater transported outside the district from each well or well system during each month of the immediately preceding calendar year;
 - 5.) the purposes for which the water was transported;
 - 6.) the amount and source of any surface water transported; and
 - 7.) any other information requested by the District.
- d) Groundwater that is discharged pursuant to a permit issued by the commission and not sold is not considered to have been transferred from the District unless the discharge is part of an overall water transfer and sale.
 - e) All groundwater produced within the District that is subsequently transported across the boundaries of the District for use outside of the District shall be metered as set forth under Section 15 of these Rules.

SECTION 9. DEPOSITS FOR WELL DRILLING PERMITS

Rule 9.1 Deposits

- a) Each application for a permit to drill a well or any other activity permitted by the District for which a driller's log (State Well Report) is required to be completed by state law must be accompanied by a \$250.00 deposit, which will be accepted and deposited by the District staff. The deposit shall be returned to the applicant by the District if: (1) the application is denied; (2) the application is granted, upon the receipt of a correctly completed driller's log of the well; or (3) the permit location is abandoned without having been drilled or altered or results in a dry hole, upon return and surrender of the permit marked "abandoned" by the applicant.
- b) In the event that neither the driller's log of the well nor the permit marked "abandoned" is returned to the District office within eight (8) months after the application date of the permit, the deposit shall become the property of the District.

SECTION 10. REGISTRATION AND PERMITS

Rule 10.1 Registration and Grandfathering of Existing Wells

- a) It is a violation of these rules for a well owner or operator to produce water from any well within the District, except leachate wells, monitoring wells, and de-watering wells, without a valid well registration or well permit from the District. Owners and operators of wells that were drilled and completed on or before December 19, 2002, shall have until January 1, 2004, to register their wells with the District on forms to be provided by the District upon request by the owner or operator.
- b) The District shall register such an existing well upon receipt from the owner or operator of the

following information on a form to be provided by the District, to the extent that such information is requested on the form:

- 1) the name and address of the owner of the land on which the well is located;
 - 2) if different from owner, the name and address of the applicant and documentation establishing authority to operate the well;
 - 3) a statement of the nature and purpose of use of the water produced from the well, and the amount to be used for each purpose;
 - 4) a declaration that the applicant will comply with the district's management plan, rules, and production limitations;
 - 5) the location of the well and the estimated rate at which water will be withdrawn;
 - 6) the location of use of the water, including a legal description of tracts to be irrigated with water from the well if the well is used for irrigation; and
 - 7) a water well closure plan or declaration that the applicant will comply with well plugging guidelines and report closure to the commission and the District.
- c) Existing wells registered in accordance with this section shall not be required to obtain a drilling permit from the District, nor shall they be subject to the District's spacing requirements under Rule 5.1, unless the registration is revoked for violation of registration conditions, District rules, or other applicable law.
- d) Failure by the owner or operator of a well that was drilled and completed prior to December 19, 2002 to register such well with the District by January 1, 2004:
- 1) shall be a violation of these rules if the well is operated after January 1, 2004;
 - 2) shall result in the owner forfeiting the ability to register the well under this Rule and, instead, shall result in the owner or operator being required to obtain a registration or permit for the well under Rule 10.2; and
 - 3) shall create a rebuttable presumption that the well was not an existing well, which, among other things, will subject the well to enforcement of the District's well spacing requirements under Rule 5.1 and subject the well to potential enforcement for failure to comply with the permitting requirements of these Rules.
- e) Any person who becomes the owner of a registered well must, within 60 calendar days from the date of the change in ownership, notify the District to change the name on the registration.

Rule 10.2 Registration and Permitting of New Wells

- a) Except as otherwise provided under these Rules, it is a violation of these Rules for any person, including a well owner, well operator, or water well driller, to drill, equip, or complete any well in the District or to substantially alter the size of a well or well pump in any well in the District without first filing either an administratively complete well registration or an administratively complete permit application, as appropriate for the type of well, with the District.
- b) All new wells, except leachate wells, monitoring wells, and de-watering wells, must be registered with the District by the well owner, well operator, or water well driller prior to being drilled,

equipped, completed, or substantially altered in accordance with the application procedure set forth for existing wells under Rule 10.1(b). The General Manager shall review the registration and make a preliminary determination on whether the well qualifies under the exemptions from permitting provided under Rule 10.5. Providing the preliminary determination is ruled the well is exempt, the registrant may begin drilling immediately upon receiving the approved registration. If the preliminary determination by the General Manager is that the well is not exempt from permitting, the owner, operator, or driller shall submit a well permit application before proceeding with drilling, equipping, completion, or alteration.

