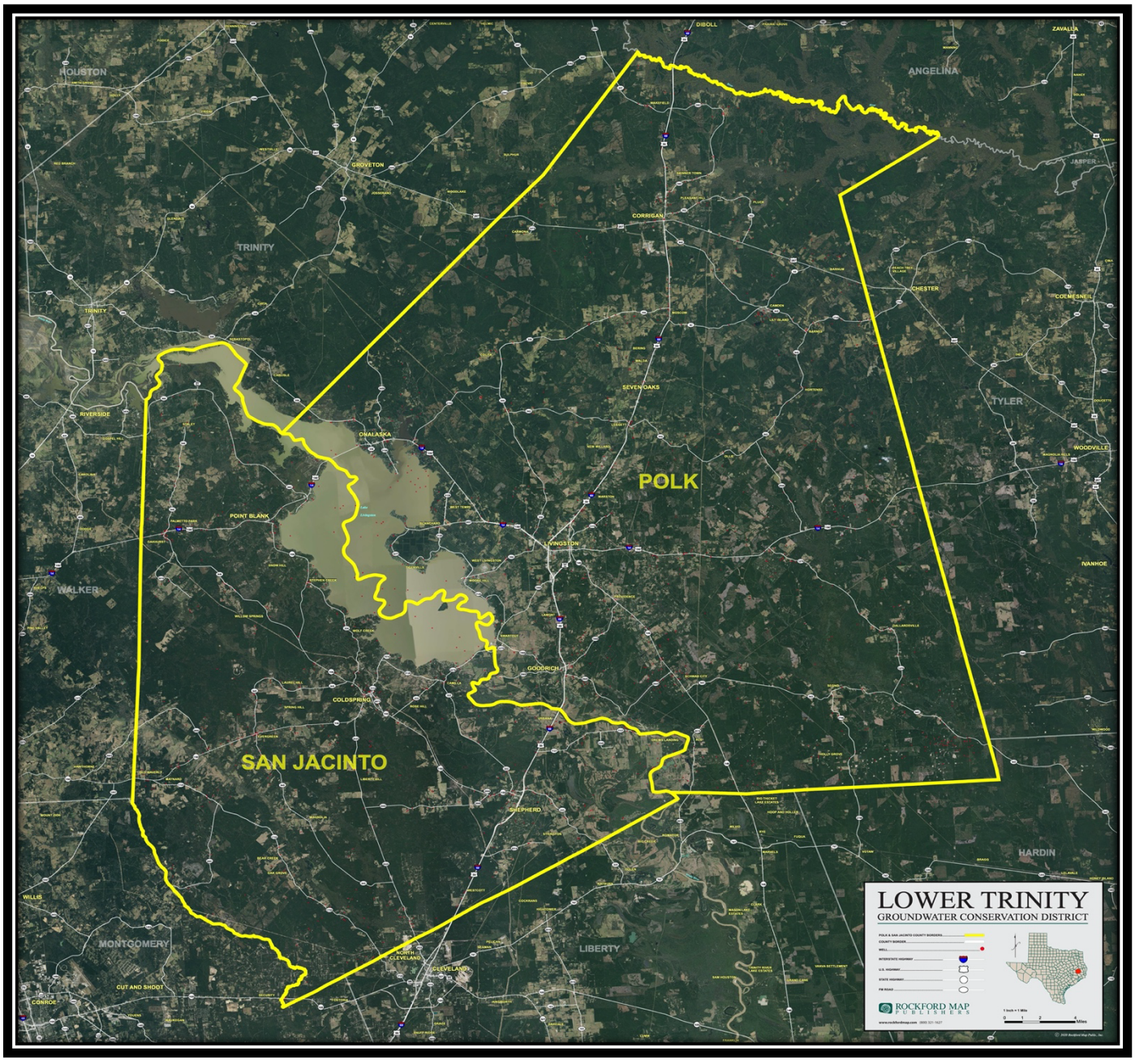
LOWER TRINITY GROUNDWATER CONSERVATION DISTRICT

DISTRICT RULES

ADOPTED October 22, 2026



LOWER TRINITY GROUNDWATER CONSERVATION DISTRICT

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RULES OF THE LOWER TRINITY GROUNDWATER CONSERVATION DISTRICT

Effective as of February 1, 2008
As amended and approved October 22, 2026

In accordance with Section 59 of Article 16 of the Texas Constitution, Chapter 36 of the Texas Water Code, and Chapter 8807, Special District Local Laws Code, the Lower Trinity Groundwater Conservation District adopts the following Rules as the Rules of the District. Each rule as worded below herein has been in effect since date of passage and as may be amended.

The Rules, regulations, and modes of procedure contained below are and have been adopted for the purposes of achieving the goals of the District Act and the Management Plan, prevent waste, and in order to protect property rights, balance the conservation and development of Groundwater to meet the needs of this state, and use the best available science in the conservation and development of Groundwater, while simplifying procedure, avoiding delays, saving expense, and facilitating the administration of the groundwater laws of the State and the Rules of this District. To the end that these objectives be attained, these Rules shall be so construed.

These Rules may be used as guides in the exercise of discretion, where discretion is vested. However, under no circumstances and in no particular case shall they, or any of them, be construed as a limitation or restriction upon the exercise of any discretion of the Board, where such exist; nor shall they in any event be construed to deprive the Board of an exercise of powers, duties and jurisdiction conferred by law, nor to limit or restrict the amount and character of data or information that may be required for the proper administration of the law. Any reference to the Texas Water Code includes the section referenced and any subsequent amendments.

RULE 1 — DEFINITIONS AND CONCEPTS

1.1 Unless the context indicates a contrary meaning, the words hereinafter defined shall have the following meaning in these Rules:

"**Agriculture"** or "**Agricultural**" means:

(1) Cultivating the soil to produce crops for human food, animal feed, or planting seed or for the production of fibers;

(2) The practice of floriculture, viticulture, silviculture, and horticulture, including the cultivation of plants in containers or nonsoil media, by a Nursery Grower;

(3) Raising, feeding, or keeping animals for breeding purposes or for the production of food or fiber, leather, pelts, or other tangible products having a commercial use;

(4) Planting cover crops, including cover crops cultivated for transplantation, or leaving land idle for the purpose of participating in any governmental program or normal crop or livestock rotation procedure;

(5) Wildlife management;

(6) Raising or keeping equine animals.

"**Aquifer**" means the portions of the Gulf Coast, Yegua-Jackson, Chicot, Evangeline, or Jasper Aquifers or any other water bearing geologic formation in the District.

"**Beneficial Use**" means:

(1) Agricultural, gardening, Domestic Use, stock raising, municipal, mining, manufacturing, industrial, commercial, recreational, or pleasure purposes;

(2) Exploring for, producing, handling, or treating oil, gas, sulfur, or other minerals; or

(3) Any other purposes that is useful and beneficial to the user and approved by the Board.

"**Board**" means the Board of Directors of the Lower Trinity Groundwater Conservation District, consisting of five (5) Board members.

"**Commission**" means the Texas Commission on Environmental Quality or any successor agency.

"**District**" means the Lower Trinity Groundwater Conservation District.

"**District Act**" means Chapter 8807, Special Districts Local Laws Code and the non-conflicting provisions of Chapter 36, Texas Water Code, as same may be amended.

"**District Office**" means the location or locations as may be established by resolution of the Board.

"**Domestic Use**" means the use of water at a single-family household to support domestic activities including drinking, washing, and sanitation. Domestic Use does not include use for any commercial purpose or at any commercial establishment. Domestic Use does not include a use at any commercial establishment with a single-family household.

"**Drilling**" includes drilling, equipping, or completing wells or modifying the size of wells or well pumps to change pumpage volume.

"**Drilling Permit**" means a permit issued by the District allowing a water well to be drilled.

"**Fee**" or "**Fees**" means an amount required to be paid for applications or Groundwater production in an amount as established by the Board of Directors.

"**Groundwater**" means water percolating below the surface of the earth.

"**Hearing Examiner**" means a Person or Persons appointed by the Board to conduct a hearing or other proceeding.

"**Hearing Rules and Procedures**" means the Rules and procedures for hearings adopted by the Board for hearings and other proceedings of the District, as they may be supplemented or amended from time to time.

"Major Production Application" means an application requiring a hydrogeological report under Rule 5.5(h), including an application to drill or modify a well meeting the thresholds established by Rule 5.5(h).

"Maximum Withdrawal Rate" means the maximum instantaneous or periodic groundwater pumping rate authorized by an Operating Permit, expressed in gallons per minute, gallons per day, or another unit specified by the permit.

"Monitor Well" means any well used to observe, measure, sample, or monitor groundwater levels, groundwater quality, aquifer conditions, or other hydrogeologic characteristics. The term includes observation wells, static water-level monitoring wells, and other wells designated or authorized by the District or the General Manager for groundwater management, scientific investigation, aquifer testing, regulatory compliance, or other legitimate District purposes. A Monitor Well is not an Operating Permit well and shall not be used for the production or withdrawal of groundwater except as authorized by these Rules.

"**Nursery Grower**" means a Person who grows more than 50 percent of the products that the Person either sells or leases, regardless of the variety sold, leased, or grown. For the purpose of this definition, "grow" means the actual cultivation or propagation of the product beyond the mere holding or maintaining of the item prior to sale or lease and typically includes activities associated with the production or multiplying of stock such as the development of new plants from cuttings, grafts, plugs, or seedlings.

"**Operator**" means the Person who operates a well.

"Operating Permit" means a permit issued by the District authorizing the withdrawal of groundwater from a water well for a designated period, subject to the terms, conditions, and limitations established by the District.

"**Owner**" means and include any Person that has the right to produce water from the land either by ownership, contract, lease or easement.

"**Person**" or "**Persons**" means any individual, partnership, firm, or corporation, limited liability company, or other legal entity.

"Production Limit" means the maximum quantity of groundwater authorized for withdrawal under an Operating Permit during a specified period, as established by the Board pursuant to Rule 5.6A.

"**Remediation Well**" means any well used to produce contaminated water from a subsurface stratum pursuant to a plan approved by the Commission or other agency with applicable jurisdiction.

"**Rules**" means these Rules of the District and the Hearing Rules and Procedures as they may be supplemented or amended from time to time.

"**SOAH**" means the State Office of Administrative Hearings.

"**TDLR**" means the Texas Department of Licensing and Regulation.

"Trigger Level" means a measurable groundwater level, water-quality condition, subsidence threshold, production level, or other permit condition identified in an Operating Permit that may require additional monitoring, mitigation, operational changes, or further Board review as provided by these Rules.

"**Waste**" means any one or more of the following:

(1) Withdrawal of Groundwater from a Groundwater reservoir at a rate and in an amount that causes or threatens to cause intrusion into the reservoir of water unsuitable for Agricultural, gardening, Domestic Use, or stock raising purposes;

(2) The flowing or producing of Wells from a Groundwater reservoir if the water produced is not, used for a beneficial purpose;

(3) Escape of Groundwater from a Groundwater reservoir to any other reservoir or geologic strata not containing Groundwater;

(4) Pollution or harmful alteration of Groundwater by saltwater or by other deleterious matter from another stratum or from the surface of the ground;

(5) Willfully or negligently causing, suffering, or allowing Groundwater to escape into any river, creek, natural watercourse, depression, lake reservoir, drain, sewer, street, highway, road, or road ditch, or onto any land other than that of the Owner of the well unless such discharge is authorized by permit, rule, or order issued by the Commission under Chapter 26, Texas Water Code; Groundwater released on well startup or well development in order to improve water quality may not constitute waste.

(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; or

(7) For water produced from an artesian well, "waste" has the meaning assigned by Section 11.205, Texas Water Code.

"**Well**" or "**Water Well**" means and any artificial excavation constructed for the purpose of exploring for or producing Groundwater.

"**Year**" means a calendar year (January 1 through December 31), except where the usage of the term clearly suggests otherwise.

1.2 The definitions contained in Texas Water Code Section 36.001 shall also be included to the extent that they are used in these Rules. In the event there is a conflict between these Rules and 36.001, 36.001 shall control.

1.3 Purpose of Rules. The Rules are the foundation for achieving the goals of the District Act and Management Plan.

1.4 Use and Effect of Rules. The District uses these Rules as guides in the exercise of the powers conferred by law and in the accomplishment of the purposes of the District Act and Management Plan.

1.5 Amendment of Rules. The Board may, following notice and hearing, amend these Rules or adopt new Rules from time to time.

1.6 Headings and Caption. The section and other headings and captions contained in these Rules are for reference purposes only. They do not affect the meaning or interpretation of these Rules in any way.

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

1.8 Method of Service under these Rules. Except as otherwise expressly provided in these Rules, any notice or documents required by these Rules to be served or delivered may be delivered to the recipient, or the recipient's authorized representative, in person, by agent, by courier receipted delivery, by certified mail sent to the recipient's last known address, or by electronic email or file transfer. Service by mail is complete upon deposit in a post office or other official depository of the United States Postal Service. Service by email or electronic document transfer is complete upon transfer, except that any transfer occurring after 4:00 p.m. will be deemed complete on the following business day. If service or delivery is by mail, and the recipient has the right, or is required, to do some act within a prescribed time after service, three days will be added to the prescribed period. Where service by one of more methods has been attempted and failed, the service is complete upon notice publication in a generally circulated newspaper in Polk or San Jacinto County.

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

1.10 Burden of Proof: In all matters regarding applications for permits, exceptions, and other matters for which District approval is required, the burden shall be upon the applicant or other Persons seeking a permit, exception, or other authority to establish that all conditions, criteria, standards, or prerequisites have been met.

RULE 2 — WASTE PROHIBITED

2.1 Groundwater may not be produced within, or used within or without the District, in such a manner or under such conditions as to constitute waste.

2.2 Any Person producing or using Groundwater shall use every possible precaution, in accordance with the most approved methods, to stop and prevent waste of such water.

2.3 No Person may pollute or harmfully alter the character of a Groundwater reservoir of the District by means of saltwater or other deleterious matter admitted from other stratum or strata or from the surface of the ground.

2.4 No Person may commit waste.

RULE 3 — PERMIT AND REGISTRATION REQUIRED

3.1 No Person may drill, modify, complete, change type of use, plug, abandon, or alter the size of a well within the District without first registering the well with the District.

3.2 The District staff will review the application for registration and make a preliminary determination on whether the well requires a permit.

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

a) a well-used solely for domestic use or for providing water for livestock or poultry that is either drilled, completed, or equipped so that it is incapable of producing more than 25,000 gallons of groundwater per day (17.36 gpm).
b) a well-used solely to supply water for a rig that is actively engaged in drilling or exploration operations for an oil or gas well permitted by the Railroad Commission of Texas provided that the person holding the Railroad Commission permit is responsible for drilling and operating the water well and the well is located on the same lease or field associated with the drilling rig;
c) a temporary water well used solely to supply water for a rig that is actively engaged in drilling a groundwater production well permitted by the District;
d) a water well authorized under a permit issued by the Railroad Commission of Texas under Natural Resources Code Chapter 134, provided the withdrawals are no greater than the amount necessary for mining activities specified in the Railroad Commission permit, regardless of any subsequent use of the water.
e) a well-used for domestic use or agricultural use if the well owner or well operator provides a signed statement that the well will not produce more than five million gallons (15.34 acre feet) of water per year.
f) leachate wells, extraction wells, injection wells, relief wells, and dewatering wells.
g) monitoring wells that produce less than 5,000 gallons per year; and

3.4 Wells for exempt use must be registered with the District on forms provided by the District. All wells for exempt use shall be equipped and maintained so as to conform to the District's Rules requiring installation of casing, pipe, and fittings to prevent the escape of Groundwater from a Groundwater reservoir to any reservoir not containing Groundwater, and to prevent comingling of waters of different quality and the pollution or harmful alteration of the character of the water in any Groundwater reservoir.

3.6 A Well Owner or Well Operator shall obtain an Operating Permit for every well unless the well is used solely for an exempt use as provided by these Rules.

An Operating Permit is not required for a well that has been permanently plugged by a licensed water well driller in accordance with the well construction and plugging standards adopted by the Texas Department of Licensing and Regulation (TDLR) and these Rules. The District may require documentation demonstrating that the well has been properly plugged, including a plugging report filed with TDLR or other documentation acceptable to the District.
A well that has only been capped, temporarily abandoned, or otherwise removed from service remains subject to the Operating Permit requirements of these Rules until it has been permanently plugged in accordance with applicable law and District Rules.
Notwithstanding the foregoing, the General Manager may administratively authorize a well to remain capped or otherwise inactive without requiring an Operating Permit when the General Manager determines that the well is being retained solely for future groundwater monitoring, aquifer testing, scientific investigation, emergency planning, regulatory compliance, or another legitimate District management purpose. Such authorization shall not permit the withdrawal of groundwater unless and until an Operating Permit is obtained or the well otherwise qualifies for an exemption under these Rules. The General

Manager may impose reasonable conditions on such authorization and may revoke the authorization at any time if the basis for the authorization no longer exists.

3.7 A water well used solely to supply water for a rig that is actively engaged in Drilling or exploration operations for an oil or gas well permitted by the Texas Railroad Commission is exempt from District Fees provided the Person holding the permit is responsible for Drilling and operating the water well and it is located on the same lease or field associated with the drilling rig. Annual estimation of water usage must be reported to the District before Drilling begins or if during operation the usage increases with in 30 days of changes.

3.8 A permit exemption will be revoked, and the Well Owner or Well Operator must obtain a permit and comply with all District Rules if:

(a) the purpose of the well is no longer solely to supply water for a rig that is actively engaged in Drilling or exploration operations for an oil or gas well permitted by the Railroad Commission of Texas; or

(b) The withdrawals are no longer necessary for mining activities or are greater than the amount necessary for mining activities specified in the permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code.

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

(a) This permit is granted in accordance with the provisions of the Rules of the District, and acceptance of this permit constitutes an acknowledgment and agreement that the permittee will comply with the Rules of the District.

(b) This permit confers only the right to operate and its terms may be modified or amended. Within 10 days after the date of sale, the Operating Permit holder must notify the District in writing the name of the new Owner of a permitted well. Any Person who becomes the Owner of a currently permitted well must, within 20 calendar days from the date of the change in ownership, file an application for a permit amendment to effect a transfer of the permit.

(c) The operation of the well for the authorized withdrawal must be conducted in a manner that does not constitute Waste.

(d) Withdrawals from all wells required to be permitted must be accurately metered and their pumpage reported the total amount of Groundwater withdrawn to the District quarterly.

(e) The application pursuant to which this permit has been issued is incorporated in the permit, and the permit is granted on the basis of, and contingent upon, the accuracy of the information supplied in that application. A finding that false information has been supplied is grounds for immediate revocation of the permit.

(f) Violation of a permit's terms, conditions, requirements, or special provisions is punishable by civil penalties as provided by the District Rules and by law and may also result in permit revocation or cancellation.

(g) The District may combine permits or may process multiple applications for Drilling, Operating, and export permits in a single hearing process.

3.10 Except as provided below, a permit is not required for a Monitor Well or a Remediation Well. A copy of the Driller's Report must be filed with the District within (30) thirty days. If the use of Monitor Well or Remediation Well is changed to produce non-contaminated water, it then becomes subject to the permitting or registration requirements of these Rules depending upon use and volume. Administration cost for registrations of wells will apply.

3.11 All Wells must be drilled, equipped, modified, or plugged in accordance with the Well Construction and Plugging Specifications established by TDLR and District Rules. All abandoned wells must be plugged or capped by a licensed well driller by the 60th day after well operations cease. The plugging report must be provided to the District within 60 days after the well is plugged.

RULE 4 — FEES AND REPORTS

In accordance with the District Act and Section 36.205 of the Texas Water Code, and except as provided below, the Board shall, from time to time, adopt a schedule of Fees for water use, production, transport, registrations, permits and administrative functions, and any other lawful purpose or business of the District. The Fees, rates, and charges will be established in a schedule of Fees and charges adopted by the Board, and each such schedule of Fees and charges shall thereafter be and remain in effect until amended by the Board.

4.1. The production Fee is payable on water produced on or after January 1, 2007. Operators of wells required to be permitted shall provide payment to the District each quarter. Payment shall be due within thirty (30) days of the last day of March, June, September, and December with submittal of the quarterly reports. Operators shall provide monthly production records to document and calculate payment amount due. The payment shall be accompanied by the report form specified by the

District. A well Operator that produces less than 250,000 gallons of Groundwater per quarter may apply for a waiver from the quarterly payment requirement in the form of a Small Business Permit. A Person with a Small Business Permit may submit Fee payments annually within thirty (30) days before the end of each permit term. If the well Operator exceeds 250,000 gallons of Groundwater withdrawn during any quarter after the Small Business Permit is granted, the Small Business Permit is automatically converted to a regular permit and the well Owner must, within thirty (30) days following the end of that quarter, submit the Fee payment for that quarter and every prior quarter during that permit term.

4.2 The District may impose an export Fee or surcharge in accordance with Section 36.122(e-2, Water Code. The export fee rate will be established by Board resolution, and the fee rate will be included in the District's fee schedule. Export fees will not be applied to:

a) the export of groundwater from the District for incidental use as defined in Chapter 2 of these Rules;

b) the export of groundwater for an agricultural operation that overlaps or is adjacent to the District boundary; or

c) the export of groundwater that occurs as a result of the distribution of water within a single aggregate system of a retail public utility that overlaps the District boundary.

4.3 Each application for a permit to drill a well shall be accompanied by the Fee or Fees as established herein or by resolution of the Board.

4.4 Each day a production Fee payment remains unpaid after it is due shall constitute a separate violation of these Rules. The District will assess a monthly late payment charge for each month the production Fees remain past due.

4.5 An entity holding a permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code, that authorized the Drilling of a water well shall report monthly to the District:

(a) The total amount of water withdrawn during the month;
(b) The quantity of water necessary for mining activities; and

(c) The quantity of water withdrawn for other purposes.

RULE 5 — ISSUANCE OF PERMITS

5.1 Drilling Permit Requirement: The non-exempt commercial well Owner or well Operator acting on behalf of the well Owner must obtain a Drilling Permit from the District prior to drilling a new water well. Exempt residential registrations may be obtained by well Owners or well drillers acting on behalf of the well Owner.

Operating Permit Requirement: The non-exempt commercial well Owner or well Operator acting on behalf of the well Owner must obtain an Operating Permit from the District prior to operating a water well.

Export Permit Requirement: The non-exempt commercial well Owner or well Operator acting on behalf of the well Owner must obtain an export permit from the District prior to exporting any Groundwater outside the boundaries of the District.

5.2 Drilling Permits are effective for a term ending 180 calendar days after the date the permit was issued. The permit may be extended for an additional 180-day period, and the GM may approve subsequent extensions upon a showing of good cause, provided no material change has occurred in well location, aquifer conditions, intended use, or regulatory status. Each extension shall be documented in the permit file.

5.3 Operating Permits are effective for a term of three years. Initial permits may be prorated for the number of months left in the calendar year of application.

5.4 If the well Owner or well Operator seeks to increase the amount of authorized withdrawal, or otherwise change any of the permit terms or conditions that would require a major permit amendment, an application must be filed and scheduled for a public hearing and consideration by the Board. If the requested changes or amendments are denied, the permit shall be renewed under the original permit conditions as it existed before the permit amendment process. During consideration of the permit amendment process, the permit remains in effect until the conclusion of the permit amendment process.

5.5 Permit Applications: Each original application for a non-exempt commercial water well Drilling Permit, Operating Permit, export permit, and permit amendment requires a separate application and payment of the associated Fee. Application forms will be provided by the District and furnished to the applicant upon request. The application for a permit shall be in writing, and shall include the following:

(a) The name and mailing address of the applicant and the Owner of the land on which the well be located;

(b) A location map of all existing wells within a quarter (1/4) mile radius of the proposed well or the existing well to be modified;

(c) Copies of any applications to the Commission to obtain or modify a certificate of convenience and Necessity to provide water or wastewater service with water obtained pursuant to the requested permit;

(d) A statement of the nature and purpose of the proposed use and the amount of water to be used for each purpose each calendar year or portion of a calendar year of the permit term.

(e) A declaration that the applicant will comply with the District's Rules and all Groundwater use permits and plans promulgated pursuant to the District's Rules and that the applicant will comply with all District well plugging and capping guidelines and report closure to the Commission.

(f) A water conservation plan or a declaration that the applicant will comply with the Management Plan.

(g) The exact location of each well's GPS latitude and longitude and the estimated rate at which water will be withdrawn;

(h) A hydrogeological report addressing the area of influence, draw down, recovery time, subsidence and other pertinent information required by the District shall accompany a Drilling Permit application for the following:

(1) Request to drill a well with an inside casing diameter of ten (10) inches or greater, or a maximum capacity of more than 750,000 gallons per day, per site in aggregate.
(2) Requests to modify a well to increase production or production capacity of a Public Water Supply, Municipal, Commercial, Industrial, Agricultural or Irrigation well with an inside casing diameter greater than 10 inches.

The well must be equipped (or tested at a rate equal to or greater than the rate necessary) for its ultimate planned use and the hydrogeological report must address the impacts of that use. The report must be site specific and include hydrogeological information addressing and specifically related to the proposed water pumpage levels at the proposed pumpage site intended for the proposed well. Applicants may not rely solely on reports previously filed with or prepared by the District.

(i) For a Major Production Application under Rule 5.6A, the hydrogeological report and supporting application materials shall include, as applicable to the proposed project and as reasonably requested by the General Manager, the following:

(1) the requested maximum annual production quantity and maximum withdrawal rate;

(2) the location, construction, capacity, design, and proposed operation of each well and the proposed well field;

(3) the aquifer or aquifers to be produced and the relevant aquifer characteristics;

(4) baseline groundwater levels and water-quality conditions;

(5) modeled or measured drawdown, recovery, and the area of influence at the requested production quantity and withdrawal rate;

(6) potential interference with existing permitted wells, public-water-supply wells, commercial wells, agricultural wells, and registered exempt-use wells;

(7) existing and reasonably anticipated cumulative groundwater production within the affected area;

(8) the potential for subsidence, water-quality degradation, or waste;

(9) consistency with the District's Management Plan and applicable Desired Future Conditions; and

(10) proposed conservation, monitoring, mitigation, reporting, and operational measures.

(j) The General Manager may retain independent professional assistance as authorized by the District's Bylaws and applicable Board policies when reasonably necessary to evaluate a Major Production Application. The applicant shall reimburse the District for the reasonable costs of such review in accordance with the District's fee schedule.

5.6 Action on Application:

(a) If the application is for a well that is not capable of producing more than 250,000 gallons of water per day and not to exceed 91,250,000 gallons of water per calendar year or a pro rata amount for a portion of a calendar year, the General Manager may issue the permit without Board action if:
(a) No adjacent landowners entitled to prior notice of the permit application file a timely objection to the permit application.
(b) The well will comply with all District Rules, including but not limited to those concerning spacing and waste.
(c) The General Manager verifies that the well complies with all District Rules and that the information in the application is correct.
(d) The General Manager signs the written application, verifying the details of the application and all other criteria to document the findings under this subsection.

(e) The proposed use of water does not unreasonably affect existing groundwater or surface-water resources, existing Permit Holders, or registered exempt-use water wells.

5.6A Board Review of Production Applications
(a) An application shall be referred to the Board for consideration if the application:
(1) requests or would authorize production exceeding 250,000 gallons per day;
(2) requests or would authorize production exceeding 91,250,000 gallons per calendar year;
(3) receives a timely objection from a person entitled to notice;
(4) technical information submitted with the application, information contained in District records, or a timely protest supported by relevant facts indicates that the proposed use may unreasonably affect existing groundwater or surface-water resources, existing Permit Holders, or registered exempt-use wells; or
(5) otherwise does not qualify for administrative approval by the General Manager under Rule 5.6.
(b) For an application requiring Board action, the Board shall determine the production limit that will allow the maximum annual production quantity and, when appropriate, the maximum withdrawal rate that will not cause an unreasonable off-site impact or result in subsidence. The determination shall be based on the application, the technical evidence in the administrative record, the District's Management Plan, the applicable Desired Future Conditions, and these Rules.
(c) In determining authorized production and permit conditions, the Board shall consider, as applicable:
(1) the requested annual production quantity and withdrawal rate;

(2) the capacity, location, design, and proposed operation of the well or well field;
(3) aquifer characteristics, groundwater availability, drawdown, and recovery;
(4) interference with existing permitted wells, public-water-supply wells, commercial, agricultural, and registered exempt-use wells;
(5) existing and reasonably anticipated cumulative groundwater production within the affected area;
(6) the potential for subsidence, water-quality degradation, or waste;
(7) consistency with the District's Management Plan and applicable Desired Future Conditions; and
(8) proposed conservation, monitoring, mitigation, and operational measures.
(d) An application requiring a hydrogeological report under Rule 5.5(h) is a Major Production Application.
(e) "Trigger Level" means a measurable groundwater level, water-quality condition, subsidence threshold, production level, or other permit condition identified in an Operating Permit that may require additional monitoring, mitigation, operational changes, or further Board review as provided by these Rules.
(f) For a Major Production Application, the Board may require additional aquifer testing, groundwater modeling, observation wells, baseline and continuing monitoring, phased production, reporting requirements, mitigation measures, and Trigger Levels.
(g) The Board may impose permit conditions reasonably necessary to prevent or mitigate unreasonable off-site impacts or subsidence, including phased production, maximum annual or monthly production quantities, maximum withdrawal rates, pumping schedules, operational limitations, monitoring, reporting, Trigger Levels, mitigation measures, and production reduction, suspension, or other corrective action authorized by these Rules and applicable law, subject to any required notice and hearing.
(h) For a denial or an approval containing material special conditions beyond those generally applicable under these Rules, the Board's decision shall include written findings identifying the material evidence relied upon and explaining the relationship between the authorized production, permit conditions, and applicable groundwater-management objectives.

5.7 Automatic Renewal of an Operating Permit: Operating Permits will be automatically renewed by the General Manager without notice or hearing. The General Manager will not renew an Operating Permit if the applicant:

(a) remains delinquent in paying a Fee required by the District;
(b) has failed to file quarterly reports;
(c) is subject to a pending enforcement action for a substantive violation of a District permit, order, or rule that has not been settled by agreement with the District or a final adjudication; or
(d) has not paid a civil penalty or has otherwise failed to comply with an order resulting from a final adjudication of a violation of a District permit, order, or rule.

An Operating Permit subject to automatic renewal remains in effect until the final settlement or adjudication on the matter of the substantive violation. If an Operating Permit is not renewed or the permit term expires, a new permit application and Fees will be required to continue operating.

5.8 Effect of Acceptance of Permit: Acceptance of the permit by the Person to whom it is issued constitutes acknowledgment of and agreement to comply with all of the terms, provisions, conditions, limitations, and restrictions. Failure to timely file a motion for rehearing constitutes acceptance of the permit.

5.9 Reworking and Replacing a Well:

(a) An existing well may be reworked or re-equipped in a manner that will not increase the well's capacity above the level authorized in the permit. Any increase in the well's capacity above the level authorized in the permit requires an Operating Permit amendment.

(b) A well drilled to replace an existing, permitted well is not required to meet the spacing requirements if it is drilled within 15 feet of the well to be replaced. The landowner or their agent must, within 180 days of the issuance of the permit, declare in writing to the District which one of the wells they desire to produce. If the landowner does not notify the District of their choice within 180 days, then it will be conclusively presumed that the new well is the well they desire to retain. Immediately after determining which well is retained for production, the other well shall be closed in accordance with applicable state laws and regulations, specifically Rule 76.104, Texas Department of Licensing and Regulation Rules.

(c) A permit to rework, re-equip, re-drill or replace an existing well may be granted by the General Manager without notice or hearing so long as the production capacity of the new well does not exceed the capacity of the existing well.

(d) When an existing fully permitted production well fails or becomes unusable, the General Manager may administratively approve and expedite a replacement well only if the replacement serves the same authorized use and substantially the same service area, does not increase the permitted annual production quantity or production capacity, is located within 15 feet of the failed well, and otherwise complies with applicable District requirements. The failed well shall be permanently plugged within the time specified by the General Manager. The failed and replacement wells may not be operated concurrently except for testing or transition expressly approved by the General Manager. Any increase in production, change in use, materially different location, continued operation of both wells, or request for a waiver from the 15-foot location requirement requires approval by the Board after notice and hearing.

5.10 Emergency Authorization:

An existing retail water utility, as defined in Texas Water Code Chapter 13, or the Owner of a well used for Agriculture, which has a Permit or Certificate of Registration from the District to operate a well, may apply to the District for emergency authorization to drill and operate a well as set forth below. The authorization does not constitute a Permit as required above and does not relieve the utility or Agricultural user from applying for and obtaining one. The emergency authorization can be made jointly by the General Manager and any Board officer.

The "emergency" must present an imminent threat to the public health and safety or to an Agricultural activity. The application for an emergency permit must include adequate documentation of the emergency conditions.

(a) The Owner must submit a completed application within seven (7) days after the emergency authorization is granted.

(b) The application for an emergency permit must include all applicable Fees.

(c) This Rule does not limit the General Manager's authority under Rule 5.9(d) to administratively approve and expedite a replacement for a failed or unusable fully permitted production well that satisfies all requirements of Rule 5.9(d).

5.11 Involuntary Amendment. In accordance with the District's Rules for Hearing, after notice to the permit holder, the District may amend or revoke an Operating Permit if:

(a) there is evidence of violations of the permit terms or conditions, the District Rules, or provisions of Chapter 36 of the Texas Water Code, or the permittee fails to pay water use production Fees;

(b) a change in the permit is necessary to implement a change to the District's Desired Future Condition, an amendment to the District's Management Plan, or an amendment to the District's Rules;

(c) a change in the permit is necessary to prevent waste and achieve water conservation, minimize as far as practicable the drawdown of the water table or reduction of artesian pressure, lessen interference between wells, or control and prevent subsidence;

(d) the Board determines the permittee is operating the well in a manner that is detrimental to the Groundwater resources within the District.

(e) monitoring required by a permit demonstrates that a Trigger Level or other material permit condition established under Rule 5.6A has been reached or exceeded, subject to applicable notice and hearing requirements.

5.12 All Drilling Permits are issued on the condition that the well is drilled in strict compliance with these Rules and the rules and regulations of the Commission and the TDLR.

5.13 Production Exceeding Permit Authorization

A permit holder who exceeds an authorized production quantity is subject to a civil penalty calculated at $100 per 1,000 gallons of excess production, prorated for fractional amounts, or an alternative civil penalty of up to $25,000 per day per violation. Either method is subject to applicable statutory limits and the factors in Texas Water Code Section 36.102(b-1). The two methods shall not be added together for the same violation.

The General Manager shall document the violation and recommend a penalty calculation and corrective action. The Board, with guidance from District counsel, shall approve the method and amount proposed for settlement or sought through court enforcement. The General Manager may not independently impose or settle a civil penalty. A disputed civil penalty shall be determined by a court of competent jurisdiction.
A settlement may include reimbursement of reasonable attorney fees and enforcement costs. If the District prevails in an enforcement suit, it shall seek recovery of attorney fees, expert-witness costs, and other costs authorized by Texas Water Code Section 36.102(d). Payment does not authorize excess production.

RULE 6 —WELL DRILLER LICENSE, COMPLETION STANDARDS, LOGS, AND PUMP DATA

6.1 Complete records shall be kept and reports thereof made to the District concerning the drilling, maximum production potential, equipping and completion of all wells drilled. Such records shall include an accurate log, any electric log that may have been made, and such additional data concerning the description of the well, its potential, hereinafter referred to as "maximum rate of production" and its actual equipment and rate of production permitted by said equipment as may be required by the Board. Such records shall be filed with the District Board within 60 days after completion of the well.

6.2 The well driller shall submit a State Well Report to the TDLR within 60 days from the completion or cessation of drilling, deepening, or otherwise altering a well. If the District cannot verify timely submission of the State Well Report to TDLR the District may require the well driller to submit a copy directly to the District or be found in violation of these Rules.

6.3 No Person may produce water from any well unless or until the TDLR and District has been furnished an accurate driller's log, any electric log that may have been made, and a registration of the well correctly furnishing all available information required on the forms furnished by the District. In the case the well has been drilled after Emergency Authorization has been given under Rule 5.9, the foregoing information must be submitted within ten (10) days from the date the well is completed.

6.4 Any Person drilling, modifying, completing, changing type of use, plugging, or alter the size of a well within the District shall comply with all standards and requirements in 16 Texas Administrative Code, Chapter 76 including, but not limited to the following:

(a) the well must be drilled by a licensed water well driller unless the Person operating the equipment for drilling a water well is the Owner of the property where the well is being drilled;
(b) the completed well must meet all requirements related to spacing of the well with regards to property lines and sources of potential contamination;
(c) the completed well must meet all requirements pertaining to the proper sealing of annular space(s); and

(d) the completed well must meet all requirements pertaining to the surface completion of the well, including the surface slab or protective sleeve, to ensure the safety of the well.

6.5 Within 10 days of completion of a free-flowing artesian well, the Person who drilled the well must notify the District of the well and must include on the State Well Report an accurate gallon per minute flow rate of the well. Water flowing from an artesian well must be used for a purpose and in a manner in which it may be lawfully used on the Owner's land, and it is unlawful waste to willfully cause or knowingly allow the water to run off the Owner's land or to percolate through the stratum above which the water is found.

RULE 7 — MINIMUM SPACING OF WELLS

7.1 Distance Requirements:

(a) A well for exempt uses that is pressure cemented may be drilled no closer than five (5) feet from the property line; if not pressure cemented a well for exempt uses may be drilled no closer than fifty (50) feet from the property line. A well for non-exempt uses must be pressure cemented and drilled no closer than fifty (50) feet from the property line.
(b) In the interest of protecting life and for the purpose of preventing waste, preventing overlapping cones of depression resulting from production rates, and preventing confiscation of property, the Board reserves the right to limit the number of wells that may be drilled or operated on a tract of land or require a minimum distance between wells.

(c) Subdivision of property:

(1) In applying this rule and applying every special rule with relation to spacing in all of the subterranean water zones or reservoirs underlying the confines of this District, no subdivision of property made subsequent to the adoption of these spacing Rules will be considered in determining whether or not any property is being confiscated within the terms of such spacing rule, and no subdivision of property will be regarded in applying such spacing rule or in determining the matter of confiscation if such subdivision took place subsequent to the promulgation and adoption of the original spacing rule.

(2) Any subdivision of property creating a tract of such size and shape that it is necessary to obtain an exception to the spacing rule before a well can be drilled thereon is a voluntary subdivision and not entitled to a permit to prevent confiscation of property if it

(3) Were either,

(a) segregated from a larger tract in contemplation of water resource development, or

(b) segregated by fee title conveyance from a larger tract after the spacing rule became effective and the voluntary subdivision rule attached.

7.2 Change in Use of Well:
Any well existing at the date of enactment of this Rule must comply with the provisions of this rule if after the date of enactment of this rule the ultimate use of the water produced from the well in changed in whole or in part such that the water produced from the well annually is increased.

RULE 8 — EXCEPTION TO SPACING RULE

8.1 In order to protect vested property rights, to prevent waste, to prevent confiscation of property, or to protect correlative rights, the Board may grant exception to the above spacing regulations. This rule may not be construed so as to limit the power of the Board, and the powers stated are cumulative only of all other powers possessed by the Board. The Board may consider whether a well located on adjoining property is draining the Applicant's properly.

8.2 If an exception to such spacing regulations is desired, application therefore shall be submitted by the applicant in writing to the Board at its District Office on forms furnished by the District. The application shall be accompanied by a plat or sketch, drawn to scale of one (1) inch equaling one thousand (1000) feet. The plat or sketch shall show thereon the property lines in the immediate area and shall show accurately to scale all wells within a quarter mile of the proposed well site. The application shall also contain the names of all property Owners adjoining the tract on which the well is to be located and the ownership of the wells within a quarter mile of the proposed location. Such application and plat shall be certified by some Person actually acquainted with the facts who shall state that all the facts therein are true and correct.

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

RULE 9 — PLACE OF DRILLING WELL

After an application for a well permit has been granted, the well, if drilled, must be drilled within fifty feet of the location specified in the permit so long as that location does not violate any spacing requirements in these Rules. 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, as amended. The District shall have the right to confirm reported distances and inspect the wells or well locations.

RULE 10 — RIGHT TO INSPECT AND TEST WELLS

10.1 The directors, engineers, attorneys, agents, Operators and employees of the District may go on any land to inspect, make surveys, or perform tests to determine the condition, value, and usability of the property, with reference to the proposed location of works, improvements, plants, facilities, equipment, or appliances. The cost of restoration shall be borne by the District or the water supply corporation.

10.2 District employees and agents are entitled to enter any public or private property within the boundaries of the District or adjacent to any reservoir or other property owned by the District at any reasonable time for the purpose of inspecting and investigating conditions relating to the quality of water in the state or the compliance with any Rule, regulations, permit, or other order of the District. District employees or agents acting under this authority who enters private property shall observe the establishment's rules and regulations concerning safety, internal security, and fire protection and shall notify any occupant or management of their presence and shall exhibit proper credentials.

RULE 11 — OPEN WELLS TO BE CAPPED

Every Owner or Operator of any land within the District upon which is located any open or uncovered well is, and shall be, required to close or cap the same permanently with a covering capable of sustaining weight of not less than four hundred (400) pounds, except when said well is in actual use by the Owner or Operator thereof; and no such Owner or Operator shall permit or allow any open or uncovered well to exist in violation of this requirement. Officers, agents and employees of the District are authorized to serve or cause to be served written notice upon any Owner or Operator of a well in violation of this Rule, thereby requesting such Owner or Operator to close or cap such well permanently with a covering in compliance herewith. In the event any Owner or Operator fails to comply with this Rule, the District may go on the land and close the well safely and securely. Closure may be by the District or an entity under contract with the District, all expenditures thereby incurred shall constitute a lien upon the land where such well is located, provided, however, no such lien shall exceed the actual cost for any single closing. Any officer, agent, or employee of the District is authorized to perfect said lien by the filing of the affidavit authorized by Section 36.118 of the Texas Water Code.

All of the powers and authority granted in such section are hereby adopted by the District, and its officers, agents, and employees are hereby bestowed with all of such powers and authority.

RULE 12 — GENERAL RULES OF PROCEDURE FOR HEARING

All hearings whether conducted by the Board or before a Hearings Examiner shall be conducted in accordance with the Hearing Rules and Procedures as adopted by the Board and as they may be amended from time to time. Notice of permit hearings shall be provided not less than twenty (20) days before the scheduled hearing date, consistent with Water Code § 36.404(b).

12.1 Applicability

Contested case hearings may be requested in connection with the following applications:

(a) Drilling Permits;
(b) Operating Permits;

(c) Export permits; and

(d) Amendment to any existing permit.

12.2 Processing Applications; Determination of Administrative Completeness

(a) Completeness of an Application. An application shall be considered administratively complete if it includes all required information; is signed; is accompanied by payment of all applicable Fees, including any penalties or past due Fees; and includes any maps, documents, or supplementary information requested by the Rules, Board or staff. A determination of administrative completeness will be made by the General Manager.
(b) Action on Incomplete Applications. The District will not take action on an application that is not administratively complete or has not proceeded in a manner consistent with District Rules. An application may be rejected as not administratively complete if the District finds that substantive information required by the application or District staff is missing, false, or incorrect. Incomplete applications will be returned to the applicant with a list of deficiencies and may be reconsidered once the deficiencies are corrected.

(c) Action on Administratively Complete Applications. The General Manager will schedule administratively complete applications for a public hearing and shall publish notice of the public hearing in accordance with these Rules, including the General Manager's proposed action on the permit.

12.3 Procedural Options Available to Applicants

(a) Applicants filing applications subject to a contested case hearing may respond to the proposed action of the general manager in the following manner:
  (1) not file a notice of request for contested case hearing and:

    (i) if the applicant agrees with the proposed action, and no other affected Person requests a contested case hearing, and the matter will be taken directly to the Board for final action as an uncontested matter.

    (ii) if the applicant disagrees with the proposed action, and no other affected Person requests a contested case hearing, the applicant may offer to settle the matter. If the matter is settled, the application may be taken directly to the Board for final action. If the matter is unable to be settled, the application may be taken directly to the Board for final action as a contested matter, although one not referred to contested case hearing; or

  (2) file a notice of request for contested case hearing.

(b) Applicants choosing not to file a request for a contested case hearing and instead pursue settlement thereby waive any right to a contested case hearing upon the expiration of the filing deadline.

(c) The applicant, general manager, and other affected Persons may present their respective positions to the Board and allow the Board to take final action at the Board meeting without a contested case hearing.

(d) The Board is not bound by a settlement agreed to by the parties.

12.4 Requests for Contested Case Hearing

(a) A request for a contested case hearing or a protest against an application must be in writing and be filed before the end of the public hearing on that application for which notice was properly provided. The Board will process a protest against an application by first determining if the protestant is entitled to a contested case hearing. In the event a protest is filed and approved, any settlement requires the consent of the protestant. A Person has a personal justiciable interest in the application and is entitled to a contested case hearing if that Person owns a registered or permitted well that may be adversely impacted if the protested application is granted. Only Persons who file protests may participate in any contested case hearing on that application.

(b) A contested case hearing request must substantially comply with the following:

(1) Give the name, address, daytime telephone number, of the Person filing the request. If the request is made by a corporation, partnership, or other business entity, the request must identify the entity and one Person by name who shall be responsible for receiving all official communications and documents for the entity;

(2) State the basis upon which the Person is entitled to a contested case hearing;

(3) State the issues the requestor or protestant wishes to contest;

(4) State whether the Person requesting the contested case hearing is the applicant for that permit or an applicant for or holder of another Groundwater withdrawal permit.

(5) Request a contested case hearing;

(6) Provide any other information requested in the notice of proposed action and technical summary; and

(7) Be verified by an affidavit.

(c) Where a request for a contested case hearing is filed by a Person other than the applicant, a copy of that request must be served on the applicant at or before the time the request is filed. The request shall include a certificate indicating the date and manner of service and the name and address of all Persons served.

(d) If a Person is requesting a contested case hearing on more than one application, a separate request must be filed in correction with each application.

12.5 Processing of Hearing Requests

(a) After a hearing request is timely filed the District staff will schedule a preliminary hearing to consider the request.

(b) At least 20 days prior to the preliminary hearing the District staff will provide notice to the applicant, general manager and any Persons who timely filed a hearing request.

(c) Affected Persons may submit a written response to the hearing request no later than 10 days before a Board meeting at which the Board will evaluate that request. Responses must be filed with the District and served on the general manager, the applicant and any other Persons who timely filed a hearing request in correction with that matter.

(d) The Person requesting a hearing may submit a written reply to a response no later than 5 days before the scheduled Board meeting at which the Board will evaluate the hearing request. All replies shall be filed with the District and served on the same day on the general manager, the applicant, and any other Person who timely filed a hearing request.

(e) The Board may refer the hearing request to SOAH instead of scheduling the hearing before the Board. Following the hearing, SOAH will provide a proposal for decision to the Board of Directors for action by the Board.

12.6 Action by Board

(a) The determination of whether a hearing request should be granted is not a contested case hearing.

(b) The Board will evaluate the hearing request at a scheduled Board meeting and may determine that the Person requesting the hearing:

(1) Does not have a personal justiciable interest related to the application and deny the hearing request; or

(2) Has a personal justiciable interest relating to the application and schedule the application to a contested case hearing.

(c) If the Board grants the request for a contested case hearing, the Board shall assign a Hearings examiner or delegate the matter to SOAH. Any party to a contested case may demand the hearing be conducted by SOAH by filing the demand at least 14 days before the scheduled evidentiary hearing. The Hearings examiner shall:

(1) Schedule a preliminary hearing;

(2) At least 21 days after the preliminary hearing, schedule an evidentiary hearing; and following the evidentiary hearing, prepare a proposal for decision including proposed findings of fact and conclusions of law, and transmit that proposal to the Board.

(d) The Board shall schedule a final hearing where it will consider the evidence and testimony presented during the evidentiary hearing and the hearings examiner's proposal for decision.

(e) Following the final hearing, the Board may:

(1) Grant the application;

(2) Grant the application with conditions; or

(3) Deny the application.

(f) If the Board grants the application with conditions that were not included in the action proposed by the General Manager or grants a withdrawal amount less than the amount requested, the applicant may request a contested case hearing by filing the request no later than the 20th day following the Board action.

12.7 Delegation to SOAH

(a) By order, the Board may delegate to SOAH the authority to conduct hearings designated by the Board.

(b) If the Board refers a contested case hearing to SOAH, then the applicable rules of practice and procedure of SOAH (1 Tex. Admin. Code Ch. 155) govern any contested case hearing of the District, as supplemented by this subchapter.

(c) If the Board refers a contested case hearing to SOAH, the administrative law judge who conducts the contested case hearing shall serve as the hearings examiner and consider applicable District Rules and policies in conducting the hearing.

12.8 Conducting a Contested Case Hearing by SOAH

(a) When an application is referred to contested case hearing by the Board, the District will file all applicable documents to have the matter referred to SOAH.

(b) In referring the case to contested case hearing, the District will:

(1) Notify the administrative law judge of the applicable burden of proof for the applicant to establish all of the prima facie elements;

(2) Identify for the administrative law judge any additional issues that have been raised in the request(s) for contested case hearing; and

(3) Provide the administrative law judge with a written statement of applicable Rules and policies of the District.

(c) If the Board refers a contested case hearing to SOAH, the District may not attempt to influence the findings of facts or the administrative law judge's application of the law in a contested case hearing except by proper evidence and legal argument. If requested by the applicant or other party to a contested case, the District shall contract with SOAH to conduct the hearing. The party must file such a request not later than the 14th day before the date the evidentiary hearing is scheduled to begin. The Board order granting the contested case hearing may designate a location for the hearing inside the boundaries of the District or in Travis County at a location designated by SOAH. The party demanding the hearing before the SOAH shall pay all costs associated with the contract for the hearing and shall, before the hearing begins, deposit with the District an amount sufficient to pay the contract amount. At the conclusion of the hearing, the District shall refund any excess money to the paying party. The hearings examiner may also determine how the costs of the hearing procedure shall be apportioned among the parties,

12.9 Service of Documents

(a) For any document filed with the District or the hearings examiner in a contested case, the Person filing that document must serve a copy on all parties at or before the time that the request is filed.

(b) A document presented for filing must contain a certificate of service indicating the date and manner of service and the name and address of each Person served. The District may authorize a document to be filed without a certificate of service but will require the certificate be served within three days thereafter.

12.10 Continuances

(a) The Board may continue a hearing related to a contested case under the jurisdiction of the Board from time to time and from place to place.

(b) The notice of the hearing must indicate the times and places at which the hearing may be continued.

(c) If a hearing is not concluded on the day it begins, the Board shall, to the extent possible, proceed with the hearing on each subsequent working day until the hearing is concluded.

12.11 Designation of Parties

The following are parties in all contested cases:

(a) The general manager;

(b) The applicant; and

(c) A Person who is granted a contested case hearing by Board action.

12.12 Discovery

Discovery in contested case proceedings will be governed by Chapter 2001, Subchapter D, Tex. Gov't Code and Title 1, Section 155.31, Tex. Admin. Code, as supplemented by this subchapter. Depositions in a contested case shall be governed by Tex. Gov't Code §§ 2001.096-2001.102.

12.13 Expenses of Witness or Deponent

(a) A witness or deponent in a contested case who is not a party and who is subpoenaed or otherwise compelled to attend a hearing or a proceeding to give a deposition or to produce books, records, papers, or other objects that may be necessary or proper for the purposes of the contested case, is entitled to receive compensation in accordance with the provisions of Sec. 2001.103, Government Code.

(b) Amounts required to be reimbursed or paid shall be reimbursed or paid by the party at whose request the witness appears or the deposition is taken.

12.14 Evidentiary Matters

(a) Evidence that is irrelevant, immaterial, or unduly repetitious shall be excluded.

(b) The rules of privilege recognized by law shall be given effect.

(b) © An objection to an evidentiary offer may be made and shall be noted in the record.

(d) Evidence may be received in writing if:

(1) It will expedite the hearing; and

(2) The interests of the parties will not be substantially prejudiced.

(e) A copy or excerpt of documentary evidence may be received if an original document is not readily available. On request, a party shall be given an opportunity to compare the copy or excerpt with the original document.

(f) A party may conduct cross-examination required for a full and true disclosure of the facts.
(g) Witnesses may be sworn, and their testimony taken under oath.
(h) Official notice may be taken of:
(1) All facts that are judicially cognizable; and

(2) Generally recognized facts within the area of the District's specialized knowledge. Each party shall be notified either before or during the hearing, or by reference in a preliminary report or otherwise, of the material officially noticed, including staff memoranda or information. Each party is entitled to an opportunity to contest material that is officially noticed. The special skills or knowledge of District staff may be used in evaluating the evidence.

12.15 Depositions and Subpoenas

(a) On its own motion, or on the written request of a party, and on deposit of an amount that will reasonably ensure payment of the estimated total amount, the Board will issue a commission, addressed to the officers authorized by statute to take a deposition, requiring that the deposition of a witness be taken for a contested matter pending before it. Requests for issuance of commissions requiring deposition or subpoenas in a contested case will be in writing and directed to the Board.

(b) A party requesting the issuance of a commission requiring deposition or a subpoena will file an original of the request with the District. District staff will arrange for the request to be presented to the Board at its next meeting.

(c) In the case of a deposition, the Board will issue a commission addressed to the officer authorized by statute to take a deposition, requiring that the deposition of a witness be taken. The commission shall authorize the issuance of any subpoena necessary to require that the witness appear and produce, at the time the deposition is taken, books, records, papers or other objects that may be necessary and proper for the purpose of the proceeding. Additionally, the commission will require the officer to whom it is addressed to examine the witness before the officer on the date and at the place named in the commission; and take answers under oath to questions asked the witness by a party to the proceeding, the District, or an attorney for a party or the District. The commission will require the witness to remain in attendance from day to day until the deposition is begun and completed.

(d) In the case of a hearing, if good cause is shown for the issuance of a subpoena, and if an amount is deposited that will reasonably ensure payment of the amounts estimated to accrue, the District will issue a subpoena addressed to the sheriff or to a constable to require the attendance of a witness or the production of books, records, papers or other objects that may be necessary or proper for the purpose of the proceeding.

12.16 Ex Parte Communications

(a) For applications for which there is a right to a contested case hearing, a member of the Board may not, at any time after the application has been filed and before the Board has taken final action, communicate, directly or indirectly, about any issue of fact or law with any representative of the District or other designated party to the application, except on notice and opportunity for all parties to participate.

(b) Subsection (a) does not apply if:

(1) The Board member abstains from voting on a matter in which he or she engaged in ex parte communications;

(2) The communications are by and between members of the Board consistent with the Texas Open Meetings Act;

(3) The communications are with District staff who have not participated in any hearing in the contested case for the purpose of using the special skills or knowledge of the staff in evaluating the evidence; or

(4) The communications are with legal counsel representing the Board of Directors.

12.17 Remand to Board

(a) A hearings examiner may remand an application to the Board as follows:

(1) All timely hearing requests have been withdrawn;

(2) All parties to a contested case reach a settlement so that no facts or issues remain controverted; or

(3) The party or parties requesting the hearing defaults.

(b) After remand, the application will be uncontested, and the applicant will either be deemed to have agreed to the action proposed by the general manager or, if the parties have reached a settlement agreement, the agreement will be presented to the Board for its consideration. District staff will set the application for consideration at a Board meeting.

12.18 Informal Dispositions and Alternative Dispute Resolution

(a) An informal disposition of a contested case may be made by:

(1) Stipulation;

(2) Agreed settlement;

(3) Consent order; or

(4) Default.

(b) The hearings examiner may require the parties enter into mediation or other alternative dispute resolution process. The hearings examiner may also determine how the costs of the alternative dispute procedure shall be apportioned among the parties, appoint an impartial third party as provided by Section 2009.053, Government Code, to facilitate that procedure.

12.19 Certified Questions

(a) At any time during a contested case proceeding, on a motion by a party or on the hearings examiner's own motion, the hearings examiner may certify a question to the Board.

(b) Issues regarding District policy, jurisdiction, or the imposition of any sanction by the hearings examiner that would substantially impair a party's ability to present its case are appropriate for certification. Policy questions for certification purposes include, but are not limited to:

(1) The District's interpretation of its Rules and applicable statutes;

(2) The portion of the Act, the District Rules, or other statutes that are applicable to a proceeding; and

(3) Whether District policy should be established or clarified as to a substantive or procedural issue of significance to the proceeding.

(c) If a question is certified, the hearings examiner shall submit the certified issue to the District. District staff will place the certified issue on the agenda of a meeting of the Board. The District will give the hearings examiner and parties 30-day notice of the meeting at which the certified question will be considered. Within ten days after the certified question is filed with the District, parties to the proceeding may file briefs. Within ten days of the filing of such briefs, parties may file responses. Briefs and responses shall be filed with the District with copies served on the hearing's examiner. The District will provide copies of the certified questions and any briefs and responses to the Board. The hearings examiner may abate the hearing until the District answers the certified question or continue with the hearing if the hearings examiner determines that no party will be substantially harmed.

(d) The Board will take action and issue a written decision on the certified issue and provide copies to the parties and the hearings examiner. A decision on a certified issue is not subject to a motion for rehearing, appeal or judicial review prior to the issuance of the District's final decision in the proceeding.

12.20 Scheduling of a Meeting of the Board

(a) After receiving the proposal for decision or other disposition from the hearings examiner, District staff shall schedule the presentation of the proposal to the Board. The District shall provide 10-day notice to the parties of the date of the final hearing before the Board at which the proposal will be presented and considered. The Board may reschedule the presentation of the proposal. The District will send notice of the rescheduled meeting date to the parties no later than 10 days before the rescheduled meeting.

(b) Any party to the contested case hearing may make an oral presentation at the Board meeting in which the proposal for decision in that case is presented to the Board.

(c) On the written request of a party to a contested case, the oral proceedings before the Board at which the proposal for decision is presented and oral presentations are made, may be transcribed by a court reporter. A party that desires a transcript of the proceedings shall bear the cost, or the costs will be equally divided between all parties requesting a transcript. If the District desires a transcript it will bear the costs.

12.21 Reopening the Record

The Board, on the motion of any party to a contested case or on its own motion, may order the hearings examiner to reopen the record for further proceedings on specific issues in dispute. The order shall include instructions as to the subject matter of further proceedings and the hearings examiner's duties in preparing supplemental materials or revised proposals based upon those proceedings for the Board's adoption.

12.22 Decision

(a) The decision, if adverse to any party, must be in writing or stated in the record and will include findings of fact and conclusions of law separately stated.

(b) Findings of fact may be based only on the evidence and on matters that are officially noticed. If set forth in statutory language, findings of fact must be accompanied by a concise and explicit statement of the underlying facts supporting the findings.

(c) If a party submits proposed findings of fact, the decision will include a ruling on each proposed finding.

(d) If a contested case is presided over by a majority of the Board, then the Board's decision shall be rendered not later than the 60th day after the date on which the hearing is finally closed. If the Board refers a contested case to SOAH, then the Board's decision will be rendered no more than 180 days after the date that the District received the final Proposal for

Decision from SOAH. proposal for decision is presented at a final hearing unless the Board determines that there is good cause for extending the deadline. The Board is considered to have adopted a final proposal for the decision of the administrative law judge as a final order on the 181st day after the date the administrative law judge issued the final proposal for decision if the board has not issued a final decision by:

(1) adopting the findings of fact and conclusions of law as proposed by the administrative law judge; or

(2) issuing revised findings of fact and conclusions of law.

12.23 Notification of Decisions

(a) District staff will notify all parties in a contested case of any decision or order.

(b) District staff will send a copy of the decision in a contested case to attorneys of record or the parties.

(c) A party or attorney of record notified by mail is presumed to have been notified on the third day after the date on which the notice is mailed.

12.24 Motion for Rehearing

(a) For any matter considered during a contested case hearing, only a party to the contested case proceeding may file a motion for rehearing. The motion shall be filed with the District by no later than the 20th day after the date of the Board's decision. On or before the date of filing of a motion for rehearing, the party filing the motion shall mail or deliver a copy of the motion to all parties with certification of service furnished to the District. The motion shall contain:

(1) The name and representative capacity of the Person filing the motion

(2) The style and official docket number assigned by the Hearing Examiner;

(3) The date of the decision or order; and

(4) The grounds for the motion, including a concise statement of each allegation of error.

(b) Only a party to the contested case proceeding may reply to a motion for rehearing. A reply must be filed with the District within 20 days after the date the motion for rehearing is filed.

(c) The motion for rehearing will be scheduled for consideration during a Board meeting. The Board must consolidate requests for rehearing filed by multiple parties to one contested case hearing, but only one rehearing may be held per application. A motion for rehearing may be granted in whole or in part. When a motion for rehearing is granted, the decision or order is nullified. The Board may reopen the hearing to the extent it deems necessary. If the Board grants a motion for rehearing, District staff shall schedule the rehearing not later than the 45th day after the date the motion is granted. Thereafter, the Board shall render a decision or order. The Board shall make a final decision on the application not later than the 90th day after the date of the decision by the Board that was subject to the motion for rehearing.

(d) The failure of the Board to grant or deny a motion for rehearing before the 91st day after the date the motion is submitted constitutes a denial of the motion by operation of law.

12.25 Agreement to Modify Time Limits

The parties to a contested case hearing, with the approval of the Hearing Examiner, may agree to modify any time limit prescribed by these Rules related to conducting contested case hearings.

12.26 Decision Final and Appealable

In the absence of a timely motion for rehearing, a decision or order of the Board is final on the expiration of the period for filing a motion for rehearing. If a party files a timely motion for rehearing, a decision or order of the Board is final and appealable on the date:

(a) The Board denies the motion for rehearing, including a denial by operation of law; or

(b) The Board renders a written decision after rehearing.

12.27 Appeal of Final Decision

(a) Not later than the 60th day after the date on which the decision became final and appealable, parties affected by the final decision of the Board in a contested case may file suit under Tex. Water Code § 36.251, to appeal the decision. A party may not file suit if a motion for rehearing was not timely filed.

(b) The record in a contested case hearing shall include the following:

(1) All pleadings, motions and intermediate rulings;

(2) Evidence received or considered;

(3) A statement of matters officially noticed;

(4) Questions and offers of proof, objections and rulings on them;

(5) Summaries of the results of any conferences held before or during the hearing;

(6) Proposed findings, exceptions and briefs;

(7) Any decision, opinion or report issued by the hearings examiner;

(8) Pre-filed testimony;

(9) All memoranda or data submitted to or considered by the hearings examiner; and

(10) The final order and all interlocutory orders.

12.28 Costs of Record on Appeal

A party who appeals a final decision in a contested case shall pay all costs of preparation of the record of the proceeding that is required to be transmitted to the reviewing court. A charge imposed is considered to be a court cost and may be assessed by the court in accordance with the Texas Rules of Civil Procedure.

RULE 13 — PETITION FOR RULEMAKING

(a) A person with a real property interest in groundwater in the district may file a petition with the district to request the adoption of a rule.

(b) Petitions must be submitted in writing to the district office and must comply with the following requirements:

(1) each rule requested must be submitted by separate petition.

(2) each petition must be signed, and state the name and address of each person signing the petition.

(3) each petition must include:

(A) a brief description of the petitioner's real property interest in groundwater in the district.

(B) a brief explanation of the proposed rule.

(C) the text of the proposed rule prepared in a manner to indicate the words to be added or deleted from the text of the current rule, if any; and

(D) an allegation of injury or inequity that could result from the failure to adopt the proposed rule. and

(E) signed by at least 50 persons at least 18 years of age with a real property interest in groundwater in the Districts.

(c) The General Manager may reject any petition for failure to comply with the requirements of Subsection (b) of this section and shall provide notice to the petitioner of the reason for the rejection.

(d) Not later than the 90th day after the date the District receives the petition, the District shall either deny the petition and provide an explanation for the denial, or engage in rulemaking consistent with the granted petition, as provided by Texas Water Code Section 36.1025(c).

RULE 14 — TRANSFER OF GROUNDWATER OUT OF THE DISTRICT

14.1 Purpose.

An export permit is required to produce Groundwater from within the District's boundaries and to transfer such Groundwater for use outside the District. The well Owner, well Operator, or a Person acting on behalf of the well Owner, must obtain an export permit prior to transferring any Groundwater produced from within the District outside the District's boundaries.

14.2 Scope.

A Groundwater export permit is required for production of any water from a well within the District, all or part of which is regularly transported for use outside the District. A Groundwater export permit shall be obtained prior to commencing construction of wells or other facilities utilized to transfer Groundwater from the District. Water wells to be used for the export of water outside of the District shall be subject to all other requirements of the District.

14.3 Exceptions.

A Groundwater export permit is not required for transfers of Groundwater from the District in the following cases:

(a) Transfers of Groundwater from the District that were occurring on or before the effective date of these Rules to the extent the production or transportation capacity of facilities used to produce or transfer Groundwater from the District are not increased over the capacity of such facilities that were existing or permitted by the District on or before the effective date of these Rules.

(b) Transfers of Groundwater from the District that are incidental to Beneficial Use within the District. A Groundwater export permit is not required for transferring Groundwater that is part of a product manufactured in the District, or if the groundwater is to be used on property that straddles the District boundary line. Water that is bottled is not considered to be a product manufactured for this exclusion.

14.4 Application.

An application for Groundwater export permit shall be filed in the District Office by the Owner of the Groundwater rights or Owner or Operator of the production facilities. The following information shall be provided;

(a) The name and mailing address of the applicant and the Owner of the land on which the well is or will be located;

(b) If the applicant is other than the Owner of the property, documentation establishing the applicable authority to construct and operate a well for the proposed use;

(c) A statement of the nature and purpose of the proposed use and the amount of water to be used for each purpose;

(d) A water conservation plan;

(e) A declaration that the applicant will comply with the District’s management plan;

(f) The location of each well and the estimated rate at which water will be withdrawn;

(g) A water well closure plan or a declaration that the applicant will comply with well plugging guidelines and report closure to the Board.

(h) A drought contingency plan;

(i) Data showing the availability of water in the District and in the proposed receiving area during the period for which water supply is requested;

(j) Alternate sources of supply that might be utilized by the applicant, and the feasibility and the practicability of utilizing such supplies;

(k) The amount and purposes of use in the proposed receiving area for which water is intended;

(l) The projected effect of the proposed transfer on Aquifer conditions, depletion, subsidence, or existing permit holders or other Groundwater users within the District;

(m) The indirect costs and economic and social impacts associated with the proposed transfer of water from the District.

(n) Proposed plan of the applicant to mitigate adverse hydrogeological, social or economic impacts of the proposed transfer of water from the District;

(o) How the proposed transfer is addressed in the approved regional water plan and certified District management plan;

(p) The names and addresses of the property Owners within one-half (1/2) mile of the location of the well(s) from which water to be transported is to be produced, and the location of any wells on those properties.

(q) The time schedule for construction or operation of the well,

(r) Construction and operation plans for the proposed facility, including, but not limited to:

(1) A technical description of the proposed well(s) and production facility, including depth of the well, the casing diameter, type and setting, the perforated interval, and the size of pump.

(2) A technical description of the facilities to be used for transportation of water

(s) If the water is to be used by someone other than the applicant, a signed contract between the applicant and the end user or users.

(t) Additional information that may be required by the District.

14.5 Application Processing Fee.

An application-processing Fee, sufficient to cover all reasonable and necessary costs to the District of processing the application, will be charged. The Fee must accompany the application. If the Fee is determined by the General Manager or the Board to be insufficient to cover anticipated costs of processing the application, the applicant may be required to post a deposit in an amount determined by the General Manager or the Board's representative to be sufficient to cover anticipated processing cost. As costs are incurred by the District in processing the application, those costs may be reimbursed from funds deposited by the applicant. The applicant shall be provided a monthly accounting of billings against the application processing deposit. Any funds remaining on deposit after the conclusion of application processing shall be returned to the applicant. If initially deposited funds are determined by the General Manager to be insufficient to cover costs incurred by the District in processing the application, an additional deposit may be required. If the applicant fails to deposit funds as required by the, the application may be returned without processing.

14.6 Notice.

Within 30 days following a determination by the District that the application is administratively complete, notice of the application shall be published in a newspaper of general circulation within the District. The District may provide the notice to the applicant for mailing and publication. Notice shall include at least the following information:

(a) The name and address of the applicant;

(b) The date the application was filed;

(c) The time and place of the hearing;

(d) The location of the proposed well(s) from which water to be transported is to be produced;

(e) A description of the production facility; and

(f) A brief summary of the information in the application.

14.7 Hearing.

If requested by the applicant, any affected Person opposed to the application having a personal, justiciable interest, or the General Manager, a contested case hearing shall be conducted in accordance with Rule 12.

14.8 Permit:

(a) The permit to transfer Groundwater out of the District may be issued as a consolidated permit authorizing drilling, production, and transfer of water from the District. Whether issued as a consolidated permit or separately, the requirements for a permit to transfer Groundwater out of the District are cumulative with all other permits or other requirements of the District.

(b) In determining whether to issue a permit to transfer Groundwater out of the District, Board shall consider, in addition to all other factors applicable to issuance of a permit from the District:

(1) The availability of water in the District and in the proposed receiving area during the period for which the water supply is requested;

(2) The availability of feasible and practicable alternative supplies to the applicant;

(3) The amount and purposes of use for which water is needed in the proposed receiving area;

(4) The projected effect of the proposed transfer on Aquifer conditions, depletion, subsidence, or effects on existing per holders or other Groundwater users within the District;

(5) The indirect cost and economic and social impacts associated with the proposed receiving area;

(6) The approved regional water plan and certified District management plan; and,

(7) Other facts and considerations necessary by the Board for protection of the public health and welfare and conservation and management of natural resources in the District.

(c) If it determines to issue a permit to transfer Groundwater out of the District, the Board may limit the permit as warranted by consideration of those factors identified above. In addition to conditions identified by Section 36.1131, Texas Water Code, the permit to transfer water out of the District shall specify:

(1) The amount of water that may be transferred out of the District;

(2) The period for which the water may be transferred

(2) Any monitoring or reporting requirements determined to be appropriate; and,

(4) That it may be cancelled if the required production and transfer Fees are not paid when due.

(d) Export Permit terms: Export permits are effective for three (3) years if construction of a conveyance system has not been initiated prior to the issuance of the permit, or thirty (30) years if construction of a conveyance system has been initiated prior to the issuance of the permit.

RULE 15 — ENFORCEMENT

15.1 In accordance with the Texas Water Code § 36.102, the District may enforce Chapter 36 of the Texas Water Code and its Rules by injunction, mandatory injunction, or other appropriate remedy in a court of competent jurisdiction. The Board adopts civil penalties for breach of Chapter 36 of the Texas Water Code and any rule of the District. Civil penalties may not exceed $25,000 per day per violation, and each day of a continuing violation shall constitute a separate violation of the Rules. The Board must authorize any enforcement action prior to it being filed in court. The Board may adopt a schedule of penalties as a means of encouraging settlement of any violation, but if it becomes necessary to file an enforcement suit, the Board shall seek civil penalties up to $25,000 per day per violation for all rule violations.

15.2 The following acts and omissions each separately constitute a violation of the District Rules:

(a) drilling a well without first obtaining the required authorization from the District;

(b) failure to timely register a non-exempt well as required by the District's Rules;

(c) producing any amount of Groundwater from a non-exempt well without first having obtained a valid Operating Permit or permit amendment issued by the District;

(d) substantially altering a well without first amending the Operating Permit or otherwise receiving from the District the required express authorization for the alterations;

(e) failure to maintain at all times a properly functioning and calibrated meter installed and on a well required to be permitted;

(f) tampering with any meter installed, or required to be installed, on any well in the District;

(g) tampering with, removing, or in any other way violating the integrity of the seal on a well sealed by the District;

(h) failure to limit or suspend Groundwater production in accordance with any applicable Rules or Orders of the District;

(i) the failure to remit all water use Fees owed to the District within 30 days after the date any such Fees are due pursuant to the District Rules and Schedule of Fees;

(j) falsification of any documents or records submitted to the District in response to requirements of the District or in support of any application or other submittal to the District;

(k) failure to plug or cap an abandoned or deteriorated well in a manner and within the time limits prescribed;

(l) failure to close or cap an open or uncovered well in accordance with District Rules and all other applicable standards;

(m) causing or substantially contributing to the unreasonable delay, obstruction or interference of any District effort to exercise its duties under District Rules.

(n) engaging in any conduct that constitutes waste;

(o) the failure to timely file all well reports, water production reports or any other report required by these Rules;

(p) drilling a well at any location on the property identified in the registration or permit other than where authorized by these Rules or by the terms of the applicable Drilling Permit; and

(q) any other act or omission not listed in this subsection that is determined by order or resolution of the Board to constitute a violation.

RULE 16 — RULES OF PROCEDURE, CONDUCT, AND DECORUM AT MEETINGS OF THE BOARD OF DIRECTORS

16.1 All Regular, Special, and Emergency Board Meetings will be called and conducted under the provisions of the Texas Open Meetings Act, Chapter 551, Government Code. The Open Meetings Act requires that notice of a Board meeting be posted at least three business days before the scheduled meeting date, rather than seventy-two (72) hours. For rulemaking hearings, the District shall provide not less than twenty (20) days public notice as required by Water Code § 36.101(d). If the agenda includes budget adoption, amendment, or tax rate changes, the proposed budget and tax rate information must be posted on the District's website along with the meeting agenda. If the District does not maintain a website, a physical copy of the proposed budget and the tax information sheet must be posted with the meeting agenda at the designated posting location. For annual budget adoption, the District shall provide not less than ten (10) days public notice of the budget hearing as required by Water Code § 36.154(d). For any tax or fee adoption, the District shall comply with the minimum notice requirements of Water Code § 36.154(e) and Tax Code § 26.05(d), which require not less than seven (7) days public notice, or longer where applicable.

16.2. Regular, Special, and Emergency Board Meetings are open to the public and representatives of the press. Closed Board meetings ("Executive Sessions") are not open to the public or the press and only those individuals expressly requested or ordered to be allowed to attend Executive Sessions. For hearings on Desired Future Conditions, the District shall provide not less than ten (10) days public notice, consistent with Water Code § 36.108(d-4).

16.3 Members of the public in attendance at a Board meeting are limited to observation unless the Board requests that a member of the public address the Board or unless the Person who wishes to address the Board submits a completed Public Participation Form before the beginning of the meeting. The Public Participation Form must list each agenda item the Person wishes to address or any item the Person would like the Board to consider adding to a future agenda. A sample of the Public Participation Form is attached hereto as Exhibit "A."

(a) The Presiding Officer of the meeting may limit the total amount of time each member of the public may address the Board. The time limit, if any, must be announced at the beginning of the meeting. If translation services are required, the amount of time for the translation does not count against the amount of time available to the speaker and the total time available for the combination of speaking and translation time may not be less than double the time limit.

(b) Profane, insulting, or threatening language directed toward any Person, or racial, ethnic, or gender slurs or epithets will not be tolerated during public comments. These Rules do not prohibit public criticism of the District, including criticism of any act, omission, policy, procedure, program, or service. Violation of these Rules may result in the following sanctions:

(1) cancellation of a speaker's remaining time;

(2) removal from the Board meeting;

(3) such other civil or criminal sanctions as may be authorized under the Constitution, Statutes, and Codes of the State of Texas.

16.4 From time to time, the Board of Directors may conduct public hearings. These Rules of procedure, conduct, and decorum shall also apply to public hearings.

End of District Rules

Public Participation Form

Instructions: Fill out all appropriate blanks. Please print or write legibly.

NAME: _____

HOME ADDRESS: _____

_____

TELEPHONE: _____

EMAIL ADDRESS: _____

If you represent a group or organization, please state the name, address, and telephone number of that group or organization.

_____

_____

Agenda item (or items) you wish to address: _____

_____

NOTE: The public may also bring up any issue that is not on the current agenda as long as that issue is relevant to the jurisdiction and operations of the District but only for the purpose of asking that the issue be placed on a future agenda.

Item (or items) you wish placed on a future agenda: _____

_____

Signature: _____

NOTE: This Public Participation Form must be presented to the Board at the beginning of the Board meeting.