



ADOPTED RULES

of Southwestern Travis County Groundwater Conservation District

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Rule 1 General Provisions

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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~~ Hamilton Pool 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 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 [Aquifer](#) 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.

“Alternative Siting Methods” – the methods prescribed under 16 TAC §76.100(b)(1)-(2), and applicable under Rule 4.2(A)-(B) of these Rules for wells proposed to be located such that the horizontal distance is (1) less than fifty feet from the nearest point on the nearest property line under Rule 4.2(A); or (2) less than the required distance from potential sources of contamination under Rule 4.2(B).

“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, whether or not the person or household leases the place of use to a residential tenant on a short term or long term basis, in which a well produces groundwater for personal needs such as drinking and personal hygiene; for household purposes such as heating, cooking, sanitation, cleaning, and home office; or for other, outdoor uses such as maintaining swimming pools; watering of domestic animals kept as pets; and irrigating non-commercial landscape vegetation, gardens, or orchards. Domestic Use does not include the use of groundwater where the primary use of the groundwater produced supports the sale of goods or services.

“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.

“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 not be regulated, permitted, or required to be metered.

“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 is registered with the District. Note that this term is not necessarily synonymous with a “Previously Installed Well”.

“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).

“Hamilton Pool Management Zone” – the groundwater management zone that includes the Middle Trinity Aquifer at locations within the District that are bound by the Travis County boundary, the Pedernales River, State Highway 71, and the drainage divide that separates the Bee Creek watershed from the watersheds of Lick Creek, Pogue Creek, and Hamilton Creek.

“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.

“Limited Production Non-exempt Well” – a well whose use and characteristics conform to those described in Rule 3.5(D). Limited Production Non-exempt Wells require a General Permit for production or use of groundwater within the District.

“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.

“Minimum Horizontal Distance” – The minimum distance allowed between a proposed well and (1) Registered Wells in the Same Aquifer Management Zone as contemplated under Rule 4.2(A); (2) the nearest point on the nearest property line as contemplated under Rule 4.2(A) of these Rules (A); or (3) potential sources of contamination as contemplated under Rule 4.2(B).

“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 District Well Construction Standards.

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 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.

“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 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 Aggregate 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) A well for temporary use to supply water to a rig that is actively engaged in drilling a groundwater production well permitted by the District. An exemption granted under Rule 3.1(B)(7) may not exceed 180 days but may be extended until the groundwater production well is complete.

Commented [A1]: Adds subsection (B)(7) to include an exemption for temporary use wells used to supply water for a rig actively engaged in drilling a groundwater production well pursuant to SB 1746; Subsequent sections renumbered accordingly.

~~(87)~~ 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.

~~(98)~~ 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 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.

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 Production Authorization applications for the wells or Aggregated Wells with the District not later than February 28, 2021. 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.

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.

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 a well is not only a violation of District Rules but also will prevent the well and its use(s) from being protected 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 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.

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 modifications 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 modifications 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 may be either an Exempt or Non-exempt Well. A New Well must comply with all applicable District Rules and meet all applicable deadlines for registration, Well Drilling Authorizations, and applicable Production Authorizations. 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)).

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 condition, operation, or status, as defined in Rule 3.6(D).

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 ~~3.83.9~~) 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 and the application fee specified in the District's current Fee Schedule must be submitted to the District no later than February 28, 2021. 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, 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.

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 (form-based “Tier 1 Report”)	Required of all Existing Wells seeking an Operating Permit, regardless of size. Existing testing reports may be submitted; may submit new test reports within six months of permit.	<1,000,000 gallons per year under Operating 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
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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 and Limited Production 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.

(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 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. Only a regular Operating Permit shall be eligible for renewal without making a new Production Authorization application and its application fees. Beginning April 1, 2021, i.e., 30 days after all existing non-exempt wells that will or may require Operating Permits should have initiated the application process for such permits, a well owner that operates a well described in this section without either a temporary or regular Operating Permit is in 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 ~~6-56.6~~, 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

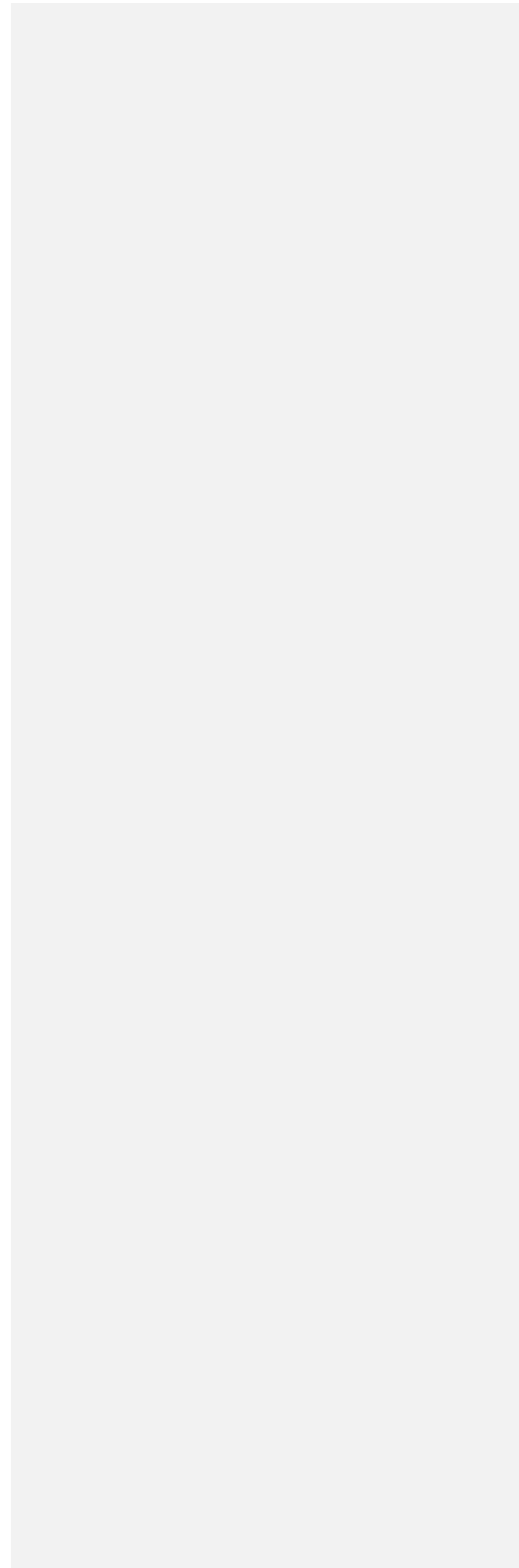
The District shall promptly consider and act on each administratively complete application for an Operating Permit. Within 60 days after the date an Operating Permit application is determined to be administratively complete, the District shall set the application for a public hearing on a specific date and conduct the hearing under the provisions of Rule ~~6-56.6~~.

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 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 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.swtcgcd.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 reported for the period by the permittee. Payment of the production fee after the fifteenth 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. Three types of wells may be authorized using General Permits by Rule: Non-exempt Domestic Use Wells, under Rule 3.5(B); Test Wells, under Rule 3.5(C); and Limited Production Non-exempt Wells, under Rule 3.5(D).

General Permits by Rule (“General Permits”) will have streamlined documentation requirements and timelines, compared to Operating Permits. General Permits are used for administrative convenience when their use is consistent with the District’s overall mission. The General Manager may grant or deny an application for a General Permit as an authorization certificate by administrative action, provided the eligibility requirements of the permit are met, applicable fees have been paid, and the permit’s requirements continue to be met. Alternatively, the General Manager, at his or her discretion, may for any reason defer an application for a General Permit to the Board at a properly noticed open meeting.

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) 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 NDU Wells and New NDU Wells under the General Permit are required to develop and submit to the District a 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.
- (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 monthly report its amount of groundwater used, but the estimated amount of 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 applicable 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.

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 applicable 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 plugging and 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 to the District the maximum rate and total volume of its groundwater use during the test period.
- (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 requested 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.

D. Limited Production General Permits

This provision authorizes the production of a specified amount of groundwater for certain wells that are not considered Exempt under Rule 3.1(B), but meet the requirements described in this Rule section. Limited Production Non-exempt wells that may be permitted under a 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) A Non-exempt Well, as defined in these Rules, may be considered a Limited Production Non-exempt Well if it is drilled, completed, or equipped so the well is incapable of producing more than 10,000 gallons per day (6.94 gallons per minute), and estimated annual production from the well does not exceed 1,000,000 gallons, provided it is also registered with the District.

- (2) The well is not used to fill surface impoundments for holding water except for Livestock Use, as defined in these Rules.
- (3) Both Existing and New Limited Production Non-exempt Wells under the General Permit are required to develop and submit to the District a User Water Conservation Plan (UCP) and a User Drought Contingency Plan (UDCP) no later than 60 days after the applicant submits the application to the General Manager for review, and the permit holder must demonstrate compliance with applicable, tiered curtailments in groundwater use for District-declared drought stages under Rule 5.2(B) and the permit holder's UDCP. Until these plans are submitted and approved, the General Permit will be considered a conditional Limited Production 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.
- (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 monthly report its amount of groundwater used, but the estimated amount of 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 Limited Production permit holder may, at its discretion, voluntarily meter its wells to assist in gauging and reporting 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) Limited Production 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 applicable Fee Schedule.

- (10) Limited Production 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.

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.

(3) 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 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(DC).

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 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.

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

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 specification above.
- (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.

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, all 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	Default Minimum Horizontal Distance Between Proposed Well and Registered Wells in the Same Aquifer Management Zone ¹	Minimum Horizontal Distance Between Proposed Well and Recorded Property Lines ²
Up to 17.36 GPM	100 feet	100 feet ³
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

¹ An applicant for a Well Drilling Authorization may provide, and the Board may consider, site-specific geological or hydrogeological information that supports the use of an alternative Minimum Horizontal Distance between the proposed well and registered wells in the same

Aquifer Management Zone. The Board may authorize the use of an alternative Minimum Horizontal Distance between the proposed well and registered wells in the same Aquifer Management Zone, provided the site-specific geological or hydrogeological information supports a finding that the proposed well location and use will not create any unreasonable impacts. If no such site-specific geological or hydrogeological information is provided with the applicant's final application, or if the site-specific geological or hydrogeological information does not support a finding that the well's location and use will not create any unreasonable impacts, the Default Minimum Horizontal Distance applies.

² 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 wells must be no less than 10 feet from that property line itself.

³ The Minimum Horizontal Distance between a proposed well and recorded property line may be reduced to 50 feet, provided (1) the Board approves the proposed well location, (2) the proposed well location complies with District Rules and applicable Texas regulations, and (3) the Applicant agrees to pressure cement the top 100 feet of annular space of the proposed well. The applicant is required to obtain authorization to reduce Minimum Horizontal Distance from a property line to 50 feet, otherwise the Minimum Horizontal Distance from the property line shall be 100 feet. Where tract size prohibits compliance with the Minimum Horizontal Distance of 50 feet, the Alternative Siting Methods prescribed by the Texas Department of Licensing and Regulation under 16 TAC §76.100(b)(2) shall apply.

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. Where 16 TAC §76.100 spacing requirements are in conflict with the District's spacing requirements as prescribed under this rule, the District's spacing requirements shall prevail.

Any prospective subdivision that proposes to use New Wells as water supply shall ensure that new property lines are located in a manner that complies with the spacing requirements of this Rule.

The spacing requirements of this rule applicable to the distance between registered wells and proposed wells in the same Aquifer Management Zone do not apply to the distance between a Replacement Well and the original well being replaced, provided however that the Replacement Well must be located within 50 feet of the original well. All Replacement Wells must adhere to the spacing requirements and standards of the Texas Department of Licensing and Regulation as set forth under Texas Administrative Code §76.100.

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 as provided in 16 Texas Administrative Code § 76.100(a)(1)–(4). Where tract size and location prohibit compliance with the Minimum Horizontal Distances listed in this Subsection, the Alternative Siting Methods prescribed by the Texas Department of Licensing and Regulation under 16 TAC §76.100(b)(1) shall apply.

- (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.
- (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.

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 $\frac{3}{4}$ 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.

