



MINUTES OF BOARD MEETING

OF THE

SOUTHWESTERN TRAVIS COUNTY GROUNDWATER CONSERVATION DISTRICT

Via Video and Telephone Conference

In accordance with the order of the Office of the Governor issued March 16, 2020, the SWTCGCD Board of Directors conducted a Special Board Meeting as a remote access only meeting in order to advance the public health goal of limiting face-to-face meetings (also called “social distancing”) to slow the spread of the Coronavirus (COVID-19). The meeting was open to the public and instructions for accessing the conference call were provided in advance with the Notice of Meeting

Wednesday, December 9th, 2020 at 10:00 AM

1. Call to order, declare meeting open to the public, take roll and declare quorum status

Director and Board President Scadden called the meeting of the Southwestern Travis County Groundwater Conservation District (SWTCGCD or District) Board of Directors to order at 10:00 AM on Wednesday December 9, 2020. Five District Directors were present on the conference call constituting a quorum, including Directors Davis, Hennings, Dower, Van Ackeren, and Scadden. Directors Urie and Hunt were absent. Also present were General Manager Kodi Sawin, Kirk Holland, and General Counsel Ty Embry, Marianne Cassels, Carl Jones, Charlie Flatten, Kyle Bates, Kevin Langford, Julie Podbielsk, and Pete Golde.

At the request of Director Scadden all present introduced themselves.

2. Public comments

Director Scadden called for public comments. Carl Jones said that he is concerned about another drought like 2011-2012 and he wanted to get a comment about that. Director Scadden advised that he and the board cannot engage in discussion during the Public Comments part of the meeting but the District is always concerned about drought and the District Rules included requirements for Drought Contingency Plans.

3. Conduct Public Hearing to receive input from the public regarding the proposed amendments to District Rules

Director Scadden closed the General Meeting and opened the Public Hearing at 10:08 AM.

General Manager Sawin advised that none of the proposed revisions are the result of one instance but rather a pattern of comments.

Mr. Kirk Holland provided a presentation of the SWTCGCD proposed amendments to the District Rules using a marked-up version of the District Rules. He explained that these proposed changes



have been approved by the District Board for this Public Hearing. Mr. Holland reviewed changes made to the Rule 2 Definitions and changes in Rule 3 including:

- Extending the deadline for registration of Non-Exempt Wells which will require an operating Permit from December 31, 2020 to February 28, 2021
- Repairs or replacement of equipment that do not constitute a Modification of the well does not require a Well Drilling Authorization
- District approval is required before drilling or modification actions are undertaken or before groundwater is produced under a Production Authorization
- Extended the deadline for having administratively complete applications for Existing Wells that are likely to be under Operating Permits from March 31, 2021 to June 30, 2021
- Additional language added to define what a Tier 1 Aquifer Test comprises
- Language added to emphasize that operating a non-exempt well that is not a Non-exempt Domestic Use (NDU) Well before either a Temporary Operating Permit or an Operating Permit has been issued is a violation of these Rules
- April 1, 2021 set as the date when wells requiring Operating Permits must have either a Temporary Operating Permit or an Operating Permit
- The date for Operating Permit holders to start their monthly meter reading and reporting is extended from January 1, 2021 to April 1, 2021
- Late fee payment date changed from the 10th of the month to the 15th of the month
- Added language that NDU permit holders may voluntarily meter their wells to demonstrated compliance with their curtailment targets in their Drought Contingency Plan

Mr. Holland continued reviewing changes to Rule 4 which defines well spacing and reporting including;

- Setbacks from rights-of-way
- Reducing the setback of wells producing less than 25,000 gallons per day from 100 ft. to 50 ft. and requiring cementing of only the top 100 ft. of the annulus on those wells and not the entire annulus
- Replacement wells are not subject to the spacing requirements of this section but are subject to TDLR requirements
- Added general provision that all new well applicants must be able to demonstrate that the well construction materials and methods will prevent comingling of waters of poor quality with good quality waters and also prevent infiltration of surface contaminants.

Mr. Holland continued to review changes to Rule 5 which deals with Groundwater Protection, mainly conservation and drought contingency planning including;

- Elimination of monthly calculation of targeted curtailments for NDU well permit holders during drought and requiring quarterly calculation instead
- Increased targeted curtailment percentage for NDU Wells during Extreme Critical, and Exceptional Droughts to 30% reduction of normal use from 20%
- Added an alternative to NDU Well prohibitions on lawn and landscape watering and other outdoor water use during Critical and Exceptional Drought stages by voluntary metering and reporting of use during those drought stages



Mr. Holland went on to say that there are some additional changes that the Board has not seen yet including:

- Modification of the definition of Existing Well to be a well that was drilled or modified on or before October 1, 2020, or is a new well that is located on a tract of land that was platted for development on or before September 1, 2020, or that has an executed drilling contract on or before September 1, 2020, and in all cases the well must be spudded before December 31, 2020 and is registered with the District
- A new category was added and defined for Emergency Well repairs that won't require 24 hour advance notice to the District prior to start of work
- Establish April 1, 2021 as the latest date by which all Non-exempt Wells except for NDU Wells must have a Temporary Operating Permit or a regular Operating permit
- Allowing 60 days from date of application for applicants for NDU General Permits to submit a User Conservation Plan and a User Drought Contingency Plan which are required to change a temporary NDU permit to a regular NDU permit
- Temporary Permits are not renewable
- If emergency repairs are performed on a well that is not registered the owner has 48 hours to register that well

After Mr. Holland finished his presentation, Director Scadden asked if any Directors had any comments or questions regarding the proposed amendments to the District Rules and there were none.

Director Scadden then asked if there were any questions or comments from the public.

Mr. Page asked if there is no requirement for 24-hour notice before hand if emergency repairs such as lowering or replacing a pump are required? Mr. Holland explained that if the emergency is interruption of water supply for an unacceptable duration you still have to notify the District, but you don't have to wait 24 hours to perform the emergency work.

Director Scadden said these questions will be discussed in the next agenda item after the Public Hearing is closed.

Director Scadden closed the Public Hearing and re-opened the Board Meeting at 10:37 AM

Notes from the presentation on proposed amendments to the District Rules are attached as Exhibit A

The Marked-Up Version of the District Rules used for the Presentation during the Public Hearing is attached as Exhibit B

4. Discuss and possibly act on matters related to the proposed amendments to the District Rules

Director Scadden asked if there were any further questions on the proposed amendments to the District Rules or would someone like to make a motion to adopt the amendments to the District Rules.



Director Van Ackeren made a motion to adopt the proposed amendments to the District Rules and the motion was second by Director Scadden

Director Scadden asked if there was any further discussion. Director Dower said that he wanted to go on record that he supports these proposed changes, but he is still concerned that some smaller Operating Permit holders can't comply with all of the District Rules and he asked to take a look at that at next month's Rules Committee meeting. Directors Scadden and Davis said they agreed to discuss further at the next Rules Committee meeting. Director Scadden asked Director Davis if she could replace Director Hunt on the Rules Committee and after a brief discussion regarding the time commitment required Director Davis agreed. Mr. Holland suggested that it might be helpful to define the scope of the problem and what specific aspects of the Operating Permit application process is a problem for permittees. Director Davis said that she will commit to helping with this effort. Director Scadden pointed out that Director Dower has put a lot of this in writing and his work is a good starting point.

The Board approved the motion to adopt proposed amendments to Rules – 5 Ayes to 0 Nays

5. Conduct Public Hearing to receive input from the public regarding the proposed amendments to District Fee Schedule for Fiscal Year 2021

Director Scadden closed the General Meeting and opened the Public Hearing at 10:50 AM.

General Manager Sawin explained that the proposed amendments to the District Fee Schedule are changes to the Fees resulting from the Rules changes just adopted. Mr. Holland advised that the Fee changes consist of;

- Technical Edits
- New Dates
- No Fee amounts changed
- No change to Summary Table of Fees

Director Scadden asked if any Directors had questions and there were none, he then asked if any members of the public had question and there were none.

Director Scadden closed the Public Hearing and re-opened the Board Meeting at 10:56 AM

Notes from the presentation on proposed amendments to the District Fee Schedule are attached as Exhibit C

6. Discuss and possibly act on matters related to proposed revisions to the Fee Schedule for FY2021

Director Scadden asked if there were any further discussion of the proposed amendments to the District Fee Schedule and Board indicated that there was no further discussion required.

On a motion by Director Hennings and a second by Director Davis the board approved adopting the proposed amendments to the Fee Schedule for the District – 5 Ayes to 0 Nays



7. Discuss and possibly act on approving the previous meeting minutes

- September 23, 2020
- October 14, 2020
- October 28, 2020

General Counsel Embrey said he had completed his review of the September 23rd minutes which had been tabled at last month's Board Meeting and proposed the following language to be added to the discussion of the Rules in Item 4.:

Director Dower requested that language be added to the Board Resolution adopting the Rules for the District include language that the Board directed legal counsel to ensure compliance of the Rules for the District with the District's enabling legislation, Chapter 36 of the Texas Water Code, and the laws of the State of Texas.

And that the following wording be added to the motion adopting the Rules:

with the additional language related to the review by legal counsel

General Counsel Embrey also proposed the following language to be added to the discussion of the Fee Schedule in Item 5.:

Director Dower requested that language be added to the Board Resolution adopting the Fee Schedule for the District include language that the Board directed legal counsel to ensure compliance of the Fee Schedule for the District with the District's enabling legislation, Chapter 36 of the Texas Water Code, and the laws of the State of Texas.

And that the following wording be added to the motion adopting the Fee Schedule:

with the additional language related to the review by legal counsel

On a motion by Director Davis and a second by Director Hennings the Board accepted the changes proposed by General Counsel and approved the September 23rd minutes – 5 Ayes to 0 Nays

Director Scadden then asked if there were any comments or questions on the October 14th and 28th minutes and there were none.

On a motion by Director Van Ackeren and a second by Director Dower the Board approved the October 14th and the October 28th minutes – 5 Ayes to 0 Nays

The minutes for September 23, 2020, October 14, 2020, and October 28, 2020 as approved are attached as Exhibit D

8. General Manager's Report

- Stakeholder communication and public inquiries
 - Application and registration inquiries and status



- Drought stage status and outlook
- Regulatory Items and Updates
 - TWDB
 - TCEQ
 - GMA 9
 - Others
- Other Items of Interest not requiring Board Action

9. Receive, Discuss, and take action as necessary for Board Committee Reports

Finance – Director Scadden presented the Financial Report in Director Urie’s absence, advising that the bank balance is \$14,833.63. He said that he had emailed the Reconciliation Detail Report to each of the Directors. Since then Director Scadden said that he and General Manager Sawin reviewed several more recent receipts of fees and expense payments and we will get an update from Jim Urie on that next month.

The Reconciliation Detail report for the period ending 11/30/20 is attached as Exhibit E

Legislative – Director Davis said she would like to encourage everyone to keep up with the legislative area of the TAGD newsletter and the Texas Water Development Board. The main thing at this point is Senator Perry’s SB 152. General Counsel Embrey said he had been involved with the Texas Water Conservation Association Groundwater Committee who are looking at groundwater legislation and two bills have come out of that process. The first deals with unreasonable DFCs and the second concerns a petition for rulemaking to give landowners another avenue to address any concerns they have with a District through a petition for rulemaking process like the State Agency process. He reiterated that SB 152 is the main groundwater bill this session.

Science-Outreach – Director Hennings said that she received a note that the Kent Butler Summit will be held as small county level virtual meetings focused on land conservation, and she said she would be happy to attend on behalf of the District. Director Scadden asked if more than one person could attend from the District, and if there is a fee. Director Hennings said she would ask and if anyone has a strong interest in land conservation they can attend in her place or she will get them registered as well, if that is possible, and she said there is no fee. Directors Scadden and Davis indicated that they had interest in this topic and Director Hennings said she would get them connected with Summit folks. Director Dower reported that there were 309 views of the District Website last month and that he had added a new email account for staff use.

10. Discuss and possibly act on matters related to implementing District Rules, including but not limited to plans, forms, guidelines, and templates.

General Manager Sawin said we have worked with the community to make improvements to the Well Drilling Authorization application and an updated version will be posted to the website this afternoon. The Water Service Connection form has been finished and will be sent out to the appropriate Operating Permittees. The UDCP and UCP templates have been completed as well as the Groundwater Protection Plan template for NDUs. Mr. Holland commented that this is an easy way for NDUs to comply and he asked if anyone had any questions and there were none.



Director Dower asked if we need to notify well owners regarding Drought Stage D2. Director Scadden said he would add an agenda item to next months meeting to discuss Drought Declaration and he pointed out that curtailments do not apply until we have permit holders. Director Scadden then asked if the Directors had any questions or comments on these forms and Director Hennings replied that she thought they looked good and she thanked everyone for their work.

11. Discuss and possibly act on matters related to the funding from Travis County and a new Interlocal Agreement

Director Scadden provided an update on the Draft Travis County ILA advising that Travis County accepted some of the District comments. The final result is workable with \$185,000 available through the ILA. Director Scadden said that Resolution 2020-12-01 has been prepared to authorize him to finalize and sign the ILA. He then asked if any Directors had any questions and there were none. Directors Davis and Van Ackeren thanked Director Scadden, General Manager Sawin and General Counsel Embrey. General Manager Sawin thanked Vicky Kennedy, Director Scadden, and Anna Bolton.

On a motion by Director Davis and a second by Director Dower the Board approved Resolution 2020-12-01 regarding the Travis County ILA – 5 Ayes to 0 Nays

The Draft Travis County ILA is attached as Exhibit F

12. Discuss and possibly act on matters related to hiring a bookkeeping company

Director Davis said that Director Urie is willing to continue to do the bookkeeping. Director Van Ackeren opined that there is a minimal amount of bookkeeping with Director Urie being willing to continue the committee is not pushing forward with a Bookkeeper search. Regarding the Auditor Director Davis advised that audit costs drop significantly after February and she asked General Counsel Embrey if there is a deadline for completing the audits. General Counsel Embrey replied No, just every year on a Fiscal Year basis. Director Scadden said he would prefer to go through the process of selecting an auditor now even if he or she did not start work until after February. Directors Davis and Van Ackeren agreed. Director Dower advised that Travis County is going to require a report on Spending v. Budget.

13. Discuss and establish possible agenda items for future Board meetings

- Bookkeeper and Auditor
- Rules Implementation
- Drought Stage Declarations
- Rules changes for small Non-Exempt Owners

14. Discuss and possibly act on setting the date, time, and location for next Board meeting

The next regular Board meeting will be January 13, 2021 at 10:00 AM

15. Adjourn



On a motion by Director Hennings and a second by Director Van Ackeren, the Board voted to adjourn the meeting – 5 Ayes to 0 Nays. The meeting was adjourned at about 11:59 AM.

PASSED, APPROVED AND ADOPTED THIS 10th day of February 2021

A handwritten signature in blue ink, which appears to read "Tim Van Ackeren", is written over a horizontal line.

Tim Van Ackeren, Secretary



Exhibit A

Notes from the presentation on proposed amendments
to the District Rules

Summary of Proposed Rules Amendments

Public Hearing by SWTCGCD Board of Directors

December 9, 2020

What We'll Review Here Today

- *Substantive* rule-language changes only – excludes minor clarifications and technical edits that don't change meaning of existing Adopted Rules
- First and mostly: changes that the Board has already seen and approved to serve as the basis for this Public Hearing
- Then: a few additional, new changes for Board and public consideration that have been suggested as desirable in the course of the District's initial implementation of its currently Adopted Rules

Changes Proposed to Existing Rules

- Rule 2 – Definitions

- Modifies “Replacement Well” to emphasize it must be in same MZ as original well
- Modifies “Test Well” to clarify it is a well that produces groundwater, not a well solely used as an observation well during aquifer testing

- Rule 3 – Registration and Permitting

- Extends deadline for *initial* application by Existing Wells that will or may be under Operating Permits to February 28, 2021 (from December 31, 2020)
- Clarifies that repairs and/or equipment replacement resulting in identical function of wells do not require WDA application, provided comparison to prior registration information demonstrates the changes are not “Modifications” as defined in the Rules

Changes Proposed to Existing Rules

- Rule 3 – Registration and Permitting (cont'd)
 - Emphasizes that District must approve action before drilling or modifications are undertaken; before groundwater is produced under a Production Authorization; and before changes to the well's conditions, operation, or status may be undertaken
 - Extends deadline for administratively complete applications by existing wells to be under Operating Permits to June 30, 2021 (from March 31, 2021)
 - Clarifies what constitutes Tier 1 aquifer test: a specific capacity test and an Abbreviated Hydrogeologic Report that is form-based and readily completed
 - Emphasizes that operating a non-exempt well that isn't an NDU well before either a temporary or regular Operating Permit is obtained after one is available to the well owner is a violation of the Rules

Changes Proposed to Existing Rules

- Rule 3 – Registration and Permitting (cont'd)
 - Extends date for Operating Permitholder to begin reporting monthly metered groundwater use and date on which production fees begin to accrue to April 1, 2021 (from January 1, 2021)
 - Changes “late fee payment date” to 15th of month (from 10th of month) following each quarter
 - Clarifies that NDU Permitholder may voluntarily meter its well to demonstrate compliance with drought curtailment targets without prohibitions on lawn and landscape irrigation that would otherwise apply during critical droughts

Changes Proposed to Existing Rules

- Rule 4 – Well Standards, Spacing, and Reporting
 - Reduces property line setback to include one-half width of any adjacent right of way for property not subject to groundwater development, up to a setback that is no less than 10 feet from the recorded property line
 - Specifies only top 100 feet of annulus of lower-capacity wells must be pressure-cemented to reduce minimum setback from 100 feet to 50 feet
 - Clarifies that “Replacement Wells” are not subject to the spacing requirements of these Rules but are subject to TDLR’s requirements.
 - In lieu of specific well construction standards in these Rules, adds a general requirement that applicants for new wells *“must be able to demonstrate to the District that proposed well construction materials and methods will prevent both the commingling of formation waters of substantively different chemical quality and the infiltration of surface contaminants to the aquifer(s) via the well”*

Changes Proposed to Existing Rules

- Rule 5 – Groundwater Protection
 - For NDU Permitholders, eliminates monthly interval for calculating targeted curtailment of use during drought in favor of nominally more meaningful quarterly intervals
 - Increases targeted percentage curtailments by NDU Permitholders during the critical Extreme and Exceptional Droughts to 30% reduction of normal use (from 20%)
 - Provides NDU Permitholders an alternative to prohibitions on lawn/landscape irrigation and other outdoor water uses during the critical droughts by permitholder's demonstrating achievement of targeted curtailments by voluntary use of metering and reporting during such droughts

New Changes to Proposed Amended Rules

- Rule 2 – Definitions
 - Modifies “Existing Well” to provide District needed flexibility during transition period: *“a well in the District that: a) was drilled or last modified on or before October 1, 2020, or b) is a prospective well located on a tract of land that was platted for development as of September 1, 2020, or c) that the Board concurs was under an executed drilling contract or its equivalent as of September 1, 2020; and further d) in all such cases was spudded no later than December 31, 2020, and is registered with the District.”*
 - Defines “Emergency Well Repairs” for making immediate well repairs that don’t require the 24-hour prior notice: *“repair work performed by a driller or pump installer on a well or its components that, if not immediately undertaken, would likely result in loss of water supply from the well for a length of time unacceptable to the owner.”*
- Rule 3 – Registration and Permitting
 - Specifies April 1, 2021, as last date all non-exempts other than NDUs must be operating under a temporary or regular Operating Permit
 - Provides applicants for NDU General Permits 60 days from application date to develop and submit an approved UCP and UDCP to change a temporary conditional NDU Permit to a Regular NDU Permit that is renewable without new application fee
- Rule 4 – Wells Standards, Spacing and Reporting Requirements
 - Adds provision that work at wells that is warranted to comprise “Emergency Well Repairs” is not required to wait 24 hours to begin the work after notice to the District, and the owner has 48 hours after such notice to register the well (if not already registered)

Questions and Comments

- By Directors
- By the Public



Exhibit B

Marked-Up Version of the District Rules used for the
Presentation during the Public Hearing



ADOPTED RULES

of Southwestern Travis County Groundwater Conservation District

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Original Adoption Date: September 23, 2020

Amended: xxxxx xx, 2020

~~OCTOBER 1, 2020~~

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Rule 1 General Provisions

- 1.1 Authority to Promulgate Rules
- 1.2 Purpose and Scope of the Rules
- 1.3 Effective Date
- 1.4 Severability
- 1.5 Regulatory Compliance
- 1.6 Changes to Rules
- 1.7 Administrative Fees
- 1.8 Headings and Captions; Gender; and Verb Usage

1.1 Authority to Promulgate Rules

The Southwestern Travis County Groundwater Conservation District (SWTCGCD, or District) is a political subdivision of the State of Texas. The District was created in 2017 by the 85th Texas Legislature in approving H.B. 4345, which was subsequently signed into law by Governor Greg Abbott. The SWTCGCD is also subject to Chapter 36 of the Texas Water Code (TWC) for the purpose of conserving, preserving, recharging, protecting, and preventing waste of groundwater from the aquifers within southwestern Travis County. The District will conduct administrative, educational, and technical activities and programs to achieve these purposes under these statutory authorities and provisions. In a confirmation election held on November 5, 2019, voters residing in the District approved the formation of the District and elected six of the authorized seven Directors to the Board of Directors, with a seventh director being subsequently appointed by the Board in accordance with the provisions of the District's Enabling Legislation.

As a duly created groundwater conservation district (GCD), the District may exercise any and all statutory authority or powers conferred under Chapter 36 of the Texas Water Code (Chapter 36), including the adoption and enforcement of rules under TWC Section 36.101 Rulemaking Power, and under supervening provisions of the District's Enabling Legislation, as amended and now codified at Special District Local Laws Code, Chapter 8871.

The District is located within the Hill Country Priority Groundwater Management Area (PGMA), which was designated and delineated in 1990 by the Texas Natural Resource Conservation Commission (now the Texas Commission on Environmental Quality, TCEQ) under TWC Chapter 35 as an area experiencing or expected to experience critical groundwater problems. TCEQ is charged with assuring that all areas of this PGMA have groundwater management programs undertaken by functional GCDs.

1.2 Purpose and Scope of the Rules

The District *Rules* are promulgated under the District's statutory authorities to make and enforce regulations that provide for the conservation, preservation, protection, and recharge of groundwater and aquifers within the District's jurisdictional area. The Rules protect property rights, balance the conservation and development of groundwater, and use the best available science in the conservation and development of groundwater. These Rules are based on and implement the management strategies and policies incorporated in the District's Groundwater Management Plan. They are also intended to minimize the drawdown of the water table, minimize the reduction of artesian pressure, control subsidence, prevent interference between wells, prevent the degradation of the quality of groundwater, prevent waste of groundwater, preserve and protect existing use of groundwater, give consideration to the service needs of public utilities, and carry out the powers and duties conferred under Chapter 36 and the District's Enabling Legislation.

These Rules, and any orders, regulations, requirements, resolutions, policies, directives, standards, guidelines, management plan, or other regulatory measures implemented by the Board, have been promulgated to fulfill these objectives. These Rules may not be construed to limit, restrict, or deprive the District or Board of any exercise of any power, duty, or jurisdiction conferred by its Enabling Legislation, Chapter 36, or any other applicable law or statute. The Board shall develop rules that are fair and impartial, and it shall consider groundwater uses and needs within the District. The Board is authorized to make and enforce rules limiting groundwater production based on the characteristics of certain wells and protecting the District's aquifers, as elaborated in these Rules.

The Board has established and authorized these Rules as necessary and sufficient to manage the groundwater resources of the District, including requirements that specify how the District will interface procedurally with well owners, operators, permittees, and the public. In addition, the Board has established District *Bylaws* as a separate set of authorized procedures that will govern how the District manages and administers its internal operations and processes.

Most Rules of the District are applicable to the entire District. Certain Rules are applicable only to one or more "Management Zones" of the District rather than to the entire District (see Definitions in Rule 2). The language of specific Rules makes it clear if the relevant regulation applies only (or additionally) to certain Management Zone(s); otherwise, the Rules apply to all zones. As of the Effective Date for these Rules, the following major and minor Management

Zones (MZs) are established and govern the applicability of certain designated District Rules: Upper Trinity MZ; Middle Trinity MZ; Lower Trinity MZ; Area 1 MZ; and Area 2 MZ.

1.3 Effective Date

These Rules and any amendments are effective upon adoption by the District Board unless otherwise indicated in the adoption resolution.

1.4 Severability

If any Rule, provision, section, sentence, paragraph, clause, word, or other portion of these Rules is for any reason held to be invalid, illegal, or unenforceable in any respect, the invalidity, illegality, or unenforceability shall not affect any other Rules or portions thereof, and these Rules shall be construed as if such invalid, illegal, or unenforceable Rule or of portions thereof had never been contained herein.

1.5 Regulatory Compliance

All wells, and well owners, well drillers, pump installers, and others under the jurisdiction of the District, shall comply with all applicable Rules, orders, regulations, requirements, resolutions, policies, directives, standards, guidelines, or any other regulatory measures implemented by the District.

1.6 Changes to Rules

The Board from time to time, following notice and public hearing, may amend or revoke these Rules or adopt new Rules. The Board may adopt an emergency rule without prior notice or hearing or with an abbreviated notice and hearing, in accordance with TWC Section 36.1011.

1.7 Administrative Fees

In addition to those certain fees specified in the District's Enabling Legislation, TWC Section 36.205 authorizes the District to assess fees for administrative acts of the District incurred in the course of managing the District's groundwater resources. These fees may not unreasonably exceed the cost to the District of providing the administrative function for which the fee is charged. Fees shall be assessed in accordance with the District Fee Schedule, which shall be amended as needed and then re-approved at least annually, following a public hearing, by

Board Resolution. The Fee Schedule shall have its own effective date, as adopted by the Board. A copy of the current Fee Schedule may be obtained from the District website.

1.8 Headings and Captions; Gender; and Verb Usage

The Sections and other headings and captions contained in these Rules are for reference purposes only and shall not affect in any way the meaning or interpretation of these Rules.

Use of masculine pronouns for convenience purposes in these Rules and Bylaws shall include references to persons of feminine gender where applicable. Words of any gender used in these Rules and Bylaws shall be held and construed to include any other gender, and words in singular number shall be held to include the plural and vice versa, unless context requires otherwise.

The verbs may, can, might, should, or could are used in a permissive sense, when an action is optional or may not apply in every case. The verbs will, shall, or must are used when an action is required and not discretionary. The verb cannot is used when an action is not allowed or is unachievable.

Rule 2.0 Definitions

Unless the context clearly indicates a contrary meaning, the terms hereinafter defined shall have the following meanings in the Rules of the Southwestern Travis County Groundwater Conservation District (SWTCGCD or District). These terms have these meanings regardless of whether they are capitalized or not in the Rules and other District documents.

“Abandoned Well” – a well, including a drilled well, a cistern, or a hand-dug well, that for at least one year has been left unused, unattended, and improperly protected from contamination or sources of pollution.

“Adverse Groundwater Conditions” – a condition in which an aquifer or portion of an aquifer is experiencing aquifer depletion, deteriorating water quality, or other conditions that may harm or threaten to harm the health, safety and welfare of well owners and aquifer users.

“Aggregated Wells” – a multi-well system comprised of two or more interconnected wells that are in the same Management Zone, owned by the same entity and serve the same property, subdivision, facility, or customers. Aggregated Wells may be authorized to produce groundwater under a single permit.

“Aggregated Withdrawal” – the amount of water withdrawn from two or more permitted wells owned by the same entity that is permitted for a total annual production amount of all wells combined.

“Agricultural Use” -- use of groundwater for growing crops in support of agricultural activities defined as such under Chapter 36.001 of the Texas Water Code, including irrigation:

- (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 non-soil 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 value;

- (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; or
- (6) raising or keeping equine animals.

A well that provides groundwater for Agricultural Use and not for Domestic or Livestock Use as defined in these Rules is a Non-exempt Well.

“Annular Space” – the space between two concentric cylindrical objects, one of which surrounds the other, such as the space between the earthen walls of a drilled hole and the installed casing.

“Aquifer” – a geologic formation, including a set of connected units, that will yield water to a well in sufficient quantity and of suitable quality to make the production of water from this formation economically feasible for a beneficial use.

“Aquifer Emergency Warning” – an action taken pursuant to Rule 5.3 of these Rules when the District has determined that adverse or hazardous groundwater conditions exist requiring immediate action on the part of the District.

“Aquifer Mining” or **“Groundwater Mining”** – A general groundwater condition created when the extraction of water from a groundwater system exceeds recharge and inflows from adjacent formations and results in prolonged and progressive declines in water levels. Synonymous with the term over-draft. The effects of aquifer mining include depletion (reduction in water levels or artesian pressure) and eventually de-watering of the aquifer.