Rule 10.3 General Permitting Policies and Procedures

- a) **Permit Requirement:** The well owner, well operator, or any other person acting on behalf of the well owner, must file a completed well application for a water well permit before a new, non-exempt well may be drilled, equipped, completed, or substantially altered. Providing the application for a permit is deemed administratively complete, meaning that it meets all of the guidelines and requirements of these rules and contains all of the required information, the applicant may thereupon proceed at his own risk to drill, equip, complete, or alter such well. This application for a permit shall not, however, be officially granted until the opportunity for a due process public hearing has been satisfied and the Board has approved the permit.
- b) **Permit Applications:** Each original application for a water well permit or permit renewal requires a separate application. Application forms will be provided by the District and furnished to the applicant upon request. Applications shall contain all of the information set forth under Rule 10.1(b) for well registrations and shall be submitted on a form to be provided by the District, to the extent that such information is requested on the form. The District may at its discretion utilize the same form for permit applications as it does for well registrations.
- c) **Notice of Permit Hearing:** Once the District has received an administratively complete original application for a permit, the General Manager shall issue written notice indicating a date and time for a hearing on the application in accordance with these Rules. The District may schedule as many applications at one hearing as deemed necessary.
- d) **Decision and Issuance of Permit:** In deciding whether or not to issue a permit, and in setting the terms of the permit, the Board must consider whether the application complies with the District Rules.
- e) **Duration of Permits:** Unless specified otherwise by the Board or these Rules, permits to drill, equip, complete, or substantially alter a well or pump size are effective for those purposes for a term ending 120 calendar days after the date the permit was issued.
- f) **Permit Provisions:** The permit shall contain the standard provisions listed in Rule 10.4. The permit may also contain provisions relating to the means and methods of transportation of water produced within the District.
- g) **Aggregation of Withdrawal:** In issuing a permit, the authorized withdrawal for a given well may be aggregated with the authorized withdrawal from other permitted wells designated by the District. District Rules 5 & 6 shall be considered in determining whether or not to allow aggregation of withdrawal. For the purpose of categorizing wells by the amount of groundwater production, where wells are permitted with an aggregate withdrawal, the total authorized

withdrawal may be assigned to the wells in the aggregate, rather than allocating to each well its pro rata share of production, except as otherwise provided in these Rules.

- h) **Effect of Acceptance of Permit:** Acceptance of the permit by the person to whom it is issued constitutes acknowledgment of and agreement to comply with all of its terms, provisions, conditions, limitations, and restrictions.

Rule 10.4 Permit Provisions

All permits are granted subject to these Rules, orders of the Board, and the laws of the State of Texas. In addition to any special provisions or other requirements incorporated into the permit, each permit issued must contain the following standard permit provisions:

- a) This permit is granted in accordance with the provisions of the Rules of the District, and acceptance of this permit constitutes an acknowledgment and agreement that the permittee will comply with the Rules of the District.
- b) This permit confers only the right to use the permit in compliance with the terms of the permit and the Rules of the District, including but not limited to the production limitations under Rule 6.1, and its terms may be modified or amended pursuant to the provisions of Rule 6.1 and the other Rules of the District as Rule 6.1 and the other Rules of the District may be amended in the future. To protect the permit holder from illegal use by a new landowner, within 60 days after the date of sale, the permit holder must notify the District in writing of the name of the new owner. Any person who becomes the owner of a currently permitted well must, within 60 calendar days from the date of the change in ownership, file an application for an amendment to effect a transfer of the permit.
- c) The operation of the well for the authorized withdrawal must be conducted in a non-wasteful manner.
- d) At the time a water meter is required under Section 15 of the District's Rules, it shall be installed to accurately record gallons produced during a specified period of time.
- e) The well site must be accessible to District representatives for inspection, and the permittee agrees to cooperate fully in any reasonable inspection of the well and well site by the District representatives.
- f) The application pursuant to which this permit has been issued is incorporated in this permit, and this permit is granted on the basis of and contingent upon the accuracy of the information supplied in that application. A finding that false information has been supplied is grounds for immediate revocation of the permit.
- g) Violation of a permit's terms, conditions, requirements, or special provisions, including pumping amounts in excess of authorized withdrawal, is punishable by civil penalties as provided by the District's Rules and other enforcement.

Rule 10.5 Exemptions

- a) The requirement to obtain a permit under Section 10 of these Rules does not apply to:

- 1) a well used solely for domestic use or for providing water for livestock or poultry on a tract of land larger than 10 acres that is either drilled, completed, or equipped so that it is incapable of producing more than 25,000 gallons of groundwater a day;
 - 2) the drilling of a water well used solely to supply water for a rig that is actively engaged in drilling or exploration operations for an oil or gas well permitted by the Railroad Commission of Texas provided that the person holding the permit is responsible for drilling and operating the water well and the well is located on the same lease or field associated with the drilling rig; or
 - 3) the drilling of a water well authorized under a permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code, or for production from such a well to the extent the withdrawals are required for mining activities regardless of any subsequent use of the water.
- b) A well originally exempt under Subsection (a) is not exempt under this rule if it is subsequently used for a purpose or in a manner that is not exempt under Subsection (a).
 - c) An entity exempt under Subsection (a)(3) of this Rule shall report monthly to the District:
 - 1) the total amount of water withdrawn during the month;
 - 2) the quantity of water necessary for mining activities; and
 - 3) the quantity of water withdrawn for other purposes.
 - d) A water well exempted under Subsection (a) shall:
 - 1) be registered in accordance with Rule 10.1; and
 - 2) comply with the location, completion, and re-completion requirements of Section 12 and Rule 5.2 of these Rules.
 - e) The driller of a well exempted under Subsection (a) shall file the drilling log with the District.
 - f) Notwithstanding Subsection (a), 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 exempt under Subsection (a).
 - g) Groundwater withdrawn from a well exempt from permitting under Subsection (a) and subsequently transported outside the boundaries of the District is subject to the Groundwater Transport Regulatory Fee under Section 8 of these Rules.

SECTION 11. REWORKING AND REPLACING A WELL

Rule 11.1 Procedures

- a) An existing well or permitted new well may be reworked, re-drilled, or re-equipped in a manner that will not increase the production capacity of the well by increasing the size of the column pipe or pump without the need for the owner or operator to obtain a permit under Rule 10.2. Such a well shall maintain the existing well or new permitted well status of the original well.
- b) A permit must be applied for and obtained under Rule 10.2, if a party wishes to increase the rate

of production of an existing well or permitted new well by increasing the size of the column pipe or pump size when reworking, re-equipping, or re-drilling such well.

- c) A permit must be applied for and granted by the Board if a party wishes to replace an existing well or permitted new well with a replacement well.
- d) A replacement well, in order to be considered such, must be drilled within ten (10) yards (30 feet) of the well to be replaced. The replacement well shall not be drilled nearer the property line if the original well was “grandfathered” from otherwise violating the spacing requirements of Rule 5.1.
- e) In the event a permit application submitted in accordance with this Rule meets the spacing requirements of these Rules, the Board may grant such application without further notice or hearing.

SECTION 12. WELL COMPLETION

Rule 12.1 Standards of Completion for All Wells

- a) All wells must be completed in accordance with the following specifications and in compliance with local county or incorporated city ordinances. All wells must also be completed in compliance with the rules and regulations of the Texas Department of Licensing and Regulation related to Water Well Drillers and Pump Installers.
- b) The annular space between the borehole and the casing shall be filled from the ground level to a depth of not less than 10 feet below the land surface or well head with cement slurry.
- c) All wells shall have a concrete slab or sealing block above the cement slurry around the well at the ground surface.
- d) The slab or block shall extend at least **two (2) feet** from the well in all directions and have a minimum thickness of **four inches** and shall be separated from the well casing or mastic coating or sleeve to prevent bonding of the slab to the casing.
- e) The surface of the slab shall be sloped to drain away from the well. The casing shall extend a minimum of one foot above the original ground surface.
- f) A slab or block as described in Subsections (c) – (e) of this Rule is required above the cement slurry except when a pitless adapter is used. Pitless adapters may be used in such wells, provided that:
 - 1) the pitless adapter is welded to the casing or fitted with another suitably effective seal; and
 - 2) the annular space between the borehole and the casing is filled with cement to a depth not less than 15 feet below the adapter connection.
- g) All wells, especially those that are gravel packed, shall be completed so that aquifers or zones containing waters that are known to differ significantly in chemical quality are not allowed to commingle through the borehole-casing annulus or the gravel pack and cause quality degradation of any aquifer or zone.

- h) The well casing shall be capped or completed in a manner that will prevent pollutants from entering the well.
- i) Water well drillers shall indicate the method of completion performed on the Well Report (TDLR Form #001 WWD, Section 10, Surface Completion).

Rule 12.2 Re-completions

- a) The landowner shall have the continuing responsibility of insuring that a well does not allow commingling of undesirable water and fresh water or the unwanted loss of water through the wellbore to other porous strata.
- b) If a well is allowing the commingling of undesirable water and fresh water or the unwanted loss of water, and the casing in the well cannot be removed and the well re-completed within the applicable rules, the casing in the well shall be perforated and cemented in a manner that will prevent the commingling or loss of water. If such a well has no casing, then the well shall be cased and cemented or plugged in a manner that will prevent such commingling or loss of water.
- c) The Board may direct the landowner to take steps to prevent the commingling of undesirable water and fresh water or the unwanted loss of water.

SECTION 13. PROHIBITION AGAINST WASTE AND POLLUTION

Rule 13.1 Prohibition Against Waste and Pollution

- a) No person shall allow, cause, suffer, permit, or commit “waste” as that term is defined in Rule 1.1.
- b) Groundwater shall not be produced in or used within or without the District, in such a manner as to constitute waste as defined in Rule 1.1.
- c) No person shall cause “pollution” of the groundwater reservoir or aquifer in the District as defined in Rule 1.1.
- d) No person shall allow the continued existence of a deteriorated well.
- e) Groundwater produced in the District shall be used for a beneficial purpose.