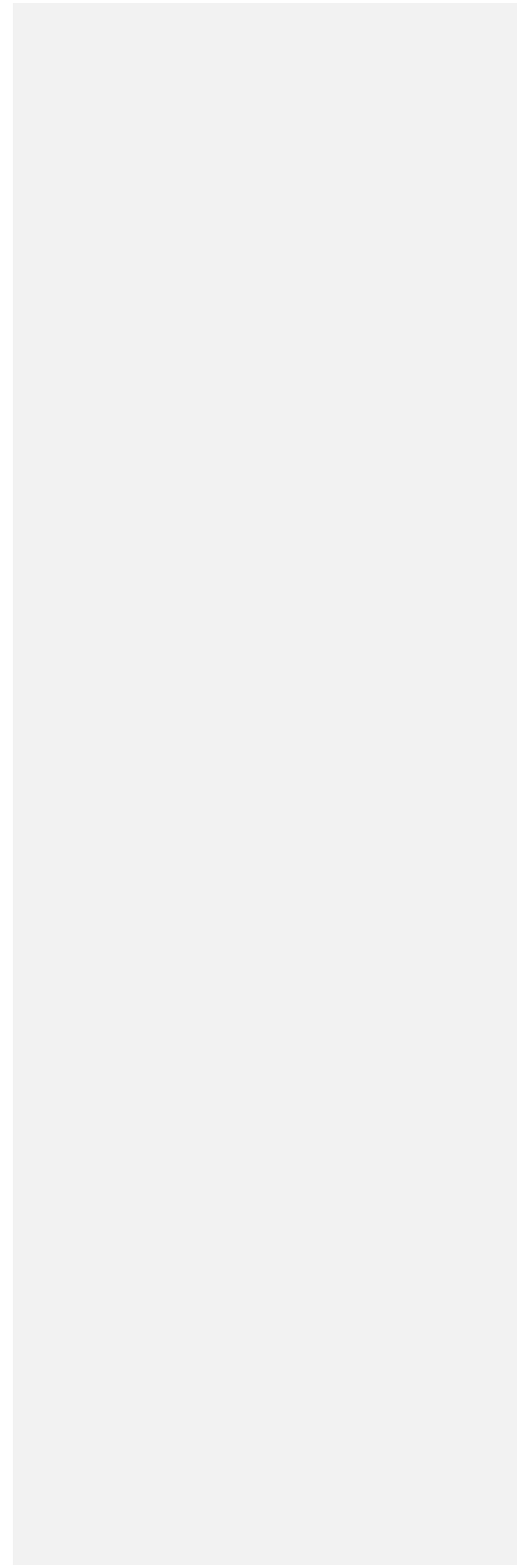
District employees or its agents that access public or private wells or property shall notify the property management or person in charge of the property of the presence of the District representatives, the tasks being undertaken, and approximate duration. District representatives will exhibit proper 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 2550% of the ~~land area of Travis County~~ District's jurisdictional area 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~~50% of the ~~land area of Travis County~~District's jurisdictional area 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, 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, Limited Production General Permits, 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, Limited Production General Permits, 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.

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	Limited Production	
No Drought	0% curtailment	0% curtailment	0% curtailment	0% curtailment	0% curtailment	
D-0 (Abnormally Dry)	0% curtailment	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 water use	Subject to Board orders and permit special conditions	10% targeted reduction in water use	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 water use	Subject to Board orders and permit special conditions	20% targeted reduction in water use	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; No outdoor water use by automated systems*	100% curtailment, except by Board order	30% targeted reduction in water use; No outdoor water use by automated systems*	Allows Board orders for emergency responses on per-well system basis
D-4 (Exceptional Drought)	0% mandatory curtailment; 40% targeted reduction	40% mandatory curtailment	40% targeted reduction in water use; No outdoor water use, including irrigation, pools, car washing*	100% curtailment, except by Board order	40% targeted reduction in water use; No outdoor water use, including irrigation, pools, car washing*	Allows Board orders for emergency responses on per-well system basis

Drought Stage: As declared by District Board using US Drought Monitor intensity levels for ~~Travis County~~ the District's jurisdictional area 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

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 Petition to Adopt or Modify Rules

Commented [MH2]: Adds Rule 6.4 to provide a process to petition the District to adopt or modify rules as required by HB 2443; Renumbers accordingly.

A. A person with groundwater ownership and rights within the District may petition the District to adopt a rule or modify a rule of the District.

B. A petition submitted under this Rule shall be made on the *Petition to Adopt or Modify Rules* form provided by the District and must include the following information:

- (1) the text of the proposed rule or rule modification;
- (2) a written explanation of the proposed rule or rule modification's intended purpose;
- (3) proof that the person submitting the petition has a real property interest in groundwater and that the property that gives rise to said real property interest is located within the boundaries of the District; and
- (4) the full name of the person submitting the petition and the person's contact information, including phone number, physical address, and email address, if any.