“Aquifer Test” -- a controlled field experiment used to estimate hydraulic properties of aquifer systems (transmissivity and storativity). The primary method is called a “pumping test” in which a well extracts or injects water at a controlled rate while water levels are measured in one or more surrounding wells. Guidelines and procedures for Aquifer Tests are outlined in the District’s guidance document, *Guidelines for Hydrogeologic Reports and Aquifer Testing (“Guidelines”)*.

“Area 1 Management Zone” – the groundwater management zone that includes the aquifers at locations within the District that are west of the surface expression of the Bee Creek

Fault, as mapped by the Bureau of Economic Geology as of the date of these Rules and shown on the Geologic Atlas of Texas.

“Area 2 Management Zone” – the groundwater management zone that includes the aquifers at locations within the District that are east of the surface expression of the Bee Creek Fault as mapped by the Bureau of Economic Geology as of the date of these Rules and shown on the Geologic Atlas of Texas.

“Artesian Pressure” – a condition in which water is confined in an aquifer under pressure so that the water will rise in the well casing or drilled hole above the bottom of the confining bed overlying the aquifer.

“Beneficial Use” – the use of groundwater (1) for domestic, municipal, stock raising, agricultural use or purpose, industrial, mining, manufacturing, irrigation, gardening, and pleasure/recreational purposes; (2) for exploring for, producing, handling, or treating oil, gas, sulfur, or other minerals; or (3) for any other purpose that is useful and beneficial to the user except when such use or purpose falls under the definition of “Waste” as defined in these Rules or Texas Water Code Chapter 36.

“Board” – the Board of Directors of the Southwestern Travis County Groundwater Conservation District, which is the governing body of the District.

“Capping” – equipping a well with a securely affixed, removable device that will prevent unauthorized access and the entrance of surface pollutants into the well.

“Casing” – a tubular structure such as a pipe installed in the excavated or drilled borehole to maintain the well opening.

“Change in Well Condition, Operation or Status” – to alter the physical or mechanical characteristics of a well, its equipment, its use, or production capabilities. This does not include repair of well equipment, well houses or enclosures, or replacement with comparable equipment. Replacing a water pump with a larger, higher production, model is not considered comparable.

“Cistern” – an in-ground storage facility for water. See also Abandoned Well.

“Closed-Loop Geothermal Exchange Well (System)” – a typically multiple-well, closed system used to circulate water or other fluids or gases through the earth as a heat source or

heat sink, for the purpose of utilizing the subsurface for heat exchange in heating and cooling systems. These are sealed systems; no water is to be produced or injected. Such Geothermal Exchange Wells are Exempt Wells.

“Community Water System” – a system, other than a Retail Public Utility system, that supplies groundwater as a potable water supply to (1) users in longer-term living units such as apartment complexes, town homes, RV spaces, or multiple dwellings on a shared well, or (2) multiple shorter-term users such as hotels, restaurants, and gas stations. Community water systems are considered Non-exempt. (See also “Public Water Supply” and “Retail Public Utility”).

“Conservation” – those water saving practices, techniques, and technologies that will reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water, or increase the recycling and reuse of water so that a water supply is made available for future or alternative uses.

“Critical Groundwater Depletion Area” or “(CGDA)” – a CGDA is any portion of the District which is so designated and delineated by the Board according to Rule 5.4.

“Desired Future Conditions” or “DFC” – a physical condition of an aquifer that is designated in accordance with Chapter 36.108 by the Groundwater Management Area joint planning process and expressed quantitatively as being an acceptable or desirable condition of the aquifer at one or more specified future times and that is adopted by the District Board.

“Dewatering Well, Short-term” -- a well that is constructed and used on a temporary basis not to exceed six months for the purpose of producing groundwater to lower the water table or potentiometric surface to allow for construction or short-term use of underground space. Such Dewatering Wells are Exempt Wells by Rule.

“Dewatering Well, Long-term” -- a well that is constructed and used for more than six months for the purpose of producing groundwater to lower the water table or potentiometric surface to allow for construction or long-term use of underground space. Such Dewatering Wells are Non-exempt Wells that require an Operating Permit.

“Director” – an elected or duly appointed member of the Board of Directors of the SWTCGCD.

“Discharge” – the volume of water that passes a given point within a given period of time, or the amount of water that leaves an aquifer by natural or artificial means.

“District” – the Southwestern Travis County Groundwater Conservation District (SWTCGCD)

“District Monitor Well” – a well constructed or used for other purposes but has been designated as a District Monitor Well by the District that is used for specific District needs or programs such as water quality monitoring, measuring aquifer levels, or determining Drought Conditions.

“District Office” – the main office of the Southwestern Travis County Groundwater Conservation District at such location as may be established by the Board.

“Domestic Use” – the use of groundwater by a person or household in which a well produces groundwater for personal needs such as drinking and personal hygiene; for household purposes such as heating, cooking, sanitation, and cleaning; or for other, outdoor uses such as maintaining swimming pools; watering of domestic animals kept as pets; and irrigating landscape vegetation, gardens, or orchards. Domestic Use does not include groundwater used to support activities for which consideration is given or received, or for which the product of the activity is sold.

“Downhole Camera Log” -- The practice of visually recording images of the nature and character of the borehole including the well construction and its geologic units.

“Drill” – drilling, digging, equipping, completing wells, or changing the size of wells or well pumps/motors (resulting in an increase in production volume capability) whereby a drilling or service rig must be on location to perform the activity.

“Drill Cuttings” -- The small pieces of geologic materials generated in the drilling process and retrieved from the borehole.

“Drought” – a shortfall in groundwater recharge, generally brought about by below-normal rainfall for an extended period of time, that is often accompanied by high rates of pumping from aquifers, and therefore has the potential for substantial negative impacts to aquifer levels and water supply wells (see also Groundwater Drought).

“Drought Stage” – the level of severity of Groundwater Drought in the District as declared by the District’s Board of Directors, using indicators specified in Rule 5.2(B).

“Emergency (Well) Repairs” -- repair work performed by a driller or pump installer on a well or its components that, if not immediately undertaken, would likely result in loss of water supply from the well for a length of time unacceptable to the owner.

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“Enabling Legislation” – the statute that created the District, H.B. 4345 of the 85th Texas Legislature, in 2017, subsequently amended and now codified at Special District Local Laws Code Chapter 8871.

“Exempt (Use) Well”

– a well whose use and characteristics conform to those under Rule 3.1(B). Exempt Wells do not require a permit for production or use of groundwater within the District but they do need to be registered. Production of groundwater from exempt wells shall may not be regulated, permitted, or required to be metered.

Commented [KH1]: To allow for voluntary metering and discretionary use of its data by the owner and/or the District

“Existing Well” – a well in the District that: a) was drilled or last modified on or before October 1, 2020, or b) is a prospective well located on a tract of land that was platted for development as of September 1, 2020, or c) that the Board concurs was under an executed drilling contract or its equivalent as of September 1, 2020; and further d) in all such cases was spudded no later than December 31, 2020, and that is registered with the District. Note that this term is not necessarily synonymous with a “Previously Installed Well”.

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“Fees” – charges imposed by the District pursuant to Texas Water Code Chapter 36 or the District’s Enabling Legislation, codified at Special District Local Laws Code Chapter 8871.

“Fire Suppression Well” – a well that is primarily used as a source of water for fire-fighting, or for fire hydrant and line flushing. A Fire Suppression Well is Exempt by Rule.

“Fiscal Year” – the business year of the District, beginning October 1 of the year before and ending on September 30 of the specified year. Operating Permits are issued on a fiscal year basis.

“General Permit (By Rule)” – a permit issued by the District to owners or operators of Non-Exempt Wells of a specified type under Rule 3.5. General Permits have streamlined application procedures and do not require metering, water-use reporting, or payment of groundwater production fees, in contrast to owners or operators of wells with Operating Permits. General Permits have durations of five years and must be renewed. They also have enforceable drought curtailment provisions.

“Geophysical Log” -- A family of recorded data that represent the physical properties of geologic units or well construction, obtained by a range of instruments (wireline tools) lowered into a borehole.

“Groundwater Management Area” or “GMA” – one of 16 state-designated areas based generally on boundaries of the major and minor aquifers. Groundwater Districts within a GMA are required to participate in joint planning and designate DFCs for relevant aquifers. The SWTCGCD is part of GMA-9.

“Groundwater Management Plan” – a management plan developed by the District pursuant to Texas Water Code Section 36.1071 and adopted and approved by the District Board.

“Groundwater” – water percolating beneath the earth’s surface.

“Groundwater Drought” – a Drought that adversely and substantially affects or may affect the water level or artesian pressure in aquifers within the District, as determined by the District Board. A Groundwater Drought may exist without a meteorological or agricultural drought being present in the District at the same time.

“Groundwater Mining” – See “Aquifer Mining”.

“Groundwater Reservoir” – a specific subsurface water-bearing reservoir having ascertainable boundaries and containing groundwater. An aquifer.

“Groundwater Sustainability” -- The development and use of groundwater in a manner that can be maintained for an indefinite time without causing unacceptable environmental, economic, or social consequences (i.e., Unreasonable Impacts).

“Hand-Dug Well” – A well installed by hand digging or by manual augering.

“Hazardous Groundwater Conditions” – a groundwater quality condition as described in Rule 5.3.A. that may be detrimental to the health, safety, or welfare of the residents or livestock of the District.

“Hydrogeological Report” - a report, prepared by a Texas licensed geoscientist or a Texas licensed engineer, in accordance with the District’s guidance document *Guidelines for Hydrogeologic Reports and Aquifer Testing (Guidelines)*. The report documents,

describes, and interprets the results of an Aquifer Test with other information to evaluate the availability of groundwater in a study area and target formation. The primary goal is to assesses the response of an aquifer to pumping over time and the potential for unreasonable impacts. The test and report are part of the application for certain Operating Permits.

“Industrial Use” – use of groundwater primarily in the building, production, manufacturing, or alteration of a product or goods, or to wash, cleanse, cool, or heat such goods or products. A well for Industrial Use is a Non-exempt Well.

“Injection Well” -- a well used to inject water or other material into a subsurface formation or into pipe or tubing placed in the formation for the purpose of storage or disposal of the fluid, other than as part of an engineered aquifer storage and recovery (ASR) or managed aquifer recharge (MAR) project. Injection Wells include but are not limited to:

1. an air-conditioning return flow well used to return water that has been used for heating or cooling in a heat pump to the aquifer that supplied the water,
2. a cooling water return flow well used to inject water that has been used for cooling,
3. a drainage well used to drain water at the land surface into a subsurface formation,
4. a saltwater intrusion barrier well used to inject water into a freshwater aquifer to prevent the intrusion of salt water into fresh water,
6. a sand backfill well used to inject a mixture of water and sand, mill tailings, or other solids into subsurface mines, and
7. a subsidence control well used to inject fluids into a non-oil-producing or non-gas-producing zone to reduce or eliminate subsidence associated with the overdraft of fresh water.

Injection Wells are considered Exempt Wells by Rule and do not require permits from the District but shall be registered with the District. Operating most Injection Wells such as those defined here will require obtaining permits from TCEQ or the Railroad Commission of Texas and complying with their applicable construction, operating, and reporting standards.

“Irrigation Use” – use of groundwater to supply water for application to plants or land in order to promote growth of plants, turf, or trees, other than for Agricultural Use or Domestic Use. A well for Irrigation Use is a Non-exempt Well.

“Livestock Use” – use of groundwater produced by a well as a water supply for domesticated horses, cattle, goats, sheep, swine, poultry, ostriches, emus, rheas, fish, exotic deer and antelope, and other similar animals involved in farming or ranching operations, including maintaining no more than 50,000 gallons of groundwater storage in ponds, lakes, tanks, reservoirs, or other surface impoundments used for holding water located on the person’s property. Dogs, cats, birds, reptiles, small mammals, potbellied pigs, and other animals typically kept as domestic pets are not considered livestock. Livestock-type animals kept as pets or in a pet-like environment are not considered livestock.

“Lower Trinity Aquifer Management Zone” – the groundwater management zone in the District that includes the hydrogeologic units below the Hammett formation aquiclude and above the Paleozoic-age “basement” rocks, as depicted in the District’s Groundwater Management Plan. It is adjacent to the Middle Trinity Aquifer Management Zone above and the Paleozoic aquicludes and aquifers below.

“Middle Trinity Aquifer Management Zone” – the groundwater management zone in the District that includes the hydrogeologic units below the Upper Glen Rose formation and above the Hammett formation, as depicted in the District’s Groundwater Management Plan. It is adjacent to the Upper Trinity Aquifer Management Zone above and to the Lower Trinity Aquifer Management Zone below.

“Modeled Available Groundwater” – the amount of water that the Texas Water Development Board Executive Administrator determines may be produced on an average annual basis to achieve a desired future condition established under Section 36.108, Water Code and adopted by the District Board.

“Monitor Well” - a well that is used to measure or monitor the quality, quantity, or movement of substances, elements, chemicals, or fluids beneath the surface of the ground. Included within this definition are wells used for scientific monitoring of an aquifer, for monitoring associated with an aquifer test monitoring network, or for monitoring associated with compliance monitoring networks, specifically for water-quality sampling and/or taking water-level measurements. It also includes environmental soil borings, piezometer wells, observation wells, and recovery wells. The term shall not include any

well that is used in conjunction with the production of oil, gas, coal, lignite, or other minerals. A Monitor Well is an Exempt Well by Rule.

“NDU Well” or “NDU Permit” – a Non-exempt Domestic Use well that requires a General Permit by Rule, known as an NDU Permit, to be used because its production capability exceeds the limit for a well in domestic use to be considered exempt from permitting.

“New Well” – a well drilled or dug after the effective date of the initial promulgation of these District Rules, October 1, 2020, or an Existing Well that is modified such that it increases groundwater production capability after that date. A “New Well” may include a well that is already installed (after this date) or a prospective well that is not yet installed; all prospective wells would be New Wells.

“Non-exempt Domestic Use (NDU) Permit” – a General Permit issued by the District under Rule 3.5.B for wells that are primarily in Domestic Use but are Non-exempt Wells because the production capacity of the well exceeds the applicable limitation for Exempt Wells.

“Non-exempt Well” – a well that is not an Exempt Well. Non-exempt Wells are required to obtain and comply with the terms of either an Operating Permit issued by the District or an applicable General Permit by Rule designated by the District.

“Notice of Alleged Violation” – written notice from the District notifying a person that they are in apparent violation of law, including violation of a specified District Rule, Order, or permit, and the procedures and conditions for remediation or resolution.

“Open or Uncovered Well” – a well that is not closed, capped, or covered as required by the District.

“Operate” or “Operations” – to produce (withdraw) or cause to produce water from a well. If the person undertaking that action is not the Owner of the well, that person is referred to as the “Operator”

“Operating Permit” – the authorization issued by the District for a specified time period (Permit Term) under which an owner/operator of the property may produce water from a non-exempt well within the District in compliance with approved District Rules; the Operating Permit may specify the amount of groundwater authorized to be withdrawn annually, the rate of withdrawal in gallons per minute, the purpose of use, the place of use including authorization to export groundwater to a place of use outside the District under certain conditions, and the point of withdrawal.

“Owner” or “Well Owner” – any person who owns or has the right to drill a well on a tract of land or to produce groundwater from the land, either by ownership, contract, lease, easement, or any other estate in the land.

“Permitted Well” – a well for which an Operating Permit has been issued by the District or for which a General Permit applies by Rule, and the well and Well Owner are in compliance with applicable District Rule requirements.

“Permittee” – a person who has a permit issued by the District.

“Person” – includes a corporation, individual, organization, cooperative, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, or any other legal entity.

“Plugging” – the permanent closure or deconstruction of a well in accordance with approved State and District standards for Plugging and Abandoning a well. Also referred to as well closure.

“Presiding Officer” – the Board President or hearings examiner, or if the Board President is not present, the director selected by the other directors to serve as Presiding Officer.

“Previously Installed Well”—a well of any type or status that has already been drilled or dug as of any date preceding the specific one under consideration. (See also “Existing Well”.)

“Production” – water withdrawn (i.e., produced) from the ground, measured at the wellhead. See also definition of “Withdrawal.”

“Production Authorization” – either an Operating Permit or a General Permit by Rule, of which one is required to withdraw groundwater from a Non-exempt Well

“Production Capability,” or “Production Capacity” – the volume of water a well can produce during a specific period of time (gallons per minute, gallons per day, etc.) as determined by the rated pumping capability of the installed pump or as measured or metered. A well’s Production Capacity is equivalent to the maximum sustained rate of withdrawal.

“Public Water Supply” – a system as defined in 30 Texas Administrative Code Chapter 290 for providing water for human consumption to the public (see also “Retail Public Utility”).

“Reasonable Use (Demand)” – the amount of groundwater to be permitted that the District determines, using appropriately applied water-use industry guidelines, to be quantitatively consistent with the specific purpose(s) of the prospective water use, allowing for temporal variations and buffers but excluding speculative demand relative to the term of the permit.

“Recharge” – the amount of water that infiltrates to the water table of an aquifer.

“Recharge Zone” – the land surface area in which water infiltrates permeable soil and rock layers that provide a flow path for water to enter an aquifer.

“Recovery/Remediation Well” – a well that is constructed for the purpose of remediating, removing, and/or recovering undesirable groundwater for treatment or removal of contamination. Such wells are classified as Exempt Wells under Rule 3.1.B.

“Recreational Use” – the use of water by an entity (public or private), person, or corporation in which the water use is associated with outdoor recreational activities including but not limited to:

1. water sporting activities;
2. boating, swimming, or fishing activities;
3. water park activities;
4. park or camping activities;
5. golf course water hazard ponds, and other open watercourse of a similar nature on a golf course;
6. activities relating to the development of historical, archaeological, or scientific sites;
7. natural or man-made amenity pond on private or public property; or
8. activities for the conservation and preservation of scenic areas that primarily provide entertainment, enjoyment, relaxation, and incidentally provide fish and wildlife benefits that are not otherwise defined as wildlife management uses.

A well producing groundwater for Recreational Use is a Non-exempt Well.

“Red Tag” -- an official seal, tag, or label that is authorized by the District Board or their designee to be placed on a well or its equipment, or the act of placing the tag or label, to indicate that further pumping of groundwater, or operation of the well, or continuing with other District regulated activities is not permitted by the District, shall be in violation of District Rules, and may subject the well owner or operator to penalties or civil suit.

“Replacement Well” – a well that is drilled to replace a deteriorated well where:

1. the well that is being replaced is permanently plugged;
2. the replacement well is drilled within 50 ft from the original well;
3. the well will not be completed or equipped in such a way that it will increase production capacity (i.e., ~~Major Modification~~);
4. the well will be used to produce the same or less amount of groundwater and for the same purpose of use of the original well;
5. the well will produce water from the same Aquifer Management Zone as the original well;
6. the well has a cone of depression similar to that of the original well; and
7. the replacement well complies with applicable District Rules and regulations, including ~~current~~ District Well Construction Standards.

Commented [KH3]: Making what was implied and intended explicit

A non-exempt Replacement Well that meets these conditions is not required to obtain a new permit, and the permit term and conditions of the original well are applicable to the Replacement Well.

“Retail Public Utility” – as defined by Texas Water Code Section 13.002 and 30 Texas Administrative Code Sections 290 and 291, any person, corporation, public utility, water supply corporation, municipality, political subdivision or agency operating, maintaining, or controlling facilities for providing potable water service for compensation to customers within Travis County. It does not include wholesale water utilities, which

provide water for resale by other entities to the ultimate end user. (See also “Public Water Supply”).

“**RRC**” – the Railroad Commission of Texas, which is the state agency that regulates oil and gas exploration and production and also surface mining in Texas.

“**Rules**” – standards and regulations promulgated by the District Board, after appropriate public notice and hearing.

“**Seal**” – the official District seal adopted by the Board of Directors.

“**Service Connection Fee**” – a fee assessed on and paid by a Retail Public Utility, Public Water Supply, or Community Water System for each new connection to a system that uses groundwater produced within the District. This is a one-time fee for each new service connection within the utility system’s service area that is made after the effective date of the initial promulgation of the District Rules, October 1, 2020.

“**Special Permit Conditions**” – conditions or requirements added to a permit, which may be more or less restrictive than the Rules as a result of circumstances unique to a particular situation.

“**Spring**” – a point of natural discharge of groundwater from an aquifer at a location above the ground surface

“**State Office of Administrative Hearings**” or “**SOAH**” – the state agency created under Chapter 2003, Government Code, to serve as an independent forum for the conduct of adjudicative hearings in the executive branch of state government.

“**State of Texas Well Report**” or “**... Well Log**” – the report that every well driller who drills, deepens, or alters a well is required to complete under the Texas Department of Licensing and Regulation Rules, as defined in 16 Texas Administrative Code Sections 76.10 and 76.700, including any special purpose geophysical log that may be available for any given well, such as a gamma ray log, a temperature log, an electric log, or a caliper log.

“**TCEQ**” – Texas Commission on Environmental Quality, the successor to the Texas Natural Resource Conservation Commission, which is the state agency that provides for the protection of human health, welfare, and the environment by reducing emissions,

discharges and wastes that adversely affect air quality and surface-water quality in the state, and by protecting the quality of groundwater in certain associated aquifers that are hydrologically linked to surface water.

“Test Well” or “Aquifer Test Well” – a well that is constructed to be used solely for hydrogeological evaluation of the aquifer(s) at a prospective location, and assessment of prospective use of water at that location. It includes wells used in “pump-testing” an aquifer as the production well; the same well ~~it~~ may also be used when not producing water as an observation well. A Test Well is a Non-exempt Well that is authorized under a General Permit by Rule.

Commented [KH4]: To remove ambiguity as to what “it” is.. Test Well produces water. A well used only as an observation well is not a Test Well, but a Monitor Well.

“Unreasonable Impact(s)” – a significant drawdown of the water table or reduction in artesian pressure as a result of pumping from a well or well field that contributes to, causes, or will cause significant adverse groundwater conditions in those wells in use on adjacent property and/or an applicable Desired Future Condition to not be achieved.

“Unused Well” – a well that is not an Abandoned Well, as defined in these Rules, and is a registered well that has not been used for more than one year, other than in stand-by mode.

“Upper Trinity Aquifer Management Zone” – the groundwater management zone in the District that includes the variable hydrogeologic units of the Upper Glen Rose formation and, where locally present, the overlying Edwards limestone, as depicted in the District’s Groundwater Management Plan. It is adjacent to the Middle Trinity Aquifer Management Zone below.

“Waste” – One or more of the following:

- (1) The 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, 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) The escape of groundwater from one groundwater reservoir to any other reservoir or geologic strata that does not contain groundwater.

- (4) The pollution or harmful alteration of groundwater in a groundwater reservoir by saltwater or by other deleterious matter admitted 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 TCEQ under Chapter 26, Water Code.
- (6) Groundwater pumped for irrigation that escapes as a) irrigation tailwater 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 b) irrigation water that is sprayed onto and/or runs off from impervious surfaces, including roadways.
- (7) Unless the water from an artesian well is used for a purpose and in a manner in which it may be lawfully used on the owner's land, it is waste and unlawful to willfully cause or knowingly permit the water to run off the owner's land or to percolate through the stratum above which the water is found.

“Water Table” – the upper boundary or elevation of the saturated zone in an unconfined aquifer. Corresponds to the potentiometric surface of the groundwater in unconfined aquifers.

“Water Well” – an artificial excavation constructed to explore for, extract or produce groundwater.

“Well” – groundwater production well, test well, dewatering well, or monitoring well.

“Well Drilling Authorization” or “Well Development Authorization” or “WDA” - authorization issued to the owner of the property to construct, drill, or modify a well within the District in compliance with approved District Rules and applicable standards. This authorization is not a permit to produce groundwater from the well if a Non-exempt Well; a Production Authorization is also required for that purpose.

“Well Log” – Same as State of Texas Well Report - an accurate record made during drilling on a form prescribed by the Water Well Drillers Rules (16 Texas Administrative Code Chapter 76), showing the depth of the well bore, thickness of the formations, character

of casing installed, and any other data required by the Water Well Drillers Rules. It also includes any special purpose well log that may be available for any given well, such as a gamma ray log, a temperature log, an electric log, or a caliper log.

“Withdraw” or “Withdrawal” – the act of extracting groundwater by humans through pumping or any other method. See also “Production”.

Rule 3.0 Well Registrations, Well Drilling Authorizations, and Production Authorizations

- 3.1 Wells Subject to Groundwater Production Authorizations Unless Exempted
- 3.2 Existing Wells
- 3.3 New Wells – Registration and Well Drilling Authorization
- 3.4 Operating Permit
- 3.5 Wells Regulated Under General Permit by Rule
- 3.6 Production Authorizations - Periodic Review, Involuntary Amendment or Revocation, and Changes in Well Ownership, Condition, Operation, or Status
- 3.7 Registration and Permit Application Fees
- 3.8 Service Connection Fees for Certain Permitted Public Water Providers
- 3.9 Wells in Aquifer Storage and Recovery Projects

All wells located in the jurisdictional area of the Southwestern Travis County Groundwater Conservation District (SWTCGCD, or District) shall be registered with the District in accordance with Rule 3.2(A) or 3.3(C), and shall comply with all applicable State and District well construction requirements. Owners/operators of proposed New Wells are required to obtain a Well Drilling Authorization before installing or modifying a well, unless specifically exempted by these Rules. Based on the registration information, certain well owners of Existing Wells or New Wells will be required to obtain individual Operating Permits or to operate under the provisions of a General Permit by Rule.

The decision whether to grant or deny an Operating Permit required under these Rules shall be made by the District's Board of Directors (Board) and shall be based on the considerations identified in 36.113(d) and conditions described in Rule 3.4.C and Rule 3.4.D. The decision to authorize operation under a General Permit by Rule for a well that would otherwise require its owner/operator to obtain an Operating Permit may be made by the General Manager as an administrative action on the basis of considerations identified in Rule 3.4(C) and conditions described in Rule 3.4(D), but may be referred to the Board for final action upon request of the applicant or General Manager. As authorized by TWC §36.113(f), all authorizations and permits issued by the District shall be subject to the District Rules and to terms and conditions regarding the drilling, equipping, completion, or alteration of wells or pumps that may be necessary to prevent waste and achieve water conservation, minimize as far as practical the drawdown of the water table or the reduction of artesian pressure, lessen interference between wells, or control and prevent subsidence.

The District reserves the authority, to the extent allowed by law, to adopt, revise, and supersede its Rules applicable to wells subject to registration and permitting. Registration of a well and issuance of a Well Drilling Authorization, General Permit by Rule or Operating Permit do not limit the District's authority to regulate a well or the production of water from a well.

The District may conduct well and well site inspections as part of the registration, application, drilling, or completion process or to confirm well location, status, pumping capability, measure water levels, take water samples, conduct geophysical well logging, or other appropriate well-related investigations and inspection activities deemed necessary by the District. Well and well site access shall be conducted in accordance with Rule 4.5.

3.1 Wells Subject to Groundwater Production Authorizations Unless Exempted

A. Requirement to Obtain a Production Authorization

Unless specifically exempted by the District under Rule 3.1(B), all wells, including Wells that are Aggregated Wells, in the District must obtain a Production Authorization and comply with its requirements. There are two types of Production Authorizations that regulate the use of non-exempt wells in the District: Operating Permits, as described in Rule 3.4; and General Permits by Rule, as described in Rule 3.5. Both types of Production Authorizations are issued by the District in accordance with TWC Chapter 36, the District's Enabling Legislation, the District Groundwater Management Plan (GMP), and these Rules.

B. Wells Exempt from Obtaining a Production Authorization

A well may be exempt from permitting based on its type of use, the amount of groundwater that it is capable of producing, or both. Exemptions are granted by the District under its Rules as authorized by its Enabling Legislation and by TWC Chapter 36. Certain Exempt-Use wells may be subject to other District Rules on well spacing, well construction, and prevention of waste of groundwater. Exemptions granted by the District do not grant exemptions from other State or local regulations. Wells described in this section of the Rules are Exempt Wells, provided that they are registered with the District.

(1) A well or Aggregated Wells used by a single residential household for Domestic Use, as defined in these Rules, if the well is drilled, completed, or equipped so that the well or Aggregated Wells are incapable of producing more than 10,000 gallons per day (6.94 gallons

per minute) in aggregate, are exempt from the requirement to obtain a Production Authorization but may be subject to other rules of the District.

(2) A well or Aggregated Wells used solely for Domestic Use or for Livestock Use, as defined in these Rules, that is on a tract of land larger than 10 acres and that is drilled, completed, or equipped so that the well or Aggregated Wells are incapable of producing more than 25,000 gallons per day (17.36 gallons per minute) in total, is exempt from the requirement to obtain a Production Authorization, but may be subject to other rules of the District.

(3) A well or Aggregated Wells used solely for dewatering and monitoring in the production of coal and lignite is exempt from permitting and associated regulations of the District, including spacing requirements. If such a well is subsequently converted to a Non-exempt Use, the District shall require the well or Aggregated Wells to obtain a Production Authorization and comply with District Rules if the well is no longer solely used in dewatering for, or monitoring of, coal or lignite mining operations.

