POST OAK SAVANNAH
GROUNDWATER CONSERVATION DISTRICT RULES
[As Amended June 5, 2017]

SECTION 1. DEFINITIONS AND CONCEPTS

RULE 1.1 DEFINITION OF TERMS. In the administration of its duties, the Post Oak Savannah Groundwater Conservation District follows the definitions of words, terms and phrases set forth in the District Act (as hereinafter defined) and each such definition is adopted herein by reference. In addition, the following words, terms and phrases, when used in these rules, and when used in any other rule or regulation of the District and not defined therein, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning. Words used in the present tense include the future tense. Words used in the plural number include the singular, and words in the singular include the plural. The word "shall" is always mandatory. The word "herein" means in these rules. The word "regulations" means the provisions of any applicable resolution, order, rule, regulation or policy.

"Abandoned well" means a well that has not been used or maintained ready for use for six consecutive months and is not capped, a well that is deteriorated, or a well that does not contain the casing, pump and pump column in good condition. A well is considered to be in use if it is a non-deteriorated well which contains the casing, pump, and pump column in good condition, or is a non-deteriorated well that is capped. "Abandoned well" also means a well that is not registered or permitted with the District or not in compliance with applicable law, including the rules and regulations of the District, the Texas Water Well Driller's Act, Texas Commission on Environmental Quality ("TCEQ" or "Commission"), or any other state or federal agency or political subdivision having jurisdiction. *[Amended June 12, 2012]* *Hand dug & maintained well?*

"Acre-foot" means the amount of water necessary to cover one acre of land one foot deep, or about 325,851 U.S. gallons of water.

"Affected person" means, for any application, a person who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. An interest common to members of the general public does not qualify as a justiciable interest.

"Agricultural crop" means food or fiber commodities grown for resale or commercial purposes that provide food, clothing, or animal feed, and includes crops as defined in *Acts 2001, 77th Legislature R.S., Chapt. 966, Texas General Session Laws (SB 2).*

"Aquifer" means a geological formation, group of formations, or part of a formation that is capable of yielding a significant amount of water to a well or spring.

"Beneficial use" means the use of groundwater for:

1. agricultural, gardening, domestic (including law watering), stock raising, municipal, mining, manufacturing, industrial, commercial, or recreational purposes, and uses listed as having priority of use in *Section 11.024, Texas Water Code*;

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2. exploring for, producing, handling, or treating oil, gas, Sulphur or other minerals; or

3. any other purpose that is useful and beneficial to the user and approved by the Board.

"Best available science" means conclusions that are logically and reasonably derived using statistical or quantitative data, techniques, analyses, and studies that are publicly available to reviewing scientists and can be employed to address a specific scientific question. *[Amended July 12, 2016].*

"Board" means the Board of Directors of the District.

"Brackish groundwater" means groundwater containing between 1,000 and 10,000 milligrams per liter (mg/L) total dissolved solids (TDS). *[Amended July 12, 2016]*

"Business day" means a weekday, Monday through Friday excluding District holidays.

"Casing" means a watertight pipe which is installed in an excavated or drilled hole, temporarily or permanently, to maintain the sidewalls of the hole against caving, advance the borehole, or, in conjunction with cementing and/or bentonite grouting, confine the ground waters to their respective zones of origin and prevent surface contaminant infiltration. *[Amended June 12, 2012]*

"Capped well" means a well that is closed or capped, with a covering capable of preventing surface pollutants from entering the well, sustaining weight of at least 400 pounds, and constructed in such a way that the covering cannot be easily removed by hand. *[Amended June 12, 2012]*

"Cement" means a neat Portland or construction cement mixture of not more than seven gallons of water per 94 pound sack of dry cement, or cement slurry which contains bentonite, gypsum, or similar approved additives. *[Amended June 12, 2012]*

"Conjunctive use" means the combined use of groundwater and surface water sources that optimizes the beneficial characteristics of each source.

"Desired Future Conditions" (DFCs) means aquifer conditions in Groundwater Management Areas 8 and 12 that are adopted in compliance with the joint planning process as described by Tex. Water Code §36.108, and other relevant scientific and hydrogeological data. *[Added July 12, 2011] [Amended July 12, 2016]*

"Deteriorated well" means a well or borehole the condition of which is causing, or is likely to cause, pollution of groundwater, regardless of whether or not the well is in use. *[Amended June 12, 2012]*

"De-watering well" means a well, used to remove water from a construction site, excavation or mining operation, or to relieve hydrostatic pressure or uplift on permanent structures. *[Amended July 12, 2016]*

"Director" means a person appointed to serve on the Board. *[Amended June 12, 2012]*

"District" means the Post Oak Savannah Groundwater Conservation District.

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"District Act" means *Acts 2001, 77th Legislature, R.S. Chapter 1307, 2001 Texas General Laws (HB 1784),as codified in Chapt. 8865, Special District Local Laws Code,* and the non-conflicting provisions of *Chapter 36, Texas Water Code*.

"District boundaries" means the boundaries of the District, which boundaries are coextensive with the outside boundary lines of Milam and Burleson Counties. *[Amended June 12, 2012]*

"District office" means the office of the District located at 310 East Ave C, Milano, Milam County, Texas 76556. The location of the district office may be changed from time to time by resolution of the Board.

"Domestic Activity" means the use of water to provide the daily water needs of a household and not more than ten (10) acres of land used for a lawn, domestic livestock, family garden or orchard, and includes water used on-site for: drinking, washing or culinary purposes; residential landscape watering, watering of a family garden/orchard; watering of domestic animals; and residential water recreational uses (e.g. swimming pool, hot tub). Excluding livestock raised, and vegetables and fruit grown, on the ten acres, domestic activity does not include water used by, or to support, activities for which consideration is given or received or for which the product of the activity is sold. Domestic activity does not include use by or for a public water system. *[Amended June 12, 2012]*

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"Domestic Use" means the use of groundwater that is produced from a well drilled, completed, or equipped so that it is incapable of producing more than 25,000 gallons of groundwater per day, and that is used by a person or a household for a domestic activity.

"Drilling permit" means a permit issued by the District authorizing a new well to be drilled or an existing well to be re-drilled or replaced. *[Amended June 12, 2002]*

"Effective date" means March 9, 2004. *[Amended October 14, 2008]*

"Exempt Use" means, when used as an increment in estimated groundwater production, the estimated exempt use provided by the Texas Water Development Board. *[Amended June 12, 2012]*

"Exempt well" means a new or an existing well that is exempt from permitting under the laws of this State or these rules, and includes a well that is not required to have an operating or historic use permit to withdraw groundwater from an aquifer. A well that by Rule 7.10(1)(b) becomes an exempt well upon completion is also exempt and exempt well.

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"Existing and historic use period" or "historic period" means the period of time prior to the effective date during which an existing well or well system produced groundwater from an aquifer within the district.

"Existing well" means a well that was in existence, or for which drilling commenced, prior to the effective date.

"Formation" means a geological formation, group of geologic formations, or part of a geologic formation, that is capable of yielding a supply of water to a well or spring. *[Added June 12, 2012]*

"General Manager" means the person employed by the Board to manage the District. The general manager shall perform District functions as specified in these rules and as required by the Board. *[Amended June 12, 2012]*

"Groundwater" means water percolating below the surface of the earth, including all subsurface water that occurs in a saturated strata or formation within the District. *[Amended June 12, 2012]*

"Hearing examiner" means a person appointed by the Board to conduct a hearing or other proceeding and, for any matter for which no hearing examiner is appointed, the presiding officer, including, but not limited to, a qualified administrative law judge assigned by the State Office of Administrative Hearings ("SOAH") to conduct a hearing on an application or permit when (a) requested by the Board; or (b) timely requested by an applicant or person having party status pursuant to *Sec. 36.416, Tex, Water Code*, and making the required cost deposit. *[Amended June 12, 2012]*

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"Historic use" means production and beneficial use of groundwater from an aquifer during the existing and historic use period.

"Historic use permit" means a permit required by the District for the operation of any existing well or well system that was operational prior to the effective date.

"Injection well" means and includes:

1. An air conditioning return flow well used to return water used for heating or cooling in a heat pump to the aquifer that supplied the water;

2. A cooling water return flow well used to inject water previously used for cooling;

3. A drainage well used to drain surface fluid into a subsurface formation;

4. A recharge well used to replenish the water in the aquifer;

5. A saltwater intrusion barrier well used to inject water into a freshwater aquifer to prevent the intrusion of saltwater into the freshwater.

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6. A closed system geothermal well used to circulate water, other fluids, or gases through the earth as a heat source or heat sink; and

7. An artificial excavation or opening in the ground made by digging, boring, drilling, jetting, driving, or some other method, that is used to inject, transmit, or dispose of industrial and municipal waste or oil and gas which is used to transmit, inject, or dispose of industrial and municipal waste or oil and gas waste into a subsurface stratum; or a well, used for the injection of any other fluid; but the term does not include any surface pit, surface excavation, or natural depression used to dispose of industrial and municipal waste or oil and gas waste. *[Added April 8, 2008] [Amended June 12, 2012]*

"Landowner" means the person(s) who own(s) the land surface, and the groundwater lessees and assigns of such person. *[Amended June 12, 2012]*

"Leachate well" means a well, used to remove contamination from soil or groundwater.

"Limited Production Well" means a well that is located on land occupied by an industrial or commercial business and equipped in a manner that prevents the well from producing more than 25,000 gallons of water per day. *[Amended June 12, 2012]*

"Modeled Available Groundwater" (MAG) means the amount of water the Texas Water Development Board determines may be produced on an average annual basis to achieve a desired future condition established under *Tex. Water Code §36.108*. *[Added June 12, 2012]*

"Management plan" means the management plan as adopted by the District, pursuant to *Section 36.1071, Texas Water Code.*

"Metering or measuring device" means a water flow measuring device that can measure within +/- 5% of accuracy the instantaneous rate of flow and record the amount of groundwater produced or transported from a well or well system during a period of time; provided that any such meter shall be calibrated from time to time to register accurately and within not less than +/- 2% of actual flow.

"Monitoring well" means a well installed to measure some property of the groundwater or aquifer it penetrates. *[Amended June 12, 2012]*

"New well" means a well for which drilling commenced on or after the effective date.

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"Open Meetings Act" means *Chapter 551, Texas Government Code,* as it may be amended.

"Operating permit" means a permit issued by the District for a well or group of wells that allows a specified maximum amount of groundwater to be withdrawn from each well, or from each group of wells, at a specified maximum rate of withdrawal for a designated time period.

"Owner" or "Operator" means any person who has the right to produce groundwater, either by ownership, contract, lease, easement, or any other estate in the land, or any other right recognized under common law. *[Amended July 12, 2016]*

"Person" means and includes any human being or legal entity, including but not limited to, a corporation, organization, government or governmental subdivision or agency, estate, trust, partnership, joint venture or association. *[Amended June 12, 2012]*

"Pollution" means the alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any groundwater in an aquifer or groundwater reservoir, that renders the groundwater harmful, detrimental, or injurious to humans, animal life, vegetation, or property or to public health, safety, or welfare, or that impairs the usefulness or public enjoyment of the water for any lawful or reasonable purpose, including the alteration of groundwater by saltwater or other deleterious matter admitted from another stratum or from the surface of the ground. *[Amended June 12, 2012]*

"Presiding officer" means the President, Vice-President, Secretary, or other director presiding at any hearing or other proceeding, or a hearing examiner conducting any hearing or other proceeding.

"Production capacity" means the maximum discharge rate that a well is allowed to pump in accordance with its operating permit and expressed in the units of gallons per minute. *[Added February 20, 2014]*

"Production" or "Producing" means the act of extracting groundwater from an aquifer by pumping or other method.

"Property line" means, unless the context indicates otherwise, the property line of abutting land that is not owned or controlled by the owner of an existing or proposed well. *[Added May 3, 2017]*

"Public Information Act" means *Chapter 552, Texas Government Code*, as amended.

"Railroad Commission" means the Railroad Commission of Texas.

"Registration" means a certificate issued by the District for an exempt well.

"Reservoir" means a naturally occurring underground pool, reservoir or supply of groundwater, including but not limited to an aquifer. *[Added June 12, 2012]*

"Rule" or "Rules" means the rules of the District compiled in this document, as supplemented or amended from time to time, and any rule adopted to implement these rules.

"Saline line" means, for the Carrizo-Wilcox Aquifer, the applicable lines that are shown on a map labeled Figure 20, and for the Sparta Sand line that is shown on Figure 22, of Texas Water Development Board Report No. 185, dated June 1974, entitled "Ground-Water Resources of Brazos and Burleson Counties, Texas", that mark the boundary between that part of the respective aquifers having water with total dissolved solids of less than 3,000 milligrams per liter and that part of the respective aquifers having water with TDS of greater than 3,000 milligrams per liter.

"Sustainable Groundwater Management" means the management and use of groundwater in accordance with State law in a manner that the Sustainable Yield can be maintained for a period of fifty years and thereafter. *[Amended July 12, 2016]*

"Texas Rules of Civil Procedure" and "Texas Rules of Civil Evidence" means the Texas Rules of Civil Procedure and the Texas Rules of Civil Evidence as amended and in effect at the time of the action of proceeding.

"Transport" means transferring or moving groundwater outside the District boundaries without regard to the manner the water is transferred or moved, including but not limited to discharges into watercourses.

"Transport permit" means a permit issued by the District for the transport of a specified maximum amount of groundwater to be transferred at a specified maximum rate of production

and transfer from a permitted or registered well or well system to a place of use outside the district boundaries.

"Variance" means an exception to requirements or provisions of the rules, granted by the Board.

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

1. Withdrawal of groundwater from an aquifer 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 watering purposes;

2. The flowing or producing of wells from an aquifer if the water produced is not used for a beneficial purpose;

3. Escape of groundwater from an aquifer to any other underground reservoir or geologic strata that does not contain groundwater;

4. Pollution or harmful alteration of groundwater in an aquifer 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 ditch that is not the property of the owner, or onto any land other than that of the owner of the well unless such discharge is authorized by permit, rule, or order issued by the commission under *Chapter 26, Texas Water Code*;

6. Groundwater pumped for irrigation that escapes as irrigation tail water onto land other than that of the owner of the well unless the occupant of the land receiving the discharge has granted permission;

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

"Water meter" means a water flow measuring device that can record within +/- 5% the amount of groundwater produced during a measured time; provided that any such meter shall be calibrated from time to time to register accurately and within plus or minus two percent (2%) of actual flow.

"Water well driller" has the meaning set forth in *Section 32.001(16), Texas Water Code*.

"Well" means any facility, device, or method used to withdraw groundwater.

"Well owner" means the person who owns a possessory interest in: (1) the land upon which a well or well system is located or to be located; (2) a well or well system; and (3) a person that has the legal right to occupy the property and to capture groundwater withdrawn from a specific well or well system located on the property. The term "well owner" includes, but is not limited to, a person that holds an operating permit for the well; a person who owns the well or who has

leased the water rights for the well and property on which the well is located; and the landowner to the extent the water rights have not been leased or otherwise severed. *[Amended June 12, 2012]*

"Well operator" means a person who operates a well, or a water distribution system supplied by a well.

"Well system" means a well or group of wells tied to the same distribution system.

"Withdraw" means extracting or producing groundwater by pumping or by another method.

RULE 1.2. PURPOSES OF RULES. These rules are adopted to aide in compliance with the provisions of the District Act, to provide regulations necessary and useful to accomplish the purposes set forth in the District Act, and to provide standards and requirements that may be enforced to accomplish such purposes, that include, but are not limited to, protecting and conserving the aquifers, and providing for sustainable groundwater management, recognition of property rights, economic and environmental benefits consistent with the District Act, to protect private property rights, balance the conservation and development of groundwater to meet the needs of this state, use the best available science in the conservation and development of groundwater and to achieve the following objectives: to provide for conserving, preserving, protecting, and recharging of the groundwater or of a groundwater reservoir or its subdivisions in order to control subsidence, prevent degradation of water quality, or prevent waste of groundwater. The District's Orders, Rules, regulation, requirements, resolutions, policies, guidelines, or similar measures have been implemented to fulfill these objectives. *[Amended July 12, 2016]*

RULE 1.3. USES AND EFFECT OF RULES. The District will use these rules as a guide in the exercise of the powers conferred by law and in the accomplishment of the purposes of the District Act. These rules may not be construed as a limitation or restriction on the exercise of any discretion nor to deprive the Board of the exercise of any powers, duties or jurisdiction conferred by law, nor shall they be construed to limit or restrict the amount and character of data or information that may be required to be collected for the proper administration of the District Act. *[Amended June 12, 2012]*

RULE 1.4. AMENDMENT OF RULES. The Board may, following the applicable notice, hearing, process and procedures requirements set forth in these rules and those set forth in *Chapter 36, Texas Water Code*, amend these rules and adopt new rules from time to time.

RULE 1.5. HEADINGS AND CAPTIONS. The section and other headings and captions contained in these rules are for reference purposes only. They do not affect the meaning or interpretation of these rules in any way.

RULE 1.6. CONSTRUCTION. A reference to a title, chapter or section without further identification is a reference to a title, chapter or section of the Texas Water Code. Construction of words and phrases are governed by the *Code Construction Act, Subchapter B, Chapter 311, Government Code*. References to a code or statutory provision or section in these rules shall include such code or statutory provision as amended, reordered or re-codified. These rules shall be read, interpreted and applied in a manner that is consistent with the District Act and, if any definition or provision of these rules conflicts with or is inconsistent with any definition or

provision of the District Act such definition or rule shall be read, construed and applied consistent with the District Act which shall govern and control.

RULE 1.7. METHODS OF SERVICE UNDER THE RULES. Except as otherwise expressly provided in these rules, any notice or documents required by these rules to be served or delivered by the District may be delivered to the recipient, or the recipient's authorized representative, in person, by agent, by courier receipted delivery, by certified mail sent to the recipient's last known address, or by telephonic document transfer to the recipient's current telecopy number. Service by mail is complete upon deposit with postage prepaid in a post office or other official depository of the United States Postal Service. Service by telephonic document transfer is complete upon transfer, except that any transfer occurring after 5:00 p.m. will be deemed complete on the following business day. If service or delivery is by mail, and the recipient has the right, or is required, to take some action within a prescribed time after service, three days will be added to the prescribed period. Where service by one or more methods has been attempted and has failed, service may be completed by any other of the above-authorized methods of service. If personal service is not made or deemed to be made as above provided, if the location of a person to be served is unknown to the Board, if unknown persons may have a property interest in the matter at issue, in addition to any other service made, notice may be given by publication and the service by publication is complete upon the notice being published in one or more newspaper(s) of general circulation in Milam and Burleson Counties. Further, upon approval by the Board, notice may be given in any manner authorized by the Texas Rules of Civil Procedure. *[Amended June 12, 2012]*

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RULE 1.8. SEVERABILITY. If any one or more of the provisions contained in these rules is for any reason held to be invalid, illegal, or unenforceable in any respect, the invalidity, illegality, or unenforceability may not affect any other rule or provision of these rules, and these rules must be construed as if such invalid, illegal or unenforceable rule or provision had never been contained in these rules.

SECTION 2. BOARD.

RULE 2.1. PURPOSE OF THE BOARD. The Board was created to determine policy and regulate the withdrawal of groundwater, protect and recharge groundwater, prevent pollution or waste of groundwater, control subsidence caused by the withdrawal of groundwater within the boundaries of the District, and to regulate the transport of groundwater out of the District, for conserving, preserving, protecting and recharging the groundwater within the District, and to exercise the rights, powers, and duties of the District in a way that will effectively and expeditiously accomplish the purposes of the District Act. The Board's responsibilities include, but are not limited to, the adoption and enforcement of reasonable rules and other orders.

RULE 2.2. BOARD STRUCTURE AND OFFICERS. The Board consists of the members appointed and qualified as required by the District Act. The Board will elect one of its members to serve as President, to preside over Board meetings and proceedings; one to serve as Vice President to preside in the absence of the President; and one to serve as Secretary to keep a true and complete account of all meetings and proceedings of the Board. The Board will elect officers annually. Members and officers serve until their successors are appointed and sworn in accordance with the District Act and these rules. The general manager shall serve as an assistant

secretary and all accounts and minutes of all meetings and proceedings of the Board will be kept and maintained in the district office

RULE 2.3. MEETINGS. The Board will hold a regular meeting at least once each quarter as the Board may establish from time to time by resolution. At the request of the President, or by written request of at least three members, the Board may hold special meetings. Notice of all Board meetings will be given in compliance with the Open Meetings Act; provided that neither a failure to provide notice of a regular meeting nor an insubstantial defect in the notice of any meeting shall affect the validity of any action taken at the meeting.

RULE 2.4. COMMITTEES. The President may establish committees for formulation of policy recommendations to the Board, and appoint the chair and membership of the committees that may be derived of board members and/or members of the general public. Committee members serve at the pleasure of the President.

RULE 2.5. DIRECTOR COMMUNICATIONS. Directors may not communicate, directly or indirectly, about any issue of fact or law regarding any contested case that is before the Board, with any agency, person, party or their representatives, except on notice and opportunity for all parties to participate. This provision does not prevent communications with staff not directly involved in the hearing to utilize the special skills and knowledge of the agency in evaluating the evidence. Excluding issues in a contested case, subject only to the applicable provisions of the Open Meetings Act, a director may communicate with other members of the Board, and the administrative staff and legal counsel of the District. A director that engages in prohibited ex parte communications with respect to any contested case shall abstain from participation in deliberations and voting on any matter in which the ex parte communication occurred. *[Amended June 12, 2012]*

RULE 2.6. MINUTES AND RECORDS OF THE DISTRICT. All public documents, reports, records, and minutes of the District are available for public inspection and copying, as provided in, and subject to the exceptions of, the Public Information Act and State law. Upon written application of any person, the District will furnish copies of its public records upon payment of a copying charge pursuant to policies established by the District. The District will furnish a list of the charges for copies. The adopted rules and minutes of the Board shall establish fees for all actions on permits, regulations and authorizations of the District.

RULE 2.7. CERTIFIED COPIES. Requests for certified copies must be in writing addressed to the general manager. Certified copies will be made under the direction of the general manager. A certification charge and copying charge may be assessed, pursuant to policies established by the Board. *[Amended June 12, 2012]*

RULE 2.8. OFFICE HOURS. Official office hours for the district office will be established by the general manager and published in the minutes of the Board.

