

# DISTRICT

Hays Trinity Groundwater Conservation District

# Rules

---

As Amended Effective

January 1, 2018

**Mission:** Given the critical importance of water to life and of that part of the water cycle called groundwater to local families, agriculture, commerce, stream flows and wildlife habitat, the Hays Trinity Groundwater Conservation District works to promote conservation, preservation, recharge and prevention of groundwater waste within western Hays County. To help accomplish these goals the District is charged to gather information needed for sound decisions, to provide that information to citizens and local agencies, and to ensure that groundwater is used efficiently and at sustainable rates.

### RULE REVISION RECORD

<u>Date</u>	<u>Board Resolution/ Order Number</u>	<u>Effective Date</u>	<u>Affected Rules</u>
8/9/01	---	8/9/01	Original Adoption
3/25/04	102	3/29/04	Rules 1-11
2/24/05	107	3/9/05	Rules 4 & 11
5/05/05	110	5/11/05	Rules 4 & 11
8/31/05	114	9/1/05	Rules 1-6 & 10-12
9/01/05	117	9/1/05	Rule 5
6/14/07	140	6/14/07	Rules 1- 12
9/17/09	141	9/17/09	Rule 9
8/18/11	151	8/18/11	Rule 3
4/03/13	159	4/03/13	Rules 1-14
7/31/13	162	9/01/13	Rules 1-5 & 10
12/17/14	174	1/1/15	Rule 1-3, 5 & 10-14
11/18/15	178	12/01/2015	Rule 1-5, 10, 12 & 13
9/21/16	182	10/01/16	Rule 3
??/2018	XXX	XX/XX/18	Rule?

# Table of Contents

RULE 1.	INTRODUCTION .....	6
Section 1.1	Authority to Promulgate Rules .....	6
Section 1.2	Purpose of the Rules.....	6
Section 1.3	Effective Date .....	7
Section 1.4	Action on Rules.....	7
Section 1.5	Regulatory Compliance.....	7
Section 1.6	Savings Clause.....	8
RULE 2.	DEFINITIONS .....	9
Section 2.1	Word meanings in the Rules of the Hays Trinity Groundwater Conservation District.....	9
RULE 3.	WELL CONSTRUCTION NOTIFICATION , OPERATING PERMITS and WATER UTILITY CONNECTIONS..	18
Section 3.1	Introduction.....	18
Section 3.2	Existing Wells.....	18
Section 3.3	New Wells.....	19
Section 3.4	Well Construction Notification.....	19
Section 3.5	New Operating Permit.....	20
Section 3.6	Transportation Outside District Boundaries; Export Permit Required.....	24
Section 3.7	Renewal of an Operating Permit .....	25
Section 3.8	Permit Amendment and Revocation.....	25
Section 3.9	Modification of Well.....	26
Section 3.10	Water Utility Connection Categories and Fees .....	27
Section 3.11	Operating Permit Exemptions .....	28
Section 3.12	Geoexchange Wells (Geothermal wells; closed loop earth-coupled heat exchange wells).....	29
RULE 4.	WELL CONSTRUCTION, REPORTS and SPACING .....	31
Section 4.1	Well Construction Standards.....	31

Section 4.2	Reports and Monitoring .....	32
Section 4.3	Well Location and Spacing.....	33
RULE 5.	HEARINGS .....	35
Section 5.1	Hearings on Management Plan, Bylaws, Budget, Rules Other Than Emergency Rules and Operating Permits .....	35
Section 5.2	Notice Requirements for a Public Hearing .....	35
Section 5.3	Adoption of Emergency Rules .....	36
Section 5.4	Actions on Operating Permits .....	<b>Error! Bookmark not defined.</b>
Section 5.5	Permit Hearing.....	37
Section 5.6	Contesting Operating Permit and Amendment Applications.....	37
Section 5.7	Contested Case Hearing Procedures .....	39
Section 5.8	Hearings on Enforcement Actions.....	42
RULE 6.	TAGGING PROHIBITING USE, CAPPING OR PLUGGING WELLS.....	44
Section 6.1	Tagging Wells Prohibiting Use .....	44
Section 6.2	Capping Wells .....	44
Section 6.3	Plugging Wells.....	45
RULE 7.	WELL AND PROPERTY ACCESS .....	46
Section 7.1	Well Inspections & Investigating .....	46
Section 7.2	Property Access .....	46
RULE 8.	REPEALED.....	47
RULE 9.	REPEALED.....	48
RULE 10.	ENFORCEMENT .....	49
Section 10.1	Enforcement .....	49
RULE 11.	AQUIFER TEST AND REPORT .....	51
Section 11.1	Aquifer Test Categories & Project Process .....	51
Section 11.2	Administrative Information .....	53

Section 11.3	Proposed Water Use Information .....	53
Section 11.4	Projected Water Demand Estimate.....	54
Section 11.5	Regional Groundwater Resource Setting .....	55
Section 11.6	Site-Specific Groundwater Data / Aquifer Test Design .....	56
Section 11.7	Determination of Groundwater Quality.....	61
Section 11.8	Determination of Groundwater Availability.....	63
Section 11.9	Groundwater Availability and Usability Statements and Certification .....	65
RULE 12.	REPORTING .....	67
Section 12.1	Reporting Requirements .....	67
RULE 13.	DROUGHT MANAGEMENT .....	68
Section 13.1	Drought Conditions & Provisions .....	68
Section 13.2	Drought Triggers.....	68
Section 13.3	Drought Stages .....	68
Section 13.4	User Drought Contingency and Water Conservation Plans .....	69
RULE 14.	VARIANCES.....	70
Section 14.1	Variances .....	70

# **RULE 1. INTRODUCTION**

## **Section 1.1 Authority to Promulgate Rules**

**(1.1.1)** The Hays Trinity Groundwater Conservation District (District) is a political subdivision of the State of Texas. The District is governed by Chapter 8843, Special District Local Laws Code (“enabling legislation”), and was confirmed by the voters of the District. As a duly created groundwater conservation district, the District may exercise any and all statutory authority or power conferred by its enabling legislation and Chapter 36 of the Texas Water Code, including the adoption and enforcement of rules under Texas Water Code Section 36.101 Rule Making Power. All references to the Texas Water Code are to the Code as amended.

**(1.1.2)** The District is located within the Hill Country Priority Groundwater Management Area (PGMA), which is an area designated under Texas Water Code Chapter 35 as an area experiencing or expected to experience critical groundwater problems.

*Adopted March 25, 2004; Effective March 29, 2004 by Board Order 102. Amended June 14, 2007; Effective June 14, 2007 by Board Order 140.  
Amended and Effective April 3, 2013 by Board Order 159.*

## **Section 1.2 Purpose of the Rules**

**(1.2.1)** These Rules are promulgated under the District’s authority pursuant to its enabling legislation and Texas Water Code Chapter 36, which authorize the District to make and enforce rules to provide for the conservation, preservation, protection, and recharge of groundwater and aquifers within the District. These Rules are also intended to fulfill the District’s Mission and to minimize the drawdown of the water table, minimize the reduction of artesian pressure, control subsidence, minimize interference between wells, prevent the degradation of the quality of groundwater, prevent waste of groundwater, preserve historic use of groundwater, give consideration to the service needs of retail water utilities, and carry out the District’s powers and duties.

**(1.2.2)** These Rules, and any orders, regulations, requirements, resolutions, policies, directives, standards, guidelines, management plans, or other regulatory measures implemented by the Board, have been promulgated to fulfill these objectives. These Rules may not be construed to limit, restrict, or deprive the District or Board of any exercise of any power, duty, or jurisdiction conferred by the District’s enabling legislation, Texas Water Code Chapter 36, or any other applicable law or statute.

*Adopted March 25, 2004; Effective March 29, 2004 by Board Order 102. Repealed August 31, 2005, 2005; Effective September 1, 2005 by Board Order 114. Amended June 14, 2007; Effective June 14, 2007 by Board Order 140.*

## **Section 1.3 Effective Date**

**(1.3.1)** These Rules and any amendments become enforceable upon the effective date.

*Adopted March 25, 2004; Effective March 29, 2004 by Board Order 102. Renumbered August 31, 2005; Effective September 1, 2005 by Board Order 114. Amended June 14, 2007; Effective June 14, 2007 by Board Order 140. Amended and Effective April 3, 2013 by Board Order 159. Amended July 31, 2013; Effective September 1, 2013 by Board Order 162. Amended December 17, 2014; Effective January 1, 2015 by Board Order 174; Amended November 18, 2015; Effective December 1, 2015 by Board Order 178. Amended September XX, 2017; Effective January 1, 2018 by Board Order XXX.*

## **Section 1.4 Action on Rules**

**(1.4.1)** The Board may from time to time, following notice and public hearing, amend or revoke these Rules or adopt new Rules.

**(1.4.2)** The Board may adopt an emergency Rule without prior notice or hearing, or with an abbreviated notice and hearing.

**(1.4.3)** The Board may adopt new Rules or amend Rules as necessary to carry out the purposes of the District and to implement State and Regional Water Plans and the District's Groundwater Management Plan. All new Rules shall apply to all existing landowners, wells, well owners, permits and permittees as well as any new well construction notification or application filed for a well registration or an operating permit.

*Adopted March 25, 2004; Effective March 29, 2004 by Board Order 102. Amended August 31, 2005; Effective September 1, 2005 by Board Order 114. Amended June 14, 2007; Effective June 14, 2007 by Board Order 140. Amended and Effective April 3, 2013 by Board Order 159. Amended September XX, 2017; Effective January 1, 2018 by Board Order XXX.*

## **Section 1.5 Regulatory Compliance**

**(1.5.1)** All District land owners, well owners, wells, permits and permittees shall comply with all applicable Rules, orders, regulations, requirements, resolutions, policies, directives, standards, guidelines, or any other regulatory measures implemented by the District.

**(1.5.2)** Conformance to District Rules does not eliminate requirements for the applicant or contractor to conform to other State Laws.

*Adopted March 25, 2004; Effective March 29, 2004 by Board Order 102. Renumbered August 31, 2005; Effective September 1, 2005 by Board Order 114. Amended June 14, 2007; Effective June 14, 2007 by Board Order 140. Amended and Effective April 3, 2013 by Board Order 159.*

## **Section 1.6 Savings Clause**

**(1.6.1)** If any section, sentence, paragraph, clause, or part of these rules and regulations should be held or declared invalid for any reason by a final judgment of the courts of the State or of the United States, such decision or holding may not affect the validity of the remaining portions of these rules; and the Board does hereby declare that it would have adopted and promulgated such remaining portions of such rules irrespective of the fact that any other sentence, section, paragraph, clause, or part thereof may be declared invalid.

*Adopted August 9, 2001. Amended March 25, 2004; Effective March 29, 2004 by Board Order 102.  
Renumbered August 31, 2005; Effective September 1, 2005 by Board Order 114.  
Amended and Effective April 3, 2013 by Board Order 159.*

**END OF RULE 1**

*REMAINDER OF PAGE INTENTIONALLY LEFT BLANK*



## **RULE 2. DEFINITIONS**

### **Section 2.1 Word meanings in the Rules of the Hays Trinity Groundwater Conservation District**

ABANDONED WELL – A well that is not in use. A well is considered to be in use if:

- A. the well is not a deteriorated well and contains the casing, pump, and pump column in good condition;
- B. the well is not a deteriorated well and has been capped;
- C. the water from the well has been put to an authorized beneficial use, as defined by the Water Code;
- D. the well is used in the normal course and scope and with the intensity and frequency of other similar users in the general community; or
- E. the owner is participating in the Conservation Reserve Program authorized by Sections 1231-1236, Food Security Act of 1985 (16 U.S.C. Sections 3831-3836), or a similar governmental program.

AGRICULTURAL USE OR PURPOSE – The use of groundwater for:

- A. Cultivating the soil to produce crops for human food, animal feed, or planting seed or for the production of fibers
- B. Practicing floriculture, viticulture, silviculture, and horticulture, including the cultivation of plants in containers or non-soil media, by a nursery grower;
- C. Raising, feeding, or keeping animals for breeding purposes or for the production of food or fiber, leather, pelts, or other tangible products having a commercial value;
- D. Planting cover crops, including cover crops cultivated for transplantation, or leaving land idle for the purpose of participating in any governmental program or normal crop or livestock rotation procedure;
- E. Engaging in wildlife management as defined in Texas Tax Code Section 23.51(7); and
- F. Raising or keeping equine animals.

ANNULAR SEAL – The grout that seals the space between the casing and the borehole wall.

ANNULAR SPACE – The space between the walls of a borehole and the installed casing.

AQUIFER – A geologic formation that will yield water to a well in sufficient quantities to make the production of water from this formation feasible for beneficial use.

AQUIFER TEST – An active pumping test to determine aquifer properties performed pursuant to District Rule 11. This test measures the hydraulic parameters of the aquifer.

ARTESIAN PRESSURE – Hydrostatic pressure in a confined aquifer sufficient to cause the water to rise in a drilled hole or well casing to a level above the bottom of a confining bed overlying the aquifer, sometimes sufficient to cause flow without pumping.

ARTESIAN WELL – A water well in which the water, when properly cased, will rise by natural pressure above the first impervious stratum below the surface of the ground. A water well in which artesian pressure is exhibited.

BENEFICIAL USE OR PURPOSE – The use of groundwater (1) for domestic, municipal, stock raising, agricultural use or purpose, industrial, commercial, mining, manufacturing, irrigation, gardening, and pleasure/recreational purposes; (2) for exploring for, producing, handling, or treating oil, gas, sulfur, or other minerals; or (3) for any other purpose that is economically useful and beneficial to the user and does not commit waste as defined herein.

BOARD – The Board of Directors of the Hays Trinity Groundwater Conservation District.

CASING – A watertight pipe or tubing installed in the excavated or drilled borehole to maintain the hole sidewalls against collapse.

CATHODIC PROTECTION WELL – any well, artificial excavation, construction by any method for the purpose of installing equipment or facilities for the protection electrically of metallic equipment in contact with the ground, commonly referred to as cathodic protection

COMINGLING – The mixing, mingling, blending or combining, through the borehole casing annulus or the filter pack, of waters that differ in chemical quality.

COMMUNITY WATER SYSTEM – A system, other than a public water system, that supplies groundwater to long term living units such as apartment complexes, town homes, or multiple dwellings on a shared well. Community water systems are considered non-exempt.

CONVENTIONAL FARMING AND RANCHING ACTIVITIES - Commercial operations to grow crops or raise livestock where the groundwater is put to an agricultural use or

purpose. Lawn and landscape irrigation and commercial nursery operations, other than nursery growers, are not considered conventional farming and ranching activities.

DESIRED FUTURE CONDITION - The desired, quantified condition of groundwater resources (such as water levels, water quality, spring flows, or volumes) at a specified time or times in the future or in perpetuity, as defined by participating groundwater conservation districts within a groundwater management area as part of the joint planning process. Desired future conditions have to be physically possible, individually and collectively, if different desired future conditions are stated for different geographic areas overlying an aquifer or subdivision of an aquifer. (31-10 TAC 356.2).

DETERIORATED WELL – A well that, because of its condition, will cause or is likely to cause pollution of any water, including groundwater, or is allowