

## RULE 1.1 DEFINITIONS

**"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 ~~E~~ffective ~~D~~ate, as defined herein, and s. Shall be limited to the purpose of the use, location of use, and maximum amount produce~~usd~~ in any single year for such use during the historic period as included in any documents associated with the application(s) for the issuance of the permit.

**"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 as defined as a retail public utility under Section 13.002, Texas Water Code or 16 Tex. Admin. Code 24.3(31), which provides potable water service or sewer service or both, for compensation and whose defined service area, or a portion thereof, lies within the boundaries of the District. [Amended April 11, 2023]

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

1. Except for a well exempted under Rules 4.2(6), Rule 7.10(1)(b) or 7.10(2)(c) or as set forth herein, a new well may not be drilled within fifty (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]

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 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; [Amended November 5, 2019] 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: [Amended November 5, 2019]~~

~~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.~~

## **RULE 4.2. EXCEPTIONS TO SPACING REQUIREMENTS.**

1. If an applicant establishes good cause, ~~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 may be considered in 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 in accordance with these rules is exempt from the spacing requirements under this Section 4. [Amended June 12, 2012] [Amended July 2, 2019]

## **RULE 5.1. MAXIMUM ALLOWABLE PERMITTED PRODUCTION. [Amended April 11, 2023].**

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. [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 permitted 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 April 8, 2008] [Amended July 12, 2016] [Amended April 11, 2023.]
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 July 12, 2005] [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] [Deletion April 11, 2023]

### **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 definition of “contiguous,” it shall be deemed to be contiguous for the purposes of this Section 5. The waiver ~~shall~~will be permanent and on a form provided by the District, which shall be recorded by the applicant with the County Clerk’s office. [Amended April 11, 2023]
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 5.5. REGULATION OF PRODUCTION FOR LOCAL WATER UTILITIES.**

**[Section 1 and 2 moved; renumbered April 11, 2023]**

1. Upon application, if not inconsistent with the ~~M~~management ~~P~~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, or if the local water utility’s defined service area is substantially contained within the footprint of a larger tract of property which only it serves;

### **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 ninety (90) calendar 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.
- 3.4. Any person who becomes the well owner of a currently permitted well, or well system, must, within ninety (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. [Amended May 12, 2020]
- 4.5. 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. Well pumps and equipment shall only be installed or serviced in wells registered with the District.
- 5.6. Violation of a permit's terms, conditions, requirements or special conditions/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.
- 6.7. 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.
- 7.8. All permits issued by the District are subject to the Mmanagement Plan.
- 8.9. Historic use permits are generally issued for an indefinite term, until modified or revoked by the Board after notice and hearing. Specific situations or agreements may provide for a historic use permit to be for a specific term which shall be included in the permit of years and may not be renewed.
- 9.10. The term of each operating permit issued by the District is set by the Board. The term will generally be for a period not to exceed forty (40) years from the date of issuance. All operating permits shall undergo review every five (5) years beginning January 1, 2025, and continue every five (5) years thereafter, as outlined in Rule 16.56. During any such review,

operating permits may be modified to conform with intervening changes in the regulations, management plan or state law or to accommodate aquifer conditions. [Amended May 12, 2020] [Amended April 11, 2023]

~~10.~~11. Well pumps and equipment shall only be installed or serviced in wells registered with the District.

~~11.~~12. Injection wells are subject to the requirements of Rule 7.17. [Added April 8, 2008]  
[Rule Renumbered July 2, 2019]

~~12.~~13. 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; 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]

#### **RULE 7.4 APPLICATION REQUIREMENTS FOR ALL PERMITS.**

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

c. a statement of the location, nature and purpose of the proposed use and the amount of groundwater to be used for each purpose, at each location noted, including, as applicable, any proposed conjunctive use;