SECTION 3. DISTRICT STAFF.

RULE 3.1. GENERAL MANAGER. The Board may employ or contract with a person to serve as general manager of the District and to perform such services as the Board may from time to time specify. The Board may delegate to the general manager full authority to manage

and operate the affairs of the District subject only to orders of the Board. The Board may delegate to the general manager the authority to employ all persons necessary for the proper handling of the business and operation of the District and to determine the compensation to be paid all employees other than the general manager.

If the position of general manager is vacant, the Board may appoint an interim manager to manage the District and perform any function of the general manager identified by these rules.

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RULE 3.2. DELEGATION OF AUTHORITY. The general manager may delegate assigned duties as may be necessary or convenient to effectively and expeditiously accomplish his or her duties, provided, that no such delegation may ever relieve the general manager from responsibilities under the District Act or Board orders. *[Amended June 12, 2012]*

SECTION 4. SPACING REQUIREMENTS.

RULE 4.1. REQUIRED SPACING. *[Amended February 20, 2014]*

1. Except for a well exempted under Rules 4.2(6), 7.10(1)(b) or 7.10(2)(c), a new well may not be drilled within 50 feet of an existing well, or the property line of any abutting land that is not owned or controlled by the owner of the new well. *[Amended August 12, 2014]*

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2. In the Simsboro formation the spacing of a new well shall be as provided in (a) or (b), at the election of the owner exercised when the application for a new well permit is filed:

   a. the spacing of a new well from any well existing in that formation shall be a distance of not less than one foot per one gallon per minute of production capacity and not less than one-half foot per gallon per minute from the property line of each adjoining landowner; or

   b. the spacing of the new well shall be based on engineering studies and drawdown criteria derived from GAM simulations which have been appropriately modified to; (i) represent the aquifer properties near the new well based on publicly available information; and (ii) to represent current and probable future groundwater development in the District, to meet the following performance standards:

      i. no more than 8% drawdown of hydraulic head [using GAM (2000) levels and referenced from top of the aquifer] at the property boundary;

      ii. no more than 25% drawdown of hydraulic head anywhere within the property from which the well will produce water; and

      iii. the applicant must provide for a minimum of one monitoring well for every 1,000 acre/feet/year of permitted production capacity, to demonstrate continuing compliance with these standards.

3. A new well that will pump from the Carrizo, Calvert Bluff or Hooper formations shall be spaced a distance of not less than two feet per one gallon per minute production capacity from any well existing in the same formation, and not less than one foot per gallon per

minute from the property line of each owner of abutting land that is not owned or controlled by the owner of the new well.

4. For a new well that will pump from the Yegua-Jackson, Trinity, Sparta or the Queen City aquifer, spacing shall be determined based on production capacity. The minimum spacing between the new well and any well existing in the same formation and the property line of any abutting land that is not owned or controlled by the owner of the new well will vary depending on the production capacity of the well according to the following table. *[Amended May 3, 2017]*

Production Capacity		**Minimum Spacing Per GPM of Production Capacity**	
More than	**Equal to or less than**	**From any Existing Well**	**From Property Line**
NA	50 gpm	2 feet	1 foot
50 gpm	100 gpm	3 feet	1.5 feet
100 gpm	150 gpm	4 feet	2 feet
150 gpm	200 gpm	5 feet	2.5 feet
200 gpm	NA	7 feet	3 feet

5. In addition to Rule 4.14, a well that will pump from the Yegua-Jackson Aquifer with more than 35 gallons per minute production capacity shall be constructed such that all portions of its well screen are not less than 200 feet below the lowest portion of a well screen associated with any well that is not owned or controlled by the owner of the new well and is within 2,500 feet of the location of the new well. *[Added October 14, 2014] [Amended May 3, 2017]*

6. Except as provided in these Rules for specific wells, all wells shall comply with the spacing requirements. *[Added August 12, 2014]*

7. Upon application, and approval by the District, a well location established by permit may be modified on the request of both the permittee and the surface owner of land within the contiguous area included within the permit, or for the purpose of relocating the well to a

site that is more secure from flooding, adverse drainage or any source of potential contamination. *[Amended May 3, 2017]*

RULE 4.2. EXCEPTIONS TO SPACING REQUIREMENTS.

1. If an applicant establishes, by clear and convincing evidence, good cause why a new well should be allowed to be drilled closer than the spacing required by Rule 4.1, the issue of spacing requirements will be considered during the permitting process and any contested case process. If the Board chooses to grant a permit to drill a well that does not meet the spacing requirements, the Board may limit the production of the well to prevent or limit injury to adjoining landowners, well owners or the aquifer. Any existing well for which a timely application for certificate of registration or historic use permit has been filed and granted in accordance with these rules is exempt from the spacing requirements under this Section 4. *[Amended June 12, 2012]*

2. The Board may, if good cause is shown by clear and convincing evidence, enter special orders or add special permit conditions increasing or decreasing spacing requirements.

3. If an exception to the spacing requirements is desired, a person shall submit an application to the Board at the district office. The application shall be on a form furnished by the District. The application must explain the circumstances justifying an exception to the spacing requirements and include a plat or sketch, drawn to scale, one inch equaling 600 feet. The plat or sketch must show the property lines of all land that abuts the land proposed for the well site within one-half mile of the proposed well, and all registered and permitted wells, within one-half mile of the proposed well site. The application must contain the names and addresses of all landowners and owners of registered and permitted wells within one-half mile of the proposed well site. The application and plat must be certified by some person actually acquainted with the facts who shall state that the facts contained in the application and plat are true and correct. *[Amended June 12, 2012]*

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4. Except as provided in this Rule 4.2, a public hearing will be held on each request for an exception to the spacing requirements. Prior to the public hearing written notice of the public hearing will be sent to the applicant. The notice shall also be sent to: (a) the owners of all land that abuts the land proposed for the well site within one-half mile of the proposed well; and (b) the owners of all registered and permitted wells located within one-half mile from the proposed well site. After all interested parties have an opportunity to appear and be heard at the public hearing, the Board may grant or deny an exception. Provided, however, if all such landowners and owners execute a waiver in writing, stating that they do not object to the granting of the exception, the Board may proceed, upon notice to the applicant only and without hearing, and determine the outcome of the application. The applicant may waive notice or hearing, or both. *[Amended April 8, 2008]*

5. If the applicant presents waivers signed by all landowners and well owners that are required to be given written notice under this Rule 4.2, stating that they have no objection to the proposed location of the well site, the spacing requirements of Rule 4.1 shall not apply to the proposed well location.

6. Permitted wells that are not produced for 180 consecutive days, or more, in any twelve consecutive calendar months, that are less than 80 feet in depth, and that are producing from the Brazos River Alluvium or the Little River Alluvium are exempt from spacing requirements.

7. Wells previously permitted by the Railroad Commission, and exempt under Rule 7.10(2)(b), that are to be altered, or replaced with a well having the same casing diameter, for the purpose of supplying water for hydraulic fracturing or a similar purpose or use without a new or amended permit being issued by the Railroad Commission are exempt from the public hearing requirements, if the well and use comply with Rule 7.17(11). *[Amended February 20, 2014]*

8. Wells exempt pursuant to Rule 7.10(2)(c) are not subject to the spacing requirements. *[Amended August 12, 2014]*

9. Existing wells that are limited production wells are not subject to the spacing requirements. *[Added October 14, 2008] [Amended June 12, 2012]*

SECTION 5. PRODUCTION LIMITATIONS.

RULE 5.1. MAXIMUM ALLOWABLE PRODUCTION.

1. A non-exempt well or well system may not be drilled and equipped for the production of a cumulative total of more than 10 gallons per minute (GPM) per contiguous acre owned or controlled by the well owner or operator, and each well having a production capacity of 1000 gpm, or more, shall have monitoring equipment reasonably required by the District and be capable for use as a monitoring well. *[Amended July 12. 2005]*

2. Excluding wells operated pursuant to an historic use permit, in no event may: (a) a non-exempt well or well system be operated such that the total annual production exceeds 2 acre feet of water per contiguous acre owned or controlled by the landowner, well owner, or well operator, as applicable; (b) acreage that is not contiguous to land for which a production permit is issued may not be aggregated with, or associated in any manner for the production of groundwater with, the land for which the production permit is issued; and (c) land that is not contiguous to land for which a permit has been issued shall not be considered in conjunction with the permit. If the production of water for a Management Zone reaches the level at which reductions in the permitted amounts are made under Section 16, the maximum amount of groundwater that is authorized by a permit within that Management Zone shall be reduced by the percentage amount that the permitted production is reduced for that Management Zone under Section 16, unless the Board finds the reduced production will likely be for a limited period. *[Amended July 12, 2016]*

3. A non-exempt well or well system for which an historic use permit has been issued shall be operated such that the total annual production will not exceed the amount authorized under the historic use permit and any additional permits issued in compliance with these rules. *[Amended June 12, 2012]*

4. A well or well system may not be operated such that the total annual production exceeds the maximum production for which the well or well system is permitted. *[Added July 12, 2005]*

5. A well or well system may not be operated such that the total annual production exceeds the permitted amount, less any reduction required under Section 16. *[Added July 12, 2005]*

6. As used in this Rule 5.1, land and water rights are "contiguous" when:

   a. The land and the water rights:

      i. are located within the District;

      ii. are owned or controlled by the well owner or operator;

      iii. are on one or more tracts that are adjacent each to the other and are located within a continuous common boundary, except as provided in (c) below, with the land on which the well is located;

      iv. are associate with the same aquifer as that for which production is to be permitted for the well; and

      v. the water quality of the aquifer underlying the well site and that part of the aquifer underlying the contiguous land is substantially the same; or
      [Amended February 20, 2014]

   b. A waiver of variance is obtained under Rule 5.3; or

   c. The land and water rights that are owned or controlled by the well owner or operator are separated only by a road, highway, railroad or other right-of-way, or river from the other land and water rights within the District that are owned or controlled by the well owner or operator.

RULE 5.2. LIMITATION ON MAXIMUM ALLOWABLE PRODUCTION.

1. Land, and water rights in land, that is not located over the aquifer from which a well is authorized to produce water, will not be included in calculating the volume of water permitted to be pumped under Rule 5.1.

2. Land, and water rights in land, that is located south of the saline line, will not be included in calculating the volume of water permitted to be pumped under Rule 5.1 for a well that is located north of the saline line.

3. Land, and water rights in land, that is located south of the saline line, will only be included in calculating the maximum production permitted for a well that is located south of the saline line.

4. Maximum allowable production authorized by permit for a well or well system, other than production authorized by a historic use permit, may be reduced as provided in these rules. Permitted production may be reduced as provided in Section 16.

5. The general manager may issue operating permits stating the maximum permitted production of groundwater, for existing wells that are also limited production wells.

[Added July 14, 2008] [Amended June 12, 2012]

6. The general manager may issue drilling and operating permits stating the maximum permitted production of groundwater authorized for limited production wells that meet the spacing and maximum production requirements of these rules. *[Added October 14, 2008] [Amended June12, 2012]*

7. The general manager may include requirements in the permit for a limited production well that obligate the permittee to**:**

   a. equip the well so that it is incapable of producing more groundwater that the maximum daily volume authorized by the permit;

   b. meter the water produced by the well;

   c. annually give the District an affidavit stating the volume of water produced by the well did not at any time exceed the maximum daily pumpage authorized for the well;

   d. require the meter, and the buildings and facilities served by the well to be subject to inspection by the District at any time;

   e. specify the specific facilities, e.g. kitchen, one restroom, water fountain, to be served with the water produced; and

   f. prohibits outside watering or sprinkler systems, or any combination of such restrictions and limitations. *[Added October 14, 2008] [Amended June 12, 2012]*

RULE 5.3. WAIVERS AND VARIANCES.

1. Non-contiguous land owned or controlled by the applicant shall be deemed to be within a continuous perimeter boundary of the land on which the well is located if the applicant obtains a waiver from the owners of the water rights located between the well site and the non-contiguous land. In such event, if such non-contiguous land otherwise satisfies the requirements of Rule 5.1.6(a) it shall be deemed to be contiguous for the purposes of this Section 5. The waiver will be on a form provided by the District.

2. The Board will consider applications for a variance from the requirement that only contiguous land be included in the calculation of the maximum of two acre feet per acre of annual water production and the maximum allowable production of 10 GPM per contiguous acre, upon a request by the landowner accompanied by a hydrological study. If the hydrological study shows the aquifer will not be damaged and the water production capacity of the abutting land that is not owned or controlled by the applicant will not be unreasonably limited if the variance is granted, and the Board finds from such report and other evidence presented, including but not limited to a review and report made by the district hydrogeologist, that granting the variance will not damage the aquifer or unreasonably limit the production capacity of abutting property, the Board will grant a variance. The Board may consider all waivers granted and all waivers refused to be granted by the owners of water rights to property that abuts the land on which the well

will be located, and any such waivers by the owners of any other water rights that are located between the well site and the non-contiguous land. The variance may be granted in whole or in part. *[Amended June 12, 2012]*

RULE 5.4. EMERGENCY PERMITS.

1. Basis for Emergency Permits: Upon application, the general manager may grant an emergency permit that authorizes the withdrawal of water from a well not currently drilled or permitted. An applicant for an emergency permit must present sufficient evidence that: (a) no suitable alternate water supply is immediately available to the applicant; and (b) an emergency need for the groundwater exists.

2. Action on Requests: The general manager may grant any application for an emergency permit without notice, hearing, or further action by the Board. The general manager may deny an application for an emergency permit on any reasonable ground including, but not limited to, a determination that the applicant is currently in violation of the District Act or these rules, or that the applicant has a previous unresolved violation on record with the District. Notice of the general manager's action will be served upon the applicant. Any affected party may appeal the general manager's action by filing within twenty (20) business days of that action a written request for a hearing before the Board. The Board will hear the appeal at the next available regular Board meeting. The general manager must notify the Board when an emergency permit is granted. On the motion of any director, and a majority concurrence in the motion, the Board may overrule the action of the general manager.

3. Term of Emergency Permits: No emergency permit may be issued unless an application for a permit to be issued under Rule 7.1 has been filed with the District. The term of any emergency permit granted by the general manager under this Rule extends only until the Board makes a final decision on the application for the permit under Rule 7.6. Emergency permits for replacement wells may not require a hearing if there is substantial proof that the replacement well will be in compliance with these rules and will have no greater impact upon the aquifer than the well it is to replace.

4. Risk Acceptance: A person that obtains an emergency permit assumes all risk associated with such permit, including all costs and expenses incurred in reliance on the permit. The issuance of an emergency permit shall not obligate the District to issue any related permit, nor constitute evidence or be a consideration in any subsequent hearing or permit process regarding the emergency permit or any other permit, application or well for which the emergency permit was issued.

RULE 5.5. REGULATION OF PRODUCTION FOR LOCAL WATER UTILITIES.

1. For purposes of this Rule 5.5, "local water utility" means a non-profit water supply corporation, a general law or home-rule city, a special utility district, a municipal utility district or any other person included in the definition of "retail public utility" under *Section 13.002, Texas Water Code,* whose defined service area, or a portion thereof, lies within the boundaries of the District.

2. For purposes of this Rule 5.5 and Rule 8.1.2, "defined service area" means the retail utility service area defined in any certificate of convenience and necessity issued under *Chapter 13, Texas Water Code*; or for a municipality or a special or municipal utility district the term also includes the retail water utility service area authorized under applicable provisions of law.

3. Upon application, if not inconsistent with the management plan or the exceptions listed below, a local water utility shall be issued permits as necessary to produce the volume of water required for compliance with state and federal regulations specifying the production capacity required for each retail customer service/connection within the utility's defined service area. The following exceptions, conditions and limitations are applicable to this rule:

   a. Only customers/connections within that part of a defined service area that is within the District, or within the District and an adjoining county, will be considered;

   b. A local water utility is not eligible to obtain a permit under this rule based on customers/connections in the defined service area of another retail water utility;

   c. For the part of a defined service area that is in a county adjoining the District, only the defined service area as it existed on the effective date will be included for production limits authorized by this rule. However, a local water utility may request production limits for defined service area that is added after the effective date in a county adjoining the District, and the grant of such request shall be within the discretion of the Board.

   d. Only retail customers of the applicant local water utility (and where applicable, associated fire flow) will be considered in determining the production requirements; save and except for water included in an historic use permit that was provided to another water utility during the historic period as provided in Rule 5.5(5) below. *[Amended June 12, 2012]*

4. Following issuance of a permit under Rule 5.4.3 and upon application by the local water utility, a permit shall be amended to authorize any increase in production necessary to maintain or achieve compliance with state and federal regulations specifying the production capacity required for its retail customer connections within the utility's defined service area. Applications for amendment shall otherwise comply with the requirements of Rule 7.8.

5. In addition to an application under Rule 5.4.3 for the production needed for its defined service area that is within the District, or the District and a county that adjoins the District, a local water utility may use a portion of the water included in an historic use permit obtained under the provisions of Rule 7.14 to meet its obligations under a wholesale water supply contract with another retail public utility; provided that the water included in the historic use permit to be supplied to another retail public utility in any calendar year shall not exceed the highest volume of water metered by the local water utility to such other retail public utility in any calendar year during the historic period.

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6. A permit issued under this Rule 5.5 shall not have a termination date.

7. The following resolutions previously adopted by the Board are hereby ratified, confirmed and readopted, and incorporated herein by reference as if set forth herein verbatim.

   a. The resolution adopted on March 11, 2003, that provides definitions, rules and regulations, and gives retail public utilities within the District an opportunity to obtain permits for the production of water based on long-term water use plans approved by the District; and

   b. The resolution adopted on September 9, 2003, amending the resolution referenced and described in 7(a) above.

8. Production authorized for a local water utility, excluding production authorized by historic use permit, may be reduced as provided in Section 16.

9. All new local water utility wells must comply with the spacing requirements. [Amended June 12, 2012]

SECTION 6. OTHER DISTRICT ACTIONS AND DUTIES.

RULE 6.1. MANAGEMENT PLAN. The management plan specifies the acts, procedures, performance and avoidance necessary to minimize waste, the reduction of artesian pressure, or the drawdown of the water table. The District shall use the rules to implement the management plan. The Board may amend or adopt a new management plan at any time and will review the plan at least every fifth year. Once adopted, a plan and all amendments thereto remain in effect until amended or the adoption of a new plan.

SECTION 7. PERMITS, RECORDS, REPORTS, AND LOGS.

RULE 7.1. GENERAL PERMIT AND REGISTRATION PROVISIONS.

1. An operating permit or historic use permit, or amendment thereto, is required to produce water from a non-exempt well, to substantially alter the size or capacity of a non-exempt well, or to alter an exempt well if the alteration will render the well non-exempt.

2. A permit confers only the right to use the permit under the provisions of these rules and according to its terms. All permits are subject to the applicable terms, provisions and conditions of these rules, and the permit terms may be modified or amended pursuant to the provisions of these rules. *[Amended June 12, 2012]*

3. Within 90 days after the date of a change in ownership of a non-exempt well or well system, the permit holder must notify the District in writing of the name of the new well owner. Any person who becomes the well owner of a currently permitted non-exempt well or well system, must, within 90 calendar days from the date of the change in ownership, file an application for an amendment to the permit in accordance with Rule 7.2, to effect a transfer of the permit.

4. An application pursuant to which a permit or registration has been issued is incorporated in the permit or registration, and the permit or registration is granted on the basis of and contingent upon the accuracy of the information supplied in that application. A finding by the Board that false information has been supplied in the application will, at the Board's discretion, be grounds to refuse the application or for immediate revocation of the permit or registration. [see 10 below]

5. Violation of a permit's terms, conditions, requirements or special provisions, including pumping groundwater in an amount in excess of either the permitted production or the authorized maximum withdrawal rate, is a violation of these rules and is punishable as provided by law and these rules.

6. Applications that are requested by the applicant to be processed concurrently will be processed and considered by the Board concurrently according to the standards and rules applicable to each application.

7. All permits issued by the District are subject to the management plan.

8. Historic use permits are issued for an indefinite term, until modified or revoked by the Board after notice and hearing.

9. The term of each operating permit issued by the District will be set by the Board. The term will generally be for a period not to exceed forty years from the date of issuance. The holder of an operating permit will be responsible for making application for review and renewal, as applicable, on approved forms that will be available at the district office. Such applications shall be submitted to the District 90 days prior to the fifth anniversary of the issuance and each subsequent review, and the date of expiration of the operating permit. Each such operating permit will be subject to review every fifth year, and during any such review may be modified to conform with intervening changes in the management plan or state law. The Board may waive any five year review if no material change has been made to the management plan, or if the changes made do not require modification of such permits.

10. Well pumps and equipment shall only be installed or serviced in wells registered with the District.

11. Injection wells are subject to the requirements of Rule 7.16. *[Added April 8, 2008]*

12. Persons holding a permit for the production of groundwater ("Permit Holder") for a specific use, e.g. municipal, industrial, irrigation, etc., excluding holders of historic use permits, persons producing water pursuant to an exemption granted by these Rules, persons producing water pursuant to a groundwater lease provision that permits them to produce groundwater only for irrigation, agricultural or other limited use, and persons that have leased all other groundwater rights to another person, may, in addition to the use for which the permit was granted, contract to sell groundwater for the drilling, exploration, fracturing and production of oil and gas wells within the District, provided that: (a) excluding the authorization to sell groundwater for the additional permitted use, all the terms, conditions and requirements of the Permit Holder's permit shall be and remain in full force and effect;

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and (b) the purchaser of the water for the drilling, exploration, fracturing and production of oil and gas wells within the District shall obtain a permit from the District and comply with the terms, provisions and conditions of that permit and these Rules. *[Added August 12, 2014]*

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RULE 7.2. CHANGE IN OWNERSHIP OF PERMITS. A permittee or registrant may transfer the permittee's or registrant's ownership in any valid registration or permit as provided under these rules. The general manager may rule on any application for a permit or registration amendment to transfer the ownership of the registration or permit. The written, sworn application shall include a request to make the ownership change and show the authority for requesting the change. The general manager may grant or deny such an amendment without notice, hearing, or further action by the Board. While the application is pending, the new owner may continue to operate the well or well system in accordance with the existing permit or registration. The new owner of an exempt well may, but is not required to, apply to have the registration changed to reflect the new ownership.

