

**RULES OF THE  
SARATOGA UNDERGROUND WATER CONSERVATION DISTRICT ARE**

**HEREBY PUBLISHED AS OF**

**August 13, 2007; Amended June 13, 2022; Amended December  
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## **PREAMBLE**

In accordance with the terms and provisions of Article XVI Section 59 of the Constitution of Texas and Chapters 36 of the Texas Water Code, the following rules are hereby ratified and adopted by the Saratoga Underground Water Conservation District. All references herein citing sections of the Texas Water Code Chapter 36 as authority shall be shown as sections or subsections of said Code, i.e. (36.113) shall reference Section 36.113 of the Texas Water Code. Nothing in these rules shall be construed as depriving or divesting the right of ownership as recognized by Texas Water Code § 36.002.

The rules, regulations and modes of procedure herein contained are and have been adopted for the purpose of simplifying procedure, avoiding delays, saving expense, and facilitating the administration of the groundwater laws of the State by the District.

## SECTION 1 – DEFINITIONS AND CONCEPTS

### 1.1 Definitions

Unless the context hereof indicates a contrary meaning, the words hereinafter defined, either capitalized or uncapitalized, shall have the following meaning in these rules:

- (a) “Abandoned Well” shall mean a well that has not been used for twelve 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) “Aggregate Well” shall mean more than one well whose combined total production is aggregated for permitting purposes. Transport wells may not include aggregated wells.
- (c) “Applicant” shall be the owner of the land on which the well or proposed well is located, unless the landowner authorizes another person to own the permit or registration.
- (d) “Beneficial Use” or “Beneficial Purpose” shall mean use for:
  - (1) Agricultural, gardening, domestic, stock raising, municipal, mining, manufacturing, industrial, commercial, recreational, or pleasure purposes;
  - (2) Exploring for, producing, handling, or treating oil, gas, sulphur, or other minerals; or
  - (3) Any other purpose that is useful and beneficial to the user that does not commit waste as defined in this rule.
- (e) “Board” shall mean the Board of Directors of the Saratoga Underground Water Conservation District.
- (f) “Casing” shall mean a tubular watertight structure installed in an excavated or drilled hole to maintain the well opening.
- (g) “Completed Well” is a well that has been drilled, equipped and is ready to pump water.
- (h) “Conservation” shall mean those practices, techniques, and technologies that will reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water, or increase the recycling and reuse of water.

- (i) “Deteriorated Well” shall mean a well, the condition of which will cause, or is likely to, based on judgment of the Board, cause pollution of any water in the District.
- (j) “Desired Future Conditions” means a quantitative description, adopted in accordance with Section 36.108 of the Texas Water Code, of the desired condition of the groundwater resources at one or more specified future times.
- (k) “District” shall mean the Saratoga Underground Water Conservation District. When applications, reports, and other papers are required to be filed or sent to "the District" this means the District's headquarters in Lampasas, Texas. When these Rules state that an action is taken by “the District”, such action may be taken by the Board.
- (l) “Domestic use” means the use of groundwater by an individual or a household to support essential domestic activity. Such use includes water for: drinking, washing, or culinary purposes; use by multiple households that do not qualify as a Public Water System as defined in these Rules, as long as there is no consideration given or received, as set forth herein; residential landscape watering of no more than one (1) acre contiguous to one (1) residence; irrigation of a family garden and/or family orchard; recreation limited to the filling of residential swimming pools and hot tubs; or for watering of domestic animals. Domestic use does not include the following types of use: water used to support activities for which consideration is given or received or for which the product of the activity is sold; use by or for a Public Water System; irrigation of crops in fields or pastures; or water used for open-loop residential geothermal systems, but does include water for closed-loop residential geothermal systems.
- (m) “Driller's Log” shall mean a record, made at the time of drilling, showing the depth, thickness, character of the different strata penetrated, and location of water- bearing strata, as well as the depth, size, and character of casing installed.
- (n) “Exempt well” shall mean a well that is exempt from permitting under Section 3.2.
- (o) “Flow monitoring device” shall mean an electrical or mechanical register that incorporates both a digit totalizer and instantaneous flow-rate indicator utilizing generally accepted units (i.e. gallons, acre feet, or acre inches).
- (p) “Groundwater” shall mean water percolating below the earth's surface within the District but shall not include water produced with oil in the production of oil and gas.
- (q) “Licensed Water Well Driller” shall mean any person who holds a license issued by the State of Texas pursuant to the provisions of the Texas Water Well Drillers Act, as amended, and the substantive rules of the Water Well Drillers Board, or its successors.
- (r) “Modeled Available Groundwater” means the amount of water that the Executive

Administrator of the Texas Water Development Board determines may be produced on an average annual basis to achieve a Desired Future Condition established for the groundwater resources in the District.

- (s) “Non-exempt” well shall mean a well that is not exempt from permitting under Rule 3.2.
- (t) “Permit” shall mean a permit authorizing the drilling and production of a well as described, as applicable, in Sections 3, 4 and 5 of these Rules.
- (u) “Person” shall mean and include any individual, partnership, firm, corporation, entity, municipal corporation, unincorporated area, government, or governmental subdivisions or agency, business trust, estate, trust, or any other legal entity or association.
- (v) “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.
- (w) “Public Water System” or “PWS” means a system for the provision to the public of water for human consumption through pipes or other constructed conveyances, which includes all uses described under the definition for "drinking water" in 30 Texas Administrative Code, Section 290.38. Such a system must have at least 15 service connections or serve at least 25 individuals at least 60 days out of the year. This term includes any collection, treatment, storage, and distribution facilities under the control of the operator of such system and used primarily in connection with such system, and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Two or more systems with each having a potential to serve less than 15 connections or less than 25 individuals but owned by the same person, firm, or corporation and located on adjacent land will be considered a public water system when the total potential service connections in the combined systems are 15 or greater or if the total number of individuals served by the combined systems total 25 or greater at least 60 days out of the year. Without excluding other meanings of the terms "individual" or "served," an individual shall be deemed to be served by a water system if he lives in, uses as his place of employment, or works in a place to which drinking water is supplied from the system.
- (x) “Registered Well” shall mean any well registered with the District as required by District Rules, and any well drilled prior to January 1, 2021 that is registered with an agency of the State of Texas based upon rules related to water wells, including but not limited to the Texas Department of Licensing and Regulation, the Texas Commission on Environmental Quality, or the Texas Water Development Board.

- (y) “Replacement Well” is a well that is drilled to replace the production of an existing well. For non-exempt wells, in order to be considered a replacement well, the existing well must be capped or plugged in accordance with 6.1. For exempt wells, the existing well can continue in production as long as the pumping capability of the existing and replacement well is not more than 17.36 gallons per minute.
- (z) “Underground Water Reservoir” shall mean groundwater in the aquifers that is suitable for agricultural, gardening, public supply, domestic, stock raising or other beneficial uses, percolating below the earth’s surface in the District.
- (aa) “Waste” as used herein shall mean any one or more of the following:
  - (1) The withdrawal of groundwater from an Underground Water Reservoir at a rate and in an amount that causes or threatens to cause intrusion into the reservoir, water unsuitable for agricultural, gardening, domestic, or stock raising purposes;
  - (2) The flowing or producing of water from an Underground Water Reservoir if the water produced is not used for a beneficial purpose;
  - (3) The escape of groundwater from an Underground Water Reservoir to any other reservoir that does not contain groundwater, or contains undesirable water;
  - (4) The pollution or harmful alteration of groundwater in an Underground Water Reservoir by salt water, other deleterious matter admitted from another stratum or from the surface of the ground;
  - (5) Willfully or negligently causing, suffering, or permitting groundwater to escape into any river, creek, natural water course, depression, lake, reservoir, drain, sewer, street, highway, road, or road ditch, or onto any land other than that of the owner of the well or;
  - (6) Groundwater pumped for irrigation that escapes as irrigation tail-water onto land other than that of the owner of the well unless permission has been granted by the occupant of the land receiving the discharge.
  - (7) The loss of groundwater in the distribution system and/or storage facilities of a public water supply system in excess of 20% of total annual pumpage. This loss is also termed "shrinkage", "line loss" or "unaccounted for water". Excessive line loss is a non-beneficial use of groundwater.
- (bb) “Water” shall mean groundwater.
- (cc) “Well” or “Water Well” shall mean and include any artificial excavation into which groundwater from an Underground Water Reservoir may flow and be produced.



- (dd) “Well Location” shall mean the location of a proposed well on an application duly filed until such application is granted or denied, or the location of a well on a valid permit.

## **1.2 Use and Effect of Rules**

The District uses these Rules in the exercise of the powers conferred by law and in the accomplishment of the purposes of the District Act. 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 will they or any part therein, be construed as a limitation or restriction upon the District to exercise powers, duties and jurisdiction conferred by law. These Rules create no rights or privileges in any person or water well and shall not be construed to bind the Board in any manner in its promulgation of the District Management Plan or amendments to these Rules.

## **1.3 Construction**

A reference to a title or chapter without further identification is a reference to a title or chapter of the Texas Water Code. A reference to a section or rule without further identification is a reference to a section or rule in these Rules. Construction of words and phrases is governed by the Code Construction Act, Subchapter B, Chapter 311, Texas Government Code. The singular includes the plural, and the plural includes the singular. The masculine includes the feminine, and the feminine includes the masculine.

## **1.4 Methods of Service Under the Rules**

Except as provided in these Rules, any notice or document 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 or registered mail sent to the recipient's last known address, by fax transfer to the recipient’s current fax number or by e-mail and shall be accomplished by 5:00 p.m. on the date which it is due. Service by mail is complete upon deposit in a post office depository box or other official depository of the United States Postal Service. Service by fax transfer is complete upon transfer, except that any transfer completed after 5:00 p.m. shall be deemed complete 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 period of time after service, three days will be added to the prescribed period. If service by other methods has proved unsuccessful, service will be deemed complete upon publication of the notice or document in a newspaper of general circulation in the District.

## **1.5 Severability**

If a provision contained in these Rules is for any reason held to be invalid, illegal, or unenforceable in any respect, the invalidity, illegality, or unenforceability does not affect any other rules or provisions of these Rules, and these Rules shall be construed as if the invalid, illegal, or unenforceable provision had never been contained in these Rules.

## **1.6 Regulatory Compliance; Other Governmental Entities**

All registrants of the District shall comply with all applicable rules and regulations of the District and of all other governmental entities. If the District Rules and regulations are more stringent than those of other governmental entities, the District Rules and regulations are applicable.

## **1.7 Computing Time**

In computing any period of time prescribed or allowed by these Rules, order of the Board, or any applicable statute, the day of the act, event, or default from which the designated period of time begins to run is not included, but the last day of the period so computed is included, unless it is 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, or legal holiday.

## **1.8 Time Limits**

Applications, requests, or other papers or documents required or allowed to be filed under these Rules or by law must be received for filing by the District within the time limit for filing, if any. The date of receipt, not the date of posting, is determinative of the time of filing. Time periods set forth in these Rules shall be measured by calendar days, unless otherwise specified.

## **1.9 Request for Reconsideration**

To appeal a decision of the District, including any determinations made by the General Manager, concerning any matter not specifically covered under any other section of these rules, a request for reconsideration may be filed with the District within twenty (20) calendar days of the date of the decision. Such request for reconsideration must be in writing and must state clear and concise grounds for the request. The Board will make a decision on the request for reconsideration within sixty (60) calendar days thereafter. The failure of the Board to grant or deny the request for reconsideration within sixty (60) calendar days of the date of filing of the request for reconsideration shall constitute a denial of the request.

## **1.10 District Management Plan**

Following notice and hearing, the District shall adopt a Management Plan. The District Management Plan shall specify the acts and procedures and performance and avoidance measures necessary to prevent waste, the reduction of artesian pressure, or the draw-down of the water table using the best available data. The District shall use the Rules to implement the Management Plan. The Board will review the Management Plan at least every five years. Upon adoption of Desired Future Conditions under Section 36.108 Texas Water Code, the District shall update its Management Plan within two years of the date of the adoption of the Desired Future Conditions. The District shall thereafter update its Rules to implement the Management Plan within one year of the date the Management Plan is updated to include the adopted Desired Future Conditions. If the Board considers a new Management Plan necessary or desirable based on evidence presented at a hearing, a new Management Plan will be developed and adopted. A Management Plan, once adopted, remains in effect until the subsequent

adoption of another Management Plan.

### **1.11 Changes to Rules**

All changes to the District's Rules shall only be made after notice and public hearing. Such changes include repeal or amendment of existing Rules and the adoption of new Rules.

## **SECTION 2 – WELL REGISTRATION**

### **2.1 Registration of Existing Wells**

- (a) The owner of an existing well completed prior to January 1, 2021 may register the well with the District or any other agency authorized under Rule 1.1(x). Forms for registering an existing well are available from the District Office. Registered wells will be considered in a review of a proposed new well's impact on existing wells.
- (b) Registration of an existing completed well with the District prior to October 1, 2005 shall entitle the owner of the well to be granted a Designation of Historic and Existing Use. Transport wells are not entitled to a Designation of Historic and Existing Use. Designations of Historic and Existing Use shall be given priority consideration in the designation of a Critical Groundwater Management Area and in requests for selection for inclusion in any voluntary groundwater monitoring program.

### **2.2 Registration of New Wells**

- (a) The owner of a new well proposed to be located in Lampasas County shall file a well registration form with the District prior to the commencement of drilling. A registration fee shall be charged and paid at the time of filing the intent to drill. Existing wells drilled on or after January 1, 2021 shall be registered with the District and shall pay the registration fee in effect at the time the well was drilled. Registration forms for a new well are available from the District Office. All new, exempt wells require the issuance of a Notice to Proceed by the District prior to the drilling of the well. The Notice to Proceed will be issued by the District within 10 business days of receipt of an administratively complete well registration application. Issuance of a Notice to Proceed by the District evidences the District's review and approval of a registration application for a new, exempt well. All new, non-exempt wells require the issuance of a permit by the District prior to the drilling of the non-exempt well.
- (b) Within 60 days after drilling and casing of the well, the well driller shall submit a complete record; to include an accurate driller's log, any electric log which may have been made, and such additional data as may be required by the District.
- (c) Within 60 days after completion of the well, the well owner shall submit a complete record concerning the equipping and completion of the well. Such report shall include any such additional data concerning the description of the well, its discharge and equipment as may be required by the District. The report shall also certify that

the information in the registration application is true and correct. Such report shall be filed with the District at its office in Lampasas, Texas. The District may issue a temporary well number pending assignment of a State well number.

- (d) The District shall review the above referenced reports and determine whether the new well is an exempt well under Rule 3.2. If the well is determined to be non-exempt, the rules governing non-exempt wells shall apply. If the well is determined to be exempt, no further processing is required, except as may be required by Rule 2.3 regarding changes in well conditions.
- (e) Once a registration is approved as administratively complete by the District and the well registration process is completed, which for new wells also includes receipt by the District of the well report, the registration shall be perpetual in nature, subject to being amended or transferred and subject to enforcement for violations of these Rules.
- (f) All new wells must be drilled within 30 feet (10 yards) of the location specified in the registration application.
- (g) An application pursuant to which a registration has been issued is incorporated in the registration, and the registration is valid contingent upon the accuracy of the information supplied in the registration application. A finding that false information has been supplied in the application may be grounds to refuse to approve the registration or to revoke or suspend the registration.
- (h) Submission of a registration application constitutes an acknowledgment by the registrant of receipt of the rules and regulations of the District and agreement that the registrant will comply with all rules and regulations of the District.
- (i) The District may amend any registration, in accordance with these Rules, to accomplish the purposes of the District Rules, Management Plan, the District Act, or Chapter 36, Texas Water Code.
- (j) No person shall operate or otherwise produce groundwater from a well required under this section to be registered with the District before:
  - (1) Timely submitting an accurate application for registration, or accurate application to amend an existing registration as applicable, of the well to the District; and
  - (2) Obtaining a Notice to Proceed or a Production Permit issued by the District.

### **2.3 Changes to Registered Wells**

Increases in the pumping capability, changes in the use of groundwater, or reductions in lot size to 2 acres or less must be reported to the District and may result in the well being reclassified as non-exempt which would require the well owner to apply for an operating

permit. A transfer of ownership of the registered well shall be reported to the District, but transfers of ownership are not a reason for reclassification of the well.

An existing well may be reworked or re-equipped or replaced in a manner that will not change the existing well status. A replacement well, in order to be considered such, must be drilled within one hundred (100) feet of the existing well. A well that is used as a replacement for a well that has been granted a Designation of Historic and Existing Use shall be entitled to a Designation of Historic and Existing Use to the extent there are no changes to the purpose of use and production from the well. For exempt wells where the existing well is not capped or plugged, the well owner may designate either the existing well or the replacement well as the well with the Designation of Historic and Existing Use. Replacement wells shall file the forms described in Section 2.2.

#### **2.4 Providing Correct and Current Address to the District**

Owners of registered wells under these Rules are entitled to notices in certain circumstances. It is the duty of the owner of a well to provide the District with a current address.

#### **2.5 Confidentiality of Information**

Tex. Occ. Code Title 12, Section 1901.251 authorizes the owner of the well to keep information contained in the well driller's report which is filed with the state to be declared confidential and removed from the public record by sending a written request by certified mail to the State. The owner may send a copy of this letter to the district which shall accept this request and shall remove all information regarding the owner's well from public record in the District's files.

### **SECTION 3 – GENERAL PERMITTING PROCEDURES**

#### **3.1 Requirement for Permit to Drill and Operate Non-Exempt Wells**

No person shall drill, pump or operate a well or produce groundwater from a well without a permit unless that well is exempt under Rule 3.2. Owners of all wells not exempt by Rule 3.2 shall be required to obtain a permit following the procedures in Section 4. Additionally, owners of transport wells shall be required to also follow the procedures outlined in Section 5.

#### **3.2 Permit Exclusions and Exemptions**

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

- (1) A well used solely for domestic use or for providing water for livestock or poultry on a tract of land larger than 2 (two) acres that is either drilled, completed or equipped so that it is incapable of producing more than 25,000 gallons of water in a day; provided, however that this exemption shall also apply to a well that has been drilled or which is to be drilled on a tract of land equal to or less than 2 (two) acres in size only if:

- (a) The well is to be used solely for domestic use or providing water for livestock or poultry on the tract and is incapable of producing more than 25,000 gallons of water in a day;
  - (b) Such tract was platted prior to the effective date of this rule as a tract equal to or less than 2 (two) acres in size; and
  - (c) Such tract is not further subdivided into smaller tracts of land after the effective date of this rule.
- (2) A well that meets the requirements of Texas Water Code §§ 36.117 (b) (2) or 36.117 (b) (3) [governing wells permitted by the Railroad Commission of Texas] as long as Texas Water Code § 36.117 (d) does not apply to such wells; or
  - (3) Jet wells used for domestic needs.

### **3.3 Issuance of a Permit**

On approval of an application as set forth in Sections 4 and 5, the District may issue a permit to the applicant subject to any safeguards or restrictions the Board determines are necessary in order to conserve the groundwater, prevent waste, minimize as far as practicable the draw-down of the water table or the reduction of artesian pressure, or lessen interference between wells. The applicant's right to produce shall be limited to the rate, term, quantity and purpose(s) stated in the permit. When two or more wells are owned and operated by the same retail water utility as a multi-well system, the District may issue an operating permit for an aggregate withdrawal. An operating permit for an aggregate withdrawal shall allow groundwater to be produced from any well of the aggregate system up to the permitted volume. The aggregate wells shall be listed on the permit. The District may issue a permit for lesser quantities or a lesser term than is requested by the applicant.

### **3.4 Time During Which Drilling Shall be Initiated**

Actual on site drilling, pursuant to a permit granted by the District, shall be initiated within four (4) months from the date the permit is issued. If such drilling is not initiated within the four (4) months, the permit is void and drilling may not be initiated; provided, however, that the District, 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 District during the first four (4) month period. Provided further, that when it is made known to the District that a proposed project will take more time to complete, the District upon receiving written application, may grant such time as is reasonably necessary to complete such project.

### **3.5 Requirements Prior to Start of Production**

For permitted wells completed after the effective date of these Rules, production shall not commence until:

- (1) The permit owner or his representative submits a complete record concerning the

drilling, equipping and completion of the well. Such report shall include an accurate driller's log, any electric log which may have been made, and such additional data concerning the description of the well, its discharge, and its equipment as may be required by the District. The report shall also certify that the information in the permit application is true and correct. If there is a material variation between the permit application and the well as drilled and equipped, the District may require that the permit owner submit a revised application in accordance with Rule 4.1 or Rule 5.1.

- (2) In addition, in the case of wells subject to a transport permit and non-exempt wells, the permit owner or his representative certifies that the well has been equipped, at the well owner's expense, with a flow monitoring device approved by the District and available for District inspection.
- (3) Operating permits on new wells shall be assessed an application fee which shall be filed with the drilling record. On transport wells, the drilling record shall also include the transport permit fee. Transport permit fees are in addition to the operating permit fee. A transport permit fee is not a one-time fee and must be paid every time the transport permit is renewed. All records and fees shall be filed with the District at its office in Lampasas, Texas.

### **3.6 Permit Terms and Renewal**

(a) Permits issued by the District are effective for one (1) year from the date of issuance. Each permit shall be considered for renewal every one (1) year from the anniversary of the original date of permit issuance.

(b) The District shall consider permit renewal applications as follows:

- (1) If the District makes a determination that a permit owner is in compliance with the permit conditions, District Rules and orders, the permit shall be automatically renewed and a renewal permit shall be issued to the permit owner, prior to the renewal date, with no material changes to the rights conditions, use of water, location of water use, or production amount;
- (2) If the District makes a determination that a permit owner is in general compliance with the permit conditions, District Rules and orders, but that additional information or updating of information is required, the District shall promptly notify the permit owner of the needed information for permit renewal. The permit shall automatically be renewed, and the permit issued upon the District's determination of receipt of all required renewal information, if received prior to the permit renewal date. If the District does not receive the required information prior to the renewal date, the permit may not be renewed; or
- (3) If the District makes a determination that a permit owner is not in compliance with the permit conditions, rules and orders, the District shall notify the

permit owner by certified mail at least ten (10) days prior to the permit renewal date and specify the District's findings. If the items of non-compliance are not corrected prior to the renewal date the permit may not be renewed.

- (c) An administratively complete permit renewal application shall include the permit renewal fee established by the District and completion of all information requested in the District's permit renewal application form.

### **3.7 Production Fees for Non-Exempt Wells**

- (a) Production fees for non-exempt wells will be assessed based on the Texas Water Code § 36.205 (see SUWCD Fee Schedule). The flow monitoring device for all non-exempt wells will be read monthly by the District to determine the amount of water produced during that month. A bill will be submitted to the producer within 10 days. The producer is to pay the fees upon receipt of the billing. Failure to submit fees could result in the forfeiture of the ability to produce as a non-exempt well.
- (b) For non-exempt wells other than transport wells, production fees are in addition to the one time operating permit application fee. The production fees and reporting of the amount of water produced is set forth in Rule 3.7. All records and fees shall be filed with the District at its office in Lampasas, Texas. The well's facilities, flow monitoring devices and daily production records shall be available during normal working hours for inspection by District personnel.

### **3.8 Failure to Make Fee Payments**

- (a) Payments not received pursuant to the deadline established will be subject to a late payment fee of fifteen percent (15%) of the total amount of water use fees due and owing to the District.
- (b) Persons failing to remit all Water Use Fees or Groundwater Transport Fees due and owing to the District within 60 days of the date such fees are due pursuant to Rule 3.7(a) shall be subject to a civil penalty not to exceed three times the amount of the outstanding fees due and owing, in addition to the late fee penalty prescribed in Subsection (a) of this Rule, and may be subject to additional enforcement measures provided for by these Rules or by order of the Board.

### **3.9 Permit Revocation**

After notice and an opportunity for a hearing, permits are subject to involuntary amendment or revocation for violation of District Rules, violation of the permit, including special permit conditions imposed by the Board, violation of the provisions of Chapter 36, Waste of groundwater, or other actions that the Board determines to be detrimental to the groundwater resources in Lampasas County.



### **3.10 Changes to Permits; Permit Amendment**

- (a) A permittee may apply for a transfer of ownership of any permit granted by the District, and such transfer may be approved as a ministerial act upon filing the required information. However, a transfer of ownership shall be approved as a ministerial act only if the transfer is to change the ownership of the permit and no other changes to the permit are requested.
- (b) Prior to undertaking any action that would exceed the maximum amount of groundwater authorized to be produced under a permit issued by the District, or a change to the location or purpose of use, the capacity of the well, or any other applicable term, condition or restriction of an existing permit, the permit holder must first apply for and obtain a permit amendment. All applications for amendments to any permit issued by the District are subject to the considerations for Operating Permits, and are subject to the notice and hearing procedures set forth in these Rules. Changes requested to the purpose of use or to increase the amount of annual production under a Historic and Existing Use designation require the issuance of an Operating Permit prior to the changes being made.
- (c) An existing well may be reworked or re-equipped in a manner that will not change the existing well status. A permit must be applied for and granted by the District if a party wishes to replace an existing well with a replacement well. A permit amendment is not required for any well, well pump, or pump motor repair or maintenance if such repair or maintenance does not substantially alter the well, well pump, or pump motor.
- (d) The District may initiate an amendment to a permit as necessary and provided by these Rules. If the District initiates an amendment to a permit, the permit as it existed before the permit amendment process shall remain in effect until the conclusion of the permit amendment or process.

### **3.11 Continuing Right of Supervision**

All District permits are issued subject to the Rules of the District and to the continuing right of the District to regulate groundwater within the District's boundaries as authorized by Chapter 36, Texas Water Code, as amended. The decision of the Board on any matter contained herein may be reconsidered by it on its own motion or upon motion showing changed conditions, or upon the discovery of new or different conditions or facts after the hearing or decision on such matter. If the Board should decide to reconsider a matter, after having announced a ruling or decision, or after having finally granted or denied an application, it shall give notice to persons who were proper parties to the original action, and such persons shall be entitled to a hearing thereon, if they file a request thereof within fifteen days from the date of the mailing of such notice.

### **3.12 Permit Conditions**

- (a) Permits issued by the District may be subject to the conditions and restrictions placed

on the rate and amount of withdrawal, the Rules promulgated by the District, and terms and provisions with reference to the equipping of wells or pumps that may be necessary to prevent waste and achieve water conservation, minimize as far as practicable the drawdown of the water table or the reduction of artesian pressure, lessen interference between wells, or to achieve the Desired Future Conditions established for the aquifers in whole or in part within the boundaries of the District. The permittee, by accepting the permit, agrees to abide by any and all groundwater withdrawal regulations established by the District that are currently in place, as well as any and all regulations established by the District in the future. Acceptance of the permit by the person or entity to whom it is issued constitutes acknowledgment of, and agreement to comply with, all of the terms, provisions, conditions, limitations, and restrictions.

- (b) All permits shall include, at a minimum, the following conditions:
- (1) That the permit holder may not exceed the annual amount of production from a well or well system from the specific aquifer authorized under the permit, except as authorized by the District.
  - (2) The permit is granted subject to the District's Rules, orders of the District Board of Directors, special provisions, permit conditions, and laws of the State of Texas, including but not limited to Chapter 36 of the Texas Water Code and the District's enabling legislation.
  - (3) Acceptance of the permit and production of groundwater under the authority granted constitutes acknowledgement and agreement that the permittee is required to abide by the precise terms of this permit and comply with the District's Rules, orders of the District Board of Directors, special provisions, permit conditions, and laws applicable to the permit.
  - (4) Violation of the terms of the permit shall result in enforcement in accordance with the District's Enforcement Policy and Civil Penalty Schedule, Chapter 36 of the Texas Water Code, and the District's enabling legislation.
  - (5) The permit does not confer any rights and/or privileges other than those expressly set forth herein.
  - (6) The well(s) identified in the permit shall be installed, equipped, operated, maintained, plugged, capped, or closed, as may be appropriate in accordance with the District's Rules.
  - (7) Production shall not exceed the amount of authorized production set forth in the permit.
  - (8) Produced groundwater shall be put to a beneficial use at all times. Operation of the well(s) under the permit shall be conducted in a manner so as to avoid waste, pollution, or harm to groundwater resources.
  - (9) The well site shall be accessible to District representatives and/or agents for inspection during business hours and during emergencies. The permit holder

agrees to cooperate fully in any reasonable monitoring or sampling of the well(s).

- (10) A permit holder shall provide written notice to the District of any change of ownership, name of any authorized representative, well operator, mailing address or telephone number in accordance with District Rules.
- (11) The permit holder shall reduce water production as required by District Rules and orders of the Board of Directors, including but not limited to proportional adjustments issued based on achievement of the District's Desired Future Conditions, and/or adjustments due to times of drought and in accordance with any District approved Drought Contingency Plan.
- (12) The application and all information pursuant to which the permit has been granted is incorporated therein, and the permit has been granted based on the accuracy thereof. A finding that false information has been supplied to the District shall be grounds for immediate revocation of the permit, and shall subject the permit holder to enforcement.
- (13) The permit contains all matters approved by the District related to the permittee's authority to use groundwater, and all other matters requested by the permit holder not included in the permit are denied.
- (14) In the event of a conflict between the terms of the permit and the application and information pursuant to which the permit was granted, the terms of the permit shall prevail.
- (15) Any other information, special conditions or restrictions deemed necessary by the District.

### **3.13 Emergency Authorization**

- (a) The General Manager or Board may grant an Emergency Permit authorizing the drilling, equipping, or operation of a well that complies with the spacing requirements of these Rules. An Emergency Permit may be granted 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.
- (b) An Emergency Permit may only be issued upon a finding that:
  - (1) No suitable surface water or permitted groundwater is immediately available to the applicant; and
  - (2) An emergency need for the groundwater exists such that issuance of the permit is necessary to prevent the loss of life or to prevent severe, imminent threats to the public health or safety.
- (c) An Emergency Permit may be issued for a term determined by the Board or General Manager based upon the nature and extent of the emergency, but which shall in no

event exceed sixty (60) days. Upon expiration of the term, the permit automatically expires and is cancelled.

## **SECTION 4 – OPERATING PERMIT APPLICATION AND CONSIDERATION PROCEDURES**

### **4.1 Operating Permit on New Wells**

- (a) If the well is projected to be non-exempt, the owner or his representative shall submit an operating permit application along with the permit application fee prior to beginning drilling the well. If a well that was originally projected to be exempt is drilled and, after drilling, the owner determines that it wishes to equip the well so as to make it non-exempt, such owner or his representative shall also file an operating permit application.
- (b) An application for an operating permit for a new non-exempt well shall be submitted to the District in writing and be sworn to by the well owner. The application shall be submitted on forms obtained from the District and shall contain such information as deemed necessary by the District to comply with the requirements of Chapter 36 and address specific District needs. Such information shall include, but is not limited to, a location map or property plat drawn on a scale that adequately details the well site, the property lines, the location of other existing wells on the subject tract, the location of the existing use(s), the location of any existing or proposed on-site wastewater system, and the location of any other potential source of contamination within 100 feet of the existing well. In order to adequately address the purposes and requirements of Chapter 36 and District Rules, the District may require further clarification or additional documentation from the applicant. An application from the owner of a proposed new non-exempt well shall not be administratively complete until the applicant: (1) publishes public notice of the application once in a newspaper of local circulation acceptable to the District and (2) provides public notice by certified mail, return receipt requested, to any adjacent landowner within one-quarter mile of the proposed well location.
- (c) If an application remains administratively incomplete for more than 180 days following either the original application date, or the date the District notified the applicant of the need to submit additional clarification or documentation, the application shall expire.
- (d) If the proposed well is located within a Critical Groundwater Depletion Area (“CGDA”) under Section 8 of these Rules, before approving the application the District shall consider the conditions within the CGDA, how the proposed well may affect the CGDA, whether additional groundwater production is available, and, if available, how much can be allocated to the proposed well.
- (e) The District shall promptly consider and act on each administratively complete application for a permit. The District shall, within 30 days after the date a permit application is administratively complete, either act on the application or set it for a

public hearing on a specific date. The District may approve an application if it determines that it meets the requirements of Chapter 36 of the Texas Water Code and District Rules, otherwise the District shall schedule a public hearing before the Board. Additionally, whenever a protest is received during the public comment period on a non-exempt well, the Board shall schedule a public hearing for consideration of the application. The public hearing shall be conducted in accordance with Section 9. The Board shall hold the hearing within 35 days of setting the hearing and shall act on the application within 35 days after the hearing is held.

- (f) After drilling and completing the well, the owner or his representative shall file the reports and fees set forth in Rule 3.5.

#### **4.2 Considerations for Granting or Denying a Permit or Permit Amendment Application**

- (a) Before granting or denying a permit or permit amendment application, the District must consider whether:
  - (1) The application contains accurate information, all the information requested and is accompanied by the subscribed administrative fees;
  - (2) The water well(s) complies with Chapter 36 of the Texas Water Code, and these Rules, including but not limited to the spacing and production limitations identified in these Rules;
  - (3) The proposed use of water unreasonably affects 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 the State Office of Administrative Hearings, the Board shall consider the proposal for decision issued by the State Office of Administrative Hearings.
- (b) The District, to the extent possible, shall issue permits up to the point the total volume of exempt and permitted groundwater production will achieve the applicable Desired Future Conditions established for the aquifers in the District. In issuing permits, the District shall manage total groundwater production on a long-term basis to achieve the applicable Desired Future Conditions and shall consider:

- (1) The Modeled Available Groundwater determined by the Executive Administrator of the Texas Water Development Board;
- (2) The Executive Administrator of the Texas Water Development Board's estimate, as may be provided by the District, of the current and projected amount of groundwater produced under the exemptions in District Rule 3.2;
- (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.

## **SECTION 5 – TRANSPORT PERMIT APPLICATION PROCEDURES**

### **5.1 Application Required**

An owner of a well producing groundwater that is transported outside of Lampasas County shall obtain a transport permit from the District unless the well is exempt from permitting under Rule 3.2 or this Rule. The requirements of this rule are applicable without regard to the manner the water is transferred out of the district and specifically includes discharges into watercourses to convey water as well as pipelines and aqueducts. Transportation of water that is part of a manufactured product such as water bottled for sale outside the county requires a transport permit. The application process, review process, and the terms and conditions of Board-approved transport permits shall be in compliance with and pursuant to all the provisions of District Rules and Texas Water Code § 36.122.

### **5.2 Exceptions**

Groundwater transported by truck and used outside Lampasas County for emergency purposes such as fire fighting needs does not require a transport permit. If the groundwater is to be used on property that straddles the District boundary line, a permit is not required as long as the water is used solely on the tract of land that straddles the property line and is an exempt well under 3.2.

### **5.3 Application Procedure**

- (a) The well owner shall submit an application for a transport permit on a form obtained from the District. The application shall include, but is not limited to, the following information:
  - (1) The availability of water in the District and in the proposed receiving areas during the period for which the water supply is requested;

- (2) The projected effect of the proposed transfer on aquifer conditions, depletion, subsidence, or effects on existing permit holders or other groundwater uses within the District;
  - (3) The projected effect upon holders of wells that have obtained a Historic and Existing Use Designation.
- (b) A transport application from the owner of a proposed new non-exempt well shall not be administratively complete until the applicant:
  - (1) Publishes public notice of the application once in a newspaper of local circulation acceptable to the District; and
  - (2) Provides public notice by certified mail, return receipt requested, to any adjacent landowner within one-quarter mile of the proposed well location.
- (c) The District shall determine whether the transport permit application is administratively complete. In order to adequately address the purposes and requirements of Chapter 36 and District Rules, the District may require further clarification or additional documentation from the applicant.
- (d) If an application remains administratively incomplete for more than 180 days following either the original application date, or the date the District notified the applicant of the need to submit additional clarification or documentation, the application shall expire.

#### **5.4 Export Fee**

The District shall impose a reasonable application fee and export fees for transport permits. Such fees shall be assessed in accordance with the current fee schedule adopted by the Board or the fees allowed by Texas Water Code § 36.122(e), whichever is greater.

#### **5.5 Board Approval**

- (a) In reviewing the application for the proposed transfer of water outside of Lampasas County, the District shall consider the application and all its associated documents. The District shall not deny the application based solely on the fact that the applicant seeks to transfer groundwater outside the District, however, the Board may deny or limit the transport permit if it determines that it is warranted by consideration of:
  - (1) The availability of water in the District and in the proposed receiving areas during the period for which the water supply is requested;
  - (2) The effect of the proposed transfer on aquifer conditions, depletion, subsidence, or effects on existing permit holders or other groundwater uses within the District;

- (3) The projected effect upon holders of wells that have obtained a Historic and Existing Use Designation; and
  - (4) The approved regional water plan and certified district management plan.
- (b) The Board shall, within 30 days after the date a permit application is administratively complete either act on the application or set it for a public hearing on a specific date. The Board may approve an application if it determines that it meets the requirements of Chapter 36 of the Texas Water Code and District Rules, otherwise, a public hearing before the Board shall be scheduled. Additionally, whenever a protest is received during the public comment period on a potential transport well, the Board shall schedule a public hearing for consideration of the application. The public hearing shall be conducted in accordance with the District’s public hearing policy. The District shall hold the hearing within 35 days of setting the hearing and shall act on the application within 35 days after the hearing is held.

## **5.6 Transport Permit Terms and Conditions**

- (a) Transport permits approved by the Board and issued by the District shall contain, in addition to the information set forth in an operating permit, the amount of water that may be transferred out of the District and the period for which the water may be transferred in accordance with Texas Water Code § 36.122. Notwithstanding Rule 3.6, the District may issue a Transport Permit for a period of less than three years. Further, after drilling and completing the well, the owner or his representative shall file the reports and fees set forth in Rule 3.5.
- (b) All permitted wells or permitted transport facilities that produce groundwater for transport outside Lampasas County shall be equipped with a functional and accurate flow-measuring device that measures the daily production rate of groundwater transported outside Lampasas County. The person holding a transport permit is required to keep records of daily production rates of groundwater transported outside Lampasas County. These daily production records shall be submitted to the District on a monthly basis, together with any applicable export fees. The wells, facilities, flow monitoring devices, and daily production records shall be available during normal working hours for inspection by District employees or personnel.

## **5.7 Transport Permit Amendments**

Transport permit holders may apply for an amendment to their permitted export volume on a form obtained from the District. Applications requesting an increase in the permitted export volume shall require a public hearing and Board action.

# **SECTION 6 – WELL STANDARDS AND SPACING REQUIREMENTS**

## **6.1 Well Construction and Closure Standards**

Construction and completion of wells and installation of pumps shall be in accordance with



the Texas Water Code Chapter 32, “Water Well Drillers” and Chapter 33, “Water Well Pump Installers,” as amended and the Administrative Rules of the Texas Department of Licensing and Regulation, 16 Texas Administrative Code, Chapter 76, as amended. Open or uncovered wells must be capped or plugged in accordance with the requirements of the TCEQ, the Texas Department of Licensing and Regulation’s Water Well Drillers and Pump Installers Program, and the District Rules and Well Construction Standards.

## **6.2 Persons Authorized to Drill Wells and Install Pumps**

- (a) Only persons who are licensed water well drillers or their statutorily authorized apprentices, in good standing with the Department of Licensing and Regulation Texas Water Well Drillers Board and whose licenses are verified with the District are allowed to commercially drill water wells within the District. License verification with the District shall be on forms provided by the District and be in accordance with and contain information called for in the form of verification. Owners may drill water wells on their property provided wells are completed according to State and District completion requirements.
- (b) Commercial Pump Installers are required to show licensed verification with the District. License verification shall be on forms provided by the District and shall be in accordance with and contain the information called for in the form of verification.

## **6.3 Sealing of Wells**

- (a) Following public notice, the Board may order the sealing of a well that is in violation of District Rules or that has been prohibited from producing groundwater. The reasons for ordering the sealing of a well include:
  - (1) failure to apply for an operating permit or a transport permit prior to drilling a nonexempt well;
  - (2) operating a nonexempt well without an operating permit or a transport permit;
  - (3) exceeding the production limits when the well is located within a Critical Groundwater Depletion Area (CGDA); or
  - (4) when the Board has denied, cancelled, or revoked an operating permit or transport permit.
- (b) Once the Board has ordered a well to be sealed, the District is authorized to provide notice of intent to access the well for the purpose of sealing the well pursuant to Texas Water Code § 36.123. Upon accessing the well, District may seal the well by physical means, tag it to indicate that the well has been sealed by the District, or take any other appropriate action necessary to clearly indicate that the well has been sealed. The seal is intended to preclude operation of the well and/or identify unauthorized operation of the well.

- (c) Unless a person has permission from the District to modify or remove a well seal, tampering with, altering, damaging, removing, or violating the seal of a sealed well in any way, or pumping groundwater from a well that has been sealed constitutes a violation of District Rules and subjects the person who performs that action, as well as the well owner who authorizes, allows, encourages, or condones such action, to enforcement and penalties pursuant to all applicable District Rules.

**6.4 Well Spacing Requirements**

- (a) To minimize as far as practicable the drawdown of the water table, the reduction of artesian pressure, to control subsidence, to prevent interference between wells, to prevent degradation of water quality, or to prevent waste, the district by rule may regulate the spacing of water wells.
- (b) All wells drilled prior to the effective date of these Rules, shall be drilled in accordance with state law in effect, if any, on the date such drilling commenced.
- (c) All new wells must comply with the spacing and location requirements set forth under the Texas Water Well Drillers and Pump Installers Administration Rules, Title 16, Part 4, Chapter 76, Texas Administrative Code, unless a written variance is granted by the Texas Department of Licensing and Regulation and a copy of the variance is forwarded to the District by the applicant or registrant.
- (d) After authorization to drill a well has been granted under a registration or a permit, the well, if drilled, must be drilled within fifty (50) 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.
- (e) In addition to the requirements of Rule 6.4(c), the following spacing of wells shall be required for new wells in Lampasas County:

Pumping Capability of Proposed Well in Gallons per Minute	Spacing Required Between Wells and the Proposed Well	Distance of Proposed Well from Property Lines
Up to 17.36	150 feet	50 feet
17.36 – 50 GPM	300 feet	200 feet
> 50 GPM	3000 feet	1000 feet

**6.5 Exceptions to Spacing Requirements**

- (a) If an exception to the spacing requirements of the District is desired, a person shall submit an application on a form provided by the District. In the application, the applicant must explain the circumstances justifying an exception to the spacing requirements of the District. The application must include a boundary survey or sketch, drawn to scale. The boundary survey or sketch must show the property lines

in the immediate area and show accurately, to scale, all existing wells within the applicable required spacing distance of the proposed well site. The application and boundary survey or sketch must be certified by a person acquainted with the facts who shall state that the facts contained in the application are true and correct.

- (b) If the applicant presents waivers signed by the adjoining landowner(s) stating that they have no objection to the proposed location of the well site, the District may waive the spacing requirements for the new proposed well location.
- (c) The District, shall, if good cause is shown, enter special orders or add special permit conditions increasing or decreasing spacing requirements.
- (d) An exception to the property line and existing well spacing requirements shall be automatically granted upon receipt of an application under Subsection (a) that includes evidence and a sworn statement by the landowner or well owner, as applicable, that the abutting land or existing well to which a spacing exception is requested is owned by the same person as the proposed well.
- (e) An exception may be granted by the Board after written notice has been given by the applicant by mailing notice by certified mail, return receipt requested, to all existing registered wells located within the minimum required distance from the proposed well site, after a public hearing at which all interested parties may appear and be heard, except as otherwise provided in Subsection (d). Proof of the mailed notice shall be given to the General Manager by the applicant no less than twenty (20) days prior to the date of the public hearing on the spacing exception request.
- (f) Grounds for granting a spacing exception may include evidence that the well proposed in the application will produce groundwater from a different aquifer subdivision other than that of the existing wells within the minimum required distance from the proposed well.

## **6.6 Well and Property Access**

The District has authority under Texas Water Code § 36.123 to enter any public or private property in Lampasas County at any reasonable time for purposes of inspecting and investigating conditions relating to water quality, water wells, or compliance with District Rules, regulations, permits, or other orders.

## **SECTION 7 – CONSERVATION MEASURES; AVAILABILITY ASSESSMENTS**

### **7.1 Designation of Conservation Measures**

- (a) The Board may impose measures deemed appropriate to provide for the conservation of groundwater to prevent waste and to carry out the duties of the District, including requiring:
  - (1) All groundwater supply systems to institute conservation oriented rate

structure in the sale of water to their retail customers.

- (2) All groundwater supply systems to have a water conservation plan which requires:
  - (A) Voluntary conservation measures and information/education programs;
  - (B) Promotion of water saving devices and water efficient landscaping;  
and
  - (C) All permit applications to contain a statement relating to effective water conservation programs and methods that will insure a concerted water conservation program.

## **7.2 Groundwater Monitoring Program**

Pursuant to Texas Water Code §§ 36.107 and 36.109, the District may implement any research projects or scientific studies and collect any information deemed necessary by the Board including groundwater use, water conservation, aquifer recharge, groundwater quantity and quality, aquifer conditions, geology, hydrology, hydrogeology, and other groundwater related fields. Participation in these programs by owners of registered wells shall be voluntary. Owners of permitted and transport wells may be required by the District to participate.

## **7.3 Groundwater Availability Assessments**

The District shall review groundwater availability determinations for development in Lampasas County pursuant to Texas Administrative Code Title 30 Chapter 230 - Groundwater Availability Certification for Platting. The District may adopt procedures for reviewing groundwater availability assessments under this section by resolution of the Board. The District shall charge all fees necessary for reviewing groundwater availability assessments to the applicant. Submission of the groundwater availability assessment to the county for plat review is conditioned upon the payment of all prescribed fees and submission of the prescribed form for groundwater availability assessments to the District, and adherence to the procedures adopted by the District.

# **SECTION 8 – CRITICAL GROUNDWATER DEPLETION AREA**

## **8.1 Identification of a Critical Groundwater Depletion Area (CGDA)**

Upon evidence of drawdown of the water table or reduction of artesian pressure in an area of an aquifer within the District, the District may declare the area a Critical Groundwater Depletion Area (“CGDA”) through resolution of the Board. A CGDA will be established using the best hydrogeologic and other relevant scientific data readily available. Prior to establishing a CGDA the District shall invite comment and exchange aquifer condition data

from well owners within the proposed CGDA. Following the foregoing collaboration study, notice and hearing shall be held using the procedures of Section 9 of these Rules prior to declaration of a CGDA. A CGDA may be created by the District to:

- (1) Assess water availability;
- (2) Assess water quality;
- (3) Establish more restrictive spacing requirements;
- (4) Authorize total production and make proportional adjustments to permitted withdrawals; and
- (5) Otherwise undertake efforts to manage the groundwater resources in a manner that is consistent with the District Act, Chapter 36, Texas Water Code, and that aids in the attainment of all applicable Desired Future Conditions established for the aquifers located in whole or in part within the boundaries of the District.

## **8.2 Procedures Following Establishment of a CGDA**

Once a CGDA is declared and delineated, the area shall be given a unique name or number for identification purposes and all registered and permitted well owners in the area shall be notified. Notification of all Board decisions related to a CGDA shall be made to all registered and permitted well owners within the CGDA by published notice. When the Board declares and delineates a CGDA, the Board may take action, including any combination of the following:

- (1) Set production limits on permitted wells located within the CGDA to an assigned volume of water as may be determined from the historical production data obtained from District records. The approved conservation/drought management plans shall be considered in determining the production limits. The Board shall review the production allocation on an annual basis and make appropriate adjustments as permitted or dictated by aquifer conditions;
- (2) Require all permitted wells within the CGDA to be equipped with a District approved meter or measuring device. The expense of the device shall be borne by the well owner;
- (3) Require increased spacing for all new permits within the CGDA;
- (4) Establish recommended production limits on all exempted wells within the CGDA to reasonably correspond to retail water utility conservation/drought management plans used within the District; and

- (5) Issue such rules as are necessary to protect holders of Historic and Existing Use Designations.

### **8.3 Reporting Requirements**

Owners of permitted wells within the CGDA shall provide the District with reports of the amount of water produced from each well under permit in the CGDA on forms provided by the District and on a schedule determined by the Board. If the Board has not required metering devices on wells, production volume reports shall be provided by accurate estimates such as recording duration of pumping and the well output capacity (gpm).

### **8.4 Requests for Temporary Change in Water Allocation**

Owners of permitted wells within the CGDA may request a temporary change in water allocation through petition to the Board. Decision on such requests shall be made consistent with prudent aquifer management, the effect on other well owners in the CGDA, and the degree of necessity for the request.

## **SECTION 9 – HEARINGS**

### **9.1 Hearings Generally**

- (a) A public hearing may be held on any matter within the jurisdiction of the Board, or 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. The District conducts four general types of hearings under this Section:
  - (1) Rulemaking or Management Plan 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;
  - (2) Hearings involving the issuance of permits or permit amendments, in which the rights, duties, or privileges of a party are determined after an opportunity for an adjudicative hearing;
  - (3) Show cause hearings, in which the obligation and authority of the District to impose civil penalties is considered under specific relevant circumstances; and
  - (4) Hearings on the Desired Future Conditions proposed for the District.
- (b) Any matter designated for hearing before the Board may be heard by a quorum of the Board, referred by the Board for a hearing before a hearing examiner, by a quorum of the Board along with an appointed hearing examiner who officiates during the hearing, or by the State Office of Administrative Hearings.

- (c) Any hearing scheduled may be continued from time to time and date to date without notice after providing the initial notice.

## **9.2 Rulemaking Hearings**

- (a) Rulemaking hearing notice shall 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 the Board.
- (b) Not less than 20 calendar days prior to the date of the 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 clerks within the District;
  - (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 rulemaking hearing notice; 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.
- (c) A person may submit to the District a written request for notice of a rulemaking hearing. 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. An affidavit of an officer or employee of the District establishing attempted service by first class mail, facsimile, or email to the person in accordance with the information provided by the person is proof that notice was provided by the District.
- (d) Failure to provide notice under Subsection (c) does not invalidate an action taken by the District at a rulemaking hearing.
- (e) A person participating in a rulemaking hearing shall complete a hearing registration form stating the person's name, address, and whom the person represents, if applicable.
- (f) The District shall prepare and keep a record of each rulemaking hearing in the form of an audio or video recording or a court reporter transcription.
- (g) The District may use an informal conference or consultation to obtain the opinions and advice of interested persons about contemplated rules and may appoint advisory committees of experts, interested persons, or public representatives to advise the District about contemplated rules.

### **9.3 Permit Hearings**

- (a) If the General Manager or Board schedules a hearing on an application for a permit, permit amendment or permit revocation, the General Manager shall give notice of the hearing as provided in this section. The General Manager or Board may schedule more than one permit application for consideration at a hearing.
- (b) Any person having an interest in the subject matter of a permit hearing may receive written notice of the hearing if the person submits to the District a written request to receive notice of the hearing. The request remains valid for a period of one year from the date of the request, after which time a new request must be submitted. Failure by the District to provide written notice to a person under this Subsection does not invalidate any action taken by the Board.
- (c) Not later than the 10th day before the date of a permit hearing, the General Manager shall:
  - (1) Post notice at a place readily accessible to the public in the District office;
  - (2) Provide notice to the county clerk of Lampasas County, whereby the county clerk must post the notice on a bulletin board at a place convenient to the public;
  - (3) Provide notice by regular mail to the applicant; and
  - (4) Provide notice by mail, fax, or email to any person who has specifically requested to receive notices of permit hearings.
- (d) The notice provided under Subsection (c) must include:
  - (1) The name and address of the applicant;
  - (2) The address or approximate location of the well or proposed well;
  - (3) A brief explanation, including any requested amount of groundwater, the purpose of the proposed use, and any change in use, if applicable;
  - (4) A general explanation of the manner by which a person may contest the permit, or permit amendment;
  - (5) The time, date, and location of the hearing; and
  - (6) Any other information the Board or General Manager deems relevant and appropriate to include in the notice.
- (e) An administratively complete application shall be set for a hearing within sixty (60) days after the date the application is determined to be administratively complete. A hearing shall be held within thirty-five (35) days after the setting of the date, and the



District shall act on the application within sixty (60) days after the date the final hearing on the application is concluded.

#### **9.4 Contested Permit Hearings**

- (a) The General Manager, the applicant, or an affected person may request a contested hearing on an application for a permit or permit amendment. A request for a contested hearing is distinguished from public comment on an application, and shall be filed not later than five (5) calendar days before the scheduled hearing date, and shall include the following information:
  - (1) The name, address, telephone number and email address of the person filing the request. If the request is made by a group or association, the request must identify the primary contact person responsible for receiving all official communications on behalf of the group or association;
  - (2) The person or entity's personal justiciable interest affected by the application and proposed withdrawal, including a statement demonstrating how that interest is not common to members of the general public; and
  - (3) Specifically request a contested hearing.
- (b) A request for a contested hearing to be conducted by the State Office of Administrative Hearings pursuant to Section 36.416 of the Texas Water Code shall be made not later than five (5) calendar days before the scheduled hearing date. If timely requested under this section, the District shall contract with the State Office of Administrative Hearings to conduct the hearing on the application.

#### **9.5 Preliminary Hearing for Contested Application**

- (a) Upon the timely filing of a contested hearing request that meets the requirements of Rule 9.4, the District shall schedule a preliminary hearing on the application. The preliminary hearing may be conducted by a quorum of the Board, a Hearing Examiner, or the State Office of Administrative Hearings.
- (b) Parties to a contested hearing shall be designated at the preliminary hearing. Unless the District is required to contract with the State Office of Administrative Hearings to conduct the contested hearing, the District may conduct the preliminary hearing on the same day and immediately before the evidentiary hearing on an application.
- (c) If the District determines that no person requesting a contested hearing has standing or that no justiciable issues are presented, the Board may take any action authorized under Rule 9.6(a).

#### **9.6 Action on Uncontested Application**

- (a) The Board may take action on any uncontested application at a properly noticed public

meeting held at any time after the public hearing at which the application is scheduled to be heard. The Board may issue a written order to:

- (1) grant the permit application;
  - (2) grant the permit application with special conditions; or
  - (3) deny the permit application.
- (b) An applicant may, not later than the 20th day after the date the Board issues an order granting the application, request a contested case hearing if the order:
- (1) includes special conditions that were not part of the application as finally submitted; or
  - (2) grants a maximum amount of groundwater production that is less than the amount requested in the application.

**9.7 Contested Case Hearings Conducted by the State Office of Administrative Hearings**

- (a) If timely requested by the applicant or other party to a contested case hearing, the District shall contract with the State Office of Administrative Hearings to conduct the hearing on the application. The Board shall determine whether the hearing held by the State Office of Administrative Hearings will be held in Travis County or at the District office or other regular meeting place of the Board.
- (b) 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. The District may assess other costs related to hearings conducted under this rule as authorized under Chapter 36, Texas Water Code, or the District Rules.
- (c) The administrative law judge who conducts a contested case hearing shall consider applicable District Rules or policies in conducting the hearing. The District shall provide the administrative law judge with a written statement of applicable rules or policies.
- (d) The District Board may change a finding of fact or conclusion of law made by the administrative law judge, or may vacate or modify an order issued by the administrative law judge, only if the Board determines:

- (1) That the administrative law judge did not properly apply or interpret applicable law, District Rules, written policies provided under Texas Water Code § 36.416(e), or prior administrative decisions;
- (2) That a prior administrative decision on which the administrative law judge relied is incorrect or should be changed; or
- (3) That a technical error in a finding of fact should be changed.

## **9.8 Procedures for Permit Hearings Conducted by the District**

- (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 hearing date set by the General Manager or Board under Rule 9.3;
  - (2) Convene the hearing at the time and place specified in the notice for public hearing;
  - (3) Designate the parties to a hearing;
  - (4) Admit evidence that is relevant to an issue at the hearing, exclude evidence that is irrelevant, immaterial, or unduly repetitious, and rule on motions and on the admissibility of evidence;
  - (5) Establish the order for presentation of evidence;
  - (6) Administer oaths to all persons presenting testimony;
  - (7) Examine witnesses;
  - (8) Ensure that information and testimony are introduced as conveniently and expeditiously as possible, without prejudicing the rights of any person participating in the proceeding;
  - (9) Conduct public hearings in an orderly manner in accordance with these Rules;
  - (10) Recess any hearing from time to time and place to place; and
  - (11) 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 permit hearing of the District must submit on a form provided by the District the following

information: the person's name; the person's address; who the person represents if other than himself; whether the person wishes to provide public comment or testify; and any other information relevant to the hearing.

- (c) Public Comment: Documents that are filed with the Board that comment on an application, but that do not request a hearing will be treated as public comment. The Presiding Officer may allow any person, including the General Manager or a District employee, to provide comments at a hearing on an uncontested application.
- (d) Any interested person 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.
- (e) 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 presentation.
- (f) The Presiding Officer may prescribe reasonable time limits for the presentation of evidence and oral argument.
- (g) If the Board has not acted on the application, in the discretion of the Presiding Officer, any person who testifies at a hearing may supplement that testimony by filing additional written material with the Presiding Officer within ten (10) days after the date of conclusion of the hearing. A person who files additional written material with the Presiding Officer must also provide the material, not later than the 10th day after the date of the hearing, to any person who provided comments on an uncontested application or any party to a contested hearing. A person who receives additional written material under this Subsection may file a response to the material with the Presiding Officer not later than the 10th day after the date the material was received. Cumulative, repetitive, and unduly burdensome evidence filed under this Subsection will not be considered by the Board.
- (h) Every person, 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.