(4) A well used solely to supply water for a rig that is actively engaged in drilling or exploration operations permitted by the Railroad Commission of Texas, provided that the person holding the permit is responsible for drilling and operating the water well and the well is located on the same lease or field on which the drilling rig is located or is in close proximity to the drilling rig. The District shall not deny an application for an Operating Permit for any well used to supply water for hydrocarbon production activities if the application is in compliance with the spacing, density, and production Rules applicable to all permitted water wells of the District. The District shall require such a well, if converted to a Non-exempt Use, to be permitted and comply with District Rules if the well is no longer solely used to supply water for a rig actively engaged in drilling or exploration operations.

(5) A well authorized under a permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code, or for production from such a well to the extent the withdrawals are required for mining purposes regardless of any subsequent use of the water. These water wells are not required to comply with the spacing requirements of the District. An entity holding such a Chapter 134 permit for a water well shall report monthly to the District (1) the total amount of water withdrawn during the month; (2) the quantity of water necessary for mining activities; and (3) the quantity of water withdrawn for other purposes. If the withdrawals from the well 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, and the well is subsequently

converted to a Non-exempt Use, the District shall require the well or Aggregated Wells to obtain a Production Authorization and comply with applicable District Rules.

(6) A well or Aggregated Wells that is solely used as a source of water to be used for fire-fighting, fire hydrant testing and maintenance, and hydrant water-main flushing and testing, as typically specified, equipped, and described by local fire departments, has been declared exempt from permitting requirements by the District Board. The groundwater produced from such Fire Suppression Wells may be stored for ready access in above-ground or below-ground tanks for later use without affecting its Exempt by Rule status.

(7) The following types of wells, as defined under Rule 2, are deemed Exempt by Rule:

- a. a Monitor Well;
- b. a Recovery/Remediation Well, provided it is not part of an aquifer storage and recovery (ASR) project;
- c. a Closed-Loop Geothermal Exchange Well, which is also exempted from well spacing requirements that would otherwise apply (open-loop geothermal wells are prohibited in the District);
- d. an Injection Well, provided it is not part of an aquifer storage and recovery (ASR) project;
- e. a Dewatering Well (Short-term), which is also exempted from well spacing requirements that would otherwise apply.

(8) General Requirements and Conditions for Exempt Wells

- a. The District may not restrict the groundwater production of any well that is exempt from permitting under Paragraphs (1) through (7) of this Section, provided any such production doesn't change the type of well or otherwise redefine it such that it is no longer exempt.
- b. Owners of wells drilled under these exemptions that are subsequently converted to another use must submit to the District a "Change in Well Condition, Operation or Status" form obtained from the District in accordance with Rule 3.6(D) before such conversion occurs. Conversions to a non-exempt use are subject to applicable Production Authorization requirements.
- c. Except as specifically noted in this Section, other District Rules on well construction and well spacing and on District access apply to wells exempted under this Section.
- d. The driller of a well exempted under this Section shall file copies of the State of Texas Well Report and any other available drilling logs with the District.
- e. Groundwater withdrawn from a well exempt from permitting or regulation under this Section and subsequently exported outside the boundaries of the District is subject to any applicable District production and export fees, as described under Rule 3.4(D)(7).

3.2 Existing Wells

Any well in the District that was drilled or last modified on or before October 1, 2020, or is a prospective well that otherwise has the characteristics of an Existing Well as defined in Rule 2 was under an executed drilling contract as of September 1, 2020, and spudded no later than December 31, 2020, is considered an Existing Well under these Rules. Owners of all Existing Wells are required to register the wells with the District. Owners of certain existing wells are also required to obtain a Production Authorization designated by the District, either an Operating Permit under Rule 3.4 or a General Permit by Rule under Rule 3.5, from the District for those wells.

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A. Existing Well: Registration Required by Well Owner/Operator

All owner/operators of existing groundwater wells in the District other than those used by a single residential household for Domestic and Livestock Uses must register their wells, including each well in an Aggregated well system, and submit their register their wells-Production Authorization applications for the wells or Aggregated Wells with the District not later than December February 28 March 31, 2021. ; this application will also effect the registration of this well. All wells used by a single residential household for Domestic and Livestock Uses must be registered with the District as soon as practicable but not later than September 30, 2021.

~~Failure to timely register the well is not only a violation of District Rules but also will prevent the well and its use(s) from being protected as an existing, prior use as the District considers impacts of subsequently proposed New Wells.~~ Forms for registering an existing well are available from the District Office or online. The owner must provide all information required on the form, if known or available, and a copy of the completed State of Texas Well Report, if available.

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No separate registration fee is charged for an Existing Well. The well shall be registered under its existing State well number or, if the well number is not assigned, the State well tracking number. In the event the well does not have either a State well number or tracking number, the District shall issue a temporary well number pending assignment of a State well number. The District shall also determine whether the well is currently operational, abandoned, plugged, or capped. If the District determines that no Production Authorization is required, no further approval is required of Existing Wells, except as may be required by Rule 3.6(C) or 3.6(D) regarding changes in ownership or well condition, respectively. Subsequent changes in the

annual amount of withdrawal, rate of withdrawal, or purpose of use of water from a registered well may result in the well's being reclassified as non-exempt, which would require the well owner to apply for a Production Authorization. The owner of an existing registered well that proposes to modify a well and/or its authorizing permit must comply with Rule 3.2(C) and obtain authorization from the District prior to making such changes.

Failure to timely register ~~the~~ a well is not only a violation of District Rules but also will prevent the well and its use(s) from being protected as an existing, prior use as the District considers impacts of subsequently proposed New Wells.

B. Existing Well: Production Authorization Determination by District

The District shall have the sole authority to determine whether the existing well is a Non-exempt Well and therefore must obtain a Production Authorization, and if so, whether it shall require an individual Operating Permit or a type of General Permit by Rule. The owner of a Non-exempt Existing Well is then required to complete the appropriate application and permitting process on form(s) provided by the District and submit them to the District, as described in detail under Rules 3.4 and 3.5.

C. Previously Installed Well: Major and Minor Modifications

The owner/operator of a Previously Installed Well, including but not limited to an Existing Well as defined in these Rules, may modify the well and its connected apparatus only with the prior approval of the District. Depending on the well type and modification being proposed, such approval will require submittal of an application for Well Drilling/Modification Authorization (WDA) and any other related information specified by the District, and may require payment of an Application fee, Well Construction fee, and Production Authorization fee, as designated in the current District Fee Schedule, before the modification is undertaken.

Repairs and/or replacement of existing well equipment ~~for registered wells~~ are not considered Modifications and do not require submittal of a WDA application or application fee, provided the well has been previously registered and there is no significant change to the well's production capacity or the aquifer being used that are shown on the well registration. ~~If a well has not been previously registered, submittal of a WDA application is required to determine if repairs and/or replacement of existing well equipment constitute Modifications; submittal of a WDA application will also effect well registration.~~

Commented [KH5]: The District should only exercise discretion or provide approvals on wells after the info from registration of that well is made available beforehand

~~Repairs and replacement of existing well equipment for registered wells are not considered Modifications and do not require submittal of a WDA application or application fee, provided there is no significant change to the well's production capacity or the aquifer being used that are shown on the well registration.~~

Modifications shall be categorized by the District as either a Minor Modification or a Major Modification. Both Minor and Major Modifications may require amendment of a Production Authorization, if applicable, before the modification is undertaken. Minor and Major Modifications to wells will have different fee requirements, as described in the District's current Fee Schedule. Generally, Minor Modifications will not significantly change the effect of the well on its aquifer. Generally, Major Modifications will require consideration of the modified well as a new proposed well with permitting requirements of a new well, as appropriate to the modified well.

(1) Minor Modifications

These are ~~discretionary voluntary~~ modifications ~~that are~~ initiated by the Owner/Operator that include but are not limited to:

- a. Transfers of ownership without changing type or amount of use
- b. Reductions in permitted volume
- c. Changing well from Non-exempt to Exempt based on changes in type of use or production volume
- d. Alteration of well physical configuration or well system that does not produce Major Modifications as described in Rule 3.2(C)(2)
- e. Converting one well to a multi-user well
- f. Aggregating two or more individually permitted wells by the same permittee under one permit
- g. Increases of authorized production volumes under permit(s) by less than 10% in aggregate over three-year period (if they do not produce the characteristics of Major Modifications, below).

(2) Major Modifications

These are ~~discretionary voluntary~~ modifications ~~that are~~ initiated by the Owner/Operator that include but are not limited to:

- a. Increases in production that change well from Exempt to Non-exempt
- b. Increases in authorized production volumes under permit(s) by 10% or more in aggregate over three-year period

- c. Alteration of well’s physical configuration such that the groundwater production is from a different Aquifer Management Zone
- d. Increases in production under permit(s) such that the stipulated well spacing for the modified well can no longer be achieved.

Well owners are advised that the effect of a Major Modification may result in the modified well’s not being able to be re-authorized as sought, and/or the amount of groundwater not being able to be produced as intended.

3.3 New Wells – Registration and Well Drilling Authorization

A. New Wells: Registration Required by Well Owner/Operator

A New Well is a well that initiated drilling (“spudded”) after October 1, 2020, and is not otherwise considered by the District to be an Existing Well as defined in these Rules. A New Well it may be either an Exempt or Non-exempt Well. A New Well does not include a prospective well that initiated drilling after October 1, 2020, but was under an executed contract to be drilled as of September 1, 2020, and was spudded no later than December 31, 2020, and further provided that the future installed well complies must comply with all applicable District Rules and meets all applicable deadlines for registration, Well Drilling Authorizations, and applicable Production Authorizations of Existing Wells. Before a New Well is installed, it must be registered with the District by the Owner/Operator and the specific installation must be authorized by the District. The registration is accomplished as part of the application for a Well Drilling/Modification Authorization (Rule 3.3(B)).

Commented [KH6]: Allowing our agreed exception on drilling start date, without re-iterating the exception that defines Existing Well, not a New Well.

Written authorization must be obtained from the District before a proposed New Well is drilled or a registered Existing Well is modified as defined in Rule 3.2(C) or has changes made to its conditions, operations, or status, as defined in Rule 3.6(D).

Commented [KH7]: Correcting an omission, since a modification is not a change in condition/status in our parlance.

B. Proposed New Wells: Well Drilling/Modification Authorization Requirements

- (1) The owner of a New Well proposed to be located in the District shall apply for a Well Drilling/Modification Authorization (WDA) with the District and receive approval by the District prior to commencement of drilling. A WDA is required for each, individual proposed well, regardless of any intent that the well be incorporated into and permitted as part of an Aggregated Well system. This application shall also be used and serve as the requisite registration for the New Well. Forms for the hybrid WDA application and registration for a proposed new well are available from the District Office and online. New Wells that are exempt because they are or will be regulated by the Railroad Commission of Texas or New

Wells that are intended to be regulated by TCEQ (see Rule 3.8) do not require an approved Well Drilling Authorization from the District but they must be registered with the District.

- (2) The owner shall provide all information required on the form, if known or available.
- (3) There is no separate Registration Fee for registering a New Well. The registration is incorporated in the application to obtain a Well Drilling Authorization; all applicable fees, including the well construction fee, if any, must be paid before commencement of drilling. The Well Drilling Authorization is valid for six (6) months from date of approval; if drilling has not commenced upon expiration of this authorization, a new application and application fee must be submitted to the District.
- (4) The District will issue a temporary well number pending assignment of a State well number, if no State well tracking number is provided in the application.
- (5) If the District determines that the information is substantially complete, the Well Drilling Authorization application fee and, as applicable, well construction fee have been paid, the location of the proposed well complies with Rule 4.2 spacing requirements, and the registrant is in compliance with all District Rules, the District will issue a Well Drilling Authorization. If a Production Authorization is required for the intended use, the owner must subsequently obtain an Operating Permit or a General Permit by Rule prior to producing water from the well, other than for testing purposes.
- (6) The registrant may begin drilling immediately upon receiving the approved registration and Well Drilling Authorization. The well must comply with all State and District well construction and spacing requirements and must be located no more than 50 feet from the location specified in the WDA. The owner shall ensure that the driller files a copy of the State of Texas Well Report with the District within 60 days of completion.
- (7) Testing of a New Well may be required by the District before its Production Authorization is approved, and the District may require a Hydrogeological Test Plan to be part of the WDA application. A Test Well that is in compliance with the Well Drilling Authorization is eligible for and is required to obtain an initial General Permit by Rule, and if the District or other political subdivision requires the additional aquifer testing as part of the WDA evaluation, the General Permit application fee for that Test Well shall be waived. Once testing is concluded, the well must either be properly plugged or the owner must submit to the District a "Change in Well Condition, Operation or Status" application form to convert the well to a different use. In the case of conversion to a Non-exempt Use, the owner must

obtain a Production Authorization from the District by applying for the appropriate permit type. Authorization to drill a test well does not guarantee issuance of a Production Authorization for that well.

- (8) In accordance with the District's Groundwater Management Plan, the District will not issue a Well Drilling Authorization or a Production Authorization for a Non-exempt New Well proposed to withdraw groundwater from the Upper Trinity Aquifer Management Zone in either Area 1 or Area 2 Management Zones, as defined in Rule 2. Exempt Wells in the Upper Trinity Aquifer Management Zone are not prohibited but are discouraged due to the limited availability of groundwater in this aquifer and impacts to baseflows of streams.

3.4 Operating Permit

If, based on a) the information in the submitted registration, b) the well or aquifer test results, and/or c) the production capacity estimated by a licensed pump installer after well completion, the District determines that an Operating Permit is required under current District Rules, the owner/operator is required to submit an application and obtain District authorization for an individual Operating Permit before withdrawing groundwater from that well. The registration of Non-exempt Existing Wells that will be or may be under an Operating Permit must be accomplished no later than February 28, 2021 (Rule 3.2(A)).

Initial applications for an Operating Permit for all Non-exempt Existing Wells that will be or may be under Operating Permits, ~~which also comprises its registration~~, and the application fee specified in the District's current Fee Schedule must be submitted to the District no later than February 28, 2021~~December 31, 2020~~. An administratively complete application, including required aquifer testing reports and supporting plans and documentation, for all Non-exempt Existing Wells that will be under Operating Permits must be submitted to the District as soon thereafter as feasible but no later than June 30~~March 31~~, 2021. Failure to comply with this deadline is a violation of District Rules.

A. Application for Operating Permit

- (1) An application for an Operating Permit for a non-exempt well or Aggregated Wells must be submitted to the District in writing and be sworn to by the well owner/operator. The application must be submitted on forms obtained from the District and on supplemental explanatory documentation. The application must include all the information required by this Rule and the appropriate application fee on the current District Fee Schedule in order to be

considered administratively complete. A separate application is required for each well, unless the well is specified to be part of an Aggregated Well system under a single Operating Permit.

(2) Each application for a permit for a New Well, Aggregated Wells, or modification of an Existing Well must be accompanied by payment of the appropriate Operating Permit Application Fee listed on the current District Fee Schedule.

(3) The applicant must provide sufficient documentation to the District to show that the applicant will have a real, non-speculative need of the requested quantity of groundwater within one year following the date of issuance of the Operating Permit.

(4) An application for an Operating Permit for either an Existing Well or a New Well drilled after October 1, 2020, or to alter a previously installed well, or to amend an existing Operating Permit, will require conducting and reporting to the District the results of an aquifer test that substantially conforms to the District’s “Guidelines for Aquifer Testing and Hydrogeological Report”, which is available on the District’s website at www.swtcgcd.org. The overall goal of this requirement is to provide data and estimates of aquifer properties, water levels, water chemistry, and analysis of impacts of a well, especially larger wells, in the given hydrogeologic setting. To achieve this goal, the aquifer test must be performed on existing or test wells located or drilled on the property in question and in the proposed aquifer production zone, and it must be conducted and reported in accordance with hydrogeological testing procedures specified by or acceptable to the District.

Field Code Changed

While the “Guidelines” provide more detail that an applicant shall utilize, the District is promulgating a tiered approach for aquifer test requirements, based on the age of the well and size of the requested volume of groundwater for the Operating Permit. The framework for this approach is summarized in the table below:

Tier	Aquifer Test and Report Requirements	Existing Wells That Are Seeking an Operating Permit	Proposed New Wells That Are Seeking Authorization for Operation at Volume Indicated
1	Specific Capacity Test and Abbreviated Hydrogeologic Report	Required of all Existing Wells seeking an Operating Permit,	<1,000,000 gallons per year under Operating Permit

	(form-based “Tier 1 Report”)	regardless of size. Existing testing reports may be submitted; may submit new test reports within six months of permit.	
2	Aquifer Test and Hydrogeologic Report	As a permit condition, may be required in future if a well with an Operating Permit at >1 MGY is suspected of causing unreasonable impact.	≥1,000,000 to 10,000,000 gallons per year under Operating Permit
3	Aquifer Test and Hydrogeologic Report. Requires observation wells.	See Tier 2 above.	>10,000,000 gallons per year under Operating Permit

More information on the characteristics of each of these tiers and the corresponding testing and reporting is included in the following subsections. The District will solely determine which tier of aquifer testing and reporting is appropriate and required for each Operating Permit application.

(a) Tier 1 Specific Capacity Testing - The purpose is to establish cost-effective baseline information of the well and its aquifer (yield, certain parameters, water quality). The Tier 1 tests and reports are intended for those wells that pump a relatively small volume and have a low risk for unreasonable impacts. Tier 1 tests are single-well, short-term tests. The test and report information will be accomplished by completing standard forms furnished by the District and may be performed by experienced well-installers (licensed drillers, pump installers). The streamlined Tier 1 Specific Capacity Tests will also apply to applications for NDU General Permits by Rule for New Wells but are not required for Existing Wells (see Rule 3.5.B).

(b) Tier 2 Aquifer Testing – This tier is intended for those well systems that have proposed pumping volumes greater than 1,000,000 gallons per year and required to have an Operating Permit. The purpose is to assess the short- and long-term potential for unreasonable impacts to the regional aquifer system and existing surrounding water wells from the proposed pumping. Tier 2 are typically multiple-well tests lasting for about 36 hours. Geophysical logs and

observation wells are necessary. Analytical modeling is needed in reporting results. The aquifer test and subsequent report must be conducted and prepared by, or under the supervision of, either a registered Professional Engineer or a registered Professional Geoscientist (collectively, the Responsible Professional). The Report shall be sealed by the Responsible Professional.

(c) Tier 3 Aquifer Testing – This tier is intended for larger-volume users that have a greater potential for unreasonable impacts. The requirements are the same as Tier 2 test except that at least one observation well, either a suitable existing well or a new monitor well, in the same aquifer within 1000 ft of the pumping well is required.

(d) Additional Aquifer Testing for Certain Wells – An existing well or a well that has otherwise been operating under a Production Authorization for an extended time generally indicate that there has not been an unreasonable impact from their operation. However, if planned operation of a well under a Production Authorization is different than that practiced in the past, or if new data suggests that adverse impacts are or may be attributable to operating a particular well, or if complaints of adjacent well owners are received by the District indicating that a previously installed well is causing extraordinary and/or unanticipated groundwater problems, the District may require the owner/operator of that well to undertake the aquifer testing and reporting described under a higher tier than that indicated by the permitted volume and, following investigation by the District, take appropriate action to reduce the magnitude and scope of problems caused in the groundwater system.

(5) The application for the Operating Permit must include the following information unless waived by the General Manager.

(a) The well owner's name, mailing address, physical address, phone number, email address, a contact person (if different from the well owner), and the same information for the well operator (if different from the well owner), and a copy of the real estate deed to evidence land ownership.

(b) The annual groundwater withdrawal amount requested along with documentation justifying that amount as reasonable for the requested purpose of use, the maximum rate of withdrawal, the approximate, average monthly distribution of the requested annual withdrawal amount, the place of use (described by physical address, metes and bounds, or legal description), the purpose of use, and the location or proposed location of the well or wells (described by physical address or latitude and longitude). The application must state if the proposed purpose of use of water from the well is wholly or partly to provide water to a pond,

lake, or reservoir to enhance the appearance of the landscape. The application must specify what portion of the requested withdrawal amount will be exported, if any part of the produced groundwater is intended to be used at locations outside the District, and how that exported amount will be measured.

- (c) If the permit is to include a well field or aggregated system, the total number and location of all wells and an interconnection diagram showing estimated well production contributions and meter location(s).
- (d) A water conservation plan and a drought contingency plan.
- (e) A property plat, survey, or map of the parcel, to scale and with north arrow, showing the location of the proposed well and that includes the following features within 1000 feet of the proposed well location on any tract: existing or proposed domestic buildings, all water wells (including those abandoned, deteriorated, or not currently in service), septic tanks, septic disposal areas, driveways, barns, feedlots, ponds, creeks, rivers, intermittent streams, property lines, power lines, and any other known or suspected potential sources of pollution.
- (f) A surface geology map and topographic map of the property where the proposed well is located and extending 1,000 feet into adjacent properties.
- (g) A drawing and physical description depicting and describing well construction design, facility layout, existing or proposed pipelines, chlorination system, water softeners, storage tanks, boost pumps, and any other well related equipment.
- (h) Documentation on installed or proposed pump horsepower, pumping capabilities at installed depth, or other production-related pump information.
- (i) The State of Texas Well Report (driller's log) and a Geophysical Well Log for each well and test borehole drilled.
- (j) For corporations, partnerships, or other business forms, a list of all principal owners and their contact information.
- (k) For a public water supply well, copies of the TCEQ approval letter for each well and, if applicable, the Certificate of Convenience and Necessity for the water supply system from TCEQ, and any other relevant documentation related to public water supply wells.

(l) For a well located or to be located within the designated service area of a wholly or partially groundwater-based retail public utility or other public water system, either (i) documentation that the utility system is unable to provide service to the applicant for the intended use, or alternatively, (ii) the actual distances from the proposed well to the existing wells serving the utility that are in the same Aquifer Management Zone as the proposed well, if they are within two miles of the proposed well.

(m) A hydrogeological testing report that conforms to the appropriate tier of testing under the District's *Guidelines for Aquifer Testing and Hydrogeological Reports* (see Rule 3.4(A)(4)) and is acceptable to the District. Other state and local jurisdictions may have other specific requirements, some of which may be more prescriptive or stringent for certain wells in certain locations. Applicants must comply with these additional state and local requirements separately from complying with District Rules.

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(n) Water chemistry data for the following parameters in the well's groundwater: Conductivity, or total dissolved solids. Other state and local jurisdictions may have other specific requirements, some of which may be more prescriptive or stringent for certain wells in certain locations. Applicants must comply with these additional state and local requirements separately from complying with District Rules.

B. Administrative Completeness Review of Application

The application and its accompanying documentation shall be timely reviewed by the District, and the applicant will be notified when the application is deemed administratively complete or missing requisite information. No application will be administratively complete if the applicant has unpaid fees or has unresolved compliance issues with the District, or if any of the information required by Rule 3.4(A) is missing or incomplete, unless expressly waived in writing by the General Manager. No application for a non-exempt well requesting an annual pumpage volume of more than 1,000,000 gallons will be administratively complete until the applicant has provided proof to the District that notice of the application has been mailed to all persons who own property located within a ¼-mile radius of the proposed well site by certified mail, return receipt requested. The District will provide the type of information that must be contained in form of the notice that the applicant must mail to adjoining property owners.

Following receipt of the initial application for an Operating Permit for an Existing Well, the District in an administrative action shall provide the applicant with a temporary Operating Permit that specifies a subset of requirements for continuing to operate that well until a regular

Operating Permit is administratively complete, the Board has taken action, and the regular permit received. ~~The temporary permit will have an effective date of April January 1, 2021, regardless of when the temporary permit or the regular Operating Permit is received by the well owner/operator.~~ Operation of the well as described in this section without either a temporary or regular Operating Permit ~~after April January 1, 2021,~~ is a violation of District Rules.

If an application remains administratively incomplete for more than 180 days following either the original application date or, if applicable, the date the District notified the applicant of the need to submit additional clarification or documentation, the application and its temporary permit shall expire.

If an application is amended after notice of the application is provided to the public under Rule 6.5, the application shall be deemed administratively incomplete and shall be reprocessed with processing-time limits reset, provided a new application fee is also submitted to the District, unless expressly waived in writing by the General Manager.

C. Consideration of Operating Permit Applications by District

The District shall promptly consider and act on each administratively complete application for an Operating Permit. Within 60 days after the date an Operating Permit application is determined to be administratively complete, the District shall set the application for a public hearing on a specific date and conduct the hearing under the provisions of Rule 6.5.

The District shall be guided by these Rules and Chapter 36, Texas Water Code in consideration of each application. The District shall consider the information provided with the application and whether:

- (1) the application conforms to the requirements prescribed by Chapter 36 and these Rules, and is accompanied by the prescribed fees, and any information included on the application or supplied therewith;
- (2) the proposed use of water unreasonably affects existing groundwater and surface water resources or existing permit holders and such Unreasonable Impacts are unable to be avoided, minimized, or mitigated;
- (3) the proposed use of water is dedicated to any beneficial use, and the proposed groundwater production amount is reasonable for the intended place of use and purpose of use stated in the application;

(4) the proposed use of water is consistent with the district's approved management plan and will allow the District to achieve its applicable Desired Future Condition;

(5) the proposed use of water from the well is not wholly or partly to provide water to a pond, lake, or reservoir to enhance the appearance of the landscape;

(6) the applicant has agreed to avoid waste and achieve water conservation;

(7) the applicant has agreed that reasonable diligence will be used to protect groundwater quality and that the applicant will follow well plugging guidelines at the time of well closure; and

(8) the applicant has provided the District with a time-stamped photograph(s) of the face plate of the meter showing its identification number and current reading.

D. Approval of Operating Permit Applications by District

(1) Permits Requiring Board Action

Administratively complete applications for an Operating Permit or Operating Permit amendments for any Non-exempt Well shall be brought before the Board for consideration, public hearing, and action. Final Board action shall be taken no later than 95 days from the determination of an administratively complete application, unless such action is previously postponed by properly posted Board action. Issuance of the regular Operating Permit following Board action replaces and terminates the corresponding temporary Operating Permit for the well.

(2) Permit for Aggregated Withdrawals

When two or more wells are owned by the same entity and operated as a multi-well system, the owner may apply and the District may issue an Operating Permit for an aggregate (i.e., combined total) withdrawal. An Operating Permit for an Aggregate Withdrawal shall allow groundwater to be produced from any well of the multi-well system such that the combined amount of production for all of the wells in the system is equal to or less than the permitted production limit. The Aggregated Well system under the Operating Permit must be metered such that all Aggregated Withdrawals are able to be routinely and periodically reported by one or more meters under Rule 3.4(D)(6). The Aggregated Wells shall be registered separately and identified individually on the permit.

(3) Operating Permit Term

Unless otherwise specified by the District as a special permit condition, Operating Permits are issued by the District for a renewable one-year term and will be required to be renewed before expiration, including payment of applicable permit renewal fees and any production fees then due, as specified in the District's current Fee Schedule. The permit with a renewal application will be renewed by Board action without public hearing, provided the permit renewal fees are paid and the current permit conditions are being met. The permit is subject to review, involuntary amendment, or revocation by the District under Rule 3.6.

(4) Special Permit Conditions

Rule 3.4(A)(4) notwithstanding, the Board of Directors may require an applicant for any prospective production amount to conduct an aquifer test based on local hydrogeological factors, the likelihood and amount of negative impacts on nearby wells, possibility of negative water quality issues, high production volume or rate of production considerations, or other factors that may necessitate or justify an aquifer test to be required.

The Board of Directors may include special conditions on permits to address unique aquifer conditions, property configurations, land use, or any other factor that may impact aquifer levels or other permitted wells.

(5) Authorized Groundwater Withdrawal Amount

If the applicant requests more water than the District deems reasonable, or if the applicant disagrees with the District's evaluation, the District may approve the application on a temporary basis for a production quantity acceptable to the Board, and require the applicant to provide documentation to the District in support of the requested amount as reasonable and necessary. Following submission and review of such documentation, within 60 days the Board may reconsider the application and make adjustments to the permitted production quantity if deemed appropriate by the Board.

(6) Required Well Metering and Groundwater-Use Reporting

A well or Aggregated Wells used to withdraw groundwater under an Operating Permit is required to be equipped with individual water meters that are purchased, installed and maintained at the permittee's expense. Any portion of the produced groundwater that is exported outside the District must be separately metered such that the actual amount exported

can be measured and reported; this requirement may be waived by the Board. Upon installing a new meter on a new or existing well, the owner and/or operator of the well shall register the meter with the District and the meter must be approved by the District. All registrations under this Rule shall identify the manufacturer and model of the meter, and the serial number of the particular meter installed. Approved meters must be mechanically driven, digital, totalizing water meters and functioning at all times. The digital totalizer must not be resettable by the permittee and must be capable of a maximum reading greater than the maximum expected pumpage and rate during the expected lifetime of the meter. Battery operated registers must have a minimum five-year life expectancy and must be permanently hermetically sealed. Battery operated registers must visibly display the expiration date of the battery. All meters must meet the requirements for registration accuracy set forth in the American Water Works Association standards for cold-water meters. Meters may be inspected for proper installation and operation, and they may be read by District personnel at any time between regular use reporting, subject to property access conditions set forth in Rule 4.5.