RULE 7.3. RECORDS, REPORTS, AND DRILLER'S LOGS. The driller of a well shall keep an accurate driller's log for each new well. The driller shall file a copy of each log and a report detailing the drilling, equipping, and completion of the new well with the District within 60 days after the date the new well is completed. The report shall be on forms provided by the District and shall include all information submitted by the driller to any agency of the State of Texas. A person developing an application for, or maintaining, an injection well shall make all reports required by State law, including, but not limited to, the reports required by *Sec. 27.024, Texas Water Code*. *[Amended June 12, 2012]*

RULE 7.4. APPLICATION REQUIREMENTS FOR ALL PERMITS.

1. Each original application for a drilling permit, historic use permit, operating permit, transport permit, permit review or renewal, or permit amendment shall be on the form or forms required by the District. The forms will be furnished to the applicant upon request.

2. All permits are granted in accordance with the rules, and acceptance of a permit constitutes an acknowledgment of receipt of the rules and agreement that the permit holder will comply with all of the rules.

3. The application for a permit shall be in writing and sworn to.

4. The following shall be included in the permit application:

    a. the name and mailing address of the applicant and the owner of the land on which the well is or will be located;

    b. documentation establishing ownership of the land on which the well is or will be located; and, if the applicant is other than the owner of the property or if the water rights have been sold or leased, documentation establishing the applicable authority to construct and operate a well on such property for the proposed use; the documentation must be one or more recorded in the real property records of the County in which the land is located.

c. a statement of the nature and purpose of the proposed use and the amount of groundwater to be used for each purpose, including, as applicable, any proposed conjunctive use including, for amendments, a description of the requested change in each of such uses or amounts;

d. a water conservation plan or a declaration that the applicant will comply with the management plan;

e. the maximum rate at which groundwater is proposed to be withdrawn from each well and a map showing the location of the well(s) and the property owned or controlled by the applicant for the production of water;

f. a water well closure plan or a declaration that the applicant will comply with well plugging guidelines and report closure to the District;

g. a drought contingency plan if required by state law or District rule; *[Amended September 5, 2017]*

h. an alternative supply plan if required by state law or District rule; *[Amended September 5, 2017]*

i. a statement by the applicant that the groundwater withdrawn under the permit will be put to beneficial use at all times;

j. the location of the use of the groundwater from the well;

k. the aquifer and formation or proposed depth from which the applicant intends to produce groundwater;

l. the total acreage that overlies the aquifer and formation listed under (k) above, from which the applicant has the right to produce groundwater;

m. the total number of acres that overlies the aquifer and formation listed under (j) above and that is contiguous to the well(s) listed and located under (e) above. [Amended June 12, 2012]

5. Applications for a permit for a well that will have a maximum pumping rate that equals or exceeds 500 gpm shall include: *[Added September 5, 2017]*

a. Predictions of pumping impacts on water levels over the next 30 years within a radial distance of 5 miles of the newly permitted well;

b. The predictions will be based on the newly permitted well pumping it's fully permitted amount and will be submitted in report form that describes the assumptions used in the model run;

c. If a MAG exists for the aquifer from which water will be produced, the predictions will include results based on using the Groundwater Availability Model run used to

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establish the MAG for the aquifer;

d. Predictions made using models other than the GAMs will be accepted by the district;

e. Prior to submitting the report, the applicant will meet with POSGCD to agree to the modeling assumptions and the required deliverables;

f. Following submittal of the report, POSGCD will review and provide comments on the report and the well owner shall provide written responses to all comments; and

g. Wells producing from the Brazos or Little River Alluviums, or wells used for seasonal irrigation (or less than 180 days per year) are exempt from this rule 7.4.5.

6. Payment by the permittee of the appropriate application fee.

7. An application may be rejected as not administratively complete if the District finds that substantive information required by the permit application is missing, false, or incorrect.

8. An application will not be considered administratively complete unless it complies with all requirements set forth under this Section 7, includes all information required to be included in the application, and is accompanied by the required application fee.

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9. The general manager shall make the determination of administrative completeness.

RULE 7.5. NOTICES, HEARINGS, AND DECISION ON APPLICATIONS.

1. The District shall promptly consider and act on each administratively complete application for a permit. Within 60 days after an administratively complete application is filed, the general manager shall schedule a hearing on the application if a hearing is required. The hearing shall be held within 35 days after the day on which the hearing schedule is established, unless a continuance is granted for good cause. The application will expire if the information requested in the application is not provided to the District within 30 days after a written request by the District. An administratively complete application requires information set forth in accordance with *Sections 36.113 and 36.1131, Texas Water Code*, and these rules. If, within 60 days after the date the administratively complete application is submitted, an application has not been acted on or set for a hearing on a specific date, the applicant may request the Board to promptly give notice and schedule a hearing, or petition the District Court in the county where the land is located for a writ of mandamus to compel the District to act on the application or set a date for a hearing on the application. The District shall act on the application within 60 days after the date the final hearing on the application is concluded. *[Amended June 12, 2012]*

2. Except as specifically provided otherwise in these rules for drilling or operating permits for certain wells for which a hearing is not required, after the District has received an administratively complete original application for a drilling permit, transport permit, permit amendment or operating permit and schedules a hearing on the application, the general manager will issue written notice indicating a date and time as set by the general manager for a hearing on the application in accordance with these rules. The notice shall include the

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name and address of the applicant, a summary of the application that includes a brief explanation of the proposed permit, any amount of groundwater requested, the proposed use and any proposed change in use, the date the application was filed, the time, date and place when any hearing will be held or the application will be considered by the Board, the location and the description of the well or wells that is the subject of the application, including a general location map, and any other information requested by the Board. The applicant, at the applicant's expense, shall give the notification by first-class mail to landowners and well owners within one-half mile of the proposed well(s), and any holder of a certificate of convenience and necessity within which the well(s) is located. The notice given by the applicant must be given not less than ten (10) business days before the date of the hearing, and the applicant must provide the District with proof of service including a list of names and addresses of landowners and well owners. The general manager shall, at the applicant's expense not less than ten (10) business days before the hearing., , publish the notice once in a newspaper(s) of general circulation in the District ; post the notice on the District's website; post the notice on the bulletin board used to post notice and agendas of Board meetings; provide notice to the county clerk of each county in the District; provide notice by regular mail to the applicant; , provide notice by regular mail, facsimile or electronic mail to any person who has timely requested notice; and provide notice by regular mail, facsimile or electronic mail to any other person not provided notice by the applicant and who is entitled to receive notice under these rules. A publisher's affidavit and tear sheet of the notice shall be provided to the District. The applicant will be responsible for the sufficiency of the notices. *[Amended October 14, 2008]*

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3. The general manager may schedule as many permit applications at one hearing as the general manager deems necessary. Any person that wishes to be heard as a potential party to a hearing must, at least five (5) calendar days prior to the hearing date, provide the general manager with written notice of the person's intent to appear at the hearing. If the general manager decides to contest the application, the general manager must, at least five (5) calendar days prior to the hearing date, provide the applicant with written notice of the general manager's intent to contest the application. Hearings will be held in accordance with Section 14. Any person may file a written request to be given party status as provided in Rule 14.2.4. The burden shall be on the person making such request to establish in writing a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest that is within the District's regulatory authority and that is affected by the permit or the permit amendment application scheduled for hearing. *[Amended October 14, 2008]*

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4. A hearing shall not be required on administratively complete applications for a drilling or operation permit for a limited production well; provided that all such applications will be considered and acted upon by the Board at a regularly scheduled public meeting. *[Added October 14, 2008]*

RULE 7.6. CONSIDERATIONS FOR GRANTING PERMITS. In deciding whether or not to issue a well, drilling, transport, permit amendment or operating permit, and in setting the terms of the permit, the Board will consider *Chapter 36, Texas Water Code*, the District Act and rules, the application, and all other relevant factors, including, but not limited to, (1) the management plan; (2) the quality, quantity, and availability of alternative water supplies; (3) the

impact on other landowners and well owners from a grant or denial of the permit, or the terms prescribed by the permit including whether the well will interfere with the production of water from exempt, existing or previously permitted wells and surface water resources; (4) whether the permit will result in a beneficial use and not cause or contribute to waste; and (5) if the applicant has existing production permits that are underutilized and fails to document a substantial need for additional permits to increase production. If no person notifies the general manager of their intent to contest the application within the time required by Rule 14.2.4, and if the general manager does not contest the application, the application will be presented directly to the Board for a final decision. The Board may grant or deny the application, in whole or in part, table or continue the application to hear additional evidence, or refer the application to the hearings examiner for a complete hearing. Applications will not be considered administratively complete until all applicable fees are paid to the District. *[Amended June 12, 2012]*

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RULE 7.7. PERMITS ISSUED BY THE DISTRICT.

1. All permits issued by the District shall state the following:

   a. the name of the person to whom the permit is issued;

   b. the date the permit is issued;

   c. the date the permit is to expire;

   d. the conditions and restrictions, if any, placed on the location of the well, instantaneous rate and annual amount of withdrawal of groundwater;

   e. any other conditions or restrictions the District prescribes;

   f. the beneficial use for which the water will be produced, e.g., industrial, municipal, irrigation, etc.; and [Added August 12, 2014]

   g. any other information the District determines reasonably useful and beneficial.

2. The owner of a well that will have a maximum pumping rate that equals or exceeds 500 gpm shall, within 90 days of completing the well installation, submit: *[Amended September 5, 2017]*

   a. Results from a 24-hour constant-rate aquifer pumping test that is conducted at a rate not less than 90% of the requested maximum pumping rate. The data will be collected by a transducer at time intervals of not greater than 30 minutes and the data will be analyzed to produce a transmissivity for the pumped aquifer.

   b. Geophysical log(s) that include resistivity/induction, gamma-gamma, and spontaneous potential surveys.

   c. A water quality analysis of total dissolved solids (TDS) and major ions from a

sampling event that occurs within 30 days of the well installation.

d. Wells producing from the Brazos or Little River Alluviums, or wells used for seasonal irrigation (or less than 180 days per year) are exempt from this rule 7.7.2.

RULE 7.8. AMENDMENT OF A PERMIT.

1. A substantial change to a permit may be made only after application to amend the permit has been filed with the District and approved by the Board. It is a violation of these rules to pump any amount of water over the amount authorized, or to exceed the maximum withdrawal rate authorized by an operating permit. A written, sworn application for a permit amendment to increase the authorized withdrawal or the withdrawal rate must be filed and an amendment granted before any additional production occurs. The applicant must demonstrate that the originally authorized amount is inadequate and the need to increase the withdrawals.

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2. A substantial change to a permit includes, but is not limited to, an increase in the instantaneous rate or the annual quantity of groundwater authorized to be withdrawn, a change in place or purpose of use or a change in the location of groundwater withdrawal. The general manager shall decide, consistent with these rules and rules adopted by the Board, whether or not any other permit change is a substantial change.

3. The general manager may rule on any application for a permit amendment to decrease the authorized withdrawal. The general manager may grant such amendment without notice, hearing, or further action by the Board.

4. The general manager may rule on any application for a permit amendment to transfer the ownership of any permit in accordance with Rule 7.2.

RULE 7.9. COMPLETION OF PERMIT APPLICATION REQUIRED. The District shall promptly consider and act on each administratively complete application for a permit. If an application is not administratively complete, the District shall request the applicant to provide the additional information necessary to complete the application. The application will expire if the applicant does not complete the application within 30 days of the date of the District's request for additional information. The general manager may grant an extension to the 30-day expiration date if cause is shown why the additional information will take more than 30 days to prepare and submit. Applications that expire may be resubmitted.

RULE 7.10. EXEMPT WELL STATUS. *[Amended February 20, 2014]*

1. Wells exempted or partially exempted by local rule:

a. Wells exempted by local rule:

i. A well that was in use prior to the effective date, that is used solely for domestic use, and that was drilled, completed, or equipped so that it is incapable of producing more than 25,000 gallons of groundwater per day is an exempt well.

ii. A well that, after the effective date is drilled in full compliance with these rules, that is used solely for domestic use and that is completed, equipped and maintained so that it is incapable of producing more than 25,000 gallons of groundwater per day, shall be an exempt well from and after the completion. *[Amended July 12, 2005]*

b. Wells partially exempted by local rule:

i. Wells that are not produced for 180 consecutive days, or more, in any twelve consecutive calendar months, that are less than 80 feet in depth, and that produce groundwater from the Brazos River Alluvium or the Little River Alluvium for the non-wasteful use by the Owner to raise livestock or agricultural crops, are exempt from production fees, and the public hearing and spacing requirements.

ii. Wells that will produce groundwater for non-wasteful use by the owner for the purpose of raising domestic livestock or agricultural crops and that comply with the spacing and production requirements are exempt from the payment of production fees and the public hearing requirements.

iii. Wells previously permitted by the Railroad Commission and exempt under Rule 7.10(2)(b) that are to be re-drilled, replaced or altered for the purpose of supplying water to a rig or equipment engaged in drilling or exploration for oil and gas, without a new or amended permit issued by the Railroad Commission, are not exempt from these rules, but are exempted from the public hearing requirements if the well meets the qualification requirement provided in Rule 4.2(7). *[Added April 8, 2008] [Amended June 12, 2012]*

iv. A well that is: (A) on a tract of land that is larger than 10 acres; (B) equipped so that it is incapable of producing more than 50,000 gallons of groundwater per day; and (C) used or will be used by a person or a household solely for a domestic activity is exempt from the requirements for a public hearing. The general manager may grant a permit for any such well without a public hearing; provided the well is fully compliant with these rules and shall not produce more groundwater than the maximum allowable per acre under these rules. *[Added June 12, 2012]*

2. Wells exempted by State law: As provided in *Chapter 36, Texas Water Code*, the following are exempt wells: *[Amended April 8, 2008]*

a. A well, used solely for domestic use or for providing water for livestock or poultry on a tract of land larger than 10 acres, that is either drilled, completed, or equipped so that it is incapable of producing more than 25,000 gallons of groundwater a day;

b. The drilling of a well and production to supply water solely for a rig or equipment that is actively engaged in drilling an oil and gas well, that is permitted by the Railroad Commission, if: (i) the person holding the permit is responsible for the water well; and (ii) the water well is located on the lease on which the drilling rig is located, or within the boundaries of the field in which the drilling rig is located; (iii) the well is used with a rig that is actively engaged in drilling an oil and gas well ; (iv) the water is produced solely for the purpose of providing water that is necessary for the actual drilling of the oil and gas well; and (v) the rig has not been removed and the use of the well under a permit issued by the Railroad Commission has not terminated or otherwise expired; or *[Rule 7.10(2)(b) Amended February 20, 2014]*

c. The drilling of a well under a permit issued by the Railroad Commission under *Chapter 134, Texas Natural Resources Code*, or for production from such a well if the water produced or to be produced is necessary or will be necessary for mining purposes.

3. Railroad Commission Jurisdiction. A well drilled or operated with a rig engaged in drilling an oil and gas well, as authorized under a permit issued by the Railroad Commission, is under the jurisdiction of the Railroad Commission and is exempt from regulation by the District, except for spacing requirements according to these rules. The following provisions are applicable to wells permitted by the Railroad Commission: *[Amended August 12, 2014]*

a. Groundwater produced in an amount authorized by a Railroad Commission permit for the purpose of drilling an oil and gas well may be used within or exported from the District for the authorized purpose without a permit from the District*; [Amended February 20, 2014]*

b. To the extent groundwater is produced in excess of Railroad Commission authorization for use in the drilling of an oil and gas well, or for a purpose not authorized by a Railroad Commission permit, the holder of the Railroad Commission permit must apply to the District for the appropriate permit for the well and the production or the excess production, as applicable, and is subject to all applicable fees*; [Amended February 20, 2014]*

c. Groundwater that is produced, for the sole purpose of drilling an oil and gas well, from a well under the jurisdiction of the Railroad Commission is generally exempt from District fees, however, the District may impose a pumping fee and, as applicable, an export fee on groundwater produced from an otherwise exempt mine well that is used for either municipal purposes or by a public utility**;** and any fee imposed by the District under this Rule 7.10(3)(c) may not exceed the fee imposed on other non-exempt groundwater producers in the District that are required to pay production fees; and *[Amended February 20, 2014]*

d. Wells permitted by the Railroad Commission are exempt to the extent the water use, operation and production are permitted and authorized by the Railroad Commission for the drilling of an oil and gas well. *[Added February 20, 2014]*

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4. The District may require an exempt well to obtain an operating permit and comply with these rules if:

   a. a well exempted under Rule 7.10(2)(b) above: (i) is no longer used to supply water for a rig or equipment that is actively engaged in drilling an oil and gas well permitted by the Railroad Commission; or (ii) is re-drilled, altered or replaced for that purpose without first obtaining a new or amended permit from the Railroad Commission*; [Amended February 20, 2014]*

   b. withdrawals from the exempted well are:

      i. no longer necessary for mining purposes permitted by the Railroad Commission; or

      ii. greater than the amount necessary for mining purposes permitted by the Railroad Commission under *Chapter 134, Natural Resources Code*;

   c. the area of the tract of land on which the well is located is reduced, or the well is modified or operated improperly, such that the well is no longer qualified as an exempt well under Rule 7.10; or

   d. the well is maintained, pumped, operated or used so as to no longer be qualified as an exempt well.

5. A person holding a permit, issued by the Railroad Commission under *Chapter 134, Texas Natural Resources Code*, that authorizes the drilling of a well, shall report monthly to the District the total amount of water withdrawn from the well, the quantity of water necessary for mining purposes, and the quantity of water withdrawn for other purposes.

6. The District shall require all exempt wells to be registered in accordance with these rules. All exempt wells shall be equipped and maintained so as to conform to the rules requiring installation of casing, pipe, and fittings to prevent the escape of groundwater from one aquifer to another and to prevent the pollution or harmful alteration of the character of the groundwater in any aquifer. A landowner, well owner, or any other person acting on their behalf, of an exempt well shall register the well with the District and comply with all applicable statutes, codes and regulations applicable to the drilling and opening up of the well.

7. A well to supply water for a subdivision of land for which a plat approval is required under *Chapters 212 or 232, Texas Local Government Code*, is not exempted under these rules.

8. Groundwater withdrawn from a well exempt from permitting or regulation under Rule 7.10 and subsequently transported outside the boundaries of the District shall be subject to all applicable water use and transport fees.

9. Wells permitted by the TCEQ pursuant to the *Water Code* or the *Natural Resources Code* are

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exempt only to the extent, if any, provided by State law for the water use and the operation and production permitted and authorized by the TCEQ. *[Added April 8, 2008]*

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10. Excluding injection wells that receive a permit granted by the TCEQ or the Railroad Commission, which grant is upheld if judicially contested, this Rule 7.10 does not apply to nor exempt any injection well. *[Added April 8, 2008] [Amended February 20, 2014]*

11. The exemptions and partial exemptions provided in this Rule 7.10 do not exempt a well from the requirements to register or to obtain a permit for the well. *[Added June 12, 2012]*

12. Permits issued by the Railroad Commission for the drilling of an oil and gas well may include a permit to produce water for the drilling of the oil and gas well. So long as the Railroad Commission permit for the water well remains in full force and effect and the groundwater is produced for the sole purpose of drilling an oil and gas well, the water well is an exempt well and the District will not issue permits for such wells or for the production of water from wells permitted by the Railroad Commission for the sole purpose of drilling an oil and gas well. *[Added February 20, 2014]*

RULE 7.11. WELL REGISTRATION.

1. All wells that are exempt under Rule 7.10 must be registered with the District by the well owner or the well operator. If the exempt well is in existence on the effective date of these rules, the well owner or operator shall file with the District, on form(s) prescribed by the general manager, an application for certificate of registration. After review and determination by the general manager that a well is exempt under these rules, the owner or operator shall be issued a certificate of registration. All registrations for existing exempt wells shall be filed with the District. *[Amended June 12, 2012]*

    a. Applications to register exempt wells shall include the information requested on a registration form provided by the District, and other information requested in writing;

    b. The information required for one category of exempt wells may be different than that required for any other category of exempt wells; and

    c. Other information generally required by these rules for all permits, or for registration of non-exempt wells, shall not be required, unless requested by the District.

2. If the general manager does not find a well to be exempt, the application will be taken up by the Board. The Board may, with or without hearing, find the well is an exempt well and direct issuance of the registration. If the Board does not find the well is exempt or finds the operation and production of the well is such that the well is not wholly exempt, the applicant may make application for an operating permit for the well, or file a request for a full evidentiary hearing to be held pursuant to Section 14. *[Amended April 8, 2008]*

3. For all new wells that will be an exempt well upon completion in compliance with these rules, except leachate wells, monitoring wells and de-watering wells, the well owner or operator shall file with the District prior to the well being drilled, on form(s) prescribed by the general manager, an application for a drilling registration, the appropriate application fee, well log deposit fee and request that the well be registered. The general manager shall review the drilling registration application and make a determination on whether the well meets the exemptions provided in Rule 7.10. If it is determined that the applicant seeks a drilling registration for a well that will be exempt, the general manager shall notify the applicant. After the exempt well is drilled and the driller's log and completion report are filed with the District, the general manager shall issue to the well owner or operator a certificate of registration. If the well owner or operator provides the required driller's log and completion report to the District within 60 days of completing the well, the general manager shall refund a portion of the well log deposit fee to the applicant in accordance with the provisions of Rule 9.9. All new wells, except wells exempt under Rule 4.2(6) or Rule 7.10(2)(c), shall comply with the spacing requirements.

4. The district will assign exempt wells to an aquifer and Management Zone based on the well specification information obtained from the well's exempt application, or from the well log submitted to the District or the Texas Department of Licensing and Regulation at the time of the well's completion. *[Added June 12, 2012]*

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RULE 7.12. DRILLING PERMITS.