- (i) Written testimony: When a proceeding will be expedited and the interest of the persons participating in the hearing 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. On the motion of a party to the hearing, the Presiding Officer may exclude written testimony if the person who submits the testimony is not available for cross-examination by phone, a deposition before the hearing, or other reasonable means.
- (j) 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. A record of a hearing in the form of an audio or video recording or a court reporter transcription shall be prepared and kept by the Presiding Officer in a contested hearing. The Presiding Officer shall have the hearing transcribed by a court reporter upon a request by a party to a contested hearing. The Presiding Officer may assess court reporter transcription costs against the party requesting the transcription or among the parties to the hearing. 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 rule, unless the parties have agreed that the costs assessed against such party will be paid by another party.

## **9.9 Board Action**

The Board shall act on a permit or permit amendment application not later than the 60th day after the date the final hearing on the application is concluded. For hearings conducted by the State Office of Administrative Hearings, the Board shall make the final decision on the application within 60 days after the issuance of the proposal for decision by the State Office of Administrative Hearings. In a hearing in which the District has contracted with the State Office of Administrative Hearings to conduct the contested case hearing, the Board has the authority to make a final decision on consideration of a proposal for decision issued by the State Office of Administrative Hearings administrative law judge consistent with Section 2001.058, Texas Government Code.

## **9.10 Request for Rehearing or Findings and Conclusions**

- (a) An applicant in a contested or uncontested hearing on an application or a party to a contested hearing may appeal a decision of the Board by requesting written findings of fact and conclusions of law within twenty (20) calendar days of the date of the Board's decision. On receipt of a timely written request, the Board shall make written findings of fact and conclusions of law 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 party who requested them, and to each designated party, not later than the 35th day after the date the Board receives the request.
- (b) A party 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. In a contested case, a party must first make a request for written findings and conclusions under District Rule 9.10 before any party to the contested case may submit a request for rehearing under this rule.

- (c) A request for rehearing must be filed with the District in writing and must state clear and concise grounds for the request. The person requesting a rehearing must provide copies of the request to all parties to the hearing. With respect to any decision or action of the Board in a contested case, such a request for rehearing is mandatory before any appeal to District Court may be brought. Any appeal to District Court shall be limited to the issues and grounds raised in the motion for rehearing.

## **9.11 Final Decision**

- (a) A decision by the Board on a permit or permit amendment application is final:
  - (1) If a request for rehearing is not filed on time, on the expiration of the period for filing a request for rehearing; or
  - (2) If a request for rehearing is filed on time, on the date:
    - (A) the Board denies the request for rehearing either expressly or by operation of law; or
    - (B) the Board renders a written decision after rehearing.
- (b) Except as provided by Subsection (c), an applicant or a party to a contested hearing may file suit against the District under Section 36.251, Texas Water Code, to appeal a decision on a permit or permit amendment application not later than the 60th day after the date on which the decision becomes final.
- (c) An applicant or a party to a contested hearing may not file suit against the District under Section 36.251, Texas Water Code, if a request for rehearing was not filed on time.

## **SECTION 10 - ENFORCEMENT OF RULES**

### **10.1 Purpose and Policy**

The District's ability to effectively and efficiently manage the limited groundwater resources within its boundaries depends entirely upon the adherence to the Rules promulgated by the Board to carry out the District's purposes. Those purposes include providing for the conservation, preservation, protection and recharge of the groundwater resources within the District, to protect against subsidence, degradation of water quality, and to prevent waste of those resources. Without the ability to enforce these Rules in a fair, effective manner, it would not be possible to accomplish the District's express groundwater management purposes. The enforcement rules and procedures that follow are consistent with the responsibilities delegated

to the District by the Texas Legislature through the District's enabling legislation and through Chapter 36 of the Texas Water Code.

## **10.2 General Enforcement of Rules**

The District shall have all enforcement powers as set forth in these Rules and Chapter 36 of the Texas Water Code.

## **10.3 Enforcement Authority**

- (a) In addition to the enforcement powers set forth herein, if the Board determines that it appears a person has violated or is violating, any provision of Chapter 36 of the Texas Water Code, or any rule, regulation, permit, or order of the District, the Board may institute and conduct a suit in the name of the District for injunctive relief, for recovery of a civil penalty or for both injunctive relief and penalty.
- (b) The Board may set reasonable civil penalties for breach of any rule of the District that shall not exceed the limits of Texas Water Code § 36.102.
- (c) A penalty under this section is in addition to any other provided by the law of this state and may be enforced by complaints filed in the appropriate court of jurisdiction in the county in which the District's principal office or meeting place is located.
- (d) If the District prevails in any suit to enforce its rules, the District may seek and the Court shall grant, in the same action, recover reasonable fees for attorneys, expert witnesses, and other costs incurred by the District before the court. The amount of the attorney's fees shall be fixed by the court.
- (e) Unless otherwise provided in these Rules, the penalty for a violation of any District Rule shall be either:
  - (1) \$10,000.00 per violation; or
  - (2) A lesser amount, based on the severity of the violation, as set forth in an Enforcement Policy that may include a Civil Penalty Schedule, which is adopted as a Rule of the District for all purposes.
- (f) In determining the amount of a civil penalty, the Board of Directors shall consider the following factors:
  - (1) Compliance history;
  - (2) Efforts to correct the violation and whether the violator makes a good faith effort to cooperate with the District;
  - (3) The penalty amount necessary to ensure future compliance and deter future noncompliance;

- (4) Any enforcement costs related to the violation; and
- (5) Any other matters deemed necessary by the Board.

## **SECTION 11 – FEES AND DEPOSITS**

### **11.1 Permit Application Fees and Other Fees**

The Board, by resolution, may establish a schedule of fees for administrative acts of the district, including but not limited to the cost of reviewing and processing new registration and permit applications, renewal applications, the cost of permit hearings, and such administrative fees shall not unreasonably exceed the cost to the District for performing such administrative acts. Applications shall not be accepted for filing or processing or hearings scheduled until receipt by the District of all applicable fees established by Board resolution.

## **SECTION 12 – AQUIFER STORAGE AND RECOVERY WELLS; BRACKISH PRODUCTION ZONES**

### **12.1 Registration Required**

A project operator of an Aquifer Storage and Recovery project shall register the injection and recovery wells associated with the project with the District and shall provide the District with all reports required to be submitted to TCEQ under Texas Water Code §§ 27.155-.156.

### **12.2 No Permit Required; No Water Use Fee Imposed on Authorized Recovery**

Except as provided by Rule 12.3, no permit is required for the drilling, equipping, or operation of an Aquifer Storage and Recovery injection or recovery well authorized by TCEQ. Similarly, no water use fee or transport fee will be imposed on the volume of groundwater authorized by TCEQ to be recovered under an Aquifer Storage and Recovery project. The District may, however, assess a well registration fee or other similar administrative fee for an Aquifer Storage and Recovery well.

### **12.3 Exceeding Authorized Recovery Volume**

- (a) If an Aquifer Storage and Recovery project recovers an amount of groundwater that exceeds the volume authorized by the TCEQ to be recovered under the project, the project operator shall immediately report to the District the volume of groundwater recovered that exceeds the volume authorized to be recovered in addition to providing the reports required by Rule 12.1.
- (b) The recovery wells associated with an Aquifer Storage and Recovery project are subject to the District's spacing, permitting, metering, production and fee payment requirements if the amount of groundwater recovered from the wells exceeds the authorized volume to be recovered under the project. The District's spacing, permitting, metering, production and fee payment requirements only apply to the



volume of groundwater recovered that exceeds the recovery volume authorized by the TCEQ.

#### **12.4 Desired Future Conditions Planning**

The District may consider hydrogeologic conditions related to the injection and recovery of water as part of an Aquifer Storage and Recovery project in the planning related to, and monitoring of the achievement of, a Desired Future Condition for the aquifer in which the injection and recovery wells associated with the project are located.

#### **12.5 Adoption of Rules for Permits in Brackish Production Zones**

Upon receipt of a petition meeting the requirements of Texas Water Code § 36.1015 the District shall adopt rules governing the issuance of permits authorizing the completion and operation of a water well used for the withdrawal of brackish groundwater from a brackish groundwater production zone designated by the Texas Water Development Board, or its successor agency.