Unless specified otherwise in the temporary or regular Operating Permit, beginning ~~April~~January 1, 2021, permittees of such wells are required to report monthly meter readings indicating actual groundwater use and, as applicable, groundwater exported outside the District, on forms provided by the District. Meter readings must be read within five (5) days of the end of each reporting month and submitted to the District no later than ten (10) days after the end of the reporting month. False reporting or logging of meter readings, intentionally tampering with or disabling a meter, or similar actions to avoid accurate reporting of groundwater use and pumpage shall constitute a violation of these Rules and shall subject the person performing the action, as well as the well owner and/or the primary operator who authorizes or allows that action, to such penalties as the Board may assess, as provided in Chapter 36 and Rule 7.4. The District may charge late fees for meter readings that are not timely provided by the permittee per the current Fee Schedule, in addition to or in lieu of assessing enforcement penalties for violating permit conditions.

(7) Required Production Fees and Payment Schedule

Beginning ~~April~~January 1, 2021, permittees of wells used to withdraw groundwater under both temporary and regular Operating Permits are required to pay a production fee that is based on the actual amount of groundwater withdrawn; the actual amount of groundwater exported from the District, if any; and the applicable rate that is specified in the current Fee Schedule. A copy of the current Fee Schedule may be obtained from the District Office or online at www.swtgcgd.org. Unless specified otherwise in the temporary or regular Operating Permit, production fees are due quarterly and payment should accompany the reporting of actual use for the third month of the immediately preceding quarter, as indicated by the meter readings

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reported for the period by the permittee. Payment of the production fee after the ~~fifteenth~~^{tenth} day of the month following the quarter will be considered late. Failure to timely report actual use or make fee payments is a rule violation and subject to penalties and other enforcement actions under Rule 7.4, up to and including termination of the permit to withdraw groundwater.

With advance notice to and consent by the District, the permittee can elect to pay its estimated annual production fees in advance, and reconcile actual use and previously estimated use in the payment of the subsequent year's production fee, on forms for that purpose provided by the District. Advance annual payment does not eliminate the requirement for the permittee to report actual use monthly.

3.5 Wells Regulated Under General Permit by Rule

If, based on a) the information in the submitted registration, b) the well test results, or c) the certified production capacity by a licensed pump installer after well completion, the District determines that the well will be a Non-exempt Well but its prospective usage will conform to a type of General Permit by Rule under current District Rules, the owner may be authorized to produce groundwater under a specified type of General Permit by Rule. Two types of wells may be authorized using General Permits by Rule: Non-exempt Domestic Use Wells, under Rule 3.5(B); and Test Wells, under Rule 3.5(C).

General Permits by Rule ("General Permits") will have streamlined documentation requirements and timelines, compared to Operating Permits. General Permits do not require notice and public hearings and are used for administrative convenience when their use is not inconsistent with the District's overall mission. The District may issue a General Permit by Rule as an authorization certificate by administrative action upon a completed application, provided the eligibility requirements of the permit are met, applicable fees have been paid, and the permit's requirements continue to be met.

A. General Requirements and Conditions for General Permits by Rule.

- (1) Unless otherwise prohibited by the District and subject to the conditions and eligibility requirements specified for the General Permit by Rule, Non-Exempt Wells are authorized to operate pursuant to this Rule Section without an Operating Permit from the District.

- (2) Wells authorized by this Section shall be registered in accordance with Rule 3.2(A) for Existing Wells and Rule 3.3(C) for New Wells.
- (a) For Existing Wells under a General Permit by Rule, as defined in Rule 2, a completed Well Registration form that demonstrates eligibility for the General Permit and is accompanied by the appropriate General Permit application fee, shall serve as the application for a certificate of operation under the General Permit. **An administratively complete [Production Authorization](#) application, including its appropriate application fee as specified in the District's current Fee Schedule, for all Existing Wells that will be under a General Permit by Rule must be submitted to the District no later than September 30, 2021.** Failure to comply with this deadline is a violation of District Rules. No aquifer testing or hydrogeological reporting is required for applying for an Existing Well under a General Permit. The certificate will be issued to a qualifying well owner within 30 days of an administratively complete application.
- (b) For proposed new wells under a General Permit by Rule, a completed Well Drilling Authorization Application form that demonstrates eligibility for the General Permit and is accompanied by (1) the appropriate Well Drilling Authorization application fee, (2) Production Authorization for General Permit application fee, and (3) if applicable, well construction fee in accordance with Rule 3.3 and the current Fee Schedule, shall serve as its application for a certificate of operation under the General Permit. A Tier 1 Specific Capacity Test [and an Abbreviated Hydrogeological Report](#) (see Rule 3.4(A)(4)) is required for administrative completeness of the application for a new well to be under a General Permit, except for Test Wells. The certificate will be issued to a qualifying well owner within 30 days of an administratively complete application.
- (3) A well authorized pursuant to this Rule is not subject to production fees.
- (4) In lieu of authorization pursuant to this Rule, including sustained non-compliance with the terms of the General Permit, the Board at its sole discretion may require the owner to obtain authorization for continuing groundwater production under an individual Operating Permit.
- (5) Wells authorized pursuant to this Rule are subject to the Rules, regulations, Orders, special provisions, and other requirements of the Board, and laws of the State of Texas.
- (6) Wells pursuant to this Rule are authorized by properly posted Board action but do not require a public hearing for issuing the initial General Permit or for renewing a permit with the same characteristics and requirements.

- (7) Other state and local jurisdictions may have other specific requirements for wells authorized pursuant to this Rule, some of which may be more prescriptive or stringent for certain wells in certain locations. Applicants must comply with these additional state and local requirements separately from complying with District Rules.

B. Non-exempt Domestic Use General Permits

This provision authorizes the production of a specified amount of groundwater for Domestic Use, as defined in these Rules, for certain Existing and New Domestic-Use Wells that serve a single household and that exceed the applicable daily production capacity limitation for Exempt Use, under certain conditions and limitations. Non-exempt Domestic Use (NDU) wells that may be permitted under the NDU General Permit are subject to the specific conditions and requirements of this Rule section and also to the general conditions and requirements of Rule 3.5(A).

- (1) New NDU Wells are not authorized for production in the Upper Trinity Aquifer Management Zone in either Area 1 or 2, or within 1500 feet of a well that is owned or operated by a Retail Public Utility's or other public water supply's well that is located in the same Aquifer Management Zone as the proposed New NDU Well.
- (2) NDU wells permitted under the General Permit are not Exempt Wells.
- (3) Both Existing and New NDU Wells under the General Permit are required to develop and submit to the District User Water Conservation Plan (UCP) and User Drought Contingency Plan (UDCP) no later than 60 days after the applicant submits the application to the General Manager for review, -and the permitholder must demonstrate compliance with applicable, tiered curtailments in groundwater use for District-declared drought stages under Rule 5.2(B) and the permitholder's UDCP. Until these plans are submitted and approved, the General Permit will be considered a conditional NDU Permit, and not subject to renewal without a new application fee and, if applicable, well construction fee.
- (4) Groundwater production under this General Permit is subject to limitations imposed on all Existing and New Wells as necessary to comply with an applicable Desired Future Condition (DFC) that has been adopted by the District, including limitations, if any, indicated by the Modeled Available Groundwater pertaining to that DFC and applied to all relevant Non-exempt Wells.

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- (5) Wells authorized under this General Permit are subject to the reviews and actions described in Rule 3.6.
- (6) New wells authorized under this General Permit are subject to the applicable spacing and construction requirements described in Rules 4.2 and 4.3, respectively.
- (7) A well authorized under this General Permit, whether an Existing or New Well, is not required to meter its production or to routinely report its amount of groundwater used, but the estimated amount of average annual groundwater withdrawal specified in and authorized by its General Permit shall be established using District guidelines for reasonable and non-speculative use, and the expected annual use shall be further distributed by month. The NDU permitholder may, at its discretion, voluntarily meter its wells to assist in gauging and communicating the effectiveness of water conservation practices and drought management under its UDCP (Rule 5.2(C)).
- (8) Groundwater produced under this General Permit may not be exported outside the District's jurisdictional boundaries. If any part of the permitted production is intended to be exported, the well must be permitted under an Operating Permit.
- (9) NDU General Permits have a term of five (5) years and if in good standing with District Rules, shall be renewed by Board action upon submittals of a) application for renewal no later than 60 days before term expiration, and b) payment of the permit renewal fee identified in the District's current Fee Schedule.
- (10) NDU General Permits are subject to periodic review, involuntary amendment, or revocation under provisions of Rule 3.6(A).
- (11) The District may require other information on the basis of site-specific or use-specific circumstances before issuing the General Permit or renewing it.

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C. Aquifer Test Well General Permits

This provision authorizes the use of a designated Test Well, as defined in these Rules, for a specified maximum amount of groundwater production during the performance of aquifer tests and for a specified maximum duration of the test. Test Wells may be used either for withdrawal of groundwater or for monitoring and observation. The Test Well(s) may be requested by an applicant for a Production Authorization for establishing well or well field performance characteristics, or it may be a requirement of the District under a Well Drilling Authorization. Non-exempt Test Wells that are permitted under the General Permit are subject

to the conditions and requirements of this Rule section and the general conditions and requirements of Rule 3.5(A).

- (1) Test Wells permitted under the General Permit are not Exempt Wells.
- (2) Test Wells must be registered even if intended to be temporary, and the registration information will serve as the applications for both its own Well Drilling Authorization and its General Permit by Rule. The application and well construction fees as specified in the District's currently adopted Fee Schedule must accompany submittal of the applications.
- (3) A detailed test plan must be provided to the District before the General Permit will be issued, precisely showing location of the well, well construction details and schematics, surface completion details, testing schedule, spacing from Existing Wells, a water management plan for the produced water, and post-test closure plan.
- (4) The Test Well General Permit will specify a maximum authorized rate and total volume of groundwater production and the authorized length of the testing period. The owner/operator of a production test well is required to meter its groundwater production and to report the maximum rate and total volume of its groundwater use during the test period to the District.
- (5) The water produced under the Test Well General Permit shall be used beneficially within the District to the maximum extent feasible.
- (6) Tests under this General Permit are encouraged to be conducted during non-drought conditions, and a test plan that is required to be conducted during D-3 Extreme or D-4 Exceptional Drought Stages (see Rule 5.2.2) must be explicitly authorized by the District Board.
- (7) A well authorized under this General Permit must be constructed and closed in accordance with District well construction standards of Rule 4.5. and shall not allow commingling of groundwater from separate hydrogeologic zones.
- (8) The District may require other information on the basis of site-specific or use-specific circumstances and may specify special permit conditions before issuing the Test Well General Permit.

3.6 Production Authorizations: Periodic Review, Involuntary Amendment, or Revocation and Changes in Well Ownership, Condition, Operation, or Status

A. Production Authorizations – Periodic Permit Review

(1) The General Manager or its designee shall review each Production Authorization from time to time, generally no less often than once every 5 years, and also immediately upon any change in ownership, to determine if the type of use or pumping volume has changed, or if the permit holder is in compliance with permit conditions and current District Rules. If the General Manager determines that the permit holder is in compliance with District Rules and permit conditions, and the purpose of use, rate of groundwater withdrawal and annual pumping volume remain the same, the General Manager shall document the permit review and findings in District Records for use in future permit renewal assessments.

(2) If the General Manager determines that the permit holder is not in compliance with permit conditions or current District Rules, the General Manager shall notify the well owner and permit holder, if not the owner, of the deficiencies and refer the issue to the Board. The Board may consider whether the permit holder is in compliance and if not, determine what corrective actions may be required, including possible permit amendments, permit revocation, and the possible assessment of penalties.

(2) The District reserves the right and authority, as allowed by law, to adopt, revise, and supersede exemptions granted herein or rules applicable to wells subject to a Production Authorization, and all nonexempt wells will be subject to all applicable current District Rules.

B. Production Authorizations -- Involuntary Amendment or Revocation

Production Authorizations are subject to involuntary amendment or revocation for violation of District Rules, violation of the permit (including special permit conditions imposed by the Board), violation of the provisions of Chapter 36 or the District’s Enabling Legislation, waste of groundwater, falsifying records or reports, or other actions that the Board determines to be detrimental to the groundwater resources in the District.

C. Production Authorizations -- ~~Change~~ Change of Well Ownership

Any change of ownership of a registered well shall be reported by the new owner by submitting a Change of Well Ownership form to the District within 90 days after the change. The General Manager shall modify the registration and, as applicable, the Production Authorization to reflect the new owner and shall determine whether there has been a change in well condition, operation, or status in addition to the change in ownership. A change in well condition, operation or status shall be processed in accordance with Rule 3.6(D).

D. Production Authorizations -- ~~Change in Well Condition, Operation or Status~~

Voluntary modifications of a previously installed well shall be undertaken in accordance with this Rule and Rule 3.2(D).

No person may change the type of use of a registered well; alter the size of a registered well, the well pump, or its production amount or capacity, including the elevation of the pump within the borehole; or plug a registered well without prior District authorization. No change will be authorized if the applicant has unresolved compliance issues with the District. For wells that will be plugged, the owner shall comply with Rule 4.4(C).

Prior to conducting any of the above activities, the owner shall complete and submit a “Change in Well Condition, Operation or Status” form to the District. Production Authorization changes will be processed as follows:

(1) Change in Status from Exempt to Nonexempt Well

If the General Manager determines that the proposed change in well condition, operation or status makes the well no longer an Exempt Well, the owner shall apply for an Operating Permit or a General Permit by completing the appropriate permit application. If the change converts an Exempt well to a Nonexempt well, the applicant must pay the application fee in accordance with the then current District Fee Schedule for a Non-exempt proposed new wells. Within 60 days after the date the application is deemed administratively complete, the General Manager will refer it to the Board for consideration and action. The determination of the Board as to the status change is final. The proposed change is not authorized until the new Production Authorization is approved by the District.

(2) Change in Status from Nonexempt to Exempt

The General Manager may cancel an Operating Permit or a Non-exempt Domestic Use General Permit if the well owner presents adequate documentation that the status of the well has or

will change from Non-exempt to Exempt. The determination of the Board as to the status change is final.

(3) Change in Permitted Production Amount

With regard to a previously installed and permitted well:

(a) If the change in well condition, operation or status results in a demonstrable reduction of the permitted annual production amount, the General Manager shall modify the permit to reflect the changed production limit.

(b) If the change results in an increase of the permitted annual production amount, an application for an amendment to the Production Authorization must be submitted to the District, accompanied by the appropriate amendment application fee. Within 60 days after the date the application for an amended Operating Permit is deemed administratively complete, the application will be scheduled for a public hearing before the Board and processed the same as an application for a proposed new well Operating Permit.

3.7 Registration and Permit Application Fees

Applicable registration, well drilling authorization, well construction, and production authorization application fees shall be assessed in accordance with the current District Fee Schedule adopted by the Board and are due at the time of application. The Fee Schedule shall be approved, following a public hearing, by Board Resolution. A copy of the current Fee Schedule may be obtained from the District Office or online at www.swtcgcd.org.

3.8 Service Connection Fees for Certain Permitted Public Water Providers

A. The District shall levy and collect a fee for each new service connection to a groundwater-based public water provider, including Retail Public Utilities and Community Water Systems, and each new meter or tap will be charged a one-time Service Connection Fee, as authorized in the Enabling Legislation and specified in the current Fee Schedule. Permittees of wells, including Aggregated Wells, providing all or part of the water supplies for users defined in Rule 3.8(B), will have special Operating Permit conditions that require the permittee to remit to the District, in advance of first use, the Service Connection Fee for each new end-user tap proposed to be made after October 1, 2020. The permit holder has the responsibility of completing and timely submitting the required service connection form, available from the

District, and the corresponding connection-fee payment. These special permit conditions will apply to permit holders of both temporary and regular Operating Permits for public water supply providers.

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B. Applicable water-provider connections include both longer-term and shorter-term water users. Longer-term end-users include: 1) Apartment Complex, 2) Duplex, 3) Home/Townhome/Condominium, 4) one well supplying water to more than four residences, and 5) RV Park Slips. Shorter-term end-users include: 1) Hotel / Motel; 2) Bed and Breakfast establishment; 3) Small Businesses: gas station, convenience store, restaurant; 4) Dental / Medical Office; 5) School; and 6) Hospital. A different fee may apply with the type of end-use, as specified in the District’s current Fee Schedule.

C. No water service connection application form will be processed without the District’s first receiving the required connection fee(s). Once the form has been submitted to the District it will be processed and assigned a unique connection ID number. The applicant and the permit holder or designated authorized agent will receive a certificate of confirmation as proof of compliance. The applicant for a Production Authorization that provides such service connections must provide the initial connection ID numbers for the Production Permit to be approved by the District. If the underlying Production Authorization for the prospective public water supply is not approved, the initial Service Connection Fees paid as part of the permit application process will be returned.

Except for the initial, interim period between October 1, 2020, and the date the permittee receives its temporary Operating Permit, activating the water service connection prior to receiving confirmation of compliance is a violation of this Rule and will be subject to a penalty, in accordance with Rule 7.4. The service-connection information may be audited by the District upon request and at some mutually convenient time.

3.9 Wells in Aquifer Storage and Recovery Projects

Wells that are part of an engineered aquifer storage and recovery (ASR) project in the District shall be regulated by the District only to the limited extent provided by TWC §36.451 – 36.456. The ASR project will primarily be regulated by TCEQ, under its own regulations, especially Texas Water Code, §27.151 – 27.156.

A. Registration of ASR Wells

All injection and recovery wells, including hybrid wells, of an ASR project must be registered with the District, on forms provided by the District. The registration will also comprise the Well Drilling Authorization, and such wells will be assessed the normal combined registration and Well Drilling Authorization application fees for New Wells.

B. Limitation on ASR Groundwater Regulated by the District

The ASR recovery wells that are associated with an ASR project are subject to the permitting, spacing, and production requirements of the District if the amount of groundwater recovered from the wells exceeds the volume authorized by the Texas Commission on Environmental Quality (TCEQ) to be recovered under the project. The requirements of the District apply only to the portion of the volume of groundwater recovered from the ASR recovery wells that exceeds the volume authorized by TCEQ to be recovered.

An ASR project operator may not recover groundwater by an ASR project well in an amount that exceeds the volume authorized by TCEQ to be recovered under the project unless the project operator complies with the applicable requirements of the District, as described in Rule 3.9.C.

C. Regulatory Requirements of the District for ASR Groundwater

ASR wells that produce groundwater in such manner that it shall be regulated by the District as described under Rule 3.9(B) shall be considered Non-exempt New Wells and require applying for and complying with a District Operating Permit. The ASR project operator shall have the same requirements for application fees and notices as other Operating Permit holders in the District, and shall meter, report use, and pay production fees, as specified in the current Fee Schedule, on the increment of produced groundwater that is described in these Rules.

Rule 4 Well Standards, Spacing, and Related Reporting Requirements

- 4.1 Reporting and Monitoring of Wells
- 4.2 Well Spacing
- 4.3 Well Construction Standards
- 4.4 Sealing, Capping, or Plugging Wells
- 4.5 Well and Property Access

4.1 Reporting and Monitoring of Wells

A. Notification Required Prior to Drilling and Pump Installation **and Emergency Repairs**

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The following notifications are required to allow the District to determine the registration and the Well Drilling Authorization and Production Authorization status of the well and to observe drilling and pump installation, if the District so desires:

(1) The driller or property owner shall notify the District no less than 24 hours before drilling a well in the District. This notification may be accomplished by recorded verbal (including text or voicemail) or written (including email) means. This applies to all persons who drill a well in the District.

(2) The pump installer or property owner shall notify the District no less than 24 hours before installing a pump with an installed pumping capability of greater than 10,000 gallons per day (7.0 gallons per minute). This notification may be accomplished by recorded verbal (including text or voicemail) or written (including email) means. This applies to all persons who install a pump ~~in the District that is larger than the~~ ~~is size~~ ~~specification~~ ~~above.~~ ~~n in the District.~~

(3) The notice requirements in Rules 4.1(A)(1) and (2) above notwithstanding, the driller, pump installer, or property owner of a well that requires work comprising "Emergency Well Repairs" as defined in Rule 2 shall notify the District by recorded verbal or written means, as described above, before the work is performed, specifying the work to be undertaken and declaring it as Emergency Well Repairs that meet the Rule definition. Such work may be initiated as soon as the notice is provided to the District. If the well is not a previously registered well, the well owner shall submit a completed well registration form within 48 hours of notice of the work being initiated.

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B. Well Drilling and Completion Reports

Copies of the State of Texas Well Report, all well logs, pump test data, water level data, water quality data, or any other data pertinent to a well shall be submitted to the District office within 60 days after completion of the well or well project. Although the information will ordinarily be submitted by the well driller or pump installer, it is the responsibility of the well owner to ensure compliance with this Rule.

C. Inspections of Wells

District employees, Board members, District consultants, or other District agents may conduct random or periodic inspections of wells for any District purpose. The District shall coordinate and schedule such inspections with the well owner, as authorized by statute and described in Rule 4.5.

4.2 Well Spacing

Excluding those wells defined as Existing Wells under Rule 2, aAll wells drilled in the District after October 1, 2020, shall comply with the following well spacing rules unless such spacing is specifically exempted or expressly modified by the District.

A. Spacing Requirements

The following well spacing shall be required for proposed wells in the District:

Projected Pumping Capability of Proposed Well, in Daily Average Gallons per Minute	Spacing Required Between Registered Wells and the Proposed Well in the Same Aquifer Management Zone	Distance of Proposed Well from Recorded Property Lines*
Up to 17.36 GPM	100 feet	100 (50***) feet
17.36 – 50 GPM	300 feet	150 feet
50 – 100 GPM	750 feet	375 feet
100 – 300 GPM	1200 feet	600 feet
> 300 GPM	1500 feet	750 feet

* * Distance indicated may include one-half of the width of a right of way of a utility, roadway, or other conveyance that forms part of the well's property line, provided it is not subject to groundwater development, but prospective well must be no less than 10 feet from that property line itself.

**Pressure cementing of top 100 feet of annular space of proposed well is required to obtain authorization to reduce minimum distance from a property line to 50 feet, otherwise spacing distance required is 100 feet.

These spacing requirements are in addition to well siting standards in the rules of the Texas Department of Licensing and Regulation at 16 TAC §76.100, with the more stringent (i.e., larger distance) requirement governing spacing if the rules differ.

Any prospective subdivision of existing tracts of land that proposes to use New Wells as a water supply shall ensure that new property lines are located after considering the spacing requirements of this Rule with respect to any previously installed or proposed well.

New wells drilled solely to replace previously installed wells do not have to meet the spacing requirements between the original well and the new well but the replacement well must be located within 50 feet of the original well. The spacing requirements specified in this Rule 4.2(A) are not applicable to replacement wells, but replacement wells must adhere to the spacing and standards of Texas Department of Licensing and Regulation (in Texas Administrative Code §76.100).

Commented [KH10]: What we have told drillers. Making it explicit

B. Spacing from Potential Sources of Contamination

All new wells must comply with the distances given for separation of wells from sources of potential contamination in the Water Well Drillers Rules, 16 Texas Administrative Code § 76.1000(a)(1)–(4), as amended. The Board may add additional permit conditions increasing the spacing requirements where necessary to avoid Unreasonable Impacts.

(1) A proposed new well shall be located a minimum horizontal distance of 50 feet from any watertight sewage and liquid-waste collection facility, except in the case of monitoring, dewatering, piezometer, and recovery wells which may be located where necessity dictates.

(2) A proposed new well shall be located a minimum horizontal distance of 150 feet from any concentrated sources of potential contamination such as, but not limited to, existing or proposed livestock or poultry yards, cemeteries, pesticide mixing or loading facilities, and

privies, except in the case of monitoring, dewatering, piezometer, and recovery wells which may be located where necessity dictates.

(3) A proposed new well shall be located a minimum horizontal distance of 100 feet from an existing or proposed septic system absorption field, septic systems spray area, or a dry litter poultry facility, and at least 50 feet from any property line provided the well is located at the minimum horizontal distance from the sources of potential contamination.

(4) A proposed new well shall be located at a site not generally subject to flooding; provided, however, that, if a well must be placed in a flood prone area, it shall be completed with a water tight sanitary well seal and steel casing extending a minimum of thirty-six inches (36") above the 100-year floodplain level. The well owner shall provide a certificate, signed and sealed by a Registered Professional Land Surveyor, or Professional Engineer, which indicates the floodplain elevation as indicated on the FEMA map, along with the elevation of the top of the casing.

(5) No proposed new well may be located within 300 feet of a sewage treatment plant, solid waste disposal site, or land irrigated by sewage plant effluent, or within 150 feet of a sewage wet well, sewage pumping station, or a drainage ditch that contains industrial waste discharges or wastes from sewage treatment systems.

C. Spacing from Wells Used by Retail Public Utility or Public Water System

In order to minimize the drawdown of the water table, minimize the reduction of artesian pressure, control subsidence, prevent interference between wells, prevent the degradation of the quality of groundwater, prevent waste of groundwater, preserve current use of groundwater, and give consideration to the service areas of Retail Public Utilities and other Public Water Systems, as defined in Rule 2, all Non-exempt New Wells other than those belonging to the retail public utility or the public water system shall be required to be spaced such that they are located a minimum of 1,500 feet from a well that is providing all or part of the water supply of a retail public utility or public water system, unless the District determines additional spacing is required.

The District may determine that this Rule is not applicable to an owner desiring to drill and operate a well within the service area of a retail public utility or public water system that is less than 1,500 feet to the public water supply well(s), provided the owner furnishes the District with documentation that the retail public utility or public water system will not or cannot provide water service to the tract of land on which the well is proposed to be drilled.

D. Clustering of Wells on A Single Tract of Land

If multiple wells by a single owner on the same tract of land under development are required and are desired to be clustered wells, the District shall consider, and may approve, such a request, provided the owner furnishes documentation of site-specific geological or hydrological reasons that support use of different well spacing. Such clustered wells may but are not required to be permitted as Aggregated Wells under Rule 3.4(D)(2) rather than individually.

E. Spacing of Wells Used by Public Water Systems

Retail public utilities and public water systems may apply to drill new wells, replacement wells, or monitor wells within the confines of a well field owned by the utility without regard for District spacing requirements, if the site plan for the proposed new well and the well field has been designed by a professional engineer and has been approved by the TCEQ.

F. Other Exemptions to Well Spacing Requirements

Closed-loop Geothermal Exchange Wells are not subject to the spacing requirements of this section of the Rules. Open-loop Geothermal Wells are prohibited in the District.

Short-term and Long-term De-watering Wells, as defined in Rule 2 – Definitions, are not subject to the spacing requirements of this section of the Rules. Long-term Dewatering Wells are Non-exempt Wells and their permits may have other site-specific requirements.

4.3 Well Construction Standards

Construction of wells and installation of pumps shall be in accordance with the Texas Occupations Code Chapter 1901, “Water Well Drillers” and Chapter 1902, “Water Well Pump Installers,” as amended and the Administrative Rules of the Texas Department of Licensing and Regulation, 16 Texas Administrative Code (TAC), Chapter 76, as amended, and additional standards as required in this Rule and the District’s Well Construction Manual, once promulgated. Generally, applicants must be able to demonstrate to the District that proposed well construction materials and methods will prevent both the commingling of formation waters of substantively different chemical quality and the infiltration of surface contaminants to the aquifer(s) via the well.

Commented [KH11]: For authorizing responses to inquiries until we more specifics identified as required in our own WC Manual.

All new wells in the District are subject to these Well Construction Standards, except for the following types of wells: aquifer storage and recovery project wells, short-term de-watering wells, injection wells, monitoring and sampling wells, geotechnical boreholes, closed-loop geothermal exchange wells, geologic and mineral-resource exploration wells, and temporary aquifer-test observation wells; provided they are not converted into a different use.

In order to prevent the degradation of groundwater quality, the Board has determined that, in addition to the requirements in the above statutes, the following practices shall be required for proposed well construction in all Aquifer Management Zones in the District.

A. Sanitary Seals

To prevent pollutants from entering the wellhead, all wells shall be completed with a watertight sanitary seal. Any previously installed well not meeting this requirement is required to comply with this Rule at the time the wellhead is next removed. Wells with odd-sized casing or those having well heads for which there is no factory made watertight sanitary seal available shall be completed or modified in such a manner to meet the intent of this Rule.

B. Annular Spaces

For new wells other than monitor wells, the annular space and grouting requirements under 16 TAC 76.1000(a)(1) is increased from ten feet to fifty feet (50 feet). If the top of the first potable water bearing strata is less than fifty feet below the surface, the General Manager may grant a field approval and this fifty feet distance can be reduced to a depth just above the first potable water bearing strata, but in no case shall be less than ten feet.