1. A landowner, well owner, or any person acting on their behalf, must obtain a drilling permit before a new non-exempt well may be drilled, equipped, or completed. Such permit must also be obtained before re-drilling, replacing or altering a new or existing well that is not exempt under Rule 7.10(2)(a) or (c), and if a well exempt under Rule 7.10(2)(b) is re-drilled, replaced or altered without a new or amended permit issued by the Railroad Commission. Except as otherwise provided in these rules, wells that are to be used for domestic use, or for poultry or livestock purposes, and that are located on a tract of land that is less than ten acres in size, including wells that will be equipped so as not to be able to produce more than 25,000 gallons per day (GPD), must comply with the requirements set forth in these rules. *[Amended April 8, 2008]*

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2. An application for a drilling permit or registration for a new well shall contain all the information requested in Rule 7.4.

3. An application for a drilling permit or new well registration submitted under this rule shall not be unreasonably denied by the District. Applications must be administratively complete and:

   a. Describe a well that meets the District's well completion standards and complies with the District's spacing and production limitation requirements; and

b. As applicable, be submitted in conjunction with an application for an operating permit, or with documentation of an existing operating permit to be amended to include the well, or an application to amend an historic use permit to include the proposed well.

4. A drilling permit issued in accordance with this rule shall be valid for a term not to exceed one year from the date of issuance, unless the applicant is granted an extension prior to the expiration of the permit. Such extensions shall only be granted once and shall not be valid for more than an additional six month period. Thereafter, the applicant must file a new drilling permit application. The term of drilling a permit shall, however, be extended by the period of time, if any, during which an application for an operating permit or amendment to an historic use permit that is submitted in conjunction with the drilling permit is contested. Notwithstanding the foregoing, the Board may grant drilling permits for wells that are planned as a system of wells in a contiguous well field. The term of drilling permits issued for wells that are in a system of wells in a contiguous well field may be for a term not to exceed the term of the operating permit for the well field; provided that not less than one well in such system of wells shall be completed within eighteen months after the date the drilling permits are issued, and the maximum production shall be established for each individual well in the well field. The drilling permits for wells that are within a system of wells in a contiguous well field may be renewed from time to time in the discretion of the Board. *[Amended June 12, 2012]*

5. No well for which a drilling permit is issued under this rule shall be operated for any purpose other than pump testing or other similar activity prior to production, without an approved operating permit, or an approved registration or amendment to an historic use permit to include the well. *[Amended June 12, 2012]*

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6. The procedure for the issuance of a permit for re-drilling, replacing or altering a well to supply water for a rig or equipment actively engaged in drilling or exploration for oil or gas, which well was initially authorized by a permit issued by the Railroad Commission, shall be subject to Rule 7.13(6) and Rule 4.2(7). Unless the application is made by the person holding the original permit for the well, the purpose of the well is to supply water for a rig or equipment engaged in drilling or exploration for oil and gas, and the well will be located on the same lease on which the drilling rig was located when the original permit was granted, or within the boundaries of the field in which the original permit was granted, the procedure shall be the same as for a New Well. *[Amended June 12, 2012]*

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7. The drilling permit will be issued for an aquifer, formation and estimated depth.

8. The District will assign permitted wells to an aquifer and Management Zone based on the well specification information obtained from the permit application for the well, or from the well log that is submitted to the District or the Texas Department of Licensing and Regulation at the time of the well's completion. *[Added June 12, 2012]*

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RULE 7.13. DRILLING OR ALTERING A WELL.

1. No person may drill a new non-exempt well without first obtaining a drilling permit from the District. A new well described in Rule 7.10(1) must obtain a drilling permit and be registered.

2. No person may re-drill, alter or replace a well exempt under 7.10(2)(b) without first obtaining a new or amended drilling permit from the Railroad Commission, or a permit from the District. The application may be made to the District. *[Added April 8, 2008]*

3. A violation occurs on the first day the drilling, alteration, or operation without a permit or registration, begins, and continues each day thereafter until the appropriate permit or registration is issued. A well is "altered" under these rules if the well is changed or modified to produce from a different zone or formation, the well is re-drilled, the casing, pump or pump column are modified, or if the production capacity or the rate of production of the well is increased.

4. No person may increase the production rate or the size of a non-exempt well or well pump to exceed the production rate, or size of the well or well pump authorized in the permit, and no person may increase the production rate or size of a well or well pump of a well that is exempt under Rule 7.10(1)(a) or (b), or Rule 7.10(2)(a) to increase the production capacity of the well to more than 25,000 GPD, without first applying for and obtaining a permit from the District.

5. A well owner shall apply for a permit, or registration as applicable, to re-drill, alter or replace a permitted well, or a registered well that is described in Rule 7.10(1) and that remains an exempt well, by filing an application to amend such permit or registration and providing such information as may be required by the general manager under the following conditions: *[Amended April 8, 2008]*

    a. the replacement well must be drilled within 30 feet of the location of the well being replaced;

    b. the replacement well shall not be located any closer to any other permitted or registered well than the well being replaced, unless the new location complies with the minimum spacing requirements of these rules;

    c. the replacement well or pump shall not be larger in size or capacity than the well being replaced so as to increase the rate of production; and

    d. if a replacement well is drilled, the well owner must cease production from the well being replaced and begin pursuit of compliance with the well closure requirements of the District for the well being replaced.

6. The owner of a well that is exempt under Rule 7.10(2) or Rule 7.10(3) shall not be required to obtain a permit from the District to re-drill, alter or replace such well if the re-drilled, altered or replaced well is authorized by a permit amendment or new permit issued by the Railroad Commission, provided that all such re-drilled, altered, replaced or relocated wells shall, except for a well described in Rules 4.2(6) or (7), or Rule 7.10(2)(c), comply with the spacing requirements set forth in Section 4 of these rules. *[Amended April 8, 2008]*

7. Applications submitted under Rule 7.13(2) to re-drill, alter or replace a well described in Rule 4.2(7) may be granted by the general manager without notice and public hearing. If the general manager finds the application requires a public hearing and/or compliance with the spacing requirements, the applicant may appeal to the Board. Upon considering the application the Board may grant the application, or find either or both a public hearing and compliance with the spacing requirements is required. *[Added April 8, 2008]*

8. When written notice of an application for a drilling permit is required to be given to landowners or well owners within a geographic area, such notice shall be given in the manner otherwise provided in these rules and as follows:

    a. if the well is not exempt and will have a production capacity of less than 1000 gpm, written notice shall be given not less than ten (10) days prior to the date of any required hearing; and

    b. if the well is not exempt and will have a production capacity of 1000 gpm, or more, written notice shall be given at least thirty (30) days prior to the date of the hearing.

RULE 7.14. HISTORIC USE PERMITS.

1. An owner of an existing non-exempt well that was completed and operational prior to the effective date, and that produced and used groundwater in any year during the existing and historic use period, shall apply to the District for an historic use permit. The application must be filed on or before December 31, 2007. Failure of an owner of such a well to apply for an historic use permit on or before December 31, 2007, shall preclude the owner from making any future claim or application to the District for an existing or historic use under these rules. The failure of a well owner to file an application for an historic use permit on or before December 31, 2007 shall cause the owner to forfeit his rights and ability to operate the well under these rules, unless the owner thereafter applies for and obtains an operating permit that authorizes production from the well. *[Amended December 12, 2006]*

2. An application for an historic use permit shall, in addition to the information required under Rule 7.4, include the following information:

    a. the year in which the well was drilled;

    b. the purpose for which the well was drilled and any subsequent uses of the groundwater;

c. annual groundwater production history of the well for each year during the existing and historic use period;

d. legal description of the tract of land on which the well or well system is located;

e. all information requested by the District in a declaration of historic use form, which form shall be prescribed and provided by the District; and

f. any other information determined necessary by the Board.

3. On or before December 31, 2008, the District shall verify the extent of maximum beneficial use of groundwater prior to the effective date of these rules, claimed by each applicant for an historic use permit. The general manager shall either recommend the granting of a proposed historic use permit or a denial, in whole or in part, based on the application and information obtained by the District in relation to the use of groundwater by the applicant. The District shall obtain the information on which to base a recommendation either from the applicant or other credible sources. Such credible sources may include, but not be limited to, federal, state or other local agencies or governmental entities. The District shall publish notice of the recommended proposed permits or denials and make such recommendations available for public review and inspection. Any applicant or any affected party shall have 90 days from the date of the above notice to file a request for hearing. The Board shall consider the proposed historic use permit application and any other evidence presented by an affected party prior to making its decision. *[Amended December 12, 2006]*

4. An applicant for an historic use permit for a well that is not exempt under Rule 7.10(1)(a) or Rule 7.10(2) must install a metering or measuring device on each existing well for which an application has been submitted. Such metering or measuring device shall be installed and maintained in accordance with Section 11 of these rules. *[Amended April 8, 2008]*

5. The validity of an historic use permit is contingent upon payment by the permittee of the appropriate application fee, if any, established by the Board under Rule 9.2.

6. Within 15 days of January 31 of each year, each historic use permit holder, other than an historic use permit holder for a well that is exempt under Rule 7.10(1)(a)(i) or 7.10(2)(a), must submit a water use report to the District, on a form provided by the District, stating the following: (a) the name of the permittee; (b) the operating permit number; (c) the well numbers of each well for which the permittee holds a permit; (d) the total amount of groundwater produced by each well and well system during each month of the immediately preceding calendar year; (e) the purposes for which the water was used; and (f) any other information requested by the District. *[Amended April 8, 2008]*

7. It is the intent of the District to determine existing and historic use of groundwater within the District as set forth under this rule.

8. In issuing an historic use permit, the authorized withdrawal for a given well may be aggregated with the authorized withdrawal from other permitted wells designated by the District. Applicable spacing requirements and production allowances will be considered in determining whether or not to allow aggregation of withdrawal. For the purpose of categorizing wells by the amount of groundwater production, where wells are permitted with an aggregate withdrawal, the total authorized withdrawal will be assigned to the wells in aggregate rather than allocating to each well it's pro rata share of production. This will allow a well owner, with a number of water wells that supply a single well system, to apply for an operating permit for the well system without being required to apply for a separate operating permit for each individual well.

RULE 7.15. OPERATING PERMITS.

1. An operating permit is required for the operation of or production from any non-exempt well for which there is no historic use permit, or amendment thereto to include such well.

2. An application for an operating permit shall contain all the information requested in Rule 7.4.

3. Subject to the considerations listed in Rule 7.5, an application for an operating permit submitted under this rule shall not be unreasonably denied by the District. Prior to issuing an operating permit the District must find there is sufficient groundwater in the aquifer to support the issuance of the permit, in accordance with the management plan; and that:

    a. the well is already covered by an approved drilling permit, or the application is submitted in conjunction with an application for a drilling permit that meets the requirements of these rules;

    b. the applicant has, or is purchasing, an historic use permit or permitted well; or

    c. the applicant is the owner and designates the property that will be covered by the permit, and provides a plan and schedule for the location and drilling of a well or well system.

4. The District may impose more restrictive permit conditions on operating permit applications if the limitations:

    a. apply uniformly within the same aquifer to all subsequent operating permit applications;

    b. bear a reasonable relationship to the management plan; and

    c. are found necessary by the Board to accomplish the purposes of the District; or [*Added June 12, 2012]*

    d. are reasonably necessary to protect permit holders, existing users, or existing and historic use. *[Amended June 12, 2012]*

5. The owner of an operating permit is entitled to produce water in accordance with the terms of

the permit and these rules.

6. The validity of an operating permit issued is contingent upon payment by the permittee of the appropriate application fee as set forth under Rule 9.2, the continued payment of all applicable fees and compliance with the permit and these rules. *[Amended April 8, 2008]*

7. Within 15 days of January 31 of each year, each permittee must submit a report to the District, on a form provided by the District, stating the following: (1) the name of the permittee; (2) the operating permit number; (3) the well numbers of each well for which the permittee holds a permit; (4) the total amount of groundwater produced by each well or well system during each month of the immediately preceding calendar year; (5) the total amount of groundwater produced by each well and well system during the immediately preceding calendar year; (6) the purposes for which the water was used; and (7) any other information requested by the District.

8. In issuing an operating permit, the authorized withdrawal for a well may be aggregated with the authorized withdrawal from other permitted wells designated by the District. Applicable spacing requirements and production allowances will be considered in determining whether or not to allow aggregation of withdrawal, and if such review does not establish that each well will be produced in conformance with the requirements set forth in Sections 4 and 5 that are intended for the protection of neighboring properties, the production of each well will be separately reported, annually. For the purpose of categorizing wells by the amount of groundwater production, where wells are permitted with an aggregate withdrawal, the total authorized withdrawal will be assigned to the wells in aggregate, rather than allocating to each well it's pro rata share of production. This will allow an owner, with a number of water wells that supply a single well system, to apply for an operating permit for the well system without being required to apply for a separate operating permit for each individual well.

7.16. OPERATING PERMIT RENEWAL *[Rule 7.16 Added July 12, 2016]*

1. Operating permit renewal applications, on a form provided by the District upon request, shall be submitted to the District no later than sixty (60) days prior to the date of expiration of the Permit.

2. The District shall renew an operating permit, without a hearing provided:
   a) the application is submitted in a timely manner and accompanied by any required fees; and
   b). the permit holder is not requesting a change related to the renewal that would require a permit amendment under District rules.

3. The District is not required to renew a permit under this section if:
   a. The permit holder is delinquent in paying a fee required by the District;

b. The permit holder is subject to a pending enforcement action for a substantive violation of a district permit, order or rule; or

c. The permit holder has not paid a civil penalty or has otherwise failed to comply with an order resulting from a final adjudication of a violation of a district permit, order or rule.

4. Except as provided in Section 7.16.2, the General Manager may rule on any renewal application without notice, hearing, or further action by the Board, or with such notice and hearing as the General Manager deems desirable or necessary under the circumstances.

5. The General Manager may deny an operating permit renewal application, as provided above, or upon a determination that:

   a. the applicant is currently in violation of these rules or Chapter 36, *Texas Water Code;*

   b. the Applicant has a previously unresolved violation on record with the District; and

   c. the General Manager must provide written notice of the application denial within fifteen (15) calendar days.

6. Any applicant may appeal the General Manager's ruling by filing, within forty-five (45) calendar days of the General Manager's ruling, a written request for a hearing before the Board. The Board will hear the applicant's appeal at the next available regular Board meeting.

7. The General Manager shall inform the Board of any renewal applications granted on behalf of the District.

8. The Board may overrule the action of the General Manager.

9. The General Manager shall authorize an applicant for a permit renewal to continue operating under the conditions of the prior permit, subject to any changes necessary under these rules, or the District's management plan, for any period in which the renewal application is the subject of a contested case hearing.

10. The District may initiate an amendment to an operating permit, in connection with the renewal of a permit or otherwise, in accordance with the District's rules. If the District initiates an amendment to an operating permit, the permit as it existed before the permit amendment process shall remain in effect until the conclusion of the permit amendment or renewal process, as applicable

RULE 7.17. INJECTION WELLS. The District will monitor and participate in proceedings at the TCEQ and Railroad Commission applicable to permit applications for injection wells to be located within the District. The District will take action to reasonably assure the District is made aware of permit applications made to locate an injection well within the District, and that the District is entitled to participate in TCEQ and Railroad Commission proceedings regarding applications for injection wells within the District. *[Rule 7.16 Added April 8, 2008]*

1. The District will request the TCEQ and Railroad Commission to give timely notice to the District of each application that is made for a permit to locate an injection well within the District.

2. The general manager will monitor the notices given, the notices required to be published in the District, permit applications and the permits issued for injection wells to be located in the District, for the purpose of reasonably assuring the District is given timely notice of all permit applications for injection wells.

3. Upon receipt of notice of an application for an injection well the general manager will review the information provided, and obtain professional assistance and additional information as determined reasonable by the general manager. The general manager may communicate in writing with the TCEQ or Railroad Commission to assure the District the right and option to participate in the permit application and hearing process at the TCEQ or Railroad Commission, prior to submitting the matter to the Board.

4. If, in the judgment of the general manager, a proposed injection well for which a permit application has been made will not harm or jeopardize any aquifer or groundwater in the District, the general manager may give the Board written notice that the permit application will not be scheduled for Board review and action. In such event, any member of the Board may require the item to be included on the agenda for the next regular Board meeting for which notice may be timely given.

5. If the general manager determines a proposed injection well may be detrimental or harmful to an aquifer or groundwater within the District, the pending permit application shall be included on the agenda for the next regular Board meeting for which notice may be timely given. Prior to such meeting, the general manager shall take such actions as are reasonably necessary with respect to any such application.

6. The District will take action with respect to applications for injection well permits as is found reasonably necessary to accomplish the public purposes of the District. In appropriate cases, the actions by the District may be to obtain and provide evidence applicable to individual permit applications, file objections to the granting of any application for an injection well permit, participate as a party in any administrative proceeding and, as appropriate, appeal any action by the TCEQ or Railroad Commission granting an application for an injection well permit; provided the District will not participate as a party in any contested administrative proceeding or judicial appeal without Board approval.

RULE 7.18. HYDRAULIC FRACTURING. *[Added and Amended February 20, 2014]*

1. Drilling and Operating permits for wells that will be drilled, operated or produced for the purpose of hydraulic fracturing, or for any similar purpose or use, shall be issued pursuant to this Rule 7.17.

2. Wells used to produce groundwater for pumping into and fracturing underground strata or formations, or for any similar purpose or use, are exempt from the requirements for a public hearing if the term of the permit does not exceed one calendar year, but are not otherwise exempt from these rules.

3. Wells permitted under this Rule 7.17 shall comply with spacing requirements set forth by Rule 4.1.

4. An application for a permit under Rule 7.17 shall contain the following information:

   a. The name and address of the applicant and the owner of the land on which the well is to be drilled or operated;

   b. The name of the oil and gas lease and unit number;

   c. Documentation establishing the applicant's ownership of the land on which the oil and/or gas well is or will be located, or, if the applicant is other than the owner of the property, documents establishing the applicant's authority to construct or operate an oil and/or gas well on such property;

   d. The proposed location of the water well and the maximum rate at which groundwater proposed to be withdrawn, accompanied by a map showing the location of the well and the property owned or controlled by the applicant for the production of water;

   e. The total amount of groundwater requested accompanied by a list which includes the following:

      i. Name of each oil and/or gas well where groundwater is to be pumped into for purpose of hydraulic fracturing, or similar use;

      ii. The estimated amount of groundwater to be used in each oil and/or gas well;

      iii. A statement by the applicant that the groundwater withdrawn under the permit will be put to beneficial use at all times;

      iv. The aquifer and formation from which the applicant intends to produce groundwater;

      v. The total acreage that is owned or controlled for the production of groundwater, accompanied by documents establishing ownership of the land on which the well is, or will be, located, or one or more valid groundwater lease(s) establishing authorization to produce the volume of groundwater requested by the permit application on the land on which the well is or will be located; and

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vi. Any other information identified by the Board during the permitting process as reasonably required or beneficial to the District's decision.

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5. Payment by the applicant of the appropriate application fee.

6. An application may be rejected as not administratively complete if the District finds that substantive information required by the permit application is missing, false, or incorrect.

7. An application will be considered administratively complete if it complies with all requirements set forth under this Rule 7.17, includes all information to be included in the application, and is accompanied by the required application fee.

8. The general manager shall determine if an application is administratively complete, subject to the applicant's right of appeal to the Board.

9. Production of groundwater under this Rule 7.17 shall be subject to application and production fees as they apply according to Section 9 of these Rules.

10. Within 15 days of January 31 of each year, each holder of a permit issued under this Rule 7.17 must submit a water use report to the District which includes the following: (a) the name of the permittee; (b) the permit number(s); (c) the well numbers or names of each water well for which the permitee holds a permit; (d) the amount of water produced from each permitted well on a monthly basis; and (e) any other information required by the District.

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11. The District may require metering of wells that are permitted under this Rule 7.17. If metering is required, the metering will comply with Section 11 of these Rules and shall include other instruments as required by the District.

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12. Wells previously permitted by the Railroad Commission, and exempt under Rule 7.10(2)(b), that are to be altered, or replaced with a well having the same casing diameter, for the purpose of supplying water for hydraulic fracturing or a similar purpose or use without a new or amended permit being issued by the Railroad Commission are exempt from the public hearing requirements, if the well and use comply with Rule 7.17(11): *[Amended June 12, 2012]*

a. will not produce water for more than 180 calendar days, and will not produce more than 50,000 gallons of water per day;

b. is owned or operated by the same person that was issued the initial permit by the Railroad Commission; *[Amended June 12, 2012]*

c. is located on the same oil and gas lease, or within the boundaries of the same field, on which the drilling rig was located when the original permit was granted; *[Amended June 12, 2012]*

d. the owner or operator of the well provides written representation that he has the right to produce the groundwater required for the well; provided that:

e. wells permitted under this Rule 7.17(11) that are to be replaced with a larger casing diameter shall not be exempt from the spacing requirements.

SECTION 8. TRANSPORT OF GROUNDWATER OUT OF THE DISTRICT.

RULE 8.1. GENERAL PROVISIONS FOR TRANSPORT.

1. A person who seeks to transport groundwater must obtain a transport permit from the District before transporting groundwater outside of the District boundaries.

2. A transport permit is not required for the transport of groundwater that is part of a manufactured product, or groundwater that is to be used on property that straddles the District boundary line and that is owned by the owner or operator of the well(s) that produce the water. A container of water is not a manufactured product.

3. The District may not impose more restrictive permit conditions on the owner of a transport permit than the District imposes on existing in-district users of water.

4. The District may impose a reasonable fee for processing an application under this Rule. The fee may not exceed similar fees that the District imposes for processing other permit applications. An application filed under this rule shall be considered and processed under the same procedures as other applications for other permits and shall be combined with any applications filed to obtain a permit for in-District water use from the same applicant.

5. In reviewing an application for a transport permit, the District shall consider:

   a. the availability of water in the District and in the proposed receiving area during the period for which the water supply is requested, including any planned conjunctive use;

   b. the projected effect of the proposed transport on aquifer conditions, depletion, and subsidence and effects on existing permit holders or other groundwater users within the District;

   c. the approved regional water plan and the management plan; and

   d. whether the applicant has an underlying historic use or operating permit issued or being considered by the District, or a contract for the purchase of water from a person that has an operating permit.

6. Subject to other applicable provisions of these rules, if the applicant has an historic use permit for the same use of the water as the use for which the water is to be transported, or operating permit, or a contract to purchase water from a person that holds an historic use or operating permit, the District shall not deny a permit under this rule based on the fact that the applicant seeks to transport groundwater outside of the District. The District may restrict a transport permit by limiting the volume of groundwater for transport to the volume of water

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that is authorized to be produced by the historic use or operating permit, or, not to exceed the otherwise uncommitted production capacity of the well or well system that the applicant has a contract right to purchase from the operator of a permitted well. Each transport permit shall specify the amount of water that may be transported and the period of time for which the water may be transported. *[Amended April 8, 2008]*

7. The District is prohibited from using revenues obtained under Rule 8.1(4) to prohibit the transport of groundwater outside of the District. The District is not prohibited from using revenues obtained under Rule 8.1(4) to pay expenses related to enforcement of rules or for any other purpose of the District. *[Amended April 8, 2008]*

8. In applying this rule, the District must be fair, impartial, and non-discriminatory.

9. The District shall not issue a transport permit unless the transport permit applicant has:

    a. obtained an underlying registration certificate, historic use or operating permit, or an amendment to a permit that authorizes the transport permit applicant to produce the groundwater that is desired to be transported; or

    b. a contract with a permit holder of an historic use or operating permit that entitles the applicant to purchase water from a well or well system.

An application for a transport permit may be submitted and considered concurrently with an application for a registration certificate, an historic use or operating permit, or an amendment to a permit.

10. The term of duration of a transport permit shall be:

    a. at least three years if construction of a conveyance system has not been initiated prior to the issuance of the transport permit; or

    b. at least 30 years if construction of a conveyance system has been initiated prior to the issuance of the transport permit, or if construction is initiated within three years after issuance of the permit; and *[Amended June 12, 2012]*

    c. the amount of water that may be transferred under the permit will be subject to periodic review based on the factors set forth in Rule 8.1(5) above; provided that such review may not be more frequent than the review of other permits issued by the District and any resulting limitation will be subject to Rule 8.1(3) above.

11. Despite the term of duration listed in a transport permit, a permittee is authorized to transport water under a transport permit only as long as the permittee also holds a valid historic use, registration or operating permit issued by the District, or has a contract with the holder of such permits to purchase water that is produced under the permits.

12. Transport permits may be issued on terms that recognize that all or a part of the transported water is intended to be used as part of a plan that provides for conjunctive use.

13. The transport and use of water permitted by an historic use permit is limited to the transport and uses recognized in the historic use permit. *[Added April 8, 2008]*

RULE 8.2. APPLICATION FOR TRANSPORT PERMIT.

1. A transport permit application must be filed with the District on a form prescribed by the District.

2. An application for a transport permit must:

   a. be in writing and sworn to;

   b. contain the name, post-office or other valid address, and the residence or principal office address of the applicant and the owner of the land on which the well is or will be located;

   c. identify the actual or anticipated location, pump size, and production capacity of the well from which the groundwater to be transported is produced or is proposed to be produced;

   d. describe the proposed transport facilities;

   e. state the nature and purposes of the proposed use and the anticipated amount of groundwater to be used for each purpose, including any proposed conjunctive use;

   f. state the anticipated time within which any proposed construction or alteration of the transport facilities is to begin;

   g. state the presently anticipated duration for the proposed transport of groundwater;

   h. provide information showing what water conservation measures the applicant has adopted, what water conservation goals the applicant has established, and what measures and time frames are necessary to achieve the applicant's established water conservation goals; and

   i. if the water is to be resold to others, provide a description of the applicant's service area, metering, leak detection and repair program for its water storage, delivery and distribution system, drought or emergency water management plan, and information on each subsequent customer's water demands, including population and customer data, water use data, water supply system data, alternative water supply, water conservation measures and goals, conjunctive use, and the means for implementation and enforcement of all applicable rules, plans, and goals.

3. The general manager shall determine whether the application complies with the requirements

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of this rule and may require amendment of the application to achieve necessary compliance.

4. An application must be accompanied by the required application fee established by the Board.

RULE 8.3. HEARINGS FOR TRANSPORT PERMITS.

1. Within sixty (60) days after receiving an administratively complete application, the District will schedule a hearing on the application. The hearing will be set for a date that is not more than 35 days after the date it is placed on the hearings schedule. *[Amended June 12, 2012]*

2 . The District shall give notice of the hearing on the application as prescribed by this Rule, stating:

   a. the name and address of the applicant;

   b. the date the application was filed;

   c. the location of the well(s) from which the groundwater to be transported is produced or to be produced;

   d. the proposed use of the transported groundwater;

   e. the time and place of the hearing; and

   f. any additional information identified by the District during the permitting process as reasonably beneficial and useful for public notice.

3. At the time and place stated in the notice, the District shall hold a hearing on the application in accordance with the provisions of Section 14; provided the Board may continue any such hearing from time to time on a timely request being made by the general manager, the applicant or any person having party status. *[Amended April 8, 2008]*

4. On approval of an application, the District shall issue a permit to the applicant. The applicant's right to transport groundwater shall be limited to the terms of the permit and subject to all applicable terms, provisions and conditions of these rules. *[Amended June 12, 2012]*

RULE 8.4. PERMIT INFORMATION FOR TRANSPORT PERMITS.

1. A transport permit issued by the District shall contain the following information:

   a. the name and mailing address of the permittee;

   b. the name and mailing address of the owner of the land from which the groundwater will be taken;

   c. the date the permit is issued;

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d. the period for which the groundwater may be transported;

e. the date the permit is to expire if no groundwater is transported;

f. the date the original application was filed;

g. a requirement that the groundwater withdrawn under the permit be put to beneficial use at all times;

h. the location of use of the transported groundwater;

i. the conditions and restrictions, if any, placed on the rate and amount of withdrawal;

j. the use or purpose for which the water is to be transported;

k. the maximum quantity of water to be transported annually; and

l. any other information the District finds reasonably useful and beneficial.

RULE 8.5. EXEMPT WELLS AND DISCHARGES UNDER STATE PERMITS.

1. The owner of an exempt well is not excused from the requirements to obtain a transport permit and paying groundwater transport fees if the groundwater produced from the exempt well is transported outside of the District. *[Amended April 8, 2008]*

2. Groundwater that is discharged within the District pursuant to a permit issued by the Railroad Commission or the TCEQ is not considered to have been transported from the District unless the discharge is part of an overall water transfer for use outside the District.

RULE 8.6. REPORTING. On or before February 15th each year, the owner of a transport permit shall file an annual report with the District describing the amount of water transported under the permit. The report shall be filed on the appropriate form provided by the District and will include the following: (1) the name of the permittee; (2) the well numbers of each well for which the permittee holds a transport permit; (3) the total amount of groundwater transported from each well and well system during the immediately preceding calendar year; (4) the total amount of groundwater transported from each well or well system during each month of the immediately preceding calendar year; (5) the purposes for which the water was transported; and (6) any other information requested by the District.

RULE 8.7. EXTENSION OF TRANSPORT PERMIT. A permittee may apply for an extension of the term of a transport permit granted under this Section 8. The District shall consider and grant or deny each application for extension of a transport permit in the same manner as is provided herein for the application for a permit.

RULE 8.8. REVOCATION OR MODIFICATION OF TRANSPORT PERMIT. A permit granted under this Section 8 will be subject to review and modification as provided in Rule

8.1(10). The permit shall also be subject to revocation for nonuse or waste by the permittee or for substantial deviation from the purposes or other terms stated in the permit. To revoke a permit for nonuse, the District must determine that construction of a conveyance system has not been initiated within three years after issuance of the transport permit.

SECTION 9. FEES AND DEPOSITS.

RULE 9.1. WATER USE AND OTHER DISTRICT FEES AND CHARGES.

1. Except as otherwise provided under Rule 7.10(3) & (4), the exempt wells defined and described in Rule 7.10(1)(a) and Rule 7.10(2), and the partially exempt wells described in Rule 7.10(1)(b), are exempt from payment of water use fees.

2. The water use, permitted production, transport, permit and administrative function fees, and other fees heretofore adopted by the Board, are hereby ratified, confirmed and re-adopted by the Board. The Board shall, from time to time, adopt a schedule of fees for water use, production, transport, permits and administrative functions, and any other lawful purpose or business of the District. The fees, rates and charges will be established in a schedule of fees and charges adopted by the Board, and each such schedule of fees and charges shall thereafter be and remain in effect until amended by the Board. *[Amended June 12, 2012]*

3. The water use fee rate schedule established by the Board shall be applied to the total authorized annual production for each historic use and operating permit. As used in this Section 9, when applied to the holder of a permit issued by the District the term "water used" shall mean the total annual production authorized in the permit. *[Amended April 8, 2008]*

4. Water use fees shall be paid to the District for water that is authorized to be pumped from wells that are not exempted by these rules or state law from the payment of such fees. The water use fee rate shall be established by the Board. Except as otherwise provided by these rules or state law, the rate will be initially applied to total volume pumped for a period designated by the Board; and following issuance of permits, the rate shall be applied to the total authorized annual production for each permit, including permits and amendments issued during the fiscal year the rate is in effect. Such annualized fees shall be pro-rated for the remainder of the calendar year in which the permit is issued, and one-twelfth of the annualized fee will be paid by the permittee at the end of each month remaining in that calendar year after the issuance of the permit.

5. Pursuant to the District Act, the water use fee may not exceed:

    a. $0.25 per acre-foot for water used for irrigating agricultural crops or operating existing steam electric stations; or

    b. $0.17 per thousand gallons for water used for any other purpose.

6. The District may establish a reasonable fee or surcharge for the transport of groundwater, using one of the following methods:

   a. A fee negotiated between the District and the transport permit holder; or

   b. A combined production and transport fee not to exceed $0.17 per thousand gallons of groundwater transported outside the boundaries of the District.

7. The District is prohibited from using revenues obtained from transport fees to prohibit the transfer of groundwater outside the District, but may use transport fees for paying expenses related to the enforcement of *Chapter 36* or the rules, or for any other lawful purpose of the District. *[Amended April 8, 2008]*

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RULE 9.2. APPLICATION, REGISTRATION, AND OTHER FEES. All fees, rates and charges provided for in these rules shall be charged and collected pursuant to a schedule of fees, rates and charges adopted by the Board.

The Board shall establish a schedule of fees, rates and charges for water use, transport, permits and administrative functions. The Board will attempt to set fees for permit applications and administrative functions that do not unreasonably exceed the costs incurred by the District of performing the administrative functions for which the fees are charged. The District's monitor wells are exempt from application, registration, and well log deposits. The general manager shall exempt District monitor wells from any other fees if the general manager determines the assessment of the fee would result in the District charging itself a fee. *[Amended April 8, 2008]*

RULE 9.3. PAYMENT OF FEES. All permit fees are due at the time of application or registration. The annual water use and transport fee for each permit shall be paid as directed by the Board.

RULE 9.4. TRANSPORT PERMIT PROCESSING. The Board may adopt an application processing fee for transport permits to cover all reasonable and necessary costs to the District of processing the application. The permit processing fee for an application to transport groundwater out of the District may not exceed the fees that the District imposes for processing applications for the use of groundwater within the District. *[Amended April 8, 2008]*

RULE 9.5. INSPECTION AND PLAN REVIEW FEES. The Board may establish fees for the inspection of wells, meters, or other inspection activities; plan reviews; special inspection services requested by other entities; or other similar services that require involvement of District personnel or its agents. Fees may be based on the amount of the District's time and involvement, out-of-pocket costs, number of wells, well production, well bore, casing size, size of transporting facilities, or amounts of water transported. *[Amended April 8, 2008]*

RULE 9.6. EXCEPTIONS. If a regulated water utility or other entity is unable to pass through production fees due to delay in obtaining regulatory approval, or in other unusual instances of

hardship, the Board may grant exceptions and establish a payment schedule. Such exceptions shall be applied consistently.

RULE 9.7. RETURNED CHECK FEE. The Board may establish a fee for checks returned to the District for insufficient funds, account closed, signature missing, or any other problem causing a check to be returned by the District's depository. *[Amended April 8, 2008]*

RULE 9.8. ACCOUNTING FEE. The Board may establish a fee for permittee requested accounting regarding production reports, transport reports, water use fee payments, or other accounting matters pertaining to the permittee's account which the District does not routinely maintain in its accounting of a permittee's records. Should a material District error be discovered, the accounting fee, if any, will be fully refunded. Permittees may request one review of their account per fiscal year without charge. *[Amended April 8, 2008]*

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RULE 9.9. WELL LOG DEPOSIT. The Board may establish a well log deposit to be held by the District and returned to the depositor if well logs are submitted to the District within sixty (60) days following surface completion of the well. The depositor will receive one-half the well log deposit for well logs received by the District after the sixty (60) day period, less expenses incurred by the District to obtain submission of the well logs. *[Amended April 8, 2008]*

RULE 9.10. WAIVER AND VARIANCE REQUESTS. The Board may establish a base fee to be charged for each waiver or variance requested from the requirements of Section 5. In addition to any such base fee the applicant shall be required to reimburse the District for any professional fees reasonably incurred by the District to review and respond to the request for waiver or variance. *[Amended April 8, 2008]*

RULE 9.11. DISTRICT EXPENSES AND COSTS. Each applicant for a District permit, or permit amendment, shall be responsible for and required to reimburse the District for the professional fees and charges paid by the District, and all other expenses reasonably incurred by the District, with respect to the application, including but not limited to any related negotiations or administrative proceedings. Each person, or permit holder, that is the subject of action by the District to enforce the terms of any permit or these rules and is found to have not been in compliance with the permit or these rules, shall be responsible for and required to reimburse the District for, the professional fees and charges paid by the District, and all other expenses reasonably incurred by the District, with respect to any action or proceeding by the District to enforce the terms and conditions of the permit or these rules. *[Added April 8, 2008]*

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SECTION 10. GENERAL PROVISIONS.

RULE 10.1. CONJUNCTIVE USE. The District will collect data and information regarding conjunctive use, if any, proposed for each operating and each transport permit.

RULE 10.2. APPEAL. Any affected person may appeal a decision by the general manager to administratively grant or deny any permit or registration without a hearing. Except as otherwise specifically provided herein any such appeal must be in writing and filed in the district office within thirty days after the date of the administrative decision that is being appealed.

RULE 10.3. NOTICE. Except as provided otherwise in these rules for a specific notice, when written notice of any application is required to be given to the landowners and well owners within a specific geographic area, such notice shall be given, not less than ten (10) days before the hearing scheduled, as follows: *[Amended April 8, 2008]*

1. to the landowners within the geographic area, as shown in the tax records of the county in which the land is located and at the mailing address provided in the tax records; and

2. to the owners of wells within the geographic area as shown by the list of registered wells on file with the District. *[Amended April 8, 2008].*

RULE 10.4. WELL CLOSING. Abandoned wells, deteriorated wells, wells constituting a threat to the water quality of any aquifer, and wells containing mineral or other substances injurious to vegetation or agriculture shall be closed and plugged in compliance with these Rules, the *Water Code*, *Natural Resources Code*, *Health & Safety Code*, the *Occupations Code* and the rules and regulations of the TCEQ and Railroad Commission, as applicable. Within thirty (30) days after a well is plugged, a report of that action shall be made to the District. *[Added April 8, 2008]*

RULE 10.5. FORMS REQUIRED BY THESE RULES. The general manager shall from time to time prepare, modify, amend and place into effect forms for permits, applications, completion reports and other matters as reasonably useful and necessary to assist persons to make applications and reports required by these rules, or by the District to obtain needed information or give effect to these rules. Any person may, other than in a pending case or application, appeal to the Board the nature, type or kind of information required to be provided on any such form, or that the form is not a form or report that is authorized to be required pursuant to these rules. *[Added April 8, 2008] [Amended June 12, 2012]*

SECTION 11. METERING AND MEASURING.

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RULE 11.1. METERING AND MEASURING EXCEPTIONS. Except for wells specifically exempt under State law from metering requirements, or wells exempt under Rule 7.10(1)(a), or Rule 7.10(2)(a), all wells shall obtain and install a metering or measuring device under this Section 11. Wells exempt under Rule 7.10(2)(b) or (c), or Rule 7.10(3) shall have a metering device as necessary to comply with reporting requirements provided by State law. If a well is no longer exempt by State law or these rules, or such well is required by *Chapter 36, Texas Water Code* or these rules to pay a water use or transport fee for any subsequent use of groundwater withdrawn from such well, a meter or other approved metering device is required. *[Amended April 8, 2008]*

RULE 11.2. METER/MEASUREMENT REQUIRED.

1. The owner of a non-exempt well shall equip the well with a metering or measuring device meeting the specifications of these rules, and shall operate the meter on the well to measure the instantaneous flow rate and cumulative total amount of groundwater withdrawn from the well. Except as provided in Rule 11.1, the owner of a well existing on the effective date of these rules shall install a meter on the well on or before December 30, 2007. An hour meter may be considered as a production monitoring device on a well, if the output (gpm) can be accurately determined.

2. A mechanically driven, digital, totalizing water meter is the only type of meter that may be installed on a well. The digital totalizer must not be re-settable by the permittee and must be capable of a maximum reading greater than the maximum expected pumpage during the permit term. Battery operated registers must have a minimum five-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 registering accuracy as set forth in the American Water Works Association standards for cold-water meters, as those standards existed on the date of adoption of these rules.

3. The water meter must be installed according to the manufacturer's published specifications in effect at the time of the meter installation, or the meter's accuracy must be verified by the permittee in accordance with Rule 11.4. If no specifications are published, there must be a minimum length of five pipe diameters of straight pipe upstream of the water meter and one pipe diameter of straight pipe downstream of the water meter. These lengths of straight pipe must contain no check valves, tees, gate valves, back flow preventers, blow-off valves, or any other fixture other than those flanges or welds necessary to connect the straight pipe to the meter. In addition, the pipe must be completely full of water throughout the pipe section. All meters must measure only groundwater.

4. Each meter shall be installed, operated, maintained, and repaired in accordance with the manufacturer's standards, instructions, or recommendations, and shall ensure an accuracy reading range of 95% to 105% of actual flow. When installed, and when recalibrated, the meter must be calibrated to an accuracy reading within 2% of actual flow.

5. The owner of a well is responsible for the installation, operation, maintenance, and repair of the meter associated with the well.

6. Bypasses are prohibited unless they are also metered.

RULE 11.3. METERING AGGREGATE WITHDRAWAL. Where wells are permitted in the aggregate, one or more water meters may be used for the aggregate well system if the water meter or meters are installed so as to measure the groundwater production from all wells covered by the aggregate permits. The provisions of Rule 9.2 apply to meters measuring aggregate

pumpage. Notwithstanding the foregoing it will be the responsibility of the owner or operating permit applicant to show that the inclusion of any well in an aggregate well system will not result in a violation of the Sections 4 and 5 spacing requirements that are intended for the protection of neighboring properties. If the owner or applicant fails, for any well, to show adequate spacing and production safeguards that will reasonably comply with the intent of Sections 4 and 5 for the protection of neighboring properties, such well shall be metered.

RULE 11.4. ACCURACY VERIFICATION.

1. Meter Accuracy to be Tested: Water meters shall be recalibrated not less frequently than every three years to result in the metering of water volume within +/- 2% of actual flow. The general manager may, at any time, require the permittee, at the permittee's expense, to test the accuracy of a water meter and submit a certificate of the test results. The certificate shall be on a form provided by the District. The general manager may further require that such test be performed by a third party approved by the general manager and qualified to perform such tests. Except as otherwise provided herein, certification tests will generally not be required more than once every three years for the same meter. If the test results indicate that the water meter is registering an accuracy reading outside the range of 95% to 105% of the actual flow, appropriate steps shall be taken by the permittee to repair or replace the water meter within 90 calendar days from the date of the test. The District, at its own expense, may undertake random tests and other investigations at any time for the purpose of verifying water meter readings. If the District's tests or investigations reveal that a water meter is not registering within the accuracy range of 95% to 105% of the actual flow, or is not properly recording the total flow of groundwater withdrawn from the well or wells, the permittee shall reimburse the District for the cost of the tests and investigations and, within 90 calendar days from the date of the tests or investigations, take appropriate steps to bring the meter or meters into compliance with these rules. If a water meter or related piping or equipment is tampered with or damaged so that the measurement of accuracy is impaired the permittee shall promptly report such incident to the District. The District may require the permittee, at the permittee's expense, to take appropriate steps to remedy the damage and to retest the water meter within 90 calendar days from the date the problem is discovered and reported.

2. Meter Testing and Calibration Equipment: Only equipment capable of accuracy results of plus or minus two percent of actual flow may be used to calibrate or test meters.

3. Calibration of Testing Equipment: All approved testing equipment must be calibrated every two years by an independent testing laboratory or company capable of accuracy verification. A copy of the accuracy verification must be presented to the District before any further tests may be performed using that equipment.

RULE 11.5. REMOVAL OF METER FOR REPAIRS. A water meter may be removed for repairs and the well remain operational provided that the District is notified prior to removal and

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the repairs are completed in a timely manner. The readings on the meter must be recorded immediately prior to removal and at the time of reinstallation. The record of pumpage must include an estimate of the amount of groundwater withdrawn during the period the meter was not installed and operating.

RULE 11.6. WATER METER READINGS. The permittee of a well must read each water meter associated with the well and record the meter readings and the actual amount of pumpage in a log, at least monthly. The logs containing the recordings shall be available for inspection by the District during reasonable business hours.

RULE 11.7. INSTALLATION OF METERS. Except as otherwise provided by these rules, a meter required to be installed on a new well under these rules shall be installed on new wells and properly calibrated either before the well owner or operator begins withdrawing groundwater for use or 90 days after the date the new well has been drilled and equipped for production, whichever occurs first.

SECTION 12. WELL LOCATION AND COMPLETION.

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RULE 12.1. RESPONSIBILITY. Notwithstanding any other provision of these rules, unless the Board grants a waiver, the location of all new wells, excluding a well that is exempt under Rule 7.10(1)(c) or Rule 7.10(2)(c) of these rules, must be in compliance with the spacing requirements. After an application for a drilling permit or certificate of registration has been granted, unless the well is exempt, the well, if drilled, must be drilled at a location that is in compliance with the spacing requirements. If the well is commenced or drilled at a location that does not comply with this Rule 12.1, the Board, pursuant to *Chapter 36, Texas Water Code*, may enjoin the drilling or operation of such well or require a completed well to be closed in a manner compliant with all applicable regulations. As described in the Texas Water Well Drillers' Rules, all well drillers and persons having a well drilled, deepened, or otherwise altered, shall adhere to the provisions of the rules prescribing the location of wells and proper completion *[Amended May 3, 2017]*

RULE 12.2. LOCATION OF WELLS.