#### **RULE 7.6. CONSIDERATIONS FOR GRANTING PERMITS.**

1. ~~(a)~~ 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,

a. ~~(1)~~ the ~~M~~management ~~P~~plan; ~~(2)~~

b. the quality, quantity, and availability of alternative water supplies;

c. ~~(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;

d. ~~(4)~~ whether the permit will result in a beneficial use at the location(s) and not cause or contribute to waste; ~~and~~

e. ~~(5)~~ if the applicant has existing production permits that are underutilized and fails to document a substantial need for additional permits to increase production; and

f. ~~(6)~~ if the simulated drawdowns indicate that the permitted production will cause unreasonable impacts as defined by Rule 16.4.6.

g. \_\_\_\_\_

2. If no person notifies the general manager of their intent to contest the application, 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] [Amended April 11, 2023]

3. ~~(b)~~—If the District determines that the permitted production is predicted to cause unreasonable impacts as defined by Rule 16.4.6 based on results from aquifer pumping tests and/or groundwater modeling results, the District shall require of the permittee one or both of the following [Amended April 11, 2023]:

a. \_\_\_\_\_ installation of at least two wells to monitor water levels in the pumped aquifer at locations jointly determined by the permittee and the District. The wells will be installed and instrumented prior to the start of the permitted production. The monitoring wells will be instrumented with equipment to measure water levels per Rule 4.3.3 and the data will be reported per Rule 4.4.4. [Amended April 11, 2023]

b. \_\_\_\_\_ installation of equipment in the production well(s) to measure water levels per Rule 4.3.3 and the data will be reported per Rule 4.4.4. [Amended [Added April 11, 2023]

~~a.4.~~ Upon determination that an application is administratively complete, the General Manager shall prepare for the technical review of the application by both his office and the Board and for Board action on the application based upon the information contained in the application, information developed at the hearing and after consideration of the applicable criteria set forth in Chapter 36 of the Texas Water Code, the District Act, and the District Rules. The General Manager or Board may request additional information from the applicant to support the technical review being conducted and developed at the hearing.

#### **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]
  - iii. A new or existing well which is used for the purpose of monitoring water levels and/or water quality and is not to be produced under any exemption or permit issued by the District shall be registered as an exempt well. [Added July 2, 2019] [Amended April 11, 2023]; or
  - iv. A new or existing well which is used for the~~The~~ drilling and production of a rig supply well to supply water solely for a rig or equipment that is actively engaged in drilling a well to produce water, shall meet the following requirements to be exempt from public hearings; (i) meets all applicable spacing requirements as noted in District Rule 4.1; (ii) the rig supply well is located on the property on which the drilling rig is located, or within the contiguous boundaries of the property in which the drilling rig is located; (iii) the rig supply well is used with a rig that is actively engaged in drilling production well ; (iv) the water is produced solely for the purpose of providing water that is necessary for the actual drilling of the production well; (v) plugged within ninety (90) days after the completion of the well; or (vi) converted into a District monitoring well. ~~-(Amended [Added April 11, 2023]);~~
  - ~~v. — Plugged within ninety (90) days after the completion of the well; or~~  
~~— Converted into a District monitoring well.~~
  - ~~vi.v. A new well which that is located on known leased property for which a permit to produce groundwater exists, or that is leased for the purposes of acquiring a permit to produce groundwater, that is: (A): (A) on a tract of land that is larger than 10 acres; (B) equipped so that it is incapable of producing more than 25,000 gallons of groundwater per day; and (B) used or will be used by a person or a household solely for a domestic activity and/or watering livestock; and (C) must minimally have two acres of water rights as determined by Rule 5.1.2.~~

b. Wells partially exempted by local rule:

- i. Wells that are not produced for 180 consecutive calendar 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. [Amended May 12, 2020]
- 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 December 9, 2009] [Amended June 12, 2012]

iv. A well that is: (A) on a tract of land that is ~~larger than~~ 10 acres or more; (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]