If a proposed well penetrates either or both of the Upper Trinity or Middle Trinity Aquifers, with the intention of producing groundwater from an underlying aquifer, the well shall be grouted or otherwise isolated to a depth that will prevent flow of groundwater from those overlying aquifers into the underlying aquifers. Existing Wells must follow at a minimum the TDLR completion standards and guidelines to minimize commingling of groundwaters from different aquifers. New Wells must follow the District guidelines and must at a minimum isolate water in the Upper Trinity Aquifer so that it does not commingle with groundwater in the Middle Trinity or Lower Trinity Aquifers, and minimize commingling of groundwaters from different aquifers.

C. Access for Inspections

All proposed New Wells and, as needed for demonstrating compliance with the District's Rules, Existing Non-exempt Wells shall be equipped with an inspection port, inspection tube, or some other means that will allow free and clear vertical access to the water table for the purposes of measuring water levels or disinfecting a well. Control boxes, pipes, fittings, or other wellhead equipment shall not hinder access to the inspection port. Electrical cables must be secured or taped to the production pipe in such a manner that will not restrict access for measurement of water levels and will reduce possible entanglement with water level measuring tapes or e-lines.

(1) Well vents may be installed in threaded inspection ports or the PVC inspection tube provided that the vent is constructed in such a manner that it may be easily removed and reinstalled as necessary for disinfecting a well or for measuring water levels.

(2) If production pipe centralizers or stabilizers are used in nonexempt well in such a manner that they may block e-line access to the water level, an inspection tube shall be installed for purposes of disinfecting a well and measuring water levels. The inspection tube must be at least ¾ inch diameter PVC in wells with casing less than 6 inches in diameter, or 1-inch diameter PVC in wells with a casing of 6-inch diameter or larger. It must be installed parallel to the production pipe, capped on the bottom, and have sufficient perforations to allow rapid and free flow of water to the inside of the tube. The tube must extend from the sanitary seal to just above the pump.

4.4 Sealing, Capping, or Plugging Wells

The landowner or its designated agent must complete a District Well Drilling/Modification Authorization application form to cap, seal, and/or plug a previously installed well, including those that are not compliant with District Rules, and submit the form to the District, along with the application fee specified in the current District Fee Schedule. The application and application fee are a pre-requisite for District review of the plans and approval of the work, which is required before it is undertaken.

A. Sealing Wells

Following the procedure of Rule 4.3(B), the District may require the sealing of a well that is in violation of District Rules or that has otherwise been prohibited from producing groundwater. The reasons for requiring the sealing of a well include: (1) failure to apply for a Production Authorization prior to drilling a nonexempt well; (2) operating a nonexempt well without registration or a Production Authorization; (3) exceeding the production limits if the well is located in a District-declared Critical Groundwater Depletion Area or an area specified in an

Emergency Warning; (4) the well presents a potential for contamination of groundwater; or (5) when the Board has denied, cancelled, or revoked a Production Authorization.

If the owner fails to seal the well, District staff is authorized to provide notice of intent to access the well for the purpose of sealing the well pursuant to Section 36.123 and Rule 4.5, including obtaining a court order as needed. Upon accessing the well, District staff or agents may seal or deactivate the well by physical means, Red Tag it to indicate that the well has been sealed by the District, or take any other appropriate action necessary to clearly indicate that the well has been sealed or deactivated. Reasonable expenses incurred by the District in closing and sealing a well that are not recovered from the well owner following reasonable attempts to do so shall constitute a lien on the land on which the well is located pursuant to Section 36.118, Water Code.

The seal is intended to preclude operation of the well or identify unauthorized operation of the well. Tampering with, altering, damaging, removing, or violating the seal of a sealed well in any way, or pumping groundwater from a well that has been sealed constitutes a violation of District Rules and subjects the person who performs that action, as well as the well owner who authorizes, allows, encourages, or condones such action, to enforcement and penalties pursuant to all applicable District Rules.

B. Capping Wells

The District requires any open or uncovered well that is in a non-deteriorated condition to be capped to prevent waste, pollution, or deterioration. The well shall remain capped until conditions that led to the capping are eliminated. The cap shall provide a sanitary seal to prevent the introduction of potential contaminants and shall be capable of sustaining a weight of at least four hundred (400) pounds. The well owner shall submit a Well Capping Report to the District within 30 days of taking such action, providing details of when and how the well has been capped. If the owner fails to close or cap the well in compliance with District Rules, the District may, following 10-days' notice, go on the land and close or cap the well properly. Reasonable expenses incurred by the District in closing or capping a well that are not recovered from the well owner following reasonable attempts to do so shall constitute a lien on the land on which the well is located pursuant to Section 36.118, Water Code.

C. Plugging Wells

Not later than the 180th day after the date a landowner or other person who possesses a deteriorated or abandoned well learns of its condition, and the landowner determines the well

cannot or will not be rehabilitated to be in compliance with District standards, the well shall be plugged in accordance with the Rules of the Texas Department of Licensing and Regulation, 16 Texas Administrative Code, Chapter 76, as amended. It is the responsibility of the landowner to ensure that such a well is plugged in order to prevent pollution of the groundwater and to prevent injury to persons. Prior to plugging the well, the well owner shall submit a plugging application to the District that specifies the total depth of the well and static water level and the details of the planned plugging operation, including removal of the surface slab, removable casing, and borehole obstructions, if any, to the bottom of hole. Not later than the 30th day after the date the well is plugged, a driller, licensed pump installer, or well owner who plugs an abandoned or deteriorated well shall submit a completed State of Texas plugging report to the District, as required by Texas Occupations Code, Section 1901.255(d).

If the owner fails to plug the well in compliance with State law, the District may:

- (1) following 10-days' notice and the procedures of Rule 4.5, go on the land and plug the well. Reasonable expenses incurred by the District in plugging a well that are not recovered from the well owner following reasonable attempts to do so shall constitute a lien on the land on which the well is located pursuant to Section 36.118; or
- (2) as authorized by Texas Occupations Code, Section 1901.256, otherwise enforce Section 1901.255 related to landowners that have an abandoned or deteriorated well located on their property.

4.5 Well and Property Access

The District has authority under Section 36.123 and Section 8871.105 of the District's Enabling Legislation to enter any public or private property in the District at reasonable times, as described below, for purposes of inspecting and investigating conditions relating to water quality, exempt wells, or compliance with District Rules, regulations, permits, or other orders; the Production Authorization provisions provide the terms of access for District-permitted wells.

The District respects individual property rights and shall endeavor to minimize any inconvenience to property owners while conducting District business. Under the District's Enabling Legislation, District employees and agents shall notify, coordinate, and schedule well and property access in advance with the property owner, his agent, tenant, or other local contact. Notice is not required if prior permission to enter land or access wells has been

granted by the property owner, his agent, tenant, or other local contact. If the District is not given permission to enter the property after making good-faith efforts to arrange a visit in accord with the statutes, the District may seek and obtain a court order from a District Court with appropriate jurisdiction that authorizes the District to enter the land.

District employees or its agents that access public or private wells or property shall notify the property management or person in charge of the property of the presence of the District representatives, the tasks being undertaken, and approximate duration. District representatives will exhibit proper credentials either at all times or upon request. District employees or agents acting under this authority shall observe all applicable rules and regulations concerning safety, internal security, and fire protection as provided to the District by the property.

4.6 Well Construction Fees

Owners of all proposed wells, regardless of whether intended ultimately as Exempt or Non-exempt Wells, shall apply for a Well Drilling Authorization from the District as described in Rule 3.3 and must receive District approval before drilling the well. The well must comply with the applicable Well Construction Standards in Rule 4.3.

All New Non-exempt Wells, including those to be authorized under either Operating Permits or under General Permits by Rule, are assessed a statutorily authorized Well Construction Fee at the time of application for a Well Drilling Authorization, to defray the cost of monitoring and inspecting well installation against applicable standards. The Well Construction Fee is specified in the current Fee Schedule, which is available at the District Office and online at www.swtcgcd.org. This fee is in addition to the application fee for the combined Registration and Well Drilling Authorization, and both must be paid before well construction or modification is approved.

New Exempt Wells, as defined in these Rules, are not assessed a Well Construction Fee, although a fee is authorized for evaluating the Well Drilling Authorization application that demonstrates compliance with well location, construction, and spacing specifications and standards.

Rule 5 – Groundwater Protection

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| <ul style="list-style-type: none">5.1 Groundwater Conservation5.2 Drought Management5.3 Aquifer Emergency Warnings5.4 Establishment of Critical Groundwater Depletion Area |
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This section of the District Rules sets out additional provisions to protect the groundwater resources and aquifers of the District, one of the central purposes of the District, per TWC 36.0015.

5.1 Groundwater Conservation

A. District Conservation Program

The District shall foster water conservation through its policies and programs and through requirements for its permittees.

- (1) The District may implement conservation policies through incentive fee structures and amendments to its own production fees, provided they are applicable equitably to all members of a class of groundwater users, without regard to type of beneficial use.
- (2) The District encourages all public water utilities to employ conservation-oriented rate structures as a matter of course. While not a District regulatory requirement, the use and characteristics of such rate structures may be a consideration in District Rule enforcement matters.
- (3) All permittees, including holders of individual Operating Permits and General Permits by Rule, are required to prepare, adopt, and implement User Conservation Plans (UCPs) consistent with these Rules, as authorized by TWC 36.113(c). The UCPs shall consider, as applicable and at a minimum, the following:
 - a. Structure and implementation of a conservation-oriented rate structure,
 - b. Promotion and encouragement of voluntary conservation measures,
 - c. Promotion and encouragement, installation, and use of water-saving devices,

- d. Promotion and encouragement of water efficient lawn and landscape practices,
- e. Financial measures that encourage conservation,
- f. Distribution of conservation information and other educational efforts, and
- g. As applicable, provision for ordinances, regulations or contractual requirements necessary for the permittee to enforce the UCP.

The District shall approve UCPs if they satisfy the objectives of this Rule by issuing and renewing the relevant Production Authorization. The permittee may revise or amend the UCP, as necessary, with approval by the District. Permittees must have an updated District-approved UCP prior to receiving a permit amendment. UCPs shall be prepared as part of the permit application and presented for District approval.

The UCP of each permit shall be updated no less often than every five years. Upon request, District staff will assist permittees in providing the latest and most appropriate guidance for such updates.

B. Prevention of Groundwater Waste and Pollution

No person shall intentionally or negligently commit waste, including pollution, of the groundwater resources of the District. The provisions in this subsection of the Rules further address waste of groundwater, as defined in District Rule 2 - Definitions, regardless of circumstance or intent.

(1) Wasteful Use - Groundwater produced from within the District shall not be used in such a manner or under such conditions as to constitute Waste, as defined in District Rule 2.

(2) Wasteful Production - Any person producing or using groundwater shall use every possible precaution, in accordance with the most acceptable and approved methods, to stop and prevent waste of groundwater.

(3) Groundwater Pollution - No person shall pollute or harmfully alter the character of the groundwater in the District by causing or allowing the introduction of undesirable water,

pollutants, or other deleterious matter from another stratum, from the surface of the ground, or from the operation of a well.

(4) Orders to Prevent Waste or Pollution - After providing notice to affected parties and holding a public meeting, the Board may adopt orders necessary to prohibit or prevent waste or pollution. If the Board or the General Manager determines that an emergency exists requiring the immediate entry of an order to prohibit waste or pollution and protect the public health, safety, and welfare, a temporary order may be entered without notice and hearing in accordance with District Rule 6.3. A posted public meeting shall be held within 14 days of issuance of an emergency Board order under this Rule at which the Board shall either revoke, amend, or confirm the order.

If the District has identified a person responsible for the waste or pollution of groundwater and an emergency exists, it may issue a temporary order, and then as soon as possible, proceed with enforcement against the responsible person under the District Rules.

5.2 Drought Management

These Rules provide guidelines and procedures for the District to implement its drought management program and to administer User Drought Contingency Plans (UDCPs) by permittees. Drought, or other uncontrollable circumstances, can disrupt the normal availability of groundwater supplies, causing water availability and water quality emergencies. This Rule establishes procedures intended to preserve the availability and quality of water during such conditions to the extent feasible. The implementation of drought severity stages, aquifer warning conditions, and other procedures shall be at the direction of the District.

A. Applicability

The Rules of this Section 5.2 apply to all permittees within the District, including holders of individual Operating Permits and General Permits by Rule, although certain provisions may differ in how they are applied within certain Management Zones. In addition, the District shall utilize public education and assistance programs to encourage voluntary compliance with this Rule by owners of wells exempt from permitting and all other water users located within the District's jurisdictional area.

These Rules are applicable to all aquifers and water-bearing formations located within its jurisdictional boundaries.

B. Drought Stages and Triggers

Drought severity stages for all Management Zones are triggered by changes in the drought intensity levels indicated by the multi-index U S Drought Monitor (accessible at <https://www.waterdatafortexas.org/drought>). The drought info, which includes drought intensity levels and the areal coverage of each, is reported at the county level and is updated weekly. The applicable Groundwater Drought stage for the District will be defined herein by rule as the *highest* level of drought intensity over at least 25% of the land area of Travis County that is reported by the Drought Monitor as having persisted for at least the prior two weeks. A decision by the Board to change the drought status of the aquifer may consider other factors that influence or reflect District aquifer conditions and outlook (see Rule 5.2(B)(4) below).

(1) Definition of Drought Stages – Five Groundwater Drought stages, corresponding to US Drought Monitor-specified drought intensity levels, may be declared by the Board on the basis of the specified portion of the District’s area reaching these trigger thresholds. They are, from least to most severe:

- "No-Drought" - base condition;
- D-0 Abnormally Dry Stage;
- D-1 Moderate Drought Stage;
- D-2 Severe Drought Stage;
- D-3 Extreme Drought Stage; and
- D-4 Exceptional Drought Stage.

In addition to these declared drought stages, there is a calendar-driven Water Conservation Period that will be in place between May 1 and September 30 of each year when not in a declared drought stage higher than D-0. During the Water Conservation Period, voluntary reductions in water use are requested and expected of all groundwater users, including Exempt Well users.

(2) Progression of Drought Stages -- The implementation of mandatory demand reduction measures by permittees will begin with the requirements associated with the Board’s declaration of D-2 Severe Drought. The declaration of any higher drought stage shall be based on both reaching the next higher Drought Monitor threshold and the District Board’s determining that conditions warrant the declaration of that higher stage. More stringent

demand reduction measures will be required in D-2 Severe Drought, and even more stringent demand reduction measures will be required for certain wells in D-3 Extreme and then D-4 Exceptional Droughts. The mandatory reduction measures that are applicable for each stage and for each permittee are set forth in the permittees' User Drought Contingency Plans (Rule 3.4(A)).

(3) Discontinuance of Drought Stages -- Moving from a more stringent to a less stringent drought stage uses the same US Drought Monitor thresholds as going into drought, except that the applicable Groundwater Drought Stage for the District is defined herein by rule as the highest level of intensity over at least 25% of the land area of Travis County that is reported by the Drought Monitor for no less than the prior four-week period. The declaration of any lower drought stage shall be based on both reaching the next lower Drought Monitor threshold and the District Board's determining that conditions warrant the declaration of that lower stage.

(4) Other Drought Declaration Factors. In addition to the US Drought Monitor drought stage indicators, the District Board may consider other factors that may have some relevance to the urgency of declaring a drought or that may indicate that an existing drought is likely to continue or lessen. These factors may be related to hydrogeologic or climatological conditions that have or will have a bearing on aquifer drought conditions. Some factors that may be considered in making drought stage declarations include but are not limited to:

- a. Degradation or improvement in drought severity in Travis County, Hays County, and Blanco County for the preceding month, as reported by the US Drought Monitor in the Texas Water Development Board Water Weekly,
- b. Number of consecutive prior months with below average rainfall, and the rainfall deficit for previous 12-month period,
- c. Climatological outlook, especially current predictions of La Nina or El Nino conditions,
- d. Flow in Barton Creek at the USGS gage at SH 71, near Bee Cave,
- e. Recent pumping rates of the aquifer(s), and
- f. Saturated thickness of the aquifer(s).

C. Use Reduction Measures and Restrictions During Drought

Water use reduction measures and restrictions during Groundwater Drought are defined in this Rule and summarized in the accompanying table. This District Rule addresses the uses, needs,

Framework for Drought Curtailments and Contingency Plans - All Management Zones

Drought Stage	Exempt Uses (All Types)	Operating Permit	General Permit by Rule		Comments
			Non-exempt Domestic Use	Aquifer Testing and Monitoring	
No Drought	0% curtailment	0% curtailment	0% curtailment	0% curtailment	
D-0 (Abnormally Dry)	0% curtailment	0% curtailment	0% curtailment	0% curtailment	No mandatory curtailments; use groundwater wisely
D-1 (Moderate Drought)	0% mandatory curtailment; 10% targeted reduction	10% voluntary curtailment	10% targeted reduction in monthly water use	Subject to Board orders and permit special conditions	No mandatory curtailments; prepare for required reductions in use
D-2 (Severe Drought)	0% mandatory curtailment, 20% targeted reduction	20% mandatory curtailment	20% targeted reduction in monthly water use	Subject to Board orders and permit special conditions	First active drought management stage. Allows board orders for emergency responses on per-well system basis
D-3 (Extreme Drought)	0% mandatory curtailment; 30% targeted reduction	30% mandatory curtailment	30% targeted reduction in water use; D-2 + No outdoor water use by automated systems*	100% curtailment, except by Board order	Allows board orders for emergency responses on per-well system basis
D-4 (Exceptional Drought)	0% mandatory curtailment; 40% targeted reduction	40% mandatory curtailment	D-3 + No outdoor water use, including irrigation, pools, car washing*	100% curtailment, except by Board order	Allows board orders for emergency responses on per-well system basis

Commented [KH12]: A more proportionate Increased curtailment from 20% during extreme drought, but mitigated by voluntary metering option

Drought Stage: As declared by District Board using US Drought Monitor intensity levels for Travis County and other factors

Exempt Use Wells: Curtailment is not mandatory but are targeted reduction goals relative to normal use for month

Drought Curtailments: Percentage of normal quarterly withdrawals authorized under permits

* Unless voluntary metering demonstrates achievement of targeted reductions on a quarterly basis,

concerns, and compliance capabilities of well owners and users, although some measures may only be applicable to certain types of permittees and water uses. Drought stages may have different applicability and requirements among the Management Zones, as expressed in Board-approved Rules. The reduction measures and goals indicated in this section for various drought stages will inform the specific User Drought Contingency Plans (UDCPs) developed by and for each permittee, which are then enforceable drought management provisions.

(1) D-1 Moderate Drought Stage

Conservation Target: 5-10% voluntary reduction in groundwater use for Exempts and General Permits by Rule; 10% voluntary reduction for Operating Permits

Mandatory Reductions for Operating Permits: None

Usage Reduction Measures:

- Continue, or increase, voluntary reduction in various uses
- Check for and correct all plumbing leaks
- Maintaining more than 50,000 gallons of groundwater in ponds, lakes, tanks, reservoirs, or other surface impoundments for holding water is prohibited except for those wells permitted for agricultural irrigation and wells used for livestock or specifically designated for fire-fighting.

(2) D-2 Severe Drought Stage

Conservation Target: 20% voluntary reduction in groundwater use for Exempts and General Permits by Rule

Mandatory Reductions for Operating Permits: 20% curtailment of quarterly permitted-use amount

Usage Reduction Measures:

- Continue, or increase, voluntary reduction in various uses
- Check for and correct all plumbing leaks
- Water outside lawns, trees, shrubs once every 5 to 7 days
- Water at night between hours of 8pm and 8am

- Keep swimming pools, landscape or decorative ponds, and fountains covered, use water recirculation, and refill only once every 5 to 7 days
- Wash vehicles at car wash only as needed
- No washing of buildings, driveways, streets, patios, or other outdoor surfaces except as required for human or animal health and safety needs, or for fire prevention
- Water livestock in leak-proof troughs as much as practical
- Maintaining more than 50,000 gallons of groundwater in ponds, lakes, tanks, reservoirs, or other surface impoundments for holding water is prohibited except for those wells permitted for agricultural irrigation and wells for livestock or specifically designated for fire-fighting.

(3) D-3 Extreme Drought Stage

Conservation Target: 30% voluntary reduction in groundwater use by Exempts and Non-exempt Domestic Use General Permits; No use under Test Well General Permits by Rule without a prior Board-approved variance

Mandatory Reductions for Operating Permits: 30% required curtailment of quarterly permitted-use amount.

Usage Reduction Measures:

- Continue, or increase voluntary reduction in various uses
- Check for and correct all plumbing leaks
- Water outside lawns, trees, shrubs once every 5 to 7 days
- Water at night between hours of 8pm and midnight using hand-held hose with automatic shut-off nozzle or automatic timer
- Hose-end and automated sprinkler systems prohibited
- No swimming-pool re-fills (topping-up water only)
- Wash vehicles at car wash only as needed
- No washing of buildings, driveways, streets, patios, or other outdoor surfaces except as required for human or animal health and safety needs, or for fire prevention
- Watering for dust control only when required by law

- Livestock watered in leak-proof troughs strongly recommended
- Pumping groundwater into livestock stock tanks is discouraged
- Providing groundwater to other ponds, lakes, tanks, reservoirs, or other surface impoundments for holding water is prohibited.

(4) D-4 Exceptional Drought Stage

Conservation Target: 40% + voluntary reduction in groundwater use by Exempts and Non-exempt Domestic Use General Permits; No use under Test Well General Permits by Rule without a prior Board-ordered variance.

Mandatory Reductions for Operating Permits: 40% required curtailment of quarterly permitted-use amount

Usage Reduction Measures:

- Continue, or increase, voluntary reduction in various uses
- Check for and correct all plumbing leaks
- No outside watering of lawns, trees, shrubs, or gardens
- No vehicle washing
- No swimming pool fills, re-fills, or topping-up
- No washing of buildings, driveways, streets, patios, or other outdoor surfaces except as required for human or animal health and safety needs, or for fire prevention
- Watering for dust control only when required by law
- Livestock watered in leak-proof troughs only
- Providing groundwater to ponds, lakes, tanks, reservoirs, or other surface impoundments for holding water is prohibited.

D. Drought Enforcement

The District will rely primarily on voluntary compliance with this Rule. Persons who are found to be in non-compliance with District Drought Management Rules will be contacted by District staff. District staff will explain the drought conditions, District Rules, and the need for everyone to

comply with a District-wide effort to conserve groundwater during times of drought in order to reduce the impacts of drought on all aquifer users. Prior experience by other groundwater districts has proven that such informational-based enforcement efforts are an effective method of achieving compliance with District Rules while building local cooperation and consensus among well owners and well users. However, persons who subsequently violate District Rules repeatedly will be subject to other remedies authorized under District Rule 7, Chapter 36, or other applicable laws or codes of the State of Texas, including penalties and court orders for persons withdrawing groundwater in non-compliance with provisions of the applicable Production Authorization.

5.3 Aquifer Emergency Warnings

A. Declaring an Aquifer Emergency

The Board or the General Manager may act to protect groundwater and aquifer users by declaring an Aquifer Emergency Warning if the Board or the General Manager determines that scientific data or other evidence clearly indicates that the District, or a Management Zone of the District, is experiencing hazardous groundwater conditions that require immediate action. If the declaration is made by the General Manager, it shall inform the President of the Board at its earliest opportunity of the need for immediate action and the basis for the declaration but shall not delay initiating requisite actions. Groundwater conditions that require immediate action are those that may be hazardous to the health, safety, and welfare of the residents or livestock in the District. Hazardous conditions include, but are not limited to, unanticipated large reductions in groundwater levels or hydraulic pressures as a result of reduced recharge and higher discharge of the aquifer system from unauthorized over-pumping and prolonged drought, contamination of groundwater due to hazardous material pollution, the presence of any chemical contaminant whose concentrations exceed Safe Drinking Water Standards, the presence of any bacteria or bacterial concentrations that threaten human or animal health, safety, or welfare, and any other water quality condition the Board or the General Manager determines to be of immediate threat to the groundwater of the District.

B. Communicating an Aquifer Emergency Warning

Upon declaration of an Aquifer Emergency Warning by the Board or the General Manager, the District will contact all appropriate authorities to inform them of the Aquifer Emergency Warning and the reasons for its declaration. Those agencies contacted may include, as appropriate, the TCEQ, Texas Railroad Commission, Travis County Health Department, Texas Department of Health, Travis County Sheriff's Office, municipal mayors' offices and police departments, Travis County Judge and County Commissioners, and local news media.

If the District determines that certain property or well owners may be at high risk due to the nature of the Aquifer Emergency Warning, the District will attempt to contact them on an individual basis in order to alert them to the hazardous conditions and offer suggestions on implementing appropriate protective measures.

C. Holding an Information-Exchange Public Meeting

The District shall hold a public meeting within 14 days following the declaration of an Aquifer Emergency Warning to more fully inform the public about the nature of the Aquifer Emergency Warning and explain the steps undertaken by the District to mitigate the hazardous conditions. The District may provide suggestions, advice, and recommendations to District residents on ways to address the hazardous conditions or implement protective measures.

D. District Follow-up

The District may initiate further studies and analysis within the area affected by the aquifer emergency warning. The District investigations will seek to determine the extent and severity of the hazardous condition, whether the hazardous conditions are temporary or permanent, if restrictive measures have improved the hazardous conditions, what further actions may be necessary to mitigate or alleviate the problem, and how similar hazardous conditions may be prevented in the future.

E. Cancelling the Aquifer Emergency Warning

The Aquifer Emergency Warning shall be in effect until cancelled by the Board. The Board shall cancel the Aquifer Emergency Warning upon notification by a competent state or local authority that the hazardous condition is no longer a concern, or if scientific evidence indicates that the hazardous conditions no longer exist or no longer pose a threat.

5.4 Establishment of a Critical Groundwater Depletion Area (CGDA)

The Board may restrict the permitted annual production amount from wells requiring an Operating Permit if the Board determines that scientific data clearly indicate that one or more of the following conditions exist and that the additional regulation of production will minimize the drawdown of the water table or the reduction of artesian pressure that the District, or a portion of the District, is experiencing: (1) a lowering of the water table or a reduction in artesian pressure to such a degree that adverse effects of aquifer mining or increased aquifer mining is occurring; (2) subsidence, interference between wells, degradation of water quality, negative impacts on established uses or retail public utilities; or (3) other adverse groundwater

quantity or quality conditions. These restrictions would apply within a District-designated area called a Critical Groundwater Depletion Area, or CGDA.

A. Designation of a CGDA

If District research, scientific investigations, or groundwater and aquifer data indicate that adverse groundwater conditions exist, the Board may designate the area as a Critical Groundwater Depletion Area that enables additional protective measures by the District.

B. Procedures for Designating a CGDA

- (1) The Board shall hold a public hearing on the proposed CGDA. The District will provide information to interested parties and accept public comment regarding the proposed Rule designating a CGDA.
- (2) The public hearing must be held in accordance with the District public hearing Rules. 6.2.
- (3) The Board will evaluate the comments received during the public comment period and during the public hearing and will consider available information and data in its deliberations on the merits of designating a CGDA. The District shall provide a written analysis of the information reviewed and the basis for designating or not designating a CGDA. The Board shall designate and delineate a CGDA by amending the District Rules. Any CGDA so designated must be consistent with the District's Groundwater Management Plan.
- (4) The designation of a CGDA shall specify what adverse groundwater conditions are being addressed by the CGDA. The CGDA may be either temporary or permanent. If the CGDA is to be temporary, the Board shall set the duration or set specific criteria that, once achieved, will result in the termination of the CGDA. In no event shall a temporary CGDA endure longer than two years without official Board action extending it or converting it to a permanent CGDA. The designation of a temporary CGDA may be based on data indicating that aquifer mining is occurring due to unusual climatic conditions, periods of extended drought, or other conditions that may affect groundwater on a temporary basis.
- (5) Once a temporary CGDA has been in existence for a period of two years the District shall consider whether to terminate or renew the Rules designating the CGDA. After notice and hearing, the Board shall determine whether the available data indicates that continued production limits are the only reasonable mitigation effort to adequately address the adverse groundwater conditions requiring designation of the CGDA. The Board may: a) repeal the Rules designating the CGDA; b) amend the Rules to extend the term of the temporary CGDA an additional two years; or c) convert it to a permanent CGDA.

C. Administration of a CGDA

- (1) Once a CGDA has been designated and delineated by the Board, the area shall be given a unique name for identification purposes.
- (2) For purposes of this Rule, “permitted wells” includes Non-exempt Wells under Operating Permits and General Permits by Rule.
- (3) All owners of permitted wells within the CGDA shall be notified of the existence of the CGDA and any new regulatory requirements by certified mail.
- (4) The owners of permitted wells within the CGDA shall provide the District with reports of groundwater production from each well they own or operate within the CGDA. These reports shall be on forms provided by the District and shall be submitted to the District at intervals required by the District. Production volumes shall be calculated using as accurate a method as possible to estimate pumping volume, such as recording pumping times and rates in gallons per minute. If the Board has required flow-measuring devices in accordance with the paragraph below, the owner shall submit the actual production indicated by the measuring device.
- (5) The Board may set a maximum annual total production volume for the CGDA. In order to reduce or eliminate aquifer mining, the total annual production from all wells, both exempt and nonexempt, must not exceed the maximum annual total production volume set by the Board.
- (6) The Board may set or allocate production limits on all permitted wells within the CGDA in order to help bring the total pumping volume within acceptable production limits to reduce or eliminate aquifer mining. The Board shall determine and allocate the volume of water that may be produced within the CGDA, taking into consideration historical usage, generally accepted industry standards, types of use, special or unusual water supply needs, human or animal health, safety, or welfare needs, applicable MAG estimates, local groundwater quality, local geology and hydrology, alternative water sources, or any other criteria authorized by law. Exceeding the Board-authorized production limit of a permitted well located within a CGDA shall be a violation and may subject the well owner to enforcement action under District Rules.
- (7) In considering permit applications for a new proposed well, the Board shall consider the conditions within the CGDA, how a proposed well may affect the CGDA including Unreasonable Impacts, whether additional groundwater production allows achievement of an applicable Desired Future Condition, and, if so, how much production should be allocated to the proposed well and to previously installed wells. Based on these

considerations and those identified in Rule 5.4(C)(6), the Board may approve, deny, or modify Operating Permits within the CGDA.

- (8) The Board shall notify the owners of exempt wells located within the CGDA about the CGDA and request their cooperation in conserving groundwater, using groundwater more efficiently, and avoiding waste of groundwater.
- (9) The Board shall review the status of the CGDA at least every two years, and it shall evaluate all pertinent data concerning the CGDA and amend District Rules as necessary to accomplish the purposes of the CGDA. Changes or other Board action may include, but are not limited to, production limit increases or decreases for all or part of the CGDA, production limit increases or decreases for specific permitted wells, removal of specified land areas from the CGDA, addition of specified land areas to the CGDA, and identification of any permitted wells exceeding their annual production allocation. Any changes shall require the Board to go through the notice and hearing procedure required by these Rules. Any changes shall be communicated to the owners of all permitted wells within the CGDA by written notice and all landowners by notice published in one or more local newspapers.
- (10) An owner of a permitted well within a CGDA may request a temporary increase or decrease in the annual water allocation through petition to the Board for a permit modification on a case-by-case basis, in accordance with Rule 3.2(C). Should the Board determine that such a modification is justified and is consistent with: the purposes of the CGDA or the District Rules; the District Management Plan and the current MAG quantities; prudent aquifer management practices; and does not exceed the maximum annual total production for the CGDA, the Board may grant a temporary variance for an individual well.

Rule 6 Procedural Rules

- 6.1 Actions on Fee Schedule
- 6.2 Hearings on Rules, Other Than Emergency Rules; on Groundwater Management Plan, and on Designation of Critical Groundwater Depletion Area
- 6.3 Adoption of Emergency Rules
- 6.4 Hearings on Desired Future Condition(s)
- 6.5 Permitting Actions by the District
- 6.6 Permitting Actions Requiring a Contested Case Hearing
- 6.7 Hearings on Enforcement Actions

6.1 Actions on Fee Schedule

A. Once the District has developed a proposal involving its fee schedule, including any amendments to the fee schedule, the District shall schedule at least one public hearing on the proposal. The public hearing may be conducted during a regular or special called meeting of the Board of Directors, and the Board may take action during the same meeting if such action is posted on the agenda for that meeting.

B. In addition to the notice required by the Texas Open Meetings Act, not later than 10 days before the date of the hearing, notice of the public hearing shall be given and:

- (1) posted in a place readily accessible to the public at the District office;
- (2) provided to the county clerk of Travis County for posting at the County Courthouse; and
- (4) provided by mail, facsimile, or electronic mail to any person who has requested notice under Rule 6.1.E.

Failure to provide individual notice does not invalidate an action taken by the District at the hearing.

- C.** Notice of the hearing shall include:
- (1) The time, date, and location of the hearing.
 - (2) A brief explanation of the subject of the hearing.
 - (3) A public hearing for the purpose of considering the District's fee schedule or amending the schedule must be scheduled such that the Board acts by resolution before the effective date of the fee schedule.
- D.** Copies of the proposal shall be available during normal business hours at the District Office or shall be posted on the District's Internet site.
- E.** A person may submit to the District a written request for individual notice of a hearing. A request is effective for the remainder of the calendar year in which the request is received by the District and a new request must be filed each calendar year.
- F.** Anyone interested in the proposal may submit written comments about the proposal to the District no later than the day before the scheduled hearing at which the proposal will be considered by the Board.
- G.** Anyone interested in the proposal may attend the hearing and make oral comments, for no longer than 3 minutes except at the discretion of the hearing's presiding officer, at the time designated for comments.
- H.** The District shall make and keep in its files an audio recording of the hearing.
- I.** The Board shall issue a written order or resolution reflecting its decision. The proposal that the Board has approved shall be an attachment to that written order or resolution.
- J.** The effective date of the written order or resolution shall be the date on which the President of the District signs the order or resolution. The order or resolution shall include a statement that the proposal becomes effective and final on that date. Any appeal authorized by law shall run from the date on which all administrative appeals to the district are final.
- K.** The Board may, at its discretion, also hold public hearings using the procedures of this Rule 6.1 on other subjects and for other purposes, provided they are not specified in other parts of this Rule 6.

6.2 Hearings on Rules, Other Than Emergency Rules; on District Groundwater Management Plan; and on Designation of a Critical Groundwater Depletion Area

A. Once the District has developed a proposal involving its Rules or any amendments to its Rules; its Groundwater Management Plan or amendments to the Plan; or a designation of a Critical Groundwater Depletion Area, the District shall schedule one or more public hearings on the proposal. The public hearing may be conducted during a regular or special called meeting of the Board of Directors, and the Board may take action during the same meeting or in some subsequent meeting, if posted for such action.

B. In addition to the notice required by the Open Meetings Act, not later than 20 days before the date of the hearing, notice shall be:

- (1) posted in a place readily accessible to the public at the District office;
- (2) provided to the county clerk of Travis County for posting at the County Courthouse;
- (3) published in one or more newspapers of general circulation in Travis County; and
- (4) provided by mail, facsimile, or electronic mail to any person who has requested notice under Rule 6.2.E. Failure to provide individual notice does not invalidate an action taken by the District at the hearing.

C. Notice of the hearing shall include:

- (1) The time, date, and location of the hearing.
- (2) A brief explanation of the subject of the hearing.
- (3) If the hearing is for the purpose of considering amendments to the District rules, the location or Internet site where the proposed rules may be reviewed or copied and the deadline for submitting written comments.

D. Copies of the proposal shall be available during normal business hours at the District Office or shall be posted on the District's Internet site.

- E.** A person may submit to the District a written request for individual notice of a hearing. A request is effective for the remainder of the calendar year in which the request is received by the District and a new request must be filed each calendar year.
- F.** Anyone interested in the proposal may submit written comments about the proposal to the District at least 5 days prior to the scheduled hearing at which the proposal will be considered by the Board.
- G.** Anyone interested in the proposal may attend the hearing and make oral comments, for no longer than 3 minutes except at the discretion of the hearing’s presiding officer, at the time designated for comments.
- H.** The District shall make and keep in its files an audio recording of the hearing.
- I.** The Board shall issue a written order or resolution reflecting its decision. The proposal that the Board has approved shall be an attachment to that written order or resolution.
- J.** The effective date of the written order or resolution shall be the date on which the President of the District signs the order or resolution, unless the approved resolution specifies some later date. The order or resolution shall include a statement that the proposal becomes effective and final on that date. Any appeal authorized by law shall run from the date on which all administrative appeals to the district are final.

6.3 Adoption of Emergency Rules

- A.** The District may adopt an emergency rule without following the notice and hearing provisions of Rule 6.2, if the Board:

 - (1) Finds that a substantial likelihood of imminent peril to the public health, safety, or welfare, or a requirement of state or federal law, requires adoption of a rule on less than 20 days’ notice; and
 - (2) Prepares a written statement of the reasons for its finding.
- B.** An emergency rule must be adopted at a meeting of the Board subject to the requirements of the Open Meetings Act.

C. An emergency rule shall be effective for 90 days. If notice of a hearing to amend the rules is given before the emergency rule expires, the emergency rule is effective for an additional 90 days.

6.4 Hearings on Desired Future Condition(s)

A. At least 10 calendar days before a public hearing or a Board meeting required for the adoption of the Desired Future Condition(s) under Section 36.108(d-2) or (d-4) of the Texas Water Code, the District shall post notice that includes the following:

- a) the proposed Desired Future Condition(s) and a list of any other agenda items;
- b) the date, time, and location of the meeting or hearing;
- c) the name, telephone number, and address of the person to whom questions or requests for additional information may be submitted;
- d) the name of the other groundwater districts in the Groundwater Management Area;
- and
- e) information on how the public may submit comments.

B. Notice required under this rule shall be posted and published in the same manner as that for rulemaking hearings in Rule 6.2.

C. An affected person may file a petition with the District requiring that the District contract with the State Office of Administrative Hearings to conduct a hearing appealing the reasonableness of the DFC. The petition must be filed not later than the 120th day after the date on which the District adopts a DFC under Water Code Section 36.108(d-4). The petition must provide evidence that the District did not establish a reasonable DFC of the groundwater resources in the groundwater management area.

6.5 Permitting Actions by the District

A. Within 60 days of the date on which the District determines that an application for an Operating Permit is administratively complete, the General Manager shall call and the District shall hold a public hearing to consider the application and the proposed action on that application. A public hearing is not required for District action on Well Drilling Authorizations or General Permits by Rule.

B. Notice required by the Texas Open Meetings Act shall be provided for the meeting and shall include the type of application under consideration, the name of the applicant, the

address or approximate location of the well, the intended use of the water, and the requested annual production amount.

C. At least 10 days prior to the scheduled public hearing, the applicant shall publish notice in a format acceptable to the District in a newspaper of general circulation in Travis County. The notice shall include the name of the applicant; the address or approximate location of the well; a brief description of what the application seeks, including the requested annual production amount, and the proposed action on the application. The General Manager will post the same information on the District's Internet site.

D. At least 10 days prior to the scheduled public hearing, the District shall mail notice of the hearing to the applicant and shall post notice of the public hearing in the same locations as specified for rulemaking hearings in Rule 6.2. If the District receives an amended application after providing this notice, the application becomes administratively incomplete and must be reprocessed by the District.

E. Copies of the application, the applicant's response to any notices of deficiency, and the proposed action on the application shall be available at the District Office prior to the meeting. These materials will be posted on the District Internet site at least 10 days prior to the hearing.

F. Anyone interested in the application may submit written comments about the application to the District prior to the scheduled meeting at which the application will be considered by the Board or may attend the meeting and submit written comments or make oral comments, for no longer than 3 minutes except at the discretion of the hearing's presiding officer, at the time designated for comments.

G. The Board, at its sole discretion, may administer an oath to the staff, the applicant, and anyone who makes oral comments on the application.

H. The Board's decision shall be made within 60 days after the date on which the final hearing on the application is concluded. The Board may:

- (1) if contested, send the application to a pre-hearing conference for standing, or;
- (2) issue the permit, or;
- (3) issue the permit with special conditions, or;
- (4) deny the application.

I. If the Board votes to issue the permit with conditions or denies the permit, the applicant may contest the Board's action by submitting a formal contested case letter to the District office within twenty (20) days after the Board's vote. The application shall go before the Board as a contested case at the next available Board hearing date to be considered under Rule 6.6.

J. If the District receives a timely written request for contested case hearing made by a person other than the applicant, the District shall schedule a preliminary hearing within 35 days after the date of the request. The District shall determine at the preliminary hearing whether a contested case hearing will be held under Rule 6.6. This determination will be based on whether the requesting person has standing and whether the request raises justiciable issues.

6.6 Permitting Actions Requiring a Contested Case Hearing

A. If the District receives a timely filed request for a contested case hearing, the application shall be set for an evidentiary hearing.

B. Notice required by the Open Meetings Act shall be provided for the hearing if conducted by a quorum of the Board.

C. The evidentiary hearing must be conducted by:

(1) a quorum of the Board or an individual to whom the Board has delegated in writing the responsibility to preside as a hearings examiner over the hearing or matters related to the hearing. The Board President or the hearings examiner shall serve as the presiding officer at the hearing. If the hearing is conducted by a quorum of the Board and the President is not present, the Directors conducting the hearing may select a Director to serve as the presiding officer.

(2) Upon request of the applicant or of the protestant, the State Office of Administrative Hearings (SOAH) shall be delegated the authority to conduct the hearing.

a. 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 these rules and Chapter 36, Water Code.

b. If the Board refers a contested case hearing to SOAH, the administrative law judge who conducts the contested case hearing shall serve as the hearing examiner and

consider applicable District rules and policies in conducting the hearing. However, the District may not supervise the administrative law judge.

- 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.
- d. If requested by the applicant or other party to a contested case, the District shall contract with the State Office of Administrative Hearings to conduct the hearing. The party must file its request not later than the fourteenth (14) 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 requesting the hearing before the SOAH shall pay all costs associated with the contract for the hearing and shall, five business days 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.

D. The presiding officer has the following authority and obligations:

- (1) May convene the hearing at the time and place specified in the notice;
- (2) May set any necessary additional hearing dates;
- (3) May designate the parties regarding a contested application;
- (4) May establish the order for presentation of evidence;
- (5) May administer oaths to all persons presenting testimony;
- (6) May examine persons presenting testimony and allow cross-examination of persons presenting testimony;
- (7) May ensure that information and testimony are introduced as conveniently and expeditiously as possible without prejudicing the rights of any party;

(8) Shall permit the receipt of and admit relevant evidence consistent with Subchapter D, Chapter 2001, Texas Government Code, and may exclude evidence that is irrelevant, immaterial, or unduly repetitious;

(9) May prescribe reasonable time limits for testimony and the presentation of evidence;

(10) May allow testimony to be submitted in writing and may require that written testimony be sworn to. On the motion of a party to the hearing, the presiding officer may exclude written testimony if the person who submits the testimony is not available for cross-examination by phone, a deposition before the hearing, or other reasonable means.

(11) May refer parties to an alternative dispute resolution (ADR) procedure on any matter at issue in the hearing, apportion costs for ADR, and appoint an impartial third party as provided by Section 2009.053 of the Government Code to facilitate that procedure; and

(12) May continue a hearing from time to time and from place to place without providing notice. If the continuance is not announced on the record at the hearing, the presiding officer shall provide notice of the continued hearing by regular mail to the parties.

E. The presiding officer shall prepare and keep a record of each hearing in the form of an audio or video recording or a court reporter transcription. On the request of a party to the contested case hearing, the hearing shall be transcribed by a court reporter. The costs of such court reporter may be assessed against the party requesting it or among the parties to the hearing. The presiding officer may exclude a party from further participation in the hearing for failure to pay in a timely manner costs assessed against that party under this Rule 8.5.E.

F. If the Board has appointed a hearings examiner to be the presiding officer at the hearing, the hearings examiner shall submit a report to the Board not later than the 30th day after the date the hearing is concluded. A copy shall be provided to the applicant and each party to the hearing. The applicant and other parties to the hearing may submit to the Board written exceptions or responses to the report within 10 days of issuance of the report. The report shall include:

(1) A summary of the subject matter of the hearing;

(2) A summary of the evidence received; and

(3) The hearing examiner's recommendations for Board action on the subject matter of the hearing.

G. The Board shall issue a written order or resolution reflecting its decision, which shall be made at the hearing or at a meeting subject to the requirements of the Open Meetings Act. A copy of the permit shall be an attachment to that written order or resolution. The Board's decision shall be made within 60 days after the final hearing on the application is concluded.

H. Request for rehearing or findings and conclusions shall be considered as follows:

(1) Not later than the 20th day after the date of the Board's decision, an applicant or a party to a contested hearing may administratively appeal a decision of the Board on an application by requesting written findings and conclusions or a rehearing before the Board.

(2) On receipt of a timely written request, the Board shall make written findings and conclusions regarding a decision of the Board on an application. The board shall provide certified copies of the findings and conclusions to the person who requested them, and to each designated party, not later than the 35th day after the date the Board receives the request. The applicant or a party to the contested case hearing may request a rehearing before the Board not later than the 20th day after the date the Board issues the findings and conclusions.

(3) A request for rehearing must be filed in the District office and must state the grounds for the request. The person requesting a rehearing must provide copies of the request to all parties to the hearing.

(4) If the Board grants a request for rehearing, the Board shall schedule the rehearing not later than the 45th day after the date the request is granted. Any action by the Board on a request for rehearing shall be made at a Board meeting subject to the Open Meetings Act.

(5) The failure of the Board to grant or deny a request for rehearing before the 91st day after the date the request is submitted is a denial of the request.

I. A decision by the Board on an application is final if:

(1) A request for rehearing is not filed on time, on the expiration of the period for filing a request for rehearing; or

(2) A request for rehearing is filed on time, on the date:

(a) the Board denies the request for rehearing; or

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

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

6.7 Hearings on Enforcement Actions

A. If the District receives a timely filed written request for hearing from a Respondent who has received a notice of violation from the District, the District shall decide at which Board meeting the enforcement action will be considered. The Board meeting at which the enforcement action is considered under this Rule shall be considered the public hearing on the matter and fulfills the requirement, if any, for a public hearing.

B. Notice required by the Texas Open Meetings Law shall be provided for the meeting.

C. Notice of the hearing on the enforcement action shall be mailed to the Respondent by certified mail, return receipt requested, at least 10 days prior to the scheduled hearing date.

D. Anyone attending the meeting on the enforcement action may make oral comments at the time designated for comments.

E. The Board, at its sole discretion, may administer an oath to the staff, the Respondent, and anyone who makes oral comments on the enforcement action.

F. The Board, at its sole discretion, may appoint a Hearings Officer or committee of the Board to conduct the hearing on the enforcement action (Hearing Body). Any hearing conducted by a Hearing Body, shall be conducted in the same manner as provided in this Rule 8.6. At the close of the hearing, the Presiding Officer shall make a written recommendation to the Board. The recommendation shall become part of the record. The Board is not required to approve the recommendation of the Hearing Body.

G. The Board shall issue a written order or resolution reflecting its decision.

H. The effective date of the written order shall be the date on which the President of the District signs the order or resolution. The order or resolution shall include a statement that the order or resolution becomes effective and final on that date. Any appeal authorized by Texas Water Code Chapter 36, Subchapter H shall run from the effective date, because it is the date on which all administrative appeals to the district are final.

Rule 7 Enforcement of District Rules

7.1 General Enforcement Policy
7.2 Civil Enforcement
7.3 Notice of Alleged Violation and Show-Cause Hearing
7.4 Civil Penalty Schedule

7.1 General Enforcement Policy

The District realizes that many Rule violations are unintentional and will make every effort to encourage voluntary compliance with District Rules. In general, the District will attempt to encourage voluntary compliance in the following manner:

- a) personal contact, if possible;
- b) sending a Notice of Violation by First Class Mail from the District; and
- c) sending a Notice of Violation by Certified Mail from the District.

If these efforts at voluntary compliance are unsuccessful, or if the violation is particularly egregious, the District may then proceed to sending a Notice of Alleged Violation by Certified Mail from the District’s Legal Counsel detailing the alleged violations, the legal ramifications, and options available for resolution, including time-limited options to achieve rapid compliance. Unresolved Rule violations may also be subject to a Show Cause Hearing under Rule 7.3 whereby the District’s Board of Directors may take action regarding the unresolved rule violations including the possible assessment of penalties pursuant to the District’s authority under Chapter 36 and as provided in the District’s Civil Penalty Schedule.

7.2 Civil Enforcement

As authorized by Texas Water Code Section 36.102, the violation of any District Rule shall be subject to a civil penalty not to exceed \$10,000.00 per day per violation, and each day of a continuing violation constitutes a separate violation. The Board may seek enforcement of such civil penalties by injunction, mandatory injunction, or other appropriate remedy through a complaint filed in a court of competent jurisdiction. In addition, the District may seek and shall encourage the court to grant recovery of its attorney’s fees, costs for expert witnesses, and any other costs incurred by the District before the court in suits brought to enforce the District’s Rules.

7.3 Notice of Alleged Violation and Show-Cause Hearing

- (a) To initiate formal enforcement action, the District shall provide written notice to a party whom the Board believes to be in violation of law, including violation of a District Rule, Order, or permit. The notice shall be issued by the District's Legal Counsel and shall include information about the alleged violation including citation to the District Rule, Order, or permit believed to be violated, and the possible maximum penalty that may be assessed for the violation(s) at issue pursuant to the District's Civil Penalty Schedule. Such written notice shall be considered a Notice of Alleged Violation.
- (b) Upon recommendation of the General Manager to the Board of Directors or upon the Board's own motion, the Board may order a Show Cause Hearing in which the party being cited for alleged violation(s) of a District Rule, Order, or permit is ordered to appear before the Board at a public meeting called for such purpose to show cause why an enforcement action, including the initiation of a suit in a court of competent jurisdiction, should not be initiated or the party's operating authority or permit should not be suspended, cancelled, or otherwise restricted.
- (c) No Show Cause Hearing under subsection (b) of this Rule may be held unless the District first serves, on each party to be made the subject of the hearing, written notice not less than 20 days prior to the date of the hearing. Such notice shall include the following:
 - 1. the time and place for the hearing;
 - 2. the basis of each asserted violation;
 - 3. the rule or order that the District believes has been violated or is being violated; and
 - 4. a request that the party cited duly appear and show cause why enforcement action should not be pursued.

Notice issued under subsection (a) of this Rule may satisfy the requirements for Notice of a Show Cause Hearing if the aforementioned elements are included.

- (d) The District may pursue immediate enforcement action against the party cited to appear in any show cause order issued by the District where the party so cited fails to appear and show cause why an enforcement action should not be pursued.
- (e) In assessing a civil penalty against a party for violations of a District Rule, Order, or permit, the Board of Directors shall consider, among other factors, the following:
 - 1. compliance history of the violator with District rules and other applicable law;

2. efforts to correct the violation and whether the violator made a good faith effort to cooperate with the District;
 3. the penalty amount necessary to ensure future compliance and deter future noncompliance;
 4. any enforcement costs related to the violation; and
 5. any other matters deemed necessary by the Board
- (f) Nothing in this rule shall limit the authority of the District to take action, including emergency actions or any other enforcement action, against a party at any time regardless of whether the District holds a hearing under this Rule.

7.4 Civil Penalty Schedule

- (a) The District may assess penalties against any person or entity including, but not limited to, well drillers, pump installers, well owners, property owners, permit holders, lessees, or any combination thereof for non-compliance with District Rules including failure to comply with conditions of a permit issued by the District.
- (b) The potential penalties for Rule violations that occur during D-3 or D-4 Drought stages, as declared in accordance with Rule 5.2.B, or within a CGDA (Rule 5.4) may be twice those shown in this schedule. The District may calculate such penalties based on the penalty amount per day/per violation/per person, and each day of a continuing violation constitutes a separate violation. If the District is required to file suit to enjoin any violation that same suit will seek civil penalties of up to \$10,000 per day per violation, and each day of a continuing violation, along with court costs, expert witness fees and attorney's fees as authorized by statute.
- (c) Minor Violations.
1. Failure to timely file a registration on a new well that qualifies for an exemption.
 2. Failure to conduct a meter reading within the required period.
 3. Failure to timely notify District regarding change of ownership.
 4. Failure to timely file a Well Report or a Plugging Report with the District.
 5. Failure to timely submit required documentation reflecting alterations or increased production.
 6. Operating a meter that is not accurately calibrated.

CIVIL PENALTY SCHEDULE FOR MINOR VIOLATIONS

- First Violation:* \$100**
- Second Violation:* \$200**
- Third Violation:* *Major Violation***

A second violation shall be any Minor Violation within 3 years of the first Minor Violation. A third violation shall be any Minor Violation following the second Minor Violation within 5 years of the first Minor Violation. Each day of a continuing violation constitutes a separate violation.

(d) Major Violations.

1. Failure to register or permit a well where mandated by rules, including drilling, equipping, completing, altering, or operating a well without a compliant and approved registration or permit.
2. Failure to timely meter a well when required.
3. Drilling a well in violation of spacing or location requirements.*
4. Failure to close or cap an open or uncovered well.
5. Failure to submit Production Fees within 60 days of the date the fees are due.**
6. Committing waste.
7. Failure to submit an accurate Groundwater Production report within the required period.
8. Intentionally or knowingly submitting inaccurate and untruthful information on District forms or to the Board.

CIVIL PENALTY SCHEDULE FOR MAJOR VIOLATIONS

- First Violation:* \$500**
- Second Violation:* \$1000**
- Third Violation:* *Civil Suit for injunction and damages***

A second violation shall be any Major Violation within 3 years of the first Major Violation of the same level. A third violation shall be any Major Violation following the second Major Violation within 5 years of the first Major Violation. Each day of a continuing violation constitutes a separate violation.

* In addition to the applicable penalty provided for in the Civil Penalty Schedule for Major Violations, persons who drill a well in violation of applicable spacing requirements may be required to plug the well.

** In addition to the applicable penalty provided for in the Civil Penalty Schedule for Major Violations, persons who do not submit all Production Fees due and owing within 60 days of the date the fees are due will be assessed a civil penalty of up to three times the total amount of outstanding Production Fees that are due and owing.

- (e) A violation of a District Rule, Order, or permit not specifically set forth herein shall be presented to the Board of Directors for a determination of whether the violation is Minor or Major, based upon the severity of the violation and the particular facts and issues involved, whereupon the procedures and the appropriate civil penalty amount set forth herein for Minor and Major Violations shall apply to the violation.



Exhibit C

Notes from the presentation on proposed amendments
to the District Fee Schedule

Proposed Amendments to Fee Schedule

Public Hearing by SWTCGCD Board of Directors

December 9, 2020

Summary of Proposed Amendments

- A few technical edits and minor language changes for improved clarity and comprehension, without changing meaning
- More significant changes are new dates corresponding to those in the Amended Rules – generally comprise time extensions for certain fee-related milestones in first year of operation
- No fee amounts are proposed to change, and there is still no cost to simply register a well
- No change to Summary Table of Fees at end of Schedule

Proposed Date Changes

- February 28, 2021 – All wells other than those used by single household residential wells must be registered (*was* 12/31/2020)
- April 1, 2021 – Non-exempt wells under temporary or regular Operating Permits must have operational meters installed and Production Fees begin to accrue on water use, with actual use reported monthly after this date (*was* 1/1/2021)
- July 10, 2021 – First quarterly payment of Production Fees due (*was* 4/10/2021) and late on fifteenth of month (*was* tenth of month due)

Questions and Comments

- By Directors
- By the Public



Exhibit D

Minutes for September 23, 2020, October 14, 2020, and
October 28, 2020 as approved



MINUTES OF SPECIAL BOARD MEETING OF THE SOUTHWESTERN TRAVIS COUNTY GROUNDWATER CONSERVATION DISTRICT

Via Video and Telephone Conference

In accordance with the order of the Office of the Governor issued March 16, 2020, the SWTCGCD Board of Directors conducted a Special Board Meeting as a remote access only meeting in order to advance the public health goal of limiting face-to-face meetings (also called “social distancing”) to slow the spread of the Coronavirus (COVID-19). The meeting was open to the public and instructions for accessing the conference call were provided in advance with the Notice of Meeting

Wednesday, September 23rd, 2020 at 10:00 AM

1. Call to order, declare meeting open to the public, take roll and declare quorum status

Director and Board President Scadden called the meeting of the Southwestern Travis County Groundwater Conservation District (SWTCGCD or District) Board of Directors to order at 10:00 AM on Wednesday September 23, 2020. Seven District Directors were present on the conference call constituting a quorum, including Directors Davis, Hennings, Dower, Van Ackeren, Scadden, Hunt and Urie. Also present were General Manager Kodi Sawin, Kirk Holland, and General Counsel Ty Embry, Chris Knox, Kevin Langford, Rusty Tarver, and Pete Golde.

At the request of Director Scadden all present introduced themselves.

2. Public comments

Director Scadden called for public comments. There were no public comments.

Agenda Item 7. Discuss and possibly act on the Groundwater Management Plan was now taken up out of order

General Manager Sawin said the Texas Water Development Board sent a letter stating that the Groundwater Management Plan is administratively complete with some minor tweaks related to DFC (Desired Future Conditions) Section 8.H. She said General Council Embrey and Mr. Holland have provided recommended language and Director Scadden asked if the Directors had any questions. General Manager Sawin said the effective date of the Groundwater Management Plan is September 15, 2020. Mr. Holland asked the Board to approve the suggested changes and re-adopt the Groundwater Management Plan. Director Hunt said that we reference the DFC and MAG (Modeled Available Groundwater) a lot in our Rules, is there a problem with that when we do not have an applicable MAG? Mr. Holland said that this is not a concern and General Counsel Embrey said it will be great when GMA 9 adopts DFCs that are applicable to the District.