SECTION 14. HEARINGS

Rule 14.1 Types of Hearings

The District conducts two general types of hearings: (1) Permit hearings involving permit matters, in which the rights, duties, or privileges of a party are determined after an opportunity for an adjudicative hearing, and (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. All hearings shall be held before a quorum of the Board.

a) **Permit Hearings:**

- 1) Permit Applications, Amendments, and Revocations: The District shall hold hearings on permit applications, permit renewals or amendments, and permit revocations or suspensions.
- 2) Hearings on Motions for Rehearing: Motions for Rehearing will be heard by the Board pursuant to Rule 14.3.

b) **Rulemaking Hearings:**

- 1) Rules and District Management Plan: The Board may hold a hearing, after giving notice, to consider adoption of a new District Management plan or revising an existing District Management Plan or to amend the District Rules or adopt new District Rules.
- 2) Other Matters: A public hearing may be held on any matter within the jurisdiction of the Board if the Board deems a hearing to be in the public interest or necessary to effectively carry out the duties and responsibilities of the District.

Rule 14.2 Notice and Schedule of Hearings

- a) Notices of all hearings of the District shall be prepared by the General Manager. For all rulemaking hearings, the notice shall include the subject matter of the hearing, the time, date, and place of the hearing, and any other information deemed relevant by the General Manager or the Board. For all permit hearings, the notice shall, at a minimum, state the following information:
 - 1) the name of the applicant;
 - 2) the address or approximate proposed location of the well;
 - 3) the time, date, and location of the hearing; and,
 - 4) any other information the Board or General Manager deem appropriate to include in the notice.
- b) For permit hearings, not less than 72 hours prior to the time of the hearing, notice shall be:
 - (1) posted by the General Manager at a place convenient to the public in the District Office; and
 - (2) provided by the General Manager to the county clerk of each county in the District, whereupon such county clerk shall post the notice on a bulletin board at a place convenient to the public in the county courthouse.
- c) For rulemaking hearings, not less than five days prior to the date of the hearing, notice shall be:
 - (1) posted by the General Manager at a place convenient to the public in the District Office;
 - (2) provided by the General Manger to the county clerk of each county in the District, whereupon such county clerk shall post the notice on a bulletin board at a place convenient to the public in the county courthouse; and

- (3) published by the General Manager once in a newspaper of general circulation in each county in the District.
- d) Hearings may or may not be scheduled during the District's regular business hours, Monday through Friday of each week, except District holidays. All hearings shall be held at the District Office unless the Board directs otherwise. The District may schedule as many applications for consideration at one hearing as deemed desirable. Hearings may be continued from time to time and date to date without additional notice after the initial notice. The General Manager shall set a hearing date within 30 calendar days of a determination that the application is administratively complete. The hearing shall be held within 35 calendar days after the setting of the date.

Rule 14.3 General Procedures for Permit Hearings

- a) Authority of Presiding Officer: The presiding officer may conduct the hearing or other proceeding 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 initial hearing date for permit matters, which shall be set by the General Manager in accordance with Rule 14.2;
 - 2) convene the hearing at the time and place specified in the notice for public hearing;
 - 3) rule on motions and on the admissibility of evidence;
 - 4) establish the order for presentation of evidence;
 - 5) administer oaths to all persons presenting testimony;
 - 6) examine witnesses;
 - 7) ensure that information and testimony are introduced as conveniently and expeditiously as possible, without prejudicing the rights of any party to the proceeding;
 - 8) conduct public hearings in an orderly manner in accordance with these rules;
 - 9) recess any hearing from time to time and place to place; and,
 - 10) exercise any other appropriate powers necessary or convenient to effectively carry out the responsibilities of presiding officer.
- b) Hearing Registration Forms: Each person attending and participating in a hearing of the District must submit a form providing the following information: the person's name; the person's address; who the person represents if other than himself; whether the person wishes to testify; and any other information relevant to the hearing.

Rule 14.4 Appearance; Presentation; Time for Presentation; Ability to Supplement; Conduct and Decorum; Written Testimony

- a) Any interested person, including the General Manager, may appear at a hearing in person or may appear by representative provided the representative is fully authorized to speak and act for the principal. Such person or representative may present evidence, exhibits, or testimony, or make an

oral presentation as determined by the Board. Any partner may appear on behalf of a partnership. A duly authorized officer or agent of a public or private corporation, political subdivision, governmental agency, municipality, association, firm, or other entity may appear on behalf of the entity. A fiduciary may appear for a ward, trust, or estate. A person appearing in a representative capacity may be required to prove proper authority.