1. A well must be located a minimum horizontal distance of 50 feet from any watertight sewage facility or liquid-waste collection facility.

2. A well must be located a minimum horizontal distance of 150 feet from any contamination, such as existing or proposed livestock or poultry yards, privies and septic system absorption fields; provided the general manager may grant a variance for wells that have obtained a variance pursuant to *Texas Administrative Code, Title 16, Part 4, Chapter 76*, as amended. *[Amended June 12, 2012]*

3. A well must be located at a site not generally subject to flooding; provided, however, that if a well must be placed in a flood prone area, it must be completed with a watertight sanitary

well seal and steel casing extending a minimum of 24 inches above the known flood level.

4. No well may be located within five hundred (500) feet of a cemetery, sewage treatment plant, solid waste disposal site, or land irrigated by sewage plant effluent, or within three hundred (300) feet of a sewage wet well, sewage pumping station, or a drainage ditch that contains industrial waste discharges or wastes from sewage treatment systems; provided the general manager may grant a variance for wells that have obtained a variance pursuant to *Texas Administrative Code, Title 16, Part 4, Chapter 76*, as amended. *[Amended June 12, 2012]*

5. Wells shall have an annular space that is at least three (3) inches larger in diameter than the casing and the annular space shall be filled using cement slurry, bentonite grout, and/or bentonite, as follows: *[Added June 12, 2012]*

   a. wells that are 100 feet deep, or more, from the ground level to a depth of 100 feet;

   b. wells that are less than 100 feet deep, except as provided in (c) and (d) below, from the ground level to the top of the water producing layer;

   c. in areas of shallow unconfined aquifers the cement slurry, bentonite grout and/or bentonite need not be placed below the static water level; and

   d. in areas of shallow confined aquifers having artesian head, the cement slurry, bentonite grout and/or bentonite need not be placed below the top of the water-bearing strata. *[Added June 12, 2012]*

6. Compliance with Rule 12.2(5) must be documented by the permit application for the well, and from the well log that is submitted to the District and the Texas Department of Licensing and Regulation at the time of the well's completion. *[Added June 12, 2012]*

7. Class V injection wells that are subject to the completion standards of the Texas Commission on Environmental Quality under *30 TAC, Chapter 331*, are exempt from the requirements of this rule. *[Added June 12, 2012]*

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RULE 12.3. STANDARDS OF COMPLETION FOR WELLS. Water well drillers must record all completion methods and information for each well, and file a completed well report (TDLR Form #001WWD) with the Texas Department of Licensing and Regulation. The well report may be filed with TDLR online, and a hard copy of the well report shall be filed with the District. Domestic, industrial, injection, and irrigation wells must be completed in accordance with the following specifications and in compliance, as applicable, with local county and city ordinances, rules, regulations and policies: *[Amended June 12, 2012]*

1. Wells shall be constructed to meet standards as set forth in *Title 16, Part 4, Chapter 76 Subchapter C, Rule Sec. 76.1000 of the Texas Administrative Code*. [See: Rules 12.2(5) and 12.3(8)] *[Amended June 12, 2012]*

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2. Compliance with Rule 12.3(1) must be documented by the permit application for the well, and from the well log that is submitted to the District and the Texas Department of Licensing and Regulation at the time of the completion of the well. *[Amended June 12, 2012]*

3. All wells shall have a concrete slab or sealing block above the cement slurry and around the well at the ground surface.

4 . The slab or block shall extend at least two (2) feet from the well in all directions and have a minimum thickness of four inches and shall be separated from the well casing by a plastic or mastic coating or sleeve to prevent bonding of the slab to the casing.

5. The surface of the slab shall be sloped to drain away from the well. In all wells:

   a. The casing shall extend a minimum of one foot above the original ground surface; and

   b. A slab or block as described in Rule 12.3.4 is required above the cement slurry except when a pit less adapter is used. Pit less adapters may be used in such wells provided that: *[Amended April 8, 2008]*

      i. the pit less adapter is welded to the casing or fitted with another suitably effective seal; and

      ii the annular space between the borehole and the casing is filled with cement to a depth 15 feet or more below the adapter connection.

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6. All wells, especially those that are gravel packed, shall be completed so that aquifers or zones containing waters that are known to differ significantly in chemical quality are not allowed to commingle through the borehole-casing annulus or the gravel pack, or cause quality degradation of any aquifer or zone.

7. The well casing shall be capped or completed in a manner that will prevent pollutants from entering the well.

8. Excluding only the type V injection wells referenced in Rule 12.2(5) all wells drilled after the date of adoption of this amendment shall comply with Rule 12.3(1). *[Added June 12, 2012]*

9. A well permitted and drilled by a local water utility to produce water for a public water supply is required to be licensed by the State, and is not subject to this Rule 12.3. As used in this Rule 12.3(9), "local water utility" has the meaning given in Rule 5.5. *[Added June 12, 2012]*

RULE 12.4. MAINTENANCE AND RE-COMPLETION REQUIREMENTS.

1. The landowner shall have the continuing responsibility of insuring that a well does not allow commingling of undesirable water and fresh water, or the unwanted loss of water through the well bore to other porous strata.

2. If a well is allowing the commingling of undesirable water and fresh water or the loss of water, and the casing in the well cannot be removed and the well re-completed within the applicable rules, the casing in the well shall be perforated and cemented in a manner that will prevent the commingling or loss of water. If such a well has no casing, then the well shall be cased and cemented, or plugged in a manner that will prevent such commingling or loss of water. *[Amended June 12, 2012]*

3. The Board may direct the landowner to take steps to prevent the commingling of undesirable water and fresh water, or the loss of water. The Board may order that an abandoned well be capped, and that any additional action necessary to minimize waste or pollution be taken. *[Amended June 12, 2012]*

4. Wells shall be operated and maintained in a manner to comply with all applicable laws, rules and regulations. A well that is exempt under Rule 7.10(1) or 7.10(2) (a) or that has a permit issued under these rules, and that is not a deteriorated well, may be maintained as a capped well.

5. Abandoned wells shall be capped. An abandoned well may be re-opened or recompleted only in compliance with all applicable laws, rules and regulations.

6. The owner or lessee of an open or uncovered well may be required to keep the well closed or capped as provided in *Sec. 36.118, Tex. Water Code*. *[Added April 8, 2008]*

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SECTION 13. WASTE.

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RULE 13.1. WASTE.

1. Groundwater shall not be produced within, or used within or outside of the District, in such a manner as to constitute waste.

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2 . No person shall pollute or harmfully alter the character of the underground water reservoir of the District by means of salt water or other deleterious matter admitted from some other stratum or strata, or from the surface of the ground.

3. No person shall commit waste of groundwater. *[Amended June 12, 2012]*

4. An abandoned well shall be capped and maintained in a manner to prevent pollution, including the commingling of undesirable water and fresh water or the loss of water. *[Amended June 12, 2012]*

SECTION 14. HEARINGS.

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RULE 14.1. TYPES OF HEARINGS. The District conducts two types of hearings: hearings involving permit matters, in which the rights, duties, or privileges of a party are determined in an adjudicative proceeding and opportunity for an adjudicative hearing; rulemaking hearings involving matters of general applicability that implement, interpret, or prescribe the law or

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District policy, or that describe the procedure or practice requirements of the District; and may conduct such other hearings as the Board finds beneficial. Any matter designated for hearing before the Board may be referred by the Board for hearing before a hearing examiner. The Board may appoint a hearing examiner for any matter, at any time prior to the final decision on the matter. *[Amended June 12, 2012]*

1. Permit Hearings:
   a. Permit Applications, Amendments and Revocations: The District will hold hearings on water well drilling permits, operating permits, transport permits, permit renewals or amendments and permit revocations or suspensions; provided that hearings shall not be required for administratively complete applications for a drilling or operating permit for a limited production well. Hearings involving permit matters may be scheduled before a hearing examiner. *[Amended October 14, 2008]*
   b. Motions for Rehearing: Motions for Rehearing will be heard by the Board pursuant to Rule 14.7. *[Amended June 12, 2012]*
   c. Hearings and procedures on permits and applications are governed by this Rule 14.1.1 and Rules 14.2 through Rule 14.7. *[Added June 12, 2012]*
2. Rule-making and Public Hearings:
   a. Management Plan: At its discretion, the Board may hold more than one hearing to consider amending or adopting a new management plan.
   b. Rules: The Board shall give at least twenty (20) days public notice prior to any rulemaking hearing, and shall comply with the applicable notice, process and procedure requirements set forth in these rules and in *Chapter 36, Texas Water Code*. Public notice given prior to a rulemaking hearing shall have the content and be given in the manner specified in *Sec. 36.101, Texas Water Code*.
   c. Other Matters: A public hearing may be held on any matter within the jurisdiction of the Board, if the Board deems a hearing to be in the public interest, or necessary to effectively carry out the duties and responsibilities of the District.
   d. Rulemaking hearings and other public hearings are governed by this Rule 14.1.2 and Rule 14.8. *[Added June 12, 2012]*

RULE 14.2. NOTICE AND SCHEDULING OF HEARINGS ON APPLICATIONS.

1. Upon receipt of an administratively complete original application for a permit for a non-exempt well, when the general manager schedules a hearing on the application the general manager and the applicant will issue written notice as provided in Rule 7.5(2). *[Amended June 12, 2012]*
2. The general manager is responsible for giving notice of hearings scheduled on permits and applications not later than ten days before the date of the hearing, in the following manner: *[Amended June 12, 2012]*

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a. Notice will be given to each person who requests copies of hearing notices pursuant to the procedures set forth hereinafter in this Rule 14.2.2, and by also giving notice to any other person the Board deems appropriate. The date of delivery or mailing of notice may not be less than ten calendar days before the date set for the hearing. *[Amended June 12, 2012]*

b. Provide notice to the county clerk of Milam County and Burleson County. The date of posting may not be less than ten calendar days before the date of the hearing. *[Amended October 14, 2008]*

c. A copy of the notice will be posted at a place readily accessible to the public at the District office, and on the District's Internet website. The date of posting may not be less than ten calendar days before the date of the hearing. *[Amended October 14, 2008]*

d. The notice will be sent by regular mail to the applicant. *[Amended October 14, 2008]*

e. The notice will be sent by regular mail, facsimile or electronic mail to any person who has timely requested notice. *[Amended October 14, 2008]*

f. The notice will be sent by regular mail to any other person entitled to receive notice under these rules.

3. Any person having an interest in the subject matter of a hearing or hearings may receive written notice of such hearing or hearings by submitting a request in writing. The request must be in writing and identify with as much specificity as possible the hearing or hearings for which written notice is requested. The request remains valid for the remainder of the calendar year in which the request is received by the District. After the calendar year expires a new request may be submitted. Failure of the District to provide written notice under this Section 14 does not invalidate any action taken by the Board. *[Amended June 12, 2012]*

4. The general manager may schedule as many applications at one hearing as the general manager deems necessary. Any person that wishes to be heard as a potential party to a hearing must, at least five (5) business days prior to the hearing date, provide the general manager and the applicant with written notice of the person's intent to appear at the hearing together with evidence establishing their standing as an affected person. If the general manager decides to contest the application, the general manager must, at least five (5) business days prior to the hearing date, provide the applicant with written notice of the general manager's intent to contest the application. Hearings will be held in accordance with Rules 14.2 through Rule 14.7, as applicable. *[Amended June 12, 2012]*

5. Hearings may be scheduled to be held on any business day. All permit hearings will be held at the District office or regular meeting location of the Board, unless another location within the District is specified by the Board and included in the hearing notice. However, the Board may from time to time change the location for hearings, or schedule additional dates, times, and places for permit hearings by resolution (motion and vote) adopted at a regular Board

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meeting. The general manager is instructed by the Board to schedule hearings involving permit matters at such dates, times, and places set forth above for permit hearings. Hearings may also be scheduled at the dates, times and locations set at, or for, a regular or called Board meeting. *[Amended June 12, 2012]*

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RULE 14.3. GENERAL PROCEDURES FOR HEARINGS ON APPLICATIONS.

1 . Authority of Presiding Officer: The presiding officer may conduct the hearing or other proceeding in the manner the presiding officer deems most appropriate for the particular proceeding. The presiding officer has the authority, in any preliminary or evidentiary hearing, to: *[Amended June 12, 2012]*

a. set hearing dates, other than the initial hearing date for permit matters set by the general manager in accordance with Rule 14.2.4;

b. convene the hearing at the time and place specified in the notice for public hearing;

c. establish the jurisdiction of the District concerning the subject matter under consideration;

d. rule on motions and on the admissibility of evidence and amendments to pleadings;

e. designate and align parties and establish the order for presentation of evidence;

f. administer oaths to all persons presenting testimony;

g. examine witnesses;

h. issue subpoenas when required to compel the attendance of witnesses or the production of papers and documents;

i. require the taking of depositions and compel other forms of discovery under these rules;

j. permit admissible information and testimony to be introduced as conveniently and expeditiously as possible, without substantially prejudicing the rights of any party to the proceeding;

k. conduct public hearings in an orderly manner in accordance with these rules;

l. recess any hearing from time to time and place to place;

m. reopen the record of a hearing for additional evidence when necessary to make the record more complete;

n. exercise any other appropriate powers necessary or convenient to effectively carry out the responsibilities of the presiding officer; *[Amended October 14, 2008]*

o. determine a person's party status and limit party status and participation in a hearing on a permit or contested application to affected persons that have satisfied the requirements for notice and making a timely appearance in the matter; *[Added October 14, 2008] [Amended June 12, 2012]*

p. exercise such other authority and take such other action as is appropriate from time to time and authorized in *Subchapt. M, Chapt. C, Tex. Water Code*, or in these rules, to be taken by the presiding officer; *[Added October 14, 2008]*

q. at any time before final Board action, issue an order that refers parties to a contested hearing or to an alternative dispute resolution procedure on any matter at issue in the hearing, determine how the cost of the procedure will be apportioned among the parties, and appoint an impartial third party to facilitate that procedure; and *[Added October 14, 2008]*

r. establish the cash deposit that is required to be deposited with the District by an applicant, or by a person granted party status, that, pursuant to *Sec. 36.416(c), Tex. Water Code*, makes a timely request for a contested case to be heard by SOAH. *[Added June 12, 2012]*

2. Hearing Registration Forms: Each individual attending a hearing or other proceeding of the District, that plans to testify, offer any evidence, or file any document, must submit a form providing the following information: name; address; whether the person plans to testify or introduce documents; and any other information relevant to the hearing or other proceeding. All persons that testify, offer evidence, or file any document must be an affected person, or be appearing as a representative of an affected person. *[Amended June 12, 2012]*

3. Appearance and Representative Capacity: An affected person that has filed a timely notice and appearance regarding an application for a permit or permit amendment may appear, in person or may be represented by counsel, engineer, or other representative provided the representative is fully authorized to speak and act for the principal. Such person or representative may present evidence, exhibits, or testimony, or make an oral presentation in accordance with the procedures applicable to the particular proceeding. Any partner may appear on behalf of a partnership. A duly authorized officer or agent of a public or private corporation, political subdivision, governmental agency, municipality, association, firm, or other entity may appear for the entity. A fiduciary may appear for a ward, trust, or estate. A person appearing in a representative capacity may be required to prove proper authority. *[Amended June 12, 2012]*

4. Alignment of Parties and Number of Representatives Heard: Affected persons may, in a permit or permit amendment hearing, be aligned according to the nature of the proceeding and their relationship to the parties and the issues. The presiding officer may require affected persons and the representatives of an aligned class to select one or more persons to represent them in the proceeding or on any particular matter or ruling and the presiding officer may limit the number of representatives heard, but must allow at least one representative of an aligned class to be heard in the proceeding or on any particular matter or ruling. *[Amended June 12,*

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5. Appearance by Applicant or Movant: In a permit hearing the applicant, movant or affected person requesting the hearing or other proceeding, or a representative, should be present at the hearing or other proceeding. Failure to so appear may be grounds for withholding consideration of a matter, dismissal without prejudice, or may require the rescheduling or continuance of the hearing or other proceeding if the presiding officer deems it necessary in order to fully develop the record. *[Amended June 12, 2012]*

6. Reporting: Hearings and other proceedings will be recorded on audio cassette tape or any other electronic means at the discretion of the presiding officer, and may be recorded by a certified shorthand reporter. The District does not prepare transcripts of hearings or other proceedings recorded on audio cassette tape on District equipment but the District will arrange access to the recording. Subject to availability of space, any party may, at their own expense, arrange for a reporter to report the hearing or other proceeding or for recording of the hearing or other proceeding. The cost of reporting or transcribing a permit hearing may be assessed in accordance with Rule 14.5. If a reporter records a proceeding other than a permit hearing, and any person orders a copy of the transcript of testimony, the testimony will be transcribed and the original transcript filed with the papers of the proceeding at the expense of the person requesting the transcript of testimony. Copies of the transcript of testimony of any hearing or other proceeding thus reported may be purchased from the reporter. Notwithstanding the foregoing, the failure of the District to record any hearing shall not invalidate the hearing or the action taken or decision made for the hearing.*[Amended June 12, 2012]*

7. Continuance: The presiding officer may continue hearings or other proceedings from time to time and from place to place without the necessity of publishing, serving, mailing or otherwise issuing a new notice. If a hearing or other proceeding is continued and the time and place (other than the district office) to reconvene the hearing or other proceeding are not publicly announced at the hearing or other proceeding by the presiding officer before it is recessed, a notice of any further setting of the hearing or other proceeding will be delivered at a reasonable time to all parties, persons who have requested notice of the hearing pursuant to Rule 14.2 and any other person the presiding officer deems appropriate. Posting at the county courthouses or publication of a newspaper notice of the new setting is not required; provided that if the Board continues a hearing additional notice will be given if required to comply with the Open Meetings Act. *[Amended June 12, 2012]*

8. Filing of Documents and Time Limit: Applications, motions, exceptions, communications, requests, briefs or other papers and documents required to be filed under these rules or by law must be received in hand at the district's office within the time limit, if any, set by these rules or by the presiding officer for filing. Mailing within the time period is insufficient if the submissions are not actually received by the District within the time limit.

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9. Computing Time: In computing any period of time specified under authority of the District Act or these rules, the day of the act, event, or default after which the designated period of time begins to run is not included, but the last day of the period computed is included, unless the last day is a Saturday, Sunday or legal holiday as determined by the Board, in which case the period runs until the end of the next day which is neither a Saturday, Sunday nor a legal holiday.

10. Affidavit: Whenever the making of an affidavit by a party to a hearing or other proceeding is necessary, it may be made by the party or the party's representative or counsel, based on personal knowledge. This rule does not dispense with the necessity of an affidavit being made by a party when expressly required by statute.

11. Broadening the Issues: No person will be allowed to appear in any hearing or other proceeding that in the opinion of the presiding officer appears for the sole purpose of unduly broadening the issues to be considered in the hearing or other proceeding.

12. Conduct and Decorum: Every person, party, representative, witness, and other participant in a proceeding must conform to ethical standards of conduct and must exhibit courtesy and respect for all other participants. No person may engage in any activity during a proceeding that interferes with the orderly conduct of District business. If, in the judgment of the presiding officer, a person is acting in violation of this provision, the presiding officer will first warn the person to refrain from engaging in such conduct. Upon further violation by the same person, the presiding officer may exclude that person from the proceeding for such time and under such conditions as the presiding officer deems necessary.

13. The Board may, at the initial hearing held by the Board after all notices have been timely given, grant or deny the permit application in whole or in part, if the application is uncontested. Such action by the Board shall be subject to the rights of the applicant to file a written request for conclusions and findings, or rehearing. *[Added October 14, 2008]*

14. If any term or provision of these rules for the giving of notice or the process or procedures for the scheduling and conduct of hearings, motions for rehearing and appeal there from conflict with any term or provision of *Chapt. 36, Tex. Water Code*, *Chapt. 36* shall govern and control to the extent of such conflict. *[Added October 14, 2008]*

RULE 14.4. UNCONTESTED PERMIT HEARINGS PROCEDURES.

1. Written Notice of Intent to Contest: Any affected person who intends to contest a permit application must provide timely written notice of that intent to the applicant and to the District. The notice to the District shall be to the district office located at 310 East Ave C, Milano, Texas 76556. Notice of intent to contest must be given at least five (5) business days prior to the date of the first hearing scheduled on the application. Such notice shall be given to both the applicant and to the District and shall be delivered at least five business days prior

to the date of the hearing. If the general manager intends to contest a permit application, the general manager must provide the applicant written notice of that intent not later than the later to occur of the following: the date of the last Board meeting that is held prior to the scheduled date of the hearing; or five business days prior to the date of the hearing. If no notice of intent to contest is received at least five business days prior to the hearing, the general manager, as instructed by the Board, will cancel the hearing and the Board will consider the permit at the next regular Board meeting. The fact that an application is uncontested does not obligate the Board to grant the permit or take any other specific action that is not found appropriate by the Board. *[Amended July 12, 2016]*

2. Informal Hearings: Permit hearings may be conducted informally when, in the judgment of the hearing examiner, the conduct of a proceeding under informal procedures will save time or cost to the applicant and affected persons making a timely appearance, or may lead to a negotiated or agreed settlement of facts or issues in controversy, and will not substantially prejudice the rights of the applicant or any affected person. *[Amended June 12, 2012]*

3. Agreement of Parties: If, during an informal proceeding, the applicant and affected persons that have given timely notice under Rule 14.4.1 reach a negotiated or agreed settlement which, in the judgment of the hearing examiner, settles the facts or issues in controversy, the proceeding will be considered an uncontested case and the hearing examiner will summarize the evidence, make findings of fact and conclusions of law based on the existing record and any other evidence submitted by the parties at the hearing, and submit the same to the Board with the hearing examiner's recommendation and decision. *[Amended June 12, 2012]*

4. Decision to Proceed as Uncontested or Contested Case:

   a. If the parties referenced in Rule 14.4.3 above do not reach a negotiated or agreed settlement of the facts and issues in controversy or if the applicant or any such affected person contests a staff recommendation, and the hearing examiner determines these issues will require extensive discovery proceedings, the hearing examiner will declare the case to be contested and convene a pre-hearing conference as set forth in Rule 14.5. The hearing examiner may also recommend issuance of a temporary permit for a period not to exceed one hundred twenty (120) days, with any special provisions the hearing examiner deems necessary, for the purpose of completing the contested case process. Any case not declared a contested case under this provision is an uncontested case and the hearing examiner will summarize the evidence, make findings of fact and conclusions of law, and make appropriate recommendations to the Board. *[Amended June 12, 2012]*

   b. If the general manager discovers evidence during the course of an uncontested hearing that warrants the general manager deciding to contest an application, the general manager shall give notice to the applicant and the Board and thereafter contest the application. In such event, the hearing schedule may be modified to enable the applicant

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and other affected persons time to prepare. *[Amended June 12, 2012]*

14.5. CONTESTED PERMIT HEARING PROCEDURES.

1. Pre-hearing Conference: A pre-hearing conference may be held to consider any matter which may expedite the hearing or otherwise facilitate the hearing process.

   a. Matters Considered: Matters which may be considered at a pre-hearing conference include, but are not limited to: (1) the designation of parties; (2) the formulation and simplification of issues; (3) the necessity or desirability of amending applications or other pleadings; (4) the possibility of making admissions or stipulations; (5) the scheduling of discovery; (6) the identification of and specification of the number of witnesses; (7) the filing and exchange of prepared testimony and exhibits; (8) the alignment of parties, and the procedure at the hearing. *[Amended June 12, 2012]*

   b. Notice: A pre-hearing conference may be held at a date, time, and place stated in a separate notice given in accordance with Rule 14.2, or at the date, time, and place for hearing stated in the notice of public hearing, and may be continued from time to time and place to place, at the discretion of the hearing examiner.

   c. Conference Action: Action taken at a pre-hearing conference may be reduced to writing and made a part of the record or may be stated on the record at the close of the conference.

2. Assessing Reporting and Transcription Costs: Upon the timely request of any party, or at the discretion of the hearing examiner, the hearing examiner may assess reporting and transcription costs to one or more of the parties. The hearing examiner must consider the following factors in assessing reporting and transcription costs:

   a. the party who requested the transcript;

   b. the financial ability of the party to pay the costs will be given some consideration; *[Amended June 12, 2012]*

   c. the extent to which a party participated in the hearing;

   d. the relative benefits to the various parties of having a transcript;

   e. the budgetary constraints of governmental entities that participated in the proceeding; and *[Amended June 12, 2012]*

   f. any other factor supported by the evidence that is relevant to a just and reasonable assessment of costs.

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In any proceeding where the assessment of reporting or transcription costs is an issue, the hearing examiner must provide the parties an opportunity to present evidence and argument on the issue. A recommendation regarding the assessment of costs must be included in the hearing examiner's report to the Board.

3, Preliminary Hearing.

a. The Board shall schedule a preliminary hearing to hear a request for a contested case hearing filed in accordance with rules adopted under *Section 36.415, Texas Water Code*. The preliminary hearing may be conducted by:

(i) a quorum of the Board;

(ii) the presiding officer;

(iii) an individual to whom the Board has delegated in writing the responsibility to preside as a hearing examiner over the hearing or matters related to the hearing; or

(iv) the State Office of Administrative Hearings under Section 36.416.

b. Following a preliminary hearing, the Board shall determine whether any person requesting the contested case hearing has standing to make that request and whether a justiciable issue related to the application has been raised. If the Board determines that no person who requested a contested case hearing had standing or that no justiciable issues were raised, the Board may take any action as follows:

(i) grant the application;

(ii) grant the application with special conditions; or

(i) deny the application.

c. An applicant may, not later than the 20th day after the date the District issues an order granting the application, demand a contested case hearing if the order:

(i) includes special conditions that were not part of the application as finally submitted; or

(ii) grants a maximum amount of groundwater production that is less than the amount requested in the application. *[Amended July 12, 2016]*

4. Designation of Parties: Parties to a hearing will be designated on the first day of hearing and such other times as the hearing examiner determines. The Board and any person specifically named in a matter are automatically designated parties. Persons other than the automatic parties must, in order to be admitted as a party, appear at the proceeding in person or by

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representative, establish affected person status and seek to be designated. After parties are designated, no other person may be admitted as a party unless, in the judgment of the hearing examiner, for good cause and a finding the hearing will not be unreasonably delayed. *[Amended June 12, 2012]*

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5. Rights of Designated Parties: Subject to the direction and orders of the hearing examiner, designated parties have the right to conduct discovery, present a direct case, cross-examine witnesses, make oral and written arguments, obtain copies of all documents filed in the proceeding, receive copies of all notices issued by the District concerning the proceeding, and otherwise fully participate in the proceeding. *[Amended June 12, 2012]*

6. Persons Not Designated Parties: At the discretion of the hearing examiner, affected persons not designated as parties to a proceeding may submit comments or statements, orally or in writing. Comments or statements submitted by non-parties may be included in the record, but may not be considered by the hearing examiner as evidence. *[Amended June 12, 2012]*

7. Furnishing Copies of Pleadings: After parties have been designated, a copy of every pleading, request, motion, or reply filed in the proceeding must be provided by the party filing the instrument to every other party or the party's representative. A certification of this fact must accompany the original instrument when filed with the District. Failure to provide copies to every other party may be grounds for withholding consideration of the pleading or the matters set forth therein.

8. Interpreters for Deaf Parties and Witnesses: If a party or subpoenaed witness in a contested case is deaf, if not waived in writing, the District must provide an interpreter whose qualifications are approved by the State Commission for the Deaf and Hearing Impaired to interpret the proceedings for that person. "Deaf person" means a person who has a hearing impairment, whether or not the person also has a speech impairment, which inhibits the person's comprehension of the proceedings or communication with others.

9. Agreements to be in Writing: No agreement between parties or their representatives affecting any pending matter will be considered by the hearing examiner unless it is in writing, dated, signed, and filed as part of the record, or unless it is announced at the hearing and read into the record of the hearing.

10. Discovery: Discovery will be conducted upon such terms and conditions, and at such times and places, as directed by the hearing examiner. Unless specifically modified by these rules or by order of the hearing examiner, discovery will be governed by, and subject to the limitations set forth in, the Texas Rules of Civil Procedure. In addition to the forms of discovery authorized under the Texas Rules of Civil Procedure, the parties may exchange informal requests for information, either by agreement or by order of the hearing examiner.

11. Discovery Sanctions: If the hearing examiner finds a party is abusing the discovery process

in seeking, responding to, or resisting discovery, the hearing examiner may:

a. suspend processing of the application for a permit if the applicant is the offending party;

b. disallow any further discovery of any kind or a particular kind by the offending party;

c. rule that particular facts be regarded as established against the offending party for the purposes of the proceeding, in accordance with the claim of the party obtaining the discovery ruling;

d. limit the offending party's participation in the proceeding;

e. disallow the offending party's presentation of evidence on issues that were the subject of the discovery request; or

f. recommend to the Board that the hearing be dismissed with or without prejudice.

12. Ex Parte Communications: The hearing examiner may not communicate, directly or indirectly, in connection with any issue of fact or law, with any agency, person, party, or their representatives, except on notice and opportunity for all parties to participate. This provision does not prevent communications with staff not directly involved in the hearing to utilize the special skills and knowledge of the agency in evaluating the evidence.

13. Compelling Testimony: Swearing Witnesses and Subpoena Power: The hearing examiner may compel the testimony of any person, which is necessary, helpful, or appropriate to the hearing. The hearing examiner will administer the oath in a manner calculated to impress the witness with the importance and solemnity of the promise to adhere to the truth. The hearing examiner may issue subpoenas to compel the testimony of any person and the production of books, papers, documents, or tangible things, in the manner provided in the Texas Rules of Civil Procedure.

14. Evidence: Except as modified by these rules, the Texas Rules of Civil Evidence govern the admissibility and introduction of evidence; however, evidence not admissible under the Texas Rules of Civil Evidence may be admitted if it is of the type commonly relied upon by reasonably prudent persons in the conduct of their affairs. In addition, evidence may be stipulated by agreement of all parties.

15. Written Testimony: When a proceeding will be expedited and the interest of the parties will not be prejudiced substantially, testimony may be received in written form. The written testimony of a witness, either in narrative or question and answer form, may be admitted into evidence upon the witness being sworn and identifying the testimony as a true and accurate record of what the testimony would be if given orally. The witness will be subject to clarifying questions and to cross-examination, and the prepared testimony

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will be subject to objection.

16. Requirements for Exhibits: Exhibits of a documentary character must be sized to not unduly encumber the files and records of the District. All exhibits must be numbered and, except for maps, drawings, and spread sheets may not exceed 8 1/2 by 11 inches in size. *[Amended June 12, 2012]*

17. Abstracts of Documents: When documents are numerous, the hearing examiner may receive in evidence only those which are representative and may require the abstracting of relevant data from the documents and the presentation of the abstracts in the form of an exhibit. Parties have the right to examine the documents from which the abstracts are made.

18. Introduction and Copies of Exhibits: Each exhibit offered must be tendered for identification and placed in the record. Copies must be furnished to the hearing examiner and to each of the parties, unless the hearing examiner rules otherwise.

19. Excluding Exhibits: If an exhibit has been identified, objected to, and excluded, it may be withdrawn by the offering party. If withdrawn, the exhibit will be returned and the offering party waives all objections to the exclusion of the exhibit. If not withdrawn, the exhibit will be included in the record for the purpose of preserving the objection to excluding the exhibit.

20. Official Notice: The hearing examiner may take official notice of all facts judicially cognizable. In addition, official notice may be taken of generally recognized facts within the area of the District's specialized knowledge.

21. Documents in District Files: Extrinsic evidence of authenticity is not required as a condition precedent to admissibility of documents maintained in the files and records of the District.

22. Oral Argument: At the discretion of the hearing examiner, oral arguments may be heard at the conclusion of the presentation of evidence. Reasonable time limits may be prescribed. The hearing examiner may require or accept written briefs in lieu of, or in addition to, oral arguments. When the matter is presented to the Board for final decision, the Board may hear further oral arguments.

23. The hearing examiner may require that any, or all, petition(s), pleading(s), written agreement(s), brief(s), exhibit(s) or documents be filed in both electronic format and hard copy. *[Added June 12, 2012]*

24. If an administrative law judge (ALJ) conducts a contested case hearing, such ALJ shall consider applicable rules or polices of the District in conducting the hearing, and the District shall have no supervision over the ALJ in such hearing. The District shall provide

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the ALJ with a copy of all applicable rules or policies. *[Amended July 12, 2016]*

RULE 14.6. CONCLUSION OF THE HEARING AND PROPOSAL FOR DECISION. *[Added July 12, 2016]*

1. Closing the Record and Final Report: At the conclusion of the presentation of evidence and any oral argument, the hearing examiner may either close the record or keep it open and allow the submission of additional evidence, exhibits, briefs, or proposed findings and conclusions from one or more of the parties. No additional evidence, exhibits, briefs, or proposed findings and conclusions may be filed unless permitted or requested by the hearing examiner.

2. After the record is closed, the hearing examiner will prepare a proposal for decision to the Board not later than the 30th day after the date the evidentiary hearing is closed. The proposal for decision must include a summary of the evidence, together with the hearing examiner's findings and conclusions and recommendations for action. Upon completion and issuance of the hearing examiner's proposal for decision, a copy must be submitted to the Board and delivered to each designated party. In a contested case, delivery to the parties must be by certified mail.

3. Exceptions to the Hearing Examiner's Proposal for Decision and Reopening the Record: Prior to Board action any party in a contested case may file written exceptions to the hearing examiner's proposal for decision, and any party in an uncontested case may request an opportunity to make an oral presentation of exceptions to the Board. Upon review of the proposal for decision and exceptions, the hearing examiner may reopen the record for the purpose of developing additional evidence, or may deny the exceptions and submit the proposal for decision and exceptions to the Board. The Board may, at any time and in any case, remand the matter to the hearing examiner for further proceedings.

4. Time for Board Action on Certain Permit Matters: In the case of hearings involving new permit applications, original applications for existing wells, or applications for permit renewals or amendments, the hearing examiner's proposal for decision should be submitted, and the Board should act, within 60 calendar days after the close of the hearing record. If the matter is remanded to the hearing examiner, the Board will again act on the matter within sixty (60) days after receiving the hearing examiners subsequent recommendation.

RULE 14.7. FINAL DECISION AND APPEAL FOR PERMITS AND APPLICATIONS. *[Added July 12, 2016]*

1. Board Action: After the record is closed and the matter is submitted to the Board at a final hearing, the Board may then take the matter under advisement, continue it from day to day, reopen or rest the matter, refuse the action sought or grant the same in whole or part, or take any other appropriate action. Additional evidence may not be presented during such final hearing, although the parties may present oral arguments to summarize the evidence, present legal argument, or argue an exception to the proposal for decision The Board action takes

effect at the conclusion of the meeting at which the Board by majority vote takes final action, and is not affected by a motion for rehearing, unless such motion is granted. *[Amended October 14, 2008]*

2. The Board may change a finding of fact or conclusion of law made by the ALJ, or vacate or modify an order issued by the ALJ, only if the Board determines:

   a. that the ALJ did not properly apply or interpret applicable law, district rules, written policies provided, or prior administrative decisions;

   b. the a prior administrative decision on which the ALJ relied is incorrect or should be changed; or

   c. that a technical error in a finding of fact should be changed.

3. Requests for Rehearing: The applicant or any other party may file a written request for written findings and conclusions, and any decision of the Board on a matter may be administratively appealed by the applicant or any party filing a timely request for a rehearing. Such request for rehearing must state clear and concise grounds for the request. A written request for written findings and conclusions must be filed in writing at the District office within 20 calendar days of the Board's decision. Such a written request for written findings and conclusions is mandatory with respect to any decision or action of the Board before any judicial appeal may be filed. The Board's decision is final if no request for written findings and conclusions is made within the specified time. 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. A party to a contested hearing may request a rehearing not later than the 20th day after the date the Board issues the findings and conclusions. Such request must be filed in the District's office and must state the grounds for the request. If the original hearing was a contested hearing, the party requesting a rehearing must provide copies of the request to all parties to the hearing.

RULE 14.8. RULEMAKING HEARING PROCEDURES AND PUBLIC HEARINGS. *[Amended September 13, 2011]*

1. General Procedures: The presiding officer will conduct the rulemaking hearing in the manner the presiding officer deems most appropriate to obtain all relevant information pertaining to the subject of the hearing as conveniently, inexpensively, and expeditiously as possible. The presiding officer may follow the guidelines of "Parliamentary Procedure at a Glance," New Edition, O. Garfield Jones, 1971 revised edition, or as amended.

2. Hearing Registration Forms: Each individual that plans to testify, offer any evidence, or file any document in a hearing, must submit a form providing the following information: name; address; whether the person plans to testify or introduce documents; and any other information relevant to the hearing or other proceeding.

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3. Submission of Documents: Any interested person may submit written statements, protests or comments, briefs, affidavits, exhibits, technical reports, or other documents relating to the rules that are the subject of the hearing. Such documents must be submitted no later than the time set for the meeting at which the hearing is scheduled to be held; provided the presiding officer may grant additional time for the submission of documents.

4. Oral Presentations: Any person desiring to testify on the subject of the hearing must so indicate on the registration form provided at the hearing. The presiding officer establishes the order of testimony and may limit the number of times a person may speak, the time period for oral presentations, and the time period for raising questions. In addition, the presiding officer may limit or exclude cumulative, irrelevant, or unduly repetitious presentations.

5. Conclusion of the Hearing and Closing the Record; At the conclusion of the testimony, and after the receipt of offered and admitted documents, the presiding officer may either close the record, or keep it open to allow the submission of additional information. If the presiding officer is serving as a hearing examiner and not presiding over a meeting of the Board, the hearing examiner must, after the record is closed, prepare a report to the Board. The report must include a summary of the subject of the hearing and the public comments received, together with the hearing examiner's recommendations for action. Upon completion and issuance of the hearing examiner's report, a copy must be submitted to the Board. Any interested person who so requests in writing will be notified when the report is completed, and furnished a copy of the report.

6. Exceptions to the Hearing Examiner's Report and Reopening the Record: Any interested person may make exceptions to a report filed by the hearing examiner, and the Board may in its discretion reopen the record and take such further and additional action as it finds appropriate.

7. Notice of rulemaking hearings shall be given by posting and publishing a notice of the time, date, place and subject matter of the hearing, not less than twenty (20) days prior to the date of the hearing. The posting, publication and content of the notice, and the procedures for the hearing, shall comply with *Sec. 36.101, Texas Water Code*.

8. Hearings will be scheduled at the dates, times and locations established at a Board meeting.

RULE 14.9. NOTICE AND HEARING IN AN APPEAL OF DESIRED FUTURE CONDITIONS; JUDICIAL APPEAL OF DESIRED FUTURE CONDITIONS. *[Subsectionss 1 through 5 amended July 12, 2016]*

1. An affected person may file a petition with the District requiring that the District contract with the SOAH to conduct a hearing appealing the reasonableness of the desired future

condition. The petition must be filed not later than the 120th day after the date on which the District adopts a desired future condition under *Section 36.108(d-4), Texas Water Code*. The petition must provide evidence that the District did not establish a reasonable desired future condition of the groundwater resources in the management area.

2. In this Rule, "affected person" means:

a. An owner of land within Ground Water Management Area;

b. A groundwater conservation district or subsidence district in or adjacent to Ground Water Management Area:

c. A regional water planning group with a water management strategy within the Ground Water Management Area;

d. A person who holds or is applying for a permit from a district within the Ground Water Management Area;

e. A person with a legally defined interest in groundwater in the Ground Water Management Area; or

f. Any other person defined as affected by a Texas Commission on Environmental Quality rule.

3. Not later than the tenth (10^{th}) day after receiving a petition, the District shall submit a copy of the petition to the Texas Water Development Board. The Texas Water Development Board shall conduct an administrative review and study required by *Section 36.1083(e), Texas Water Code*, which must be completed and delivered to SOAH not later than 120 days after the date the Texas Water Development Board receives the petition. SOAH shall consider the study described and the desired future conditions (DFCs) explanatory report submitted to the development board under *Section 36.108(d-3), Texas Water Code*, to be part of the administrative record in the SOAH hearing; and the Texas Water Development Board shall make available relevant staff as expert witnesses if requested by SOAH or a party to the hearing.

4. Not later than 60 days after receiving a petition appealing the reasonableness of the desired future conditions filed under *Section 36.1083(b), Texas Water Code*, the District will submit to SOAH a copy of the petition and contract with SOAH to conduct a contested case hearing.

5. The petitioner shall pay the costs associated with the contract with SOAH and shall deposit with the District an amount determined by the District, after consultation with SOAH, that is sufficient to pay the contract amount. The deposit must be received within 15 days of written notification by the District to the petitioner specifying the amount of the deposit. Failure to timely pay the deposit may result in dismissal of the petition. After the hearing is completed and all costs paid to SOAH, the district shall refund any excess money to the petitioner.

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6. Unless provided by SOAH, the District shall provide notice of a hearing appealing the reasonableness of the desired future conditions. Not later than the 10th day before the date of a hearing the general manager or board shall provide notice as follows (unless notice provide by SOAH):

a. General Notice:

i. Post notice in a place readily accessible to the public at the District office;

ii. Post notice on the District's Internet website;

iii. Provide notice to the county clerk of each county in the District; and

b. Individual notice by regular mail, facsimile, or electronic mail to:

i. The petitioner;

ii. Any person who has requested notice; and

c. Each nonparty district and regional water planning group located in the Groundwater Management Area; and

d. The Texas Water Development Board; and

e. The Texas Commission on Environmental Quality.

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7. After the hearing and within 60 days of receipt of the administrative law judge's findings of fact and conclusions of law in a proposal for decision, including a dismissal of a petition, the District shall issue a final order stating the District's decision on the contested matter and the District's findings of fact and conclusions of law. The District may change a finding of fact or conclusion of law made by the administrative law judge, or may vacate or modify an order issued by the administrative law judge, as provided by *Section 2001.058(e), Government Code*.

8. If the District vacates or modifies the proposal for decision, the District shall issue a report describing in detail the District's reasons for disagreement with the administrative law judge's findings of fact and conclusions of law. The report shall provide the policy, scientific, and technical justifications for the District's decision.

9. If the District in its final order finds that a desired future condition is unreasonable, not later than the 60th day after the date of the final order, the District shall reconvene in a joint planning meeting with the other districts in Groundwater Management Area 8 and 12 for the purpose of revising the desired future condition. The District and other districts in Groundwater Management Area 8 and 12 shall follow the procedures in Section 36.108 to adopt new desired future conditions applicable to the District.

10. A final order by the District finding that desired future condition is unreasonable does not invalidate the adoption of a desired future condition by a district that did not participate as a party in the hearing conducted under this Rule.

11. A final District order issued under this Rule may be appealed to a district court with jurisdiction over any part of the territory of the District. An appeal under this subsection must be filed with the district court not later than the 45th day after the date the District issues the final order. The case shall be decided under the substantial evidence standard of review as provided by *Section 2001.174, Government Code*. If the court finds that a desired future condition is unreasonable, the court shall strike the desired future condition and order the districts in the Groundwater Management Area 14 to reconvene not later than the 60th day after the date of the court order in a joint planning meeting for the purpose of revising the desired future condition. The District and other districts in the management area shall follow the procedures in *Section 36.108, Texas Water Code,* to adopt new desired future conditions applicable to the District. A court's finding under this Rule does not apply to a desired future condition that is not a matter before the court.

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SECTION 15. INVESTIGATIONS AND ENFORCEMENT.