C. If a person is unable to comply with any procedures required under this Rule, then the person must submit to the District, on the same day that the person submits a petition under this Rule, a written explanation as to why compliance with the required procedure(s) is not possible and must submit a written request that the Board waive the specific procedure(s) at issue. Upon receipt of a written explanation and request as described herein, the Board may, at its sole discretion, waive any procedure set forth under this Rule. A petition may be denied for failure to comply with the requirements under this Rule.

D. Within 90 days after submission of a petition, the Board shall consider the petition and shall either:

- (1) deny the petition and provide an explanation for the denial; or
- (2) engage in rulemaking consistent with the granted petition.

E. The petitioner shall reimburse the District for any costs incurred by the District to provide notice of a rulemaking hearing under this Rule.

6.46.5 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.

6.56.6 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 ~~6-66.7~~.

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 ~~6-66.7~~. This determination will be based on whether the requesting person has standing and whether the request raises justiciable issues.

~~6-66.7~~ **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. A continuance may not exceed the time limit for the issuance of a final decision under Section 36.4165, Texas Water Code.

Commented [MH3]: Adds language to subsection (12) to establish that a continuance cannot exceed 180 days pursuant to HB 1971.

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 may (i) remand an issue germane to the application or the findings of fact and conclusions of law proposed by the hearings examiner, (ii) change a finding of fact or conclusion of law made by the hearing examiner, or (iii) vacate or modify an order issued by the hearings examiner, only if the Board determines that the hearings examiner did not properly apply or interpret applicable law, District rules, written policies provided under Texas Water Code § Section 35.416(e) or prior administrative decisions; that a prior administrative decision on which the hearings examiner relied is incorrect or should be changed; or that a technical error in a finding of fact should be changed. ~~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.~~

Commented [MH4]: Adds language to section (G) to specify the options available to the District once it receives a proposed final decision and to protect the District's authority to remand considering new statutory language added by HB 1971; Deletes language included in next section.

(1) A final decision issued by the Board must be in writing and must either adopt the findings of fact or conclusions of law as proposed by the hearings examiner or include revised findings of fact and conclusions of law consistent with this Rule. A copy of the permit shall be an attachment to that written order or resolution.

Commented [MH5]: Adds language in subsection (G)(1) specifying that the Board's final decision must be in writing and either adopt or revise the proposed findings of fact and conclusions of law.

(2) Notwithstanding any other Rule, for hearings conducted by the State Office of Administrative Hearings, the Board shall issue a final decision not later than the 180th day after the date of receipt of the final proposal for decision from State Office of Administrative Hearings. ~~The Board's decision shall be made within 60 days after the final hearing on the application is concluded. The deadline may be extended if all parties agree to the extension.~~

Commented [MH6]: Adds subsection (G)(2) to establish an 180 day deadline by which the Board must issue a final decision pursuant to HB 1971; Deletes language conflicting with new rule.

(3) Notwithstanding any other Rule, if a motion for rehearing is filed and granted by a board under Section 36.412, Texas Water Code, the Board shall make a final decision on the application not later than the 90th day after the date of the decision by the Board that was subject to the motion for rehearing.

Commented [MH7]: Adds subsection (G)(3) to specify the timeline for decision if a motion for rehearing is filed and granted.

(4) Notwithstanding any other Rule, the Board is considered to have adopted the final proposed for decision of the administrative law judge as a final order on the 181st day after the date the administrative law judge issued the final proposed for decision if the Board has not issued a final decision by:

Commented [MH8]: Adds subsection (G)(4) to specify that if the Board fails to issue a final decision by the 180 day deadline, then the ALJ's PFD will become final pursuant to HB 1971.

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

(2) issuing revised findings of fact and conclusions of law as set forth in this Rule and the Texas Water Code.

(5) A proposed final decision adopted under Rule 6.7(G)(4) is final, immediately appealable, and not subject to a request for rehearing.

Commented [MH9]: Adds subsection (G)(5) to specify that if an ALJ's PFD becomes final because the District fails to adopt a final decision, then the adopted PFD is immediately appealable or subject to a motion for rehearing pursuant to HB 1971.

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.

(6) The Board shall consolidate requests for rehearing filed by multiple parties to the contested case hearing, but only one rehearing may be considered per matter.

Commented [MH10]: Adds subsection (H)(6) to provide that the Board must consolidate requests for rehearing pursuant to HB 1971.

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.

6.76.8 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.