- b) After the presiding officer calls a hearing to order, the presiding officer shall announce the subject matter of the hearing and the order and procedure for presentations.
- c) The presiding officer may prescribe reasonable time limits for the presentation of evidence and oral argument.
- d) In the discretion of the presiding officer, any person who appears at a hearing and makes a presentation before the Board may supplement that presentation by filing additional written evidence with the Board within 10 days after the date of conclusion of the hearing. Cumulative, repetitive, and unduly burdensome evidence filed under this subsection will not be considered by the Board.
- e) Every person, party, representative, witness, and other participant in a proceeding must conform to ethical standards of conduct and must exhibit courtesy and respect for all other participants. No person may engage in any activity during a proceeding that interferes with the orderly conduct of District business. If in the judgment of the presiding officer, a person is acting in violation of this provision, the presiding officer will first warn the person to refrain from engaging in such conduct. Upon further violation by the same person, the presiding officer may exclude that person from the proceeding for such time and under such conditions as the presiding officer deems necessary.
- f) Written testimony: When a proceeding will be expedited and the interest of the parties will not be prejudiced substantially, 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.

Rule 14.5 Evidence; Broadening the Issues

- a) The presiding officer may admit evidence if it is relevant to an issue at the hearing.
- b) The presiding officer may exclude evidence that is irrelevant, immaterial, or unduly repetitious.
- c) No person will be allowed to appear in any hearing or other proceeding whose appearance, in the opinion of the presiding officer, is for the sole purpose of unduly broadening the issues to be considered in the hearing or other proceeding.

Rule 14.6 Recording

Hearings and other proceedings shall be recorded on audio cassette tape.

Rule 14.7 Continuance

The presiding officer may continue hearings or other proceedings from time to time and from place to place without the necessity of publishing, serving, mailing, or otherwise issuing a new notice. If a hearing or other proceeding is continued and a time and place (other than the District Office) for the hearing or other proceeding to reconvene are not publicly announced at the hearing or other proceeding by the presiding officer before it is recessed, a notice of any further setting of the hearing or other proceeding will be delivered at a reasonable time to persons who submitted a hearing registration form under Rule 14.3(b), and any other person the presiding officer deems appropriate, but it is not necessary to post a notice at the county courthouses or publish a newspaper notice of the new setting.

Rule 14.8 Filing of Documents; Time Limit; Computing Time

- a) Any papers or documents required to be filed under these rules or by law must be received in hand at the District Office within the time limit, if any, set by these rules or by the presiding officer for filing. Mailing within the time period is insufficient if the submissions are not actually received by the District within the time limit.
- b) In computing any period of time specified by these rules, by a presiding officer, by Board orders, or by law, the day of the act, event, or default after which the designated period of time begins to run is not included, but the last day of the period computed is included, unless the last day is a Saturday, Sunday, or legal holiday as determined by the Board, in which case the period runs until the end of the next day which is neither a Saturday, Sunday, nor legal holiday.

Rule 14.9 Report

Within 14 days after the date the hearing is finally concluded, the Presiding Officer must submit a hearing report to the Board. The report must include a summary of the subject matter of the hearing, the evidence or public comments received, and the Presiding Officer's recommendations for Board action on the subject matter of the hearing. Any person who participated in the hearing may review a copy of the hearing report and submit to the Board written exceptions to the hearing report. The Presiding Officer may direct the General Manager to prepare the hearing report and recommendations required by this Rule.

Rule 14.10 Board Action

Within 35 days after the final hearing date is concluded, the Board must take action on the subject matter of the hearing.

Rule 14.11 Request for Rehearing and Appeal.

A decision of the Board concerning a hearing matter may be appealed by requesting a rehearing before the Board within 20 calendar days of the date of the Board's decision. Such a rehearing request must be filed at the District Office in writing and must state clear and concise grounds for the request. Such a rehearing request is mandatory with respect to any decision or action of the Board before any appeal to District Court may be brought. The Board's decision is final if no request for rehearing is made within the specified time, upon the Board's denial of the request for rehearing, or upon rendering a decision after rehearing. If the rehearing request is granted by the Board, the date of the rehearing will be within 45 calendar days thereafter. The failure of the Board to grant or deny the request for rehearing within 90 calendar days of the date of submission shall constitute a denial of the request.

Rule 14.12 Rulemaking Hearings Procedures

- a) General Procedures: 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. In conducting a rulemaking hearing, the presiding officer may elect to utilize procedures set forth in these Rules for permit hearings to the extent that and in the manner that the presiding officer deems most appropriate for the particular rulemaking hearing.
- b) Submission of Documents: 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, as stated in the notice of hearing given in accordance with Rule 14.2; provided, however, that the presiding officer may grant additional time for the submission of documents.
- c) Oral Presentations: 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 establishes 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.
- d) Conclusion of the 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.

SECTION 15. METERING

Rule 15.1 Metering Required

- a) Notwithstanding any provision in these Rules to the contrary, to the extent that these Rules require meters to be installed on wells in existence before and on December 19, 2002 , such

meters shall be installed by the District at the District's expense. Notwithstanding any provision in these Rules to the contrary, to the extent that these Rules require meters to be installed on wells that come into existence after December 19, 2002, such meters shall be installed by the well owner at the well owner's expense.

- b) All owners of wells required under Section 15.2 to equip such wells with a meter shall do so with a flow measurement device meeting the specifications of these Rules and shall operate the meters on such wells to measure the flow rate and cumulative amount of groundwater withdrawn from the well.
- c) **Approved Meters:** A mechanically driven, digital, totalizing water meter is the only meter acceptable. The digital totalizer must not be resettable by the permittee and must be capable of a maximum reading greater than the maximum expected pumpage during the permit term. Battery operated registers must have a minimum five (5) year life expectancy and must be permanently hermetically sealed. Battery operated registers must visibly display the expiration date of the battery. All meters must meet the requirements for registration accuracy set forth in the American Water Works Association standards for cold-water meters
- d) A meter shall be installed by the owner of a well, as required under Rule 15.2, no later than four (4) months after December 19, 2002. The water meter must be installed according to the manufacturer's published specifications in effect at the time of the meter's installation, or its accuracy must be verified by the permittee in accordance with Rule 15.5. If no specifications are published, there must be a minimum length of five pipe diameters of straight pipe upstream of the water meter and one pipe diameter of straight pipe downstream of the water meter. These lengths of straight pipe must contain no check valves, tees, gate valves, back flow preventers, blow-off valves, or any other fixture other than those flanges or welds necessary to connect the straight pipe to the meter. In addition, the pipe must be completely full of water throughout the region. All installed meters must measure only groundwater.
- e) Each meter shall be installed, operated, maintained, and repaired in accordance with the manufacturer's standards, instructions, or recommendations and shall ensure an error of not greater than plus or minus five percent.
- f) The owner of a well shall be responsible for the installation, operation, maintenance, and repair of the meter associated with that well.

Rule 15.2 Wells Subject to Metering

- a) Persons producing or transporting groundwater within the District or transporting water across the District's boundaries shall install meters, if required, as set forth under this Section.
- b) The installation of meters shall be mandatory in the following situations and locations:
 - 1) If water is being produced from a well or well system located on a tract of land in one Section and any of such water produced is being used on a different Section of land, a meter shall be installed at the wellhead(s) and/or at a distribution point or points capable of ensuring an accurate accounting for the District of all water produced from the tract of land or Section and all water transported for use at a location outside of that Section;
 - 2) If water is being produced from a well or well system located within the boundaries of the District and any of such water produced is being transported across the District's boundaries

for use outside of the District, a meter shall be installed at the wellhead(s) and/or at a distribution point or points, including at any point at which water is finally transported across the District's boundaries, capable of ensuring an accurate accounting for the District of all water produced from such well or well system and all water transported across the District's boundaries for use outside of the District;

- 3) If a person has been under enforcement by the District for violation of District Rules or Chapter 36, Texas Water Code, and has been determined by the Board to have violated the same, all wells owned or operated by such person and located within the District shall have meters installed at the wellheads, unless a variance is granted by the Board for just cause at its sole discretion; or
- 4) If the Board by order determines, for good cause, that a well or distribution system should be metered to further the purposes of these Rules, the District Act, or the District's groundwater management plan, the well or distribution system shall be metered in accordance with the Order of the Board.

Rule 15.3 Types of Meters

- a) The types of meters approved for installation are:
 - 1) Internal Impeller;
 - 2) Magnetic;
 - 3) Time-Delay Ultrasonic; and
 - 4) Any flow measurement method approved in writing by the General Manager.
- b) All meters must be equipped with a non-resettable mechanical or electronic flow volume accumulator that reads in acre-feet.
- c) Types of flow meters prohibited by the District are:
 - 1) Doppler Ultrasonic;
 - 2) Pitot Tube; and
 - 3) Open Discharge.
- d) No metering method may be installed or modified prior to written approval given by the General Manager pursuant to an application filed with the District.
- e) The General Manager shall approve an application to install a metering method if the General Manager finds the application shows the following:
 - 1) the meter has a certified error of not greater than plus or minus five percent;
 - 2) for a meter, it meets the American Water Works Association design and operation standards for design, materials, and accuracy;
 - 3) the meter has a non-resettable totalizer, or lock box with resettable digital readout;
 - 4) the totalizing register of the meter has the capacity to record the total quantity of groundwater withdrawn from the aquifer for at least one full year; and

- 5) the meter, if used for the distribution of potable water, shall be American National Standards Institute/National Sanitation Foundation (ANSI/NSF) Standard 61 certified.
- g) The owner of the meter shall give written notice to the District of the intended start date of the installation or modification 30 days prior to the installation or modification to allow the District to inspect and approve the meter installation or modification.