On a motion by Director Hunt and a second by Director Hennings, the Board approved the proposed language changes and authorized re-submittal of the revised Groundwater management Plan to the Texas Water Development Board – 7 Ayes to 0 Nays

The revised language is attached in Exhibit A

3. Time Set at 10:10 AM – Conduct Public Hearing to receive input from the public regarding the SWTCGCD proposed District Rules

Director Scadden closed the Board Meeting and opened the scheduled Public Hearing at 10:15 AM.

Mr. Kirk Holland provided a presentation of the SWTCGCD proposed Rules using the document titled *Presentation for Public Hearing on Rules*. Mr. Holland’s presentation covered the following topics:

- Review of late changes to posted *Rules* language
- Summary of specific *Rules* as now proposed
- Important milestone dates for registration and permitting of wells
- Questions and comments by individual Directors
- Public input, questions, and comments on *Rules*

After Mr. Holland finished his presentation, Director Scadden asked if any Directors had any comments or questions regarding the proposed Rules. Director Hunt asked if there is a deadline to drill a well with a contract in hand. Mr. Holland replied that the well owner/driller has to have a contract in place before October 1st and beyond that they have to meet all of the other milestone dates that are applicable to that well. Director Hunt said that they therefore have a year to complete the well, and Mr. Holland agreed for Exempt and NDU Wells but Operating Permit Wells need to have applications for that permit complete by March 31, 2021. Director Scadden said that he would like to talk about this more under Agenda Item 4.

Director Scadden asked if any Board member had any more questions and there were none.

Director Scadden then asked if there were any questions or comments from the public.

Mr. Knox asked what the process is for getting a drilling-start extension for an “under contract” well?

Mr. Langford asked if Alluvial Wells are under the jurisdiction of the SWTCGCD or are you just concerned with the Trinity? Mr. Holland said technically we are concerned with all wells but we are tacitly assuming alluvial wells are surface water because they are hydrologically in communication with the surface water system. *[Update: While this accurately conveys what was said at the time, the information may be misleading; the District’s Rules will apply to all wells that meet the definition of water wells.]* Mr. Langford went on to say there are three types of well head completions, will Pitless Adapters be allowed? Director Hunt said that we have not yet developed



our well construction standards and in the meantime anything that is acceptable to TDLR should be OK, except where we talk in our Rules about grouting at the surface. Mr. Holland suggested referring to the SWTCGCD Well Construction Standards when they are developed and adopted in the future.

Director Scadden said these questions will be discussed in the next agenda item after the Public Hearing is closed.

Director Scadden closed the Public Hearing at about 11:07 AM and reopened the Board Meeting.

The Presentation for Public Hearing on Rules is attached as Exhibit B

4. Discuss and possibly act on matters related to the District Rules

Mr. Holland reviewed latest modifications of the Rules using the final marked-up version of the Rules document.

The final mark-up of the District Rules is attached as Exhibit C

Director Scadden asked if the Directors had any comments or questions regarding the final version of the Rules. He said that regarding the definition of "Existing Well" he felt we need a defined well completion date. Directors Dower and Hennings said they agreed. Director Van Ackeren asked for an earlier start date like June 1, 2020 instead of October 1, 2020 and he also agreed that a defined completion date was required. Director Hunt commented that October 1, 2020 is simpler. Director Davis opined that some date prior to October 1, 2020 recognizes that we are trying to help those who have been waiting to start drilling. Director Scadden proposed that existing wells be defined as those under contract by September 1, 2020 and spudded by December 31, 2020.

Director Scadden asked Mr. Knox to repeat his question from the Public Hearing. Mr. Knox said that TDLR does not require grouting from water bearing formation to surface so the length of grouting will go from ten feet to hundreds of feet. Mr. Holland commented that there is a good reason for that rule, to protect water quality we need to protect aquifers from co-mingling of water. Director Scadden said that he wants to be sure that we have our eyes wide open regarding giving up water quality safeguards. Director Hunt said that TDLR does require isolation of aquifers but not full grouting, and other means of isolation such as packers. may be used instead of pressure grouting. Mr. Langford said when BSEACD (Barton Springs Edwards Aquifer Conservation District) took over well costs went up 10 to 15 thousand dollars. All generally agreed that grouting or other method of isolation may be acceptable for wells with pending contracts completed after October 1, 2020.

Director Scadden asked if there was any further discussion, and a discussion took place regarding adjacent property owner notifications for Well Drilling Authorization applications in addition to Operating Permit applications. It was agreed that only Operating Permit applications should require adjacent property owner notification as currently written.

Mr. Holland asked if the Board is ready to adopt the Rules by October 1st. If not, he said we can have another meeting on September 30th. Director Scadden asked if any Directors need more time



and Directors Dower, Davis, Hennings, Hunt, and Van Ackeren said they were OK with adopting the Rules, and Director Urie added that he was as well.

Director Dower requested that language be added to the Board Resolution adopting the rules for the District include language that the Board directed legal counsel to ensure compliance of the rules for the District with the District's enabling legislation, Chapter 36 of the Texas Water Code, and the laws of the State of Texas.

Director Scadden read draft Resolution 2020-09-01 to adopt Rules for the District into the record.

On a motion by Director Van Ackeren and a second by Director Hunt, the board approved Resolution 2020-09-01 to adopt Rules for the District as presented and modified with the additional language related to the review by legal counsel at today's hearing – 7 Ayes to 0 Nays

The Resolution 2020-09-01 Adopting Rules for the District is attached as Exhibit D

5. Discuss and possibly act on matters related to proposed Fee Schedule for FY2021

Mr. Holland reviewed the final Markup of the FY2021 District Fee Schedule including late changes.

The proposed FY2021 Fee Schedule Final Mark-up is attached as Exhibit E

Director Scadden read draft Resolution 2020-09-02 to adopt FY2021 Fee Schedule for the District into the record.

Director Dower requested that language be added to the Board Resolution adopting the Fee Schedule for the District include language that the Board directed legal counsel to ensure compliance of the District Fee Schedule with the District's enabling legislation, Chapter 36 of the Texas Water Code, and the laws of the State of Texas

On a motion by Director Dower and a second by Director Hennings the board approved Resolution 2020-09-02 to adopt the Fee Schedule for the District as presented and modified with the additional language related to the review by legal counsel at today's meeting – 7 Ayes to 0 Nays

The Resolution 2020-09-02 Adopting the Fee Schedules for the District is attached as Exhibit F

6. Discuss and possibly act on the proposed District budget for FY2021

Director Scadden advised that the FY2021 Budget presented at today's meeting is the same as the budget presented at the September 9th Board meeting and he asked if the Directors had any questions. Director Dower asked if we have heard anything from Travis County and General Manager Sawin and Mr. Holland replied no. General Manager Sawin said that the Travis County Commissioner's Court was scheduled to take up the budget next week and there is \$150K in the draft Travis County budget.

There were no further questions.



On a motion by Director Hunt and a second by Director Hennings, the board approved Resolution 2020-09-03 to adopt the FY 2021 Budget for the District as presented at today's meeting – 7 Ayes to 0 Nays

The Resolution 2020-09-03 Adopting the FY2021 Budget for the District is attached as Exhibit G

Director Hunt left the meeting at 2:01 PM. There was still a quorum present.

7. Discuss and possibly act on the Groundwater Management Plan

This agenda item was taken up earlier out of order

8. Discuss and possibly act on Consulting agreement with Kirk Holland

Director Scadden advised that the current agreement with Mr. Holland ends on September 30th or after 80 hours of work and we still need Mr. Holland's help. He went on to say that there is \$60K left in the Inter Local Agreement (ILA) with Travis County and he suggested the current agreement should be extended for up to 60 Hours more in October. Directors Urie said that he didn't know where we would be without Kirk and Director Dower said he agreed. Director Dower asked for clarification that we are proposing to extend the current contract through October 31st and Director Scadden confirmed yes.

On a motion by Director Scadden and a second by Director Hennings, the Board approved extending the current agreement with Mr. Holland for the period of October 1, 2020 through October 31, 2020 not to exceed 60 hours of additional work – 6 Ayes to 0 Nays

9. Receive, discuss, and take action as necessary for Board Committee Reports

Finance – Director Urie reviewed the financial status of the District. Since the last report we have received payment from Travis County on Invoice #3 in the amount of \$13,963.85 and we have paid General Manager Sawin for her invoices 8, 9 and 10 which also covers Mr. Holland's subcontract with her and we also paid Lloyd Gosselink's invoice for June services and our balance in the account is \$1,861.85. Travis County has also just paid Invoice #4 for \$3,082.01 and Spectrum has drawn their monthly \$82.01. There is just under \$5,000 remaining in the account. The other invoices we have that we have not paid are \$280 for the Bond Insurance, and \$838.70 for General Liability Insurance and those two need to be paid. General Manager Sawin has another invoice for August 19th through September 1st. Director Van Ackeren reminded that the General Liability Insurance is needed for Travis County for the office space. Director Dower asked if we still have any outstanding invoices for Sawin Group or Lloyd Gosselink and Director Urie said he has one invoice for Sawin Group for \$3,000.

Director Scadden said that the way things are structured right now we will always be in arrears because we don't have any cashflow or money in the bank to pay our bills as they come in. We have to submit invoices to the County after we pay bills and then the County processes them and sends us a check. GM Sawin has made progress with the County in getting that process working better but we are still in arrears all the time and that is just not acceptable to continue. One thought is that some of the Directors could make zero interest loans to the District to get some cash in the bank. He said he asked General Counsel Embrey if that is legal. He said that he



personally would be willing to loan some money to the District for six months at zero interest and he would like to see if we can get some pledges from Board members to get a cash fund of maybe \$10,000 to help get out bills paid in a timely manner, think of it as a bridge loan. A discussion ensued regarding the terms of the ILA, accounting logistics and the fact that the loans are unsecured. Director Scadden asked that all Directors be thinking about this and we need to do something at the October Board meeting.

10. Discuss and establish possible agenda items for future Board meetings

There was no discussion of future agenda items.

11. Discuss and possibly act on setting the date, time, and location for next Board meeting

The next regular Board meeting will be October 14, 2020 at 10:00 AM

12. Adjourn

On a motion by Director Dower and a second by Director Van Ackeren, the Board voted to adjourn the meeting – 6 Ayes to 0 Nays. The meeting was adjourned at about 2:31 PM.

PASSED, APPROVED AND ADOPTED THIS 9th day of December 2020

Tim Van Ackeren, Secretary



EXHIBIT A

Groundwater Management Plan proposed language changes



EXHIBIT B
Presentation for Public Hearing on Rules



EXHIBIT C
Final mark-up of the District Rules



EXHIBIT D

Resolution 2020-09-01 Adopting Rules for the District



EXHIBIT E

Proposed FY2021 Fee Schedule Final Mark-up



EXHIBIT F

Resolution 2020-09-02 Adopting the Fee Schedules for the District



EXHIBIT G

Resolution 2020-09-03 Adopting the FY2021 Budget for the District



BOARD MEETING MINUTES

OF THE

SOUTHWESTERN TRAVIS COUNTY GROUNDWATER CONSERVATION DISTRICT

Via Telephone Conference

In accordance with the order of the Office of the Governor issued March 16, 2020, the SWTCGCD Board of Directors conducted the June Board Meeting as a remote access only meeting in order to advance the public health goal of limiting face-to-face meetings (also called “social distancing”) to slow the spread of the Coronavirus (COVID-19). The meeting was open to the public and instructions for accessing the conference call were provided with the Notice of Meeting

Wednesday, October 14, 2020 at 10:00 am

1. Call to order, declare meeting open to the public, take roll and declare quorum status

Director and Board President Scadden called the meeting of the Southwestern Travis County Groundwater Conservation District (SWTCGCD or District) Board of Directors to order at 10:00 AM on Wednesday October 14, 2020. Six District Directors were present on the conference call constituting a quorum, including Directors Urie, Hennings, Dower, Scadden, Davis and Van Ackeren. Director Hunt was absent. Also present were Kodi Sawin, Kirk Holland, Legal Counsel Embry, visitors David Donohue (Lakeway resident), Cameron Holland (Consultant), C.J. Bennett and Eddie Ficker both Groundwater Consultants with Bullock Bennett Associates, and Pete Golde.

At the request of Director Scadden all present introduced themselves.

2. Public comments

Director Scadden called for public comments and there were no public comments.

3. Discuss, consider, and possibly act on approving the previous meeting minutes

August 26, 2020 Minutes
September 9, 2020 Minutes
September 22, 2020 Minutes

Director Scadden asked if there were any comments or questions on the three sets of minutes presented for approval and there were none.

On a motion by Director Hennings and a second by Director Dower, the Board approved the minutes for August 26, 2020, September 9, 2020, and September 22, 2020 – 6 Ayes to 0 Nays

All three sets of minutes are attached as Exhibit A



4. General Manager's Report

General Manager Sawin presented the General Manager's report covering the following topics:

- Stakeholder communication and public inquiries
- Application and registration inquiries
- Drought stage status and outlook
- Possible Bylaws amendments
- Regulatory Items and Updates
 - TWDB
 - TCEQ
 - GMA 9
 - Others
- Items of Interest

5. Receive, discuss, and take action as necessary for Board Committee Reports.

- a. Finance – Director Urie presented the Financial report stating that the current bank balance is \$1,862.05 and he reviewed the deposits and checks for the month of September. He said that he expects a check for \$18,600 from Travis County this week for payment of Invoice #5.

Director Van Ackeren explained the Texas Municipal League (TML) bill for Director's Bonds and liability insurance. He asked if the board had to approve every bill for payment? Mr. Holland said that some GCDs set an amount above which Board approval is required. Director Dower said that we now have a budget and he suggested if an bill is for an item that is in the budget and is under \$1,000 it could be paid and over \$1,000 it needs to come to the Board for approval. Director Urie said he would pay the TML bill.

Director Dower asked what the turn-around time has been on Travis County paying the SWTCGCD invoices? Director Urie said it was better with Invoice #5 which was submitted on September 3rd and payment will be received this week. General Manager Sawin said the process is much more straight forward now and should be OK going forward. Director Scadden added that there is one more invoice under the present ILA and we need to negotiate the payment process on the new ILA to drop the September 30th cutoff.

A copy of the September Financial Report (Reconciliation Detail) is attached as Exhibit B

- b. Legislative – Director Davis said that there was not a lot going on at the Legislature. There are some water recycling things going on and some audits on select GCDs.
- c. Science-Outreach – Director Hennings said there was not much to report from BSEACD on Phase 2 work.



Director Dower discussed the website and advised that email accounts are due for renewal. The cost for those that are about to expire now is \$658 and the total to renew all accounts is \$900. Director Urie said that we wouldn't be left with much after paying the TML bill. Director Dower asked if we need the email archiving service. General Counsel Embrey advised that it depends on whatever the Records Retention Policy says. Director Scadden suggested that we should renew all of the accounts so we can invoice to Travis County in October. Director Dower said he would do that as soon as possible based on Board consensus. Mr. Holland said that it is not unlikely that we will get some registration fees in soon. General Manager Sawin said she agreed although we can guarantee when or how much. Director Scadden asked that this discussion be held until Agenda Item 7.

6. Discuss and possibly act on matters related to implementing District Rules

General Manager Sawin presented a document titled "Some Aspects of Rule Implementation for Board Consideration". Mr. Holland opined that the topics of the document are an invitation to the Board to share their thoughts.

The document *Some Aspects of Rule Implementation for Board Consideration* is attached as Exhibit C

Regarding Internal Processes Director Dower suggested that we probably need a bookkeeping consultant rather than an employee. Director Scadden agreed saying that he also wants to hire a consultant versus an employee. Director Dower said it was his understanding that we need an audit for 2020, and General Counsel Embrey said yes, it is required annually. Director Dower then asked if we need an audit for last year as well and General Counsel Embrey replied, yes. Mr. Holland recommended that the audits be done based on fiscal years within 90 days of the end of the fiscal year. General Counsel Embrey said that Chapter 36 says "annual", but he would also advise using fiscal years.

Regarding outreach to those who will have operating permits, Director Scadden commented that it makes sense to start with the largest permittees. Directors Hennings and Dower said they agreed and Director Dower asked if any of them had submitted applications yet, to which General Manager Sawin replied, no. Director Davis said that she agreed as well. General Manager Sawin suggested that Directors might want to be involved in outreach to people and "use types" they know. Director Davis said she has already started some discussions. Director Dower then expressed the opinion that Directors should not get involved in the permitting process, to which Director Davis suggested that they can help communicate. General Counsel Embrey said that spreading the work is OK, but permittees should be referred to the General Manager for questions and the permitting process. Director Scadden agreed the point of contact needs to be the General Manager especially if interpretation of Rules is needed. General Manager Sawin said Pete Golde will help with development of online registration forms, starting with the Well Registration Form and then possibly others later. A letter explaining the permitting process should be sent to the operating permittees possibly in mid-November and later PR for Exempt Well owners. Mr. Holland said that there will probably always be a need for PDF based hard copy forms but for other GCDs the web-based form was a life saver.



Regarding comments on specific application forms, General Manager Sawin asked about Directors' comments on the forms. Mr. Holland said he would correct any misinformation on forms. Director Scadden asked if all of the fees stated on various forms had been cross checked against the final Fee Schedule and GM Sawin said she was in the process of doing that. Director Scadden also commented that he liked that the Well Registration Application form says at the top of the form that the fee is \$0 and he suggested that the Application for Change in Well Ownership should do the same. Other than that, he said that GM Sawin had addressed his other questions. GM Sawin commented that there will be a need to create databases for those application forms that will not be online.

Regarding the topic of Specific Board Direction or Concurrence, GM Sawin said the Staff needs feedback on the definition of Existing Wells and lots platted with wells prior to September 1, 2020. Mr. Holland explained that there are subdivisions with wells who plat multiple lots with wells located on the plat and they have a master drilling contract with a driller for the entire subdivision so there isn't a specific contract for each well. The question has been asked if those lots/wells will be considered existing wells if designed and platted prior to September 1, 2020 and drilling starts by December 31, 2020? Director Scadden asked for a recommendation from GM Sawin and Mr. Holland, and both indicated that they leaned toward considering these wells as existing as long as the thought process is documented, and General Counsel Embrey agreed. Director Scadden then asked the Directors for comments. Director Van Ackeren said he thought that made a lot of sense and Director Hennings agreed. Director Dower agreed and said that anything we can do to streamline the process would be good. Directors Urie and Davis also said they agreed. Director Scadden said he supports the recommendation as long as drilling is started by the end of the year.

GM Sawin introduced the next listed topic, Clarification of Actions Requiring 24 Hour Notice. Mr. Holland said there have been several comments from drillers who say they are required to give 24 hours' notice before they do anything. The only notice requirements actually in the Rules is 24 hours' notice prior to drilling a well with a capacity of 10,000 Gallons per Day (GPD) or more in the District or prior to installing a pump with a capacity of 10,000 GPD or more in the District. The other part of this discussion is what constitutes 24 Hours' notice? Drillers would prefer prior day notice language but that is not what our Rules say. Director Scadden added that is not what was intended either. Mr. Holland said he is good with sticking to the 24-hour language and this is not uncommon with most other GCDs. Director Dower suggested one business day rather than 24 hours but Director Scadden thought that would be more confusing and Director Van Ackeren commented that you also have weekends and they often drill on weekends so 24 hours is a reasonable standard. Director Hennings said she liked the 24-hour option and Director Scadden added 24 hours is 24 hours.

GM Sawin asked if the Directors and any further comments or questions and there were none.

Director Scadden thanked GM Sawin and Mr. Holland for their work on this.



7. Discuss and possibly act on matters related to the funding from Travis County

Director Scadden said he spoke to a person at Travis County Accounts Payable and she said the Travis County Commissioners have Invoice #5 and it should be paid by tomorrow. The bulk of Invoice #5 which is pending will pay GM Sawin and Mr. Holland as well as two pending invoices from Lloyd Gosselink.

8. Discuss, and possibly act on amending the Sawin Group contract and General Manager activities going forward

Director Scadden advises that GM Sawin has provided a draft amended agreement to address the issues with the current agreement. GM Sawin explained that Travis County will no longer pay anything up-front but rather will only pay for work completed and invoiced. The original agreement does not work with the current Travis County Inter Local Agreement (ILA) nor will it work with the new ILA, we can't make it work. She went on to say that she does not think the District is in a position to afford a full time GM at her executive level and she cannot afford to do this much pro-bono work or delayed payments. She said she has recommended an amended agreement that solves her issues and the District's with an eye toward a different role for her or her transition out in the coming months. Because of the ILA, we need to move to hourly compensation on a month-to-month contract with her role being as a consultant GM so the Board can identify the most cost effective ways to manage the District until cash reserves can be built up over the next 12 months. The start date of the proposed amended agreement is the end of the current ILA, November 3, 2020.

GM Sawin went on to say that she sees a couple of different paths for the District, one being to bring a junior person on and, if in six or twelve months, you find that they are really GM material, you move them into the GM spot. There are several candidates for this path. Second, you have neighboring groundwater districts who have already built out their organizations and can manage the District for you, maintaining your autonomy, you own Board, your own Rules, your own attorney, but use their system and processes to do the day-to-day operations and management. Some may consider this a less desirable path, but the District should nevertheless consider it.

Director Scadden asked GM Sawin for her insight on fee income. GM Sawin said she expected potential cash flow will trickle in and whereas most GCDs are supported by one or two large producers that typically grow, you are not in the same situation and what exists now is not going to grow much. In the next few months, you can expect to collect around \$10,000 which would support a junior person.

Director Scadden asked if any Directors had questions or comments. Director Urie said that he always thought revenue would be low and we could contract with other GCDs. Director Hennings said we need to find out if other GCDs have the necessary resources and that will take time and it would need to be a fee based GCD. Director Dower agreed that lead time is an issue with contracting with another GCD and he asked what GM Sawin's time frame was? GM Sawin said she would stay as long as possible but at least two to three months and she reiterated her opinion that the District is not an employee setting in its current financial state. Director Dower asked how do we proceed, form a sub-committee? Director Scadden asked other Directors for their thoughts.



Director Van Ackeren said he agrees that the District cannot have employees at the present time with Travis County's ILA and he asked if anyone had visited with other GCDs about providing subcontracted services? Director Scadden said he didn't think so and Director Van Ackeren asked if any other districts are doing that? GM Sawin said she has seen it at the GMA level and General Counsel Embrey said that probably three to five GCDs that he works with are doing it. Mr. Holland added there are general managers who contract with multiple GCDs. Director Van Ackeren commented that it is not a given that we could afford what contracting with another GCD might cost. Director Davis said we have an office and we have a computer so we could have a data entry person and contract with other GCDs for field support. Director Urie commented that such a person would have to be paid at the end of every pay period and the cash flow is just not there. Director Dower said we have a complete set of rules that went into effect October 1st and people have questions. We need someone to answer the phone five days a week and work with them. Director Scadden reiterated we need to try to negotiate a new contract with GM Sawin, not at \$200 per hour but maybe \$100 per hour and limiting the hours to control liability to the District. We have a contract on the agenda with Mr. Holland for him and a junior level person, either Mr. Holland's son Cameron, or Lane Cockerel who is a hydrogeologist who worked with Brian Hunt on the T.C. Hydrogeological Study. We need to form a sub-committee as Director Dower suggested to talk to some of the other GCDs to see if it's a viable option to subcontract for operations support and he would be willing to work on that. Director Van Ackeren said he would also volunteer. Director Dower asked what would he charge be for that sub-committee? Director Scadden said he would like it to be broader. Director Dower responded the sooner the better, we really need an office person. Director Scadden asked the Directors if they were OK with him and Directors Dower and Van Ackeren being on the sub-committee to look at options for GCD operations going forward. Director Hennings said it was fine with her, Director Urie said the same and director Davis said that sounds good.

On a motion by Director Hennings and a second by Director Urie, the Board approved forming a sub-committee consisting of Directors Scadden, Dower, and Van Ackeren to look at options for GCD operations in the future – 6 Ayes to 0 Nays

GM Sawin said that she was OK with \$100 per hour but she is uncomfortable with the hours cap, she needs to be paid for hours worked. Director Dower asked if the new sub-committee could look into this and come back to the Board with a recommendation and he asked what do we think what that hours cap should be? GM Sawin said it depends on getting a junior person on board. Director Scadden asked for a definition of the proposed division of responsibilities between GM Sawin and Mr. Holland. GM Sawin said she will handle anything outside of Rules development including permitting. Mr. Holland said that up to now his responsibility was Rules Development but going forward it would be Regulatory Compliance.

Director Urie left the conference call at 12:41.

On a motion by Director Scadden and a second by Director Van Ackeren, the Board approved amending the contract with Sawin Group to include up to 60 hours of work per month at a compensation rate of \$100 per hour – 5 Ayes to 0 Nays



9. Discuss and possibly act on matters related to District cash flow difficulty including but not limited to loans

Director Scadden referred to last month's meeting when he brought up the possibility of some Directors making zero interest loans to the District. A question that has come up since is whether that is legal or not. Before even floating the idea, he said he asked General Counsel Embrey about that. General Counsel Embrey said that yes you can do that, the Chapter 36 language is pretty broad, but yes, it is legal. Director Scadden said making loans to the District is not something he wants to do but is willing to do as an individual to help the District over the cash flow hump. It would need to be a zero percent loan, so the Directors are not making any money from the District. He added that he understands that some Directors are not comfortable with something like this, but he has gotten feedback that some Directors are interested in doing this.

Director Van Ackeren said that he is willing to provide a non-interest bearing loan to the District and Director Dower said that he too was willing to make such a loan but he wished we could find another solution over the next few weeks. Director Scadden said that he and Directors Dower and Van Ackeren would work with General Counsel Embrey to get this set up.

10. Discuss and possibly act on Consulting contract with Holland Groundwater Management Consultants

Director Scadden asked Mr. Holland to present his proposal for a contract between the District and Holland Groundwater Management Consulting LLC. Mr. Holland reviewed that his contract with Swain Group expires at the end of October and he is proposing a new contract directly with the District starting November 1, 2020 and running through the end of FY 2021. He proposes providing support in a variety of areas with higher level professional consulting services plus lower level administrative support for the first phase running from November through the end of March 2021. His son Cameron has some availability through the end of March if the District is interested. Mr. Holland would bill his time at \$100 per hour and Cameron would be billed at \$22 per hour, not to exceed a total of \$6,000 per month, or \$29,000 for Phase 1 which can be cancelled at any time. Phase 2 would be for the remainder of FY 2021 with the scope and billing rates to be defined.

Director Scadden asked General Counsel Embrey about sole source contracting. General Counsel Embrey responded that the proposed contract looks good and meets all legal requirements for GCDs. Director Scadden then asked if the Directors had any questions or comments. Director Dower suggested that maybe this should be referred to the sub-committee to make a recommendation. Director Van Ackeren suggested that we consider that the proposed contract can be cancelled at any time and the contract with the Sawin Group expires at the end of the month. Director Hennings said she agreed with Director Van Ackeren. Director Davis said she would prefer to sleep on what we are doing if we are having another Board meeting before the end of the month. Director Scadden asked if October 28th was good for everyone to have another Board meeting and all were OK with that. Director Scadden then asked Mr. Holland if his son Cameron is the only person he would be willing to provide as the junior level person, or is there a possibility for Lane Cockerel to be that person? Mr. Holland said that he would need to think about that, but he was not rejecting it. Director Scadden added that Lane is a potential long-term employee in the



future and the sub-committee needs to look at this and include it with their recommendation on the 28th.

11. Discuss, consider, and possibly act matters relating to hiring a bookkeeping company

Director Scadden suggested that the Board needed to form another sub-committee to find a contract bookkeeper. Director Dower suggested, since we already have a sub-committee can't they do this? Director Scadden said that he did not want to commit to additional scope. Director Van Ackeren said he would volunteer for this new sub-committee and Director Davis said she would as well. Director Scadden said the Director Urie and he had already discussed this, and Director Urie is also willing to serve on this sub-committee.

On a motion by Director Scadden and a second by Director Dower, the Board approved forming a sub-committee consisting of Directors Van Ackeren, Davis, and Urie to solicit input and select a bookkeeping company and auditor – 5 Ayes to 0 Nays

12. Discuss and possibly act on TAGD membership for FY2021

Director Scadden advised that the dues for 2021 membership in TAGD are \$1,080 due November 1st. General Manager Sawin recommended membership especially this year with the legislative session. She said we will include this expense in Invoice #6 to Travis County and ask TAGD to let us pay a little bit late.

13. Discuss and possibly act on agenda items for future Board meetings

- Annual election of Board officers
- Bylaws

14. Discuss and possibly act on setting the date, time, and location for next Board meeting

Special Board meeting on October 28, 2020 at 10:00 AM
Regular Board meeting on November 11, 2020 at 10:00 AM

15. Adjourn

On a motion by Director Davis and a second by Director Dower, the Board voted to adjourn the meeting – 5 Ayes to 0 Nays. The meeting was adjourned at 1:30 PM.

PASSED, APPROVED AND ADOPTED THIS 9th day of December 2020

Tim Van Ackeren, Secretary



Exhibit A

August 26, 2020 Minutes
September 9, 2020 Minutes
September 22, 2020 Minutes



Exhibit B

September Financial Report



Exhibit C

Some Aspects of Rule Implementation for Board Consideration



SPECIAL BOARD MEETING MINUTES

OF THE

SOUTHWESTERN TRAVIS COUNTY GROUNDWATER CONSERVATION DISTRICT

Via Telephone Conference

In accordance with the order of the Office of the Governor issued March 16, 2020, the SWTCGCD Board of Directors conducted a Special Board Meeting as a remote access only meeting in order to advance the public health goal of limiting face-to-face meetings (also called “social distancing”) to slow the spread of the Coronavirus (COVID-19). The meeting was open to the public and instructions for accessing the conference call were provided in advance with the Notice of Meeting

Wednesday, October 28, 2020 at 10:00 am

1. Call to order, declare meeting open to the public, take roll and declare quorum status

Director and Board President Scadden called the meeting of the Southwestern Travis County Groundwater Conservation District (SWTCGCD or District) Board of Directors to order at 10:00 AM on Wednesday October 28, 2020. Six District Directors were present on the conference call constituting a quorum, including Directors Scadden, Urie, Davis, Dower, Hunt and Van Ackeren. Director Hennings joined the conference call later. Also present were General Manager Kodi Sawin, General Counsel Ty Embrey, Kirk Holland, C. J. Bennett, Lane Cockrell, Christy Muse, and Pete Golde.

At the request of Director Scadden all present introduced themselves.

2. Public comments

Director Scadden called for public comments. There were no public comments.

3. Discuss and possibly act on matters related to the Funding from Travis County

Director Scadden advised that the current Travis County Inter Local Agreement (ILA) is being revised to incorporate the additional FY2021 funding of \$100,000 for SWTCGCD operations plus \$50,000 for scientific studies. The County staff are working on a draft which will have to go to the Travis County Commissioners’ Court for approval. We will review and comment on the draft before it goes to the Commissioners’ Court. We will submit one more invoice under the current ILA which expires on November 3rd.

4. Discuss and possibly act on amending the Sawin Group contract and General Manager activities going forward

Director Scadden said he and General Manager Sawin have marked up the current contract with Sawin Group to provide General Manager services using the parameters approved by the Board



at the last meeting. Payment will now be on an hourly basis at \$100 per hour starting November 1st. General Manager Sawin commented that the changes are pretty simple, but they will help with Travis County invoicing and payment issues by simplifying the whole process. Director Scadden asked if there were any questions or comments and there were none.

5. Discuss and possibly act on Consulting contract with Holland Groundwater Management Consultants

Director Scadden said the Board has been provided with a draft agreement with Holland Groundwater Management Consultants, explaining that we need a new contract since the old one expires on October 31st. He asked if there were any questions or comments from the Board or the public. Mr. Holland clarified that the previous contract was a sub-contract with Sawin Group and this proposed new contract is directly with the District. There were no further questions or comments.

On a motion by Director Hunt and a second by Director Dower, the Board approved the proposed consulting agreement with Holland Groundwater Consultants LLC – 6 Ayes to 0 Nays

6. Discuss and possibly act on District Staffing

Director Scadden reiterated that the Board had established a sub-committee consisting of himself, and Directors Dower and Van Ackeren tasked with looking forward at what we might do as far as staffing and the approach for operations as we implement our Rules. The sub-committee recommended that we bring Lane Cockrell on board to provide staffing. He explained that Lane is a hydrogeologist who has worked at BSEACD where he worked on the Travis County Hydrogeological Study with Director Hunt.

Director Hennings joined the conference call at 10:15 AM

Director Dower commented that the sub-committee considered the question of utilizing contractors versus employees and concluded the District is not ready to hire employees yet. They are proposing a 3-month contract for Lane but hope to transition to employee after that, but if not, we can extend the three month contract. Director Van Ackeren said that Lane seems very qualified and a good opportunity for the District to bring someone on board at this time. Director Hunt said he worked with Lane and he was pretty lucky to have him. He added that he doesn't think we could bring someone on board who is more qualified. Director Hennings said that Lane is an outstanding option for the District. He is an outstanding young hydrogeologist who knows this area better than anyone except Director Hunt.

On a motion by Director Hunt and a second by Director Dower, the Board authorized Director Scadden and General Manager Sawin to complete negotiations with Lane Cockrell to get him on board as a contractor – 7 Ayes to 0 Nays

7. Discuss and possibly act on revising the FY2021 District Budget

Director Scadden said that he put the budget item on the agenda in case the District needed to revise the budget if the Board decided to bring on employees rather than contractors, but in light of the decision to bring Lane on board as a contractor, there is no need to amend it now. Director



Scadden said he had nothing further on this item and he asked if anyone else had any comments. Director Dower reiterated his earlier comment that we are not quite ready to bring on employees with all that entails with the IRS, etc. but we hope to be able to transition to employees later this year.

8. Discuss and possibly act on matters related to implementing District Rules and developing well construction guidelines

Director Scadden asked General Manager Sawin, Mr. Holland, and General Counsel Embrey to lead the discussion on implementing District Rules and developing well construction guidelines. General Manager Sawin said she and Mr. Holland were going to review three items; 1. Status update on driller activities, 2. Review of Guideline documentation preparation, and 3. Possible Rule changes in the future.

General Manager Sawin reviewed driller activities sharing the following items:

- Bee Cave Drilling has applied for a replacement well, but it needs some additional work to be completed. They also submitted recommendations for Well Construction Standards which she forwarded to Director Hunt, Mr. Holland, and General Counsel Embrey.
- General Manager Sawin, Mr. Holland, and Directors Scadden and Hunt had a conference call with Central Texas Drilling regarding questions they had which were similar to Bee Cave Drilling.
- Texas Water has one Exempt Well with a contract signed before September 1, 2020 and they have other NDU wells that are in a holding pattern right now but also have contracts signed prior to September 1st.
- Apex Drilling has seven new NDU wells (one or two of those might end up being Exempt) with one contract in process of being completed, and they have six others to follow.
- The Well Drillers Workshop is scheduled for November 17th at 2:00 PM and has gotten a lot of interest.
- An email was sent to retail water service companies to give them a heads up on deadlines and there was a call from the general counsel for The Coves who advised that they have not had any new customers (rooftops) since October 1st.

Mr. Holland explained that there are several regulatory vehicles that are anticipated in our District Rules. The first step was developing a set of applications that are responsive to the information that the District and the applicants will need to move forward in getting an approved permit. We have a full suite of forms, so we are in good shape. As we go forward in time, those forms will evolve to pick up more, or less, information just as the Rules will be amended.

Mr. Holland advised that one of the things called out in the Rules is a set of hydrogeologic recording and testing guidelines. A draft of these is being reviewed and edited by the Rules Committee and a clean draft will be ready for the next Board meeting. These guidelines will be required by Operating Permit applicants. Director Hunt suggested that these guidelines should be shared with Vicky Kennedy at Travis County also. Mr. Holland agreed and said that Travis County also has guidelines which are complementary and need coordination.



Mr. Holland went on to say that a Well Construction Standards manual also needs to be developed and he suggested that specialized consulting support from a contractor will probably be needed. Director Scadden asked Mr. Holland to provide requirements for such consulting and he will seek pro bono support from INTERA. General Counsel Embrey commented that well drillers have raised some issues that need clarification, and he will provide a list to General Manager Sawin who reminded everyone that Rules changes require 20 days newspaper notices.

General Manager Sawin then asked if there were any questions and Director Dower asked what other guidelines we need to develop. General Manager Sawin replied that we need to develop a Drought Contingency Plan template and Mr. Holland added that we need a Water Conservation Plan template as well. He added, NDU permits will require one hybrid plan and we need a template for that, but all others will be outlines for permit applicant's consideration. Director Hunt opined that the Well Construction Standards are a lower priority than the templates and TLDR standards are already in place. Director Scadden pointed out that we don't have 20 days until the November meeting if any of the things we are considering for the November meeting will require Rules changes. Mr. Holland responded that these guidelines will be consistent with the current Rules but separate from the Rules.

9. Discuss and possibly act on matters related to District cash flow difficulty including but not limited to loans

Director Scadden advised that the three Directors who have volunteered to make zero interest loans to the District, himself, and Directors Dower and Van Ackeren will each loan \$3,000 for a total of \$9,000. Director Dower characterized this as a last-ditch effort to get the District through until fee revenue starts to come in. Director Scadden thanked Director Dower and Van Ackeren.

On a motion by Director Hunt and a second by Director Hennings, the Board approved Resolution 2020-10-04 – 4 Ayes to 0 Nays with Directors Scadden, Dower and Van Ackeren abstaining

Resolution 2020-10-04 is attached as Exhibit A

10. Discuss and possibly act on matters related to hiring a bookkeeping company

Director Scadden reviewed one thing that came up during staffing discussions at the last meeting which was the need for a bookkeeper and we formed a sub-committee consisting of Directors Van Ackeren, Davis, and Urie to find and recommend a Bookkeeping firm. Director Davis advised that the Sub-committee has not gotten very far yet because it is a real niche market and they have only contacted one company so far. Director Van Ackeren said they are working on a list of candidate companies and that bookkeeping is the main function and it does not necessarily entail an accounting firm to do that. Director Urie said the bookkeeping right now is pretty simple and he is willing to do it for the rest of the year. Director Van Ackeren said he agreed with Director Urie and suggested that the District does need a QuickBooks software subscription as Director Urie outlined. Director Scadden said that Hays Trinity has hired an administrative/bookkeeping person and maybe we can share that person if they are not fully utilized. He went on to suggest that we suspend the search for a bookkeeper. Director Van Ackeren offered to discuss the bookkeeping issue with Charlie Flatten at Hays Trinity.



Director Scadden said we still need an auditor for FY 2020. Director Hennings suggested contacting Emily at Comal Trinity, and Director Urie said he would do that. Director Davis said she would contact Vanessa at BSEACD.

11. Discuss and establish possible agenda items for future Board meetings

- Proposed Bylaw changes
- Hydrogeological Test Guidelines
- Well Construction Guidelines
- Election of Board Officers
- Drought and Conservation Plan Templates

12. Discuss and possibly act on setting the date, time, and location for the next Board meeting

The next meeting will be the Regular Monthly Meeting on November 11, 2020 at 10:00 AM.

13. Adjourn

On a motion by Director Van Ackeren and a second by Director Hennings, the Board voted to adjourn the meeting – 7 Ayes to 0 Nays. The meeting was adjourned at 11:18 AM.

PASSED, APPROVED AND ADOPTED THIS 9th day of December 2020

Tim Van Ackeren, Secretary



EXHIBIT A

Resolution 2020-10-04



Exhibit E

Reconciliation Detail report for the period ending 11/30/20

SW Travis Cty. Groundwater Conservation Dist.
Reconciliation Detail
 Independent Bank, Period Ending 11/30/2020

Type	Date	Num	Name	Clr	Amount	Balance
Beginning Balance						6,527.66
Cleared Transactions						
Checks and Payments - 5 items						
Bill Pmt -Check	11/17/2020	100	Austin American ...	X	-475.68	-475.68
Bill Pmt -Check	11/17/2020	100	GoDaddy	X	-141.64	-617.32
Bill Pmt -Check	11/17/2020	100	Spectrum	X	-82.01	-699.33
Bill Pmt -Check	11/21/2020	144	Sawin Group	X	-9,721.00	-10,420.33
Bill Pmt -Check	11/21/2020	143	Lloyd Gosselink	X	-4,245.00	-14,665.33
Total Checks and Payments					-14,665.33	-14,665.33
Deposits and Credits - 5 items						
Deposit	11/03/2020		Jim Dower	X	3,000.00	3,000.00
Deposit	11/17/2020			X	0.00	3,000.00
Deposit	11/19/2020		Travis - County	X	15,970.74	18,970.74
Deposit	11/21/2020		Income from WD...	X	3,000.00	21,970.74
Deposit	11/30/2020			X	0.56	21,971.30
Total Deposits and Credits					21,971.30	21,971.30
Total Cleared Transactions					7,305.97	7,305.97
Cleared Balance					7,305.97	13,833.63
Register Balance as of 11/30/2020					7,305.97	13,833.63
New Transactions						
Deposits and Credits - 1 item						
Deposit	12/01/2020		Income from WD...		1,000.00	1,000.00
Total Deposits and Credits					1,000.00	1,000.00
Total New Transactions					1,000.00	1,000.00
Ending Balance					8,305.97	14,833.63



**Independent
Bank**

3090 Craig Drive
PO Box 3035
McKinney, TX 75070

0004486
6193INDP
23115C00X.005

ACCOUNT NUMBER	xxx3546
STATEMENT DATE	11/30/20
PAGE	1 of 4

*0004486 S3
SOUTHWESTERN TRAVIS CO GROUNDWATER CONS
PO BOX 340595
LAKEWAY TX 78734-0010



PUBLIC FUND NOW ACCT

Account Number	xxx3546	Statement Dates	11/02/20	thru	11/30/20
Previous Stmt Balance	6,527.66	Days in Statement Period	29		
Deposits/Credits	21,970.74	Average Collected	13,910.07		
Checks/Debits	14,665.33	Average Ledger	13,910.07		
Service Charge	0.00	Interest Earned	0.55		
Interest Paid	0.56	Annual Percentage Yield Earned	0.05 %		
Current Stmt Balance	13,833.63	2020 Interest Paid	3.19		

DEPOSITS AND OTHER CREDITS

Date	Description	Amount
11/03	REGULAR DEPOSIT	3,000.00
11/19	XXXXXXXXXX TRAVIS COUNTY 1746000195 20/11/19 ID #- 000001000025642 SW TRAVIS CO GROUNDWAT	15,970.74
11/23	REGULAR DEPOSIT	3,000.00
11/30	Interest Deposit	0.56

OTHER DEBITS

Date	Description	Amount
11/12	DNH*GODADDY.COM DBT CRD 0214 11/12/20 515109 480-5058855 AZ Card# 8345	141.64-
11/17	AUSTIN AMERICAN ADV DBT CRD 0511 11/17/20 343263 866-470-7133 TX Card# 8345	475.68-

NOTICE: SEE REVERSE SIDE FOR IMPORTANT INFORMATION

0004486

SOUTHWESTERN TRAVIS CO GROUNDWATER CONS
PO BOX 340595
LAKEWAY TX 78734-0010

ACCOUNT NUMBER	xxx3546
STATEMENT DATE	11/30/20
PAGE	3 of 4

6193INDP

OTHER DEBITS	
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Date	Description	Amount
11/20	SPECTRUM DBT CRD 2125 11/19/20 375128 855-707-7328 TX Card# 8345	82.01-

23117C00X.005

CHECKS IN NUMBER ORDER	
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Listed in numerical order					
Date	Check	Amount	Date	Check	Amount
11/27	143	4,245.00	11/25	144	9,721.00

(*) indicates gap in sequence

26FDP

DAILY BALANCE SUMMARY					
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Date	Balance	Date	Balance	Date	Balance
11/02	6,527.66	11/19	24,881.08	11/25	18,078.07
11/03	9,527.66	11/20	24,799.07	11/27	13,833.07
11/12	9,386.02	11/23	27,799.07	11/30	13,833.63
11/17	8,910.34				

0004486
6193INDP
23119C00X.005

Independent Bank CHECKING DEPOSIT CASH

ACKNOWLEDGE RECEIPT OF CASH RETURNED BY SIGNING ABOVE.

Date: 11/3/20 AMOUNT 3000.00

Name: SW Travis County GCO SUB TOTAL

Address: _____ LESS CASH RECEIVED

ACCOUNT NUMBER: 1000943546 TRAN CODE

DOCUMENT # _____ Drwvr: 33404 11/03/20

NET DEPOSIT \$ 3000.00 Trans#: 7 10:26:24

DDA Deposit

⑆5001⑆0010⑆ ⑆000943546⑆ 300000

Deposit Amount \$3,000.00 Date 11/3/2020

Independent Bank CHECKING DEPOSIT CASH

ACKNOWLEDGE RECEIPT OF CASH RETURNED BY SIGNING ABOVE.

Date: 11.23.20 AMOUNT 3000.00

Name: Southwestern Travis County SUB TOTAL

Address: _____ LESS CASH RECEIVED

ACCOUNT NUMBER: 1000943546 TRAN CODE

DOCUMENT # _____ Drwvr: 33406 11/23/20

NET DEPOSIT \$ 3000.00 Trans#: 72 12:54:58

DDA Deposit

⑆5001⑆0010⑆ ⑆000943546⑆ 300000

Deposit Amount \$3,000.00 Date 11/23/2020

SOUTHWESTERN TRAVIS CO GROUNDWATER CONS PO BOX 340595 DATE 11-21-20 0143
LAKEWAY, TX 78734

PAY TO THE ORDER OF land based link \$ 4,245.00
Forty-two thousand four hundred forty-five 00/100 DOLLARS

Independent Bank 3947-1
MEMO # 97515883 [Signature]

⑆111916326⑆ ⑆000943546⑆ 0143

Check 143 Amount \$4,245.00 Date 11/27/2020

SOUTHWESTERN TRAVIS CO GROUNDWATER CONS PO BOX 340595 DATE 11-21-20 0144
LAKEWAY, TX 78734

PAY TO THE ORDER OF Southern based \$ 9,721.00
Ninety-seven hundred twenty-one 00/100 DOLLARS

Independent Bank 1205
MEMO # 15116 [Signature]

⑆111916326⑆ ⑆000943546⑆ 0144

Check 144 Amount \$9,721.00 Date 11/25/2020



Exhibit F

Draft Travis County ILA

**INTERLOCAL COOPERATION AGREEMENT
BETWEEN TRAVIS COUNTY AND
THE SOUTHWESTERN TRAVIS COUNTY GROUNDWATER CONSERVATION DISTRICT
FOR OPERATIONAL EXPENSES**

THIS INTERLOCAL COOPERATION AGREEMENT (this "Agreement") is made and entered into by and between Travis County, Texas (the "County"), and the Southwestern Travis County Groundwater Conservation District (the "District" or "SWTCGCD"), hereinafter referred to individually as "Contracting Party" and collectively as the "Contracting Parties" for the purposes and consideration in this Agreement.

RECITALS

Groundwater is of paramount importance as a source of water supply for new and existing development in southwestern Travis County and as a natural resource vital for maintaining healthy flows in springs, creeks, rivers, and other waterways that are essential to a healthy and sustainable natural environment.

FINANCIAL AND SERVICE COMMITMENTS

1. The County will provide funding not to exceed \$185,214.73 to the District. The District will use the County funding to develop and implement regulations, programs, and other measures to effectively manage the groundwater within the jurisdiction of the Southwestern Travis County Groundwater Conservation District. The County funding may be used as follows:
 - a. Monthly reimbursement not to exceed the lesser of \$100 per hour or \$6,000 for the amount the District pays for the District's general manager.
 - b. Annual reimbursement not to exceed \$50,000 for the District to pay a groundwater consultant. Of that amount, the County will reimburse the District not to exceed \$20,000 annually on general technical support for the District and not to exceed \$30,000 annually for the District to establish a groundwater monitoring program in collaboration with the County to collect and analyze data to evaluate critical groundwater depletion areas and install groundwater monitoring equipment and other related services, including monthly progress reports to the County and a final report and database.
 - c. Annual reimbursement not to exceed \$19,000 on equipment and other operating expenses for the monitoring program.
 - d. Annual reimbursement not to exceed \$44,000 for legal services.
 - e. Any statutorily-authorized expenses of the District different in nature or amount from those above that are approved by the County Executive for Transportation and Natural Resources.

2. The District will provide the County with quarterly written progress reports on all the District's activities toward developing and implementing regulations, programs, and other measures to effectively manage the groundwater in the District.
3. The District is expressly prohibited from using any County funding for any expense for which the District has already received or will receive funding from any other source.
4. This Agreement takes effect upon signature of the last Contracting Party to sign and terminates:
 - a. September 30, 2021;
 - b. when the County's maximum contribution has been expended;
 - c. upon mutual agreement of the Contracting Parties; or
 - d. upon an uncured default as provided in Section 8.
5. Invoices.
 - a. Each month, the District will submit an invoice to the County that sets forth, for the period invoiced, information regarding:
 - (1) The District's expenses for which the District is requesting reimbursement;
 - (2) All revenue that the District has received from sources other than the County;
 - (3) The District's past expenditures and current fund balance; and
 - (4) A description of the District's projected expenses for the next month for which the District will submit an invoice.
 - b. Each invoice must comply with the requirements set forth in this Agreement.
 - c. No later than 30 days after this Agreement is terminated, the County shall render and send to the District a final written accounting regarding amounts paid by the County under this Agreement, and if the County notifies the District that the County has overpaid or incorrectly paid any amount to the District, the District must reimburse the County, no later than 30 days after the District's receipt of notice, in the amount determined by the County to have been overpaid or incorrectly paid. Notwithstanding any provision to the contrary, the District's obligation to reimburse the County for overpayment or mistaken payment will survive the termination of this Agreement.
6. SWTCGCD will provide County with an Internal Revenue Form W-9, Request for Taxpayer Identification Number and Certification, that is completed in compliance with the Internal Revenue Code and its rules and regulations before any contract funds are payable.

- a. County will pay by ACH/EFT or check upon SWTCGCD's satisfactory delivery and County's acceptance of items and SWTCGCD's submission of a correct and complete invoice to the address below:

Patti Smith, CPA
Travis County Auditor
Preferably via e-mail to: AP@traviscountytx.gov
Or Via mail to:
Travis County Auditor's Office
P.O. Box 1748
Austin, Texas 78767

With a copy to:
Travis County Transportation and Natural Resources Department
Attention: Financial Services
P. O. Box 1748
Austin, Texas 78767

- b. SWTCGCD may contact the Auditor's Office, Disbursements Division at (512) 854-9125 for assistance with setting up electronic payment through ACH, which deposits payments directly into SWTCGCD's account. Invoices must include:
 - 1. Name, address, and telephone number of SWTCGCD, and the name should match the name shown on the W-9 that SWTCGCD submitted to the Auditor's Office;
 - 2. Name and address where the payment is to be sent, if payment is by check;
 - 3. County Contract Number and County Purchase Order Number;
 - 4. Identification of deliverables provided as outlined in this Agreement; and
 - 5. Total invoice amount;
 - 6. Any additional payment information that may be called for by this Agreement or required by the Travis County Auditor.

7. A Contracting Party shall be in default under the Agreement if that Contracting Party fails to fully, timely, and faithfully perform any of its material obligations under the Agreement. A non-defaulting Contracting Party may terminate this contract if the defaulting Contracting Party fails to cure the default with 30 days of receiving written notice from the non-defaulting Contracting Party of the default.

8. Miscellaneous:

- a. Force Majeure

In the event that the performance by a Contracting Party of any of its obligations or undertakings hereunder shall be interrupted or delayed by any occurrence not occasioned by its own conduct, whether such occurrence be an act of God, or the common enemy, or the result of war, riot, civil commotion, sovereign conduct, or the act or conduct of any person or persons not a party or privy hereto, then it shall be excused from such performance for such period of time as is reasonably necessary after such occurrence to remedy the effects hereto.

- b. Notice

Any notice given hereunder by either party to the other shall be in writing and may be affected by personal delivery in writing or by registered or certified mail, return receipt requested when mailed to the proper party, at the following addresses:

COUNTY: The Honorable Andy Brown (or his successor)
Travis County Judge
P.O. Box 1748
Austin, TX 78767
Attn: Travis County Judge

WITH A COPY TO: Cynthia C. McDonald (or her successor)
Transportation and Natural Resources County Executive
P.O. Box 1748
Austin, TX 78767

David Escamilla (or his successor)
Travis County Attorney
P.O. Box 1748
Austin, TX 78767
Attention: File Number 291.644

AND TO: Bonnie S. Floyd, MBA, CPPO, CPPB (or her successor)
Travis County Purchasing Agent
P.O. Box 1748
Austin, TX 78767

DISTRICT: Richard A. Scadden (or his successor)
SWTCGCD Board President
P.O. Box 340595,
Austin, TX 78734

WITH A COPY TO: Jim Urie (or his successor)
SWTCGCD Treasurer
P.O. Box 340595
Austin, TX 78734

AND: Ty H. Embrey, Attorney for the District;
Lloyd Gosselink
816 Congress Avenue, Suite 1900
Austin, TX 78701
(512) 322-5800 tembrey@lglawfirm.com

c. Entire Agreement

This Agreement contains the complete and entire agreement between the Contracting Parties respecting the matters addressed herein, and supersedes all prior negotiations, agreements, representations, and understanding, if any, between the parties respecting the subject of this Agreement. This Agreement

may not be modified, discharged, or changed in any respect whatsoever except by a further agreement in writing duly executed by authorized representatives of the Contracting Parties. No official, representative, agent, or employee of the District has any authority to modify this Agreement, except pursuant to such express authority as may be granted by the District. No official, representative, agent, or employee of the County, Texas has any authority to modify this Agreement, except pursuant to such express authority as may be granted by the Commissioners Court of Travis County, Texas.

d. Invalid Provision

Any clause, sentence, provision, paragraph, or article of this Agreement held by a court of competent jurisdiction to be invalid, illegal, or ineffective shall not impair, invalidate, or nullify the remainder of this Agreement, but the effect thereof shall be confined to the clause, sentence, provision, paragraph, or article so held to be invalid, illegal, or ineffective.

e. Inspection of Books and Records.

- (1) The Contracting Parties agree to maintain all books, documents, papers, accounting records, and other documentation relating to costs incurred under this Agreement and to make such materials available to each other, and their duly authorized representatives, for review and inspection at their respective office during the period that this Agreement is in effect and for four years after the Agreement is terminated or until any impending litigation or claims are resolved, whichever is later.
- (2) SWTCGCD and Travis County and their duly authorized representatives shall have access to all the governmental records that are directly applicable to this Agreement for the purpose of making audits, examinations, excerpts, and transcriptions except that nothing in this Agreement requires SWTCGCD or Travis County to waive any applicable exceptions to disclosure under the Texas Public Information Act.

f. Current Funds

The party or parties paying for the performance or governmental functions or services shall make payments therefor from current revenues available to the paying party.

g. Venue

TO THE EXTENT ALLOWED BY TEXAS LAW, IT IS AGREED THAT VENUE FOR ALL LAWSUITS CONCERNING THIS AGREEMENT WILL BE IN TRAVIS COUNTY, TEXAS. THIS AGREEMENT IS WHOLLY PERFORMABLE IN TRAVIS COUNTY, TEXAS.

h. Interpretation

In the event of any dispute over its meaning or application, this Agreement will be interpreted fairly and reasonably and neither more strongly for nor against either party.

i. Application of Law

This Agreement is governed by the laws of the State of Texas.

j. Mediation

When mediation is acceptable to both parties in resolving a dispute arising under this Agreement, the parties agree to use a mutually agreed upon mediator, or a person appointed by a court of competent jurisdiction, for mediation as described in Section 154.023 of the Texas Civil Practice and Remedies Code. Unless both parties are satisfied with the result of the mediation, the mediation will not constitute a final and binding resolution of the dispute. All communications within the scope of the mediation are to remain confidential as described in Section 154.073 of the Texas Civil Practice and Remedies Code, unless both parties agree, in writing, to waive the confidentiality.

k. Third Party Rights Not Created

This Agreement is not intended to and shall not be construed to create any rights or remedies in any person or legal entity that is not a party to it and the Contracting Parties are not waiving any defense or immunity to which they are entitled against any person or legal entity that is not a party to this Agreement.

l. Counterparts

This Agreement may be executed in separate counterparts, each of which is to be deemed an original, and all of such counterparts together shall constitute one and the same instrument. Each Contracting Party consents to the use of electronic signatures by the other Contracting Party. This Agreement and any other documents requiring a signature under this Agreement may be signed electronically by the Contracting Parties. The Contracting Parties agree not to deny the legal effect or enforceability of this Agreement solely because it is in electronic form or because an electronic record was used in formation.

m. Sovereign Immunity

By execution of this Agreement, neither Contracting Party waives or relinquishes any sovereign immunity rights available to it by law except as otherwise stipulated by applicable laws.

n. Non-Waiver of Default. No payment, act, or omission by the County may constitute or be construed as a waiver of any breach or default of the District which then exists or may subsequently exist. All rights of the District under this Agreement are specifically reserved and any payment, act, or omission shall not impair or prejudice any remedy or title to the County under it. Any right or remedy in this Agreement shall not preclude the exercise of any other right or remedy under this Agreement or under any law, except as expressly provided

herein, nor shall any action taken in the exercise of any right or remedy be deemed a waiver of any other rights or remedies.

Southwestern Travis County Groundwater Conservation District

By: _____ Date: _____
Richard A. Scadden
SWTCGCD Board President

Travis County, Texas

By: _____ Date: _____
Andy Brown
County Judge

In Process