RULE 15.1. NOTICE AND ACCESS TO PROPERTY. Directors and the District's agents and employees are entitled to access all property within the District as needed to carry out technical and other investigations necessary to the implementation of the rules. Prior to entering upon property for the purpose of conducting an investigation, the person seeking access must give notice in writing or in person or by telephone to the owner, lessee, or operator, agent, or employee of the owner or lessee, as determined by information contained in the application or other information on file with the District. Notice is not required if prior permission is granted to enter without notice. Inhibiting or prohibiting access to any director or district agent or employee who is attempting to conduct an investigation under the rules constitutes a violation and subjects the person who is inhibiting or prohibiting access, as well as any other person who authorizes or allows such action, to the penalties set forth in the *Chapter 36, Texas Water Code*.
[Amended December 9, 2009]

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RULE 15.2. CONDUCT OF INVESTIGATION. Investigations or inspections that require entrance upon property must be conducted at reasonable times, and must be consistent with the owner or establishment's rules and regulations concerning safety, internal security, and fire protection. The persons conducting such investigations must identify themselves and present credentials upon request of the owner, lessee, operator, or person in charge of the property.
[Amended December 9, 2009]

RULE 15.3. RULE ENFORCEMENT.

1. If a person has violated, is violating, or is threatening to violate any provision of the rules, the Board may institute and conduct a suit in the name of the District for enforcement of

these rules and the provisions of *Chapter 36, Texas Water Code*. When used in this Section 15, the word "rules" includes and refers to the rules in which this Section 15 is included and all other written rules adopted by the District, applicable state law, and the terms, conditions and provisions of any relevant permit granted by the District. *[Amended June 12, 2012]*

2. The rules may be further enforced by injunction and other judicial proceedings, either at law or in equity, and, in lieu of or in addition to any other authorized enforcement action, any person who violates any term or provision of these rules will be subject to civil fine and penalties as provided herein.

3. Any person violating any of the provisions of these rules or failing to comply therewith or with any of the requirements thereof, or who drills or operates any well, or transports water outside of the District in violation of these rules, or in violation of any written statement or plan submitted and approved hereunder, will be subject to a civil penalty of not less than the minimum penalty provided in Rule 15.4 and not more than ten thousand dollars ($10,000.00) per day, and each day the violation continues constitutes a separate offense. The Board has established the penalties set forth in Rule 15.4 as the minimum penalty for violation of the rules. The Board may at a hearing on a violation, assess the minimum or a greater civil penalty for breach of any rule of the District, and the penalty assessed by the Board shall be in addition to all the other remedies provided herein. *[Amended June 12, 2012]*

4. If the Board finds a violation of these rules and determines it necessary and directs that a lawsuit be filed to enforce these rules in a court of competent jurisdiction, or to enforce any other applicable law the Board and the District has the authority to enforce, in addition to any fine or penalty imposed by the court, the District shall be entitled recover reasonable attorney fees, costs of expert witnesses, costs of court, and any other costs incurred by the District. *[Amended December 9, 2009]*

RULE 15.4. PENALTIES FOR NON-COMPLIANCE. The penalties provided in this Rule 15.4 shall be the minimum penalty for the respective violation. These penalties shall be the minimum penalty applicable to the first two offenses by a person under these rules. The Board may, on hearing, set a higher penalty which shall, if accepted by the person or entity responsible, be in lieu of the District filing a complaint in district court, and, in addition to the penalty, also assess against and collect from a person that violates the rules all costs incurred by the District to enforce the rules. *[Amended June 12, 2012]*

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1. The District shall give written notice to any person that is in violation of the rules.

2. The general manager of the District has the authority, subject to the right of appeal to the Board, to set and collect the minimum penalties set forth in this Rule 15.4, subject to acceptance by the responsible person or entity in lieu of the District proceeding judicially. *[Amended June 12, 2012]*

3. The written notice shall include notice of the specific violation and, if an investigation has been made, a copy of the investigation report. The notice may assess an administrative penalty as provided in this Rule 15.4; require immediate remedial action; and advise that a penalty will be assessed for each additional day of violation if remedial action is not taken promptly. The notice shall advise the person of the right to request and obtain a hearing at a public meeting of the Board. All administrative penalties shall be subject to acceptance and payment by the responsible person or entity in lieu of the District filing complaints in the district court. If a proposed penalty is not accepted and paid as a settlement and resolution of the alleged violation, the District will file a complaint in district court that requests the court to set the penalties and grant the District attorney fees. *[Amended June 12, 2012]*

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4. The following penalties are assessed for the first and the second violation of a District rule, state law over which the District has jurisdiction, or a permit or order issued by the District:

Schedule of Administrative Penalties

Non-Compliant Action	Minimum Penalty
Failure to obtain a drilling permit, or drilling a well without a drilling permit	$1,000.00
Drilling a well without a license other than on property owned and for personal use by driller	$1,500.00
Exceeding permitted production rate or volume	$1,000.00
Altering production capacity of an existing well without a permit or permit amendment	$500.00
Equipping an exempt well to enable production of more than 25,000 gallons per day prior to obtaining the required permits	$1,000.00
Using water from a well for a purpose other than the purpose indicated in the well registration or well permit	$1,000.00
Violation of District Rule or Permit (other than the above listed violations)	$250.00

[Rule 15.4 Added December 9, 2009]

RULE 15.5. SEALING OF WELLS. The District may, upon an order being obtained from a

court of competent jurisdiction, seal wells that are prohibited by District rule from withdrawing groundwater within the District to ensure that a well is not operated in violation of these rules. A well may be sealed when: (1) no application has been made for a permit to drill a new well that has not been excluded or exempted by the Board; (2) no application has been made for an operating permit to withdraw groundwater from an existing well that is not excluded or exempted from the requirement that a permit be obtained in order to lawfully withdraw groundwater; (3) the Board has denied, canceled or revoked a drilling permit or an operating permit; or (4) no application is made for a certificate of registration for a new exempt well.

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The well may be sealed by physical means and tagged to indicate that the well has been sealed by the District, and other appropriate action may be taken as necessary to preclude operation of the well or to identify unauthorized operation of the well.

Tampering with, altering, damaging, or removing the seal of a sealed well, or in any other way violating the integrity of the seal, or pumping of groundwater from a well that has been sealed constitutes a violation of these rules and subjects the person performing that action, as well as any well owner or primary operator who authorizes or allows that action, to such penalties as provided by these rules. *[Rule 15.4 as Renumbered December 9, 2009]*

SECTION 16.

MANAGEMENT OF WATER AVAILABILITY AND PRODUCTION

RULE 16.1. MANAGEMENT ZONES. Groundwater availability will be conserved, preserved and protected by well spacing, permit requirements, and/or limiting water drawdown levels within the Management Zones listed in Section 5 of the Management Plan. The District's rules and regulations will be adopted and enforced in compliance with *Chapter 36, Texas Water Code*, and the Board will take action as needed to accomplish the Desired Future Conditions. *[Amended May 3, 2017]*

RULE 16.2. GENERAL. All permits issued by the District that authorize the production of water shall be subject to the terms, conditions and provisions of this Section 16. All other terms, conditions and provisions of these rules shall be and remain in full force and effect. Any conflict between this Section 16 and any other Rule will be resolved by the Board upon a written request being made.

RULE 16.3. MONITORING OF GROUNDWATER. The District will monitor estimated total annual production, water quality, and the water levels. An analysis of the monitoring data will be reported at least once every three years. If, within a Management Zone, the drawdown based on monitored groundwater levels, or total estimated annual production, or projected average water level drawdowns, reach a threshold established in Rule 16.4, then, as determined appropriate by the Board, the District will give notice to well permittees in the affected Management Zone(s) as provided in Rule 16.4. After giving notice, the Board will take

appropriate action-based on the analysis of measured water levels, projected average water level drawdowns, permitted production, current and projected total estimated annual production and relevant hydrogeologic and water resource information, including, but not limited to, surface water availability and drought conditions, and review and evaluate the current and predicted water availability. The District may reduce the maximum acre feet of water per acre of land for which the District may issue a permit and/or the volume of water authorized to be produced under any permit, as a result of the groundwater availability, total estimated annual production, and/or groundwater level drawdown within a Management Zone. The District may also adopt rule changes for a Management Zone if production in that Management Zone is shown to adversely impact groundwater conditions in another Management Zone. Once a threshold level has been reached, the corresponding actions in Rules 16.4 and 16.6 will be taken irrespective of any subsequent change to the DFCs for that aquifer or Management Zone. *[Amended May 3, 2017]*

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RULE 16.4. ACTIONS BASED ON MONITORING RESULTS. Monitoring and threshold levels will be used to initiate appropriate responses designed to help achieve the DFCs, conserve and preserve groundwater availability and protect groundwater users. Three threshold levels are adopted to help guide these actions. Each threshold level provides for an increased level of response based on the change in production or water levels associated with a Management Zone. The threshold levels are: Level 1; Level 2; and Level 3. *[Amended June 12, 2012]*

1. Threshold Level 1. Threshold Level 1 will be reached and additional study and investigation will be undertaken at such time as: *[Amended May 3, 2017]*

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a. Total estimated annual production is greater than 60% of the Modeled Available Groundwater (MAG) value listed in Section 8 of the Management Plan;

b. An average groundwater drawdown, calculated from monitored water levels for an aquifer, is greater than 50% of the average groundwater drawdown provided in Section 7 of the Management Plan as a DFC for that aquifer;

c. The average groundwater drawdown, calculated from monitored water levels, for a Shallow Management Zone is greater than 50% of the threshold value, for average drawdown in that Shallow Management Zone, listed in Section 7 of the Management Plan; or

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d. Projected average water level drawdowns, calculated with a District approved methodology, indicate that a DFC listed in Section 7 of the Management Plan will be exceeded within 15 years.

2. Threshold Level 2. Threshold Level 2 will be reached, and a review of the Management Plan, rules and regulations will be initiated, at such time as: *[Amended May 3, 2017]*

a. Total estimated annual production is greater than 70% of the Modeled Available (MAG) value listed in Section 8 of the Management Plan;

b. Average groundwater drawdown, calculated from monitored water levels, for an aquifer is greater than 60% of the average groundwater drawdown listed in Section 7 of the Management Plan as the DFC for that aquifer; or

c. The average groundwater drawdown, calculated from monitored water levels, for a Shallow Management Zone, is greater than 60% of the threshold value for average drawdown listed in Section 7 of the Management Plan for that Shallow Management Zone;

3. Threshold Level 3. Threshold Level 3 will be reached, and the Board will consider and adopt amendments to the Management Plan, rules and regulations at such time as–the average groundwater drawdown, calculated from monitored water levels, for an aquifer is greater than 75% of an average groundwater drawdown listed in Section 7 of the Management Plan as a DFC for that aquifer. *[Amended May 3, 2017]*

4. The threshold levels will be administered and applied separately to each Management Zone. As part of the evaluations and determinations, the District will consider the pumping-induced impacts to groundwater resources that occur between or among management zones. The evaluation will determine if pumping or production in one management zone is contributing to adverse impacts to groundwater conditions in another management zone. *[Amended May 3, 2017]*

a. If Threshold Level 1 is exceeded, the District will perform studies to provide information on aquifer properties, aquifer recharge, aquifer and surface water interactions, and aquifer pumping. To the extent possible, the studies shall distinguish between the causes and effects of pumping occurring within the District and outside of the District. The results may be used to improve the models, tools, and methodologies used to analyze data and predict future groundwater levels and availability. The District will contract with a professional hydrogeologist to (i) conduct studies and/or (ii) establish the parameters for the studies and review the results of studies. The results of all studies shall be made available to the public in a reasonable manner.

b. If Threshold Level 2 is exceeded, the District will re-evaluate the Management Plan and rules regarding management zones, recharge estimates, the collection and analysis of monitoring data, and proposed changes to DFCs for consideration in the joint planning process. As part of the re-evaluation, the District will hold one or more public meetings and provide a minimum of 90 days for the public to provide written comments in addition to the meeting(s).

c. If Threshold Level 3 is exceeded, the District will conduct a public hearing to discuss the status of the aquifers and develop a Level 3 Response Action Work Plan focused on achieving the District's goals and objectives, including the DFCs. The work plan will be completed within 6 months after the first public hearing and will be made available to the public through the District's web site.

i. The notice will include the cause for the notice, the fact that an additional review, evaluation and study is being made, and that a reduction of the

maximum allowable production per acre and/or the permitted production may be approved following the review and evaluation. *[Amended July 12, 2005]*

ii. The general manager, in consultation with the district professional hydrogeologist, will review and evaluate the permit applications pending, the permits issued and the records of the District, estimated total production by exempt wells, and increase the frequency or locations of water drawdown monitoring within the Management Zone. If the notice is due to the average drawdown based on monitored water levels an evaluation of the reasons for the drawdown will be included in the review. *[Amended June 12, 2012]*

iii. The general manager will promptly report to the Board that notices have been, or are being, given and the event that required the notice to be given. The general manager will advise the Board of the plan for review and evaluation recommended under (b) and, if the plan will be implemented over a period of more than one month, during the evaluation, review, study and any additional monitoring period, the general manager will keep the Board advised of the progress of the review and evaluation. Upon completion of the review, evaluation and any additional monitoring, the general manager and district professional hydrogeologist will make a final report to the Board, together with their recommendation for action.

iv. If the general manager, in consultation with the district professional hydrogeologist, finds the evaluation, study, review and/or monitoring supports a recommendation that an adjustment of permitted production is recommended for a Management Zone or another Management Zone in which threshold Level 3 was reached, the recommendation shall be consistent with the finding and provide supporting documentation for the limitation. *[Added July 12, 2005] [Amended June 12, 2012]*

v. The general manager may, after consultation with the district professional hydrogeologist and in combination with or in addition to the above, recommend any action or combination of actions set forth in Rule 16.4. *[Amended June 12, 2012]*

5. The terms, provisions and the actions provided for in this Rule 16.4 are in addition to and not in lieu of the terms, conditions and provisions of any other rule or provision of this Section 16. This rule does not limit the authority of the Board to act pursuant to any other rule. The Board shall have the discretion to take any action authorized by this Section 16. *[Amended June 12, 2012]*

RULE 16.5. REDUCTIONS REQUIRED BY REGULATORY ACTION. Notwithstanding any other term or provision of these rules, the Board may proportionately reduce the maximum amount of water that may be permitted per acre and the volume of water authorized to be

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produced under any permit issued by the District. The Board will adjust the thresholds established in Rule 16.4, as required by state law, a regional plan, or an area or regional agreement mandated by state law and which, by authority of state law, requires water availability or production to be limited or regulated based on water availability within a geographic area that includes land in more than one groundwater conservation district. In the event permitted production or water level drawdown will be reduced by reason of any such state law or regulation, the District will give notices as provided in Rule 16.4, hold one or more public hearings on the resulting limitations, and, to the extent permitted by state law or the regional plan or agreement, implement any such reductions in a manner and over a period consistent with this Section 16. *[Amended May 3, 2017]*

RULE 16.6. ADJUSTING MAXIMUM PRODUCTION PERMITTED. The District shall adjust the maximum groundwater production permitted per acre and/or the permitted production under any permit issued by the District as follows: *[Amended May 3, 2017]*

1. If the water drawdown level within a Management Zone, or in any zone within the District in which the water drawdown level is impacted by production in such Management Zone, exceeds the water drawdown Threshold Level 3 in Rule 16.4, the maximum water production permitted per acre for the Management Zone and the water authorized to be produced under any permit issued by the District for that zone will be reduced. The required reduction will be determined by the Board based on the evaluation and the evidence. The production in a Management Zone may be reduced to the extent that production in that Management Zone is impacting water drawdown levels in any Management Zone in the District**.** *[Amended June 12, 2012]*

2. The maximum allowable production of 2 acre feet of groundwater per acre of land, provided in Rule 5.1.2, may be reduced, and the maximum allowable production may be established or reduced for any one, or more than one, Management Zone. *[Amended July 12, 2005]*

3. Production authorized under permits issued by the District for any Management Zone may be reduced on a schedule to, when considered together with future permits for which the authorized production per acre will be at the lower maximum allowable production per acre, generally over a period not to exceed 40 years, reduce groundwater production by an amount required to return the water level in the Management Zone to levels deemed acceptable by the Board based on evidence provided by the general manager, in consultation with the district professional hydrogeologist. *[Amended June 12, 2012]*

4. The Board may adjust permitted production within a Management Zone, based upon the results of a review, evaluation, study, and monitoring, and any evidence presented at a public hearing, if it finds the adjustment is appropriate. *[Amended June 12, 2012]*

5. The Board may adjust the production authorized under any permit issued by the District upon finding that:

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a. a grantor or lessor of water rights in land for which a production permit was issued to a grantee or lessee ("first permittee") reserved the right to obtain a permit and produce a volume of groundwater from that tract or parcel of land; and

b. the first permittee obtained a permit to produce a volume of groundwater from the tract or parcel of land that, when added to the volume of water production reserved by the grantor or lessor, exceeded the maximum allowable production under Rule 16.6.2 above; and

c. the grantor or lessor makes application for a permit with documentation showing the grantor or lessor reserved the right to produce the requested volume of water, or more, from a tract or parcel of the land included in the previously issued permit;

d. may reduce the production authorized by the permit to the first permittee and issue a permit in compliance with these Rules to the grantor or lessor.

6. The General Manager is authorized to take action pursuant to Rule 16.6.5 above, after giving the first permittee ten (10) days written notice and opportunity for response, and the first permittee may:

a. accept the administrative reduction of the permitted amount; or

b. if no agreement is reached with the General Manager, request the matter be presented to the Board for decision; and

c. provide additional tracts or parcels of contiguous land in which the first permittee has the right to produce groundwater to offset the reduction in the authorized permit.

7. Groundwater leases that specifically describe the land area covered by the lease and then include wording that the lease includes any other contiguous land owned by the lessor, shall be interpreted and applied by the District, for the purpose of issuing a permit, to limit such other contiguous areas of land that is strips and gores, and the permit shall not include any other tract or parcel of land that is not specifically described in the lease and that is not a strips and gores.

RULE 16.7. PERMIT LIMITATIONS AND REDUCTIONS. The maximum allowable production of water authorized by a permit may be limited, adjusted and reduced as follows:

1. If the maximum allowable production of 2 acre feet of groundwater per acre of contiguous land is reduced for a Management Zone, or if any such reduced maximum of allowable production is thereafter reduced again, a new permit may not be issued for the production of more water than is established under this Section 16 as the maximum allowable production of water per acre of land for the Management Zone; *[Amended June 12, 2012]*

2. Excluding production authorized by an historic use permit, and production authorized by wells exempt under Rule 7.10(1), the production of water authorized by any permit issued by

the District for the production of water is subject to limitation, adjustment and reduction;

3. The volume of water authorized by permit to be produced in a Management Zone may be reduced by up to two percent per year with the reduction beginning twelve months after a decision by the Board that such reduction is reasonably required for the conservation and preservation of groundwater, or the protection of the aquifer or groundwater users, within the Management Zone; and *[Amended June 12, 2012]*

4. If the Board finds it is necessary to reduce the maximum allowable production per acre, or the permitted production for any Management Zone, by a greater percentage or more quickly than is provided in Rule 16.7(3), to accomplish the desired future conditions, preserve and conserve groundwater or protect groundwater users within a Management Zone, or to implement reductions required under Rule 16.5, the Board shall establish a schedule for a phased reduction in the maximum allowable production or permitted production for the zone. *[Amended May 3, 2017]*

RULE 16.8. EXCEPTIONS. The following are exceptions to the rules set forth in this Section 16 for the limitation and reduction of production:

1. After a reduction of the maximum allowable permitted production per acre in a Management Zone, the maximum allowable production per acre of land for which a permit may be issued in the Management Zone shall not exceed the maximum allowable production per acre as modified or established under this Section 16; *[Amended July 12, 2005]*

2. Within the Trinity Zone groundwater availability will be preserved and conserved, and groundwater users will be protected, by well spacing and the maximum allowable production per acre provided in Rule 5.1.2;

3. The Queen City-Sparta and Yegua-Jackson Zones are recharge based zones with relatively low to moderate yield domestic and small municipal wells, and, in lieu of limiting water drawdown levels in this zone, during droughts permitted production may be temporarily reduced to protect groundwater users; and *[Amended June 12, 2012]*

4. The Board may, in addition to or in combination with any action authorized in this Section 16, take any action authorized by *Chapter 36, Texas Water Code*, or Section 17. *[Added June 12, 2012] [Amended May 3, 2017]*

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RULE 16.9 NOTICE AND HEARINGS. A limitation, adjustment or reduction of the maximum allowable production of water per acre, or of the volume of water authorized to be produced under permits issued by the District, may be adopted by the Board at any time after written notice is given to the permit holders as provided in Rule 16.4 and a public hearing held, for which twenty days, or more, notice of such public hearing is published in one or more newspapers of general circulation in Milam County and Burleson County, Texas.

RULE 16.10. REHEARING. The owner or the operator of a well or well field for which permitted production is being reduced pursuant to this Section 16 may request a rehearing on a decision by the Board to reduce permitted production by more than ten percent in any five year period, or to make a reduction that exceeds two percent in any one year period. Except as otherwise specifically provided herein any such motion for rehearing must be in writing, state the nature of material additional evidence to be presented, and filed in the district office within thirty days after the date of the Board decision that is being appealed. Such rehearing request will not stay or abate the required reduction or production while the request is pending.

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SECTION 17. DROUGHT CONTINGENCY

RULE 17.1. GENERAL. The Board may, after a public hearing and finding that a drought condition of sufficient severity exists that it may adversely affect the groundwater availability of the aquifers, declare drought conditions. The rules regarding the spacing of wells and production of groundwater, and, to the fullest extent permitted by law, exemption from these rules, shall be subject to the terms, conditions and provisions of this Section 17 during a drought declared by the Board. Any conflict between this Section 17 and any other rule will be resolved by the Board upon written request. *[Added June 12, 2012]*

RULE 17.2. DROUGHT MANAGEMENT. The terms, provisions and conditions of Section 16 that provide for limitation, reduction or adjustment of authorized and permitted groundwater production are applicable and available to the Board for drought management purposes during drought conditions. *[Added June 12, 2012]*

RULE 17.3. DROUGHT MANAGEMENT PLANS. The District may enforce the terms, provisions and conditions of drought management plans adopted by permittees of the District, and by entities that receive groundwater produced pursuant to a permit issued by the District. *[Added June 12, 2012]*

RULE 17.4. THRESHOLD MONITORING AND ACTION. The terms and provisions of Rule 16.7 are available to the Board and applicable during drought conditions. *[Added June 12, 2012]*