Rule 15.4 Pre-Existing Meters and Alternative Measuring Methods

- a) Within four (4) months of December 19, 2002, the owner of a meter or alternative measuring method shall register the meter or method with the District.
- b) All meters existing on the December 19, 2002 shall be inspected by the District for compliance with the meter specifications set forth in these Rules. If the meter complies with these specifications, the General Manager shall approve the meter in writing and advise the owner of the approval. If the meter does not comply with these specifications, the General Manager will issue a notice of deficiency and direct the owner of the meter to install a new meter or modify the existing meter in compliance with Section 15 of these Rules.
- c) If at any time the owner of a well has reason to believe that a condition, of any kind whatsoever, may exist that affects the accuracy of a meter, then the owner of the well shall, within seven (7) days of learning of the fact(s), notify the General Manager that the accuracy of the meter may be in question. Such notification shall be in writing on a form provided by the District.
- d) The General Manager may conduct an investigation and, if facts warrant, direct the owner of the meter, at the owner's cost, to evaluate and test the accuracy of the meter and take appropriate corrective action, including replacement, to restore the accuracy and proper working condition of the meter as specified in these Rules.

Rule 15.5 Accuracy Verification

- a) The General Manager may require the permittee, at the permittee's expense, to test the accuracy of the water meter and submit a certificate of the test results. The certificate shall be on a form provided by the District. The General Manager may further require that such test be performed by a third party qualified to perform such tests. The third party shall be approved by the General Manager prior to the test. Except as otherwise provided herein, certification tests will be required no more than once every three years for the same meter and installation. If the test results indicate an accuracy outside the range of 95% to 105% of the actual flow, then appropriate steps shall be taken by the permittee to repair or replace the water meter within 90 calendar days from the date of the test. The District, at its own expense, may undertake random tests and other investigations at any time for the purpose of verifying water meter readings. If the District's tests or investigations reveal that a water meter is not registering within the accuracy range of 95% to 105% of the actual flow, or is not properly recording the total flow of groundwater withdrawn from the well or wells, the permittee shall reimburse the District for the cost of those tests and investigations, and the permittee shall take appropriate steps to remedy the problem within 90 calendar days from the date of the tests or investigations. If a water meter or related piping or equipment is tampered with or damaged so that the measurement accuracy is impaired, the

District may require the permittee, at the permittee's expense, to take appropriate steps to remedy any problem, and to retest the water meter within 90 calendar days from the date the problem is discovered and reported to the permittee.

- b) Meter Testing and Calibration Equipment: Only equipment capable of accuracy results of plus or minus two percent of actual flow may be used to calibrate or test meters.
- c) Calibration of Testing Equipment: All approved testing equipment must be calibrated every two years by an independent testing laboratory or company capable of accuracy verification. A copy of the accuracy verification must be presented to the District before any [further] tests may be performed using that equipment.

Rule 15.6 Removal and Disabling of Meters

- a) A meter may not be removed or otherwise disabled, including for routine maintenance, unless the owner gives the District notice in writing on a form provided by the District of the intent to remove or disable the meter. Except in cases of routine maintenance, such notice must be approved in writing by the General Manager before the meter is removed or disabled.
- b) The readings on the meter must be recorded prior to removal and again upon reinstallation. The monthly record of pumpage will include an estimate of the amount of groundwater withdrawn during the period the meter was not installed and operating.
- c) A meter may be removed or otherwise disabled only by the owner of the meter or the owner's authorized representative.

Rule 15.7 Meter Reading and Groundwater Use Reporting

Owners of wells defined under Rule 15.2 must read each water meter and record the meter readings and the actual amount of pumpage in a log at least monthly. The logs containing the 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.

Rule 15.8 Prohibition and Enforcement

- a) Except as otherwise provided by District Rule or Board Order, no person may take any action that disables or impairs a meter from accurately measuring and recording the flow rate and cumulative amount of groundwater withdrawn from a well.
- b) If the withdrawals are not being metered in accordance with this Section, the Board may issue an order:
 - 1) suspending the right to make withdrawals from a well; and
 - 2) requiring corrective action to bring the operation of the well into compliance with this Section.

Rule 15.9 Location of Meters

The location of meters required under this Section shall be determined by the General Manager.

SECTION 16. INVESTIGATIONS AND ENFORCEMENT

Rule 16.1 Right to Inspect and Test Wells

Any authorized officers, employees, 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 such wells or well and to install, read, or interpret any meter, weir box, or other instrument for the purpose of measuring production of water from said well or wells or for determining the pumping capacity of said well or wells; and any authorized officer, 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 ensured compliance or enforcement of the Rules and regulations of the District. The operation of any well may be enjoined by the Board immediately upon the refusal to permit the gathering of information from such well as provided above. Inhibiting or prohibiting access to any Board Member or District agent or employee who is attempting to conduct an investigation under the District Rules constitutes a violation of these Rules and subjects the person who is inhibiting or prohibiting access, as well as any other person who authorizes or allows such action, to the penalties set forth in § 36.102 of the Texas Water Code.

Rule 16.2 Conduct of Investigation

Investigations or inspections that require entrance upon property must be conducted at reasonable times, and must be consistent with the establishment's rules and regulations concerning safety, internal security, and fire protection. The persons conducting such investigations must identify themselves and present credentials upon request of the owner, lessee, operator, or person in charge of the well.

Rule 16.3 Rule Enforcement

If it appears that a person has violated, is violating, or is threatening to violate any provision of the District Rules, the Board of Directors may institute and conduct a suit in the name of the District for enforcement of the Rules pursuant to the provisions of § 36.102 of the Texas Water Code.

Rule 16.4 Sealing of Wells

- a) Following due process, the District may, upon order from a judge of a court of law, seal wells that are prohibited from withdrawing groundwater within the District by the District Rules to ensure that a well is not operated in violation of the District Rules. A well may be sealed when: (1) no application has been made for a permit to drill a new water well which is not exempted; (2) no application has been timely made for registration of an existing well; or (3) the Board has denied, canceled, or revoked a permit or registration.
- b) A well may be sealed by physical means and tagged to indicate that the well has been sealed by the District. Other appropriate action may be taken as necessary to preclude operation of the well or to identify unauthorized operation of the well.
- c) Tampering with, altering, damaging, or removing the seal of a sealed well, or in any other way violating the integrity of the seal, or pumping groundwater from a well that has been sealed constitutes a violation of these Rules and subjects the person performing that action, as well as any well owner or primary operator who authorizes or allows that action, to such penalties as provided by the District Rules.

Rule 16.5 Covering of Wells

- a) In this Rule, “open or uncovered well” means an artificial excavation that is dug or drilled for the purpose of exploring for or producing water from the underground water reservoir and is not capped or covered as required.
- b) 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 permanently or temporarily as set forth below and in accordance with Chapter 36, Texas Water Code, and subsequent changes thereto.
- c) Except when the well is in actual use, the District may require the owner or lessee of land on which an open or uncovered well is located to keep the well permanently closed or capped with a covering capable of preventing surface pollutants from entering the well and capable of sustaining weight of at least 400 pounds.
- d) If an owner or lessee fails or refuses to close or cap a well in compliance with this Rule within 10 days after being requested to do so in writing by an officer, agent, or employee of the District, any person, firm, or corporation employed by the District may go on the land and close or cap the well safely and securely according to this Rule.
- e) Reasonable expenses incurred by the District in closing or capping a well under this Rule constitute a lien on the land on which the well is located.
- f) The lien is perfected by filing the following in the deed records of the county where the well is located:
 - 1) the existence of the well;
 - 2) the legal description of the property on which the well is located;
 - 3) the approximate location of the well on the property; and

- 4) an affidavit stating:
 - A) the failure or refusal of the owner or lessee, after notification, to close or cap the well within 10 days after the notification;
 - B) that the well was closed or capped by the District or by an authorized agent representative, or employee of the District; and
 - C) the expense incurred by the District in closing the well.
- g) Nothing in this Rule affects the enforcement of Subchapter A, Chapter 756, Health and Safety Code.

SECTION 17. FEES

Rule 17.1 Fees of the District

The Board, by resolution, may establish the following fees:

- 1) fees for administrative acts of the District, including fees for the cost of reviewing and processing permits and the cost of hearings for permits; such administrative fees shall not unreasonably exceed the cost to the District for performing such administrative acts;
- 2) a fee for the transportation of groundwater out of the District;
- 3) a fee for checks returned to the District for insufficient funds, account closed, signature missing, or any other reason causing a check to be returned by the District's depository;
- 4) a fee for tampering with a meter of a permittee or registrant of the District;
- 5) a fee for failing to install a meter when required to do so by District Rule; and
- 6) any other fee determined necessary by the Board.

Rule 17.2 Payment of Fees

All fees are due at the time of application, permitting, or assessment, as applicable, and are late after 30 days beyond the date of application, permitting, or assessment, as applicable.

Rule 17.3 Failure to Make Fee Payments

Payments received within 30 days following the due date will not be subject to a late payment fee. Failure to make complete and timely payment of a fee as required by these Rules or Board Order shall automatically result in a late payment fee of ten percent of the amount not paid. The fee payment plus the late payment fee must be made within 30 days following the date of the assessment of the late payment fee, otherwise any associated permit or registration may be declared void by the Board.

Rule 17.4 Enforcement

After a permit or registration is declared void pursuant to Rule 17.3 for failure to make payment of a fee, all enforcement mechanisms provided by law and these Rules shall be available to prevent unauthorized use of the well and may be initiated by the General Manager without further authorization from the Board.