~~iv. A new well which that is located on property for which a permit to produce groundwater exists, or that is leased for the purposes of acquiring a permit to produce groundwater, known lease property that is: (A) on a tract of land that is less than 10 acres; (B) equipped so that it is incapable of producing more than 25,000 gallons of groundwater per day; and (C) used or will be used by a person or a household solely for a domestic activity and/ or watering livestock 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.~~

#### **RULE 16.5. FIVE (5) YEAR REVIEWS (Added April 11, 2023)**

1. Pursuant to Rule 7.1.9, all operating permits shall be reviewed beginning January 1, 2025, and every five (5) years thereafter. The purpose of the 5-year review ("Review") is to determine whether the District is meeting the management objectives described in Rule 16.1 and the District's Management Plan. The ~~R~~reviews may result in reductions in the maximum production allowed under a permit consistent with Rules 16.6 and 16.7. The ~~R~~review will comply with the District's Rules and policies of the District regulations, Chapter 36, Texas Water Code and adopted Desired Future Conditions. The ~~R~~review will evaluate;

~~The purpose of the five (5) year review is to determine whether to adjust permitted production in a management area/zone in order to accomplish management goals of the District. Maximum allowable production of water authorized by a permit may be limited, adjusted and reduced during any such review.~~

- (a) If actions are required to comply with District's Management Plan based upon District Monitoring Results (Rule 16.4),
- (b) If actions are required to manage total groundwater production on a long-term basis to achieve the applicable Desired Future Conditions, and
- (c) If the pumping associated with a permitted well or aggregate wells is causing unreasonable impacts as defined in Rule 16.4.6.



2. The following criteria will be considered in evaluating adjustments to permitted production:

- (a) Compliance with District rules, including reporting of monitoring data and water use reports;
- (b) Permitted production is considered in the State Water Plan;
- (c) Permitted production is a part of a conjunctive use project that involves water supplies other than fresh groundwater with a TDS value less than 1,000 mg/L;
- (d) Permittee has received an Aquifer Storage & Recovery permit from TCEQ as a mechanism for reducing pumping impacts to groundwater resources;
- (e) Permittee has received a Managed Aquifer Recharge permit from TCEQ as a mechanism for reducing pumping impacts to groundwater resources;
- (f) A current assessment, using the most recent groundwater pumping scenarios identified by the District, of:
  - a. the production on regional impacts, such as DFCs and PDLs since its start-up date and through the end of its current permit;
  - b. An assessment of the production on local scale impacts including unreasonable impacts as defined by District rules along the perimeter of the property boundary;
  - c. An assessment of the adequacy of the District well monitoring program to accurately determine drawdown associated with production from the well or well field for the purpose of evaluating DFCs, PDLs, and unreasonable impacts;
  - d. A comparison of the MAG, current production, project production, and permitted production for the management areas/zone(s) impacted by the permitted production;
- (g) Permittee has a water conservation plan filed with the District that includes:
  - a. An assessment of permittee's project(s) Best Management Practices with identification of thresholds of beneficial use to be achieved and safeguards to minimize water losses;
  - b. Actions to minimize unreasonable impacts to existing wells, and identifies actions to implement the curtailment of groundwater production if District threshold levels 2 or 3 are reached;
- (h) Permittee has a voluntary mitigation program, approved by the District, to address unreasonable impacts identified by assessments in item (g) of this Rule 16.5.1.
- (i) Permittee has and is producing under a historic use permit pursuant to District Rule 7.14.
- (j) Permittee is a local water utility as defined in these Rules and is permitted thereunder to provide water in a defined service area.
- (k) Permittee, as a local water utility and pursuant to a requested conservation plan filed with the District, is or is willing to obtain water through local sources which shall reduce the burden placed on permittee's localized pumping.

4.3. The maximum allowable production of water authorized by a permit may be limited, adjusted and reduced is addressed by 16.6 and 16.7: The terms, provisions and the actions provided for in this Rule 16.5 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. [Added April 11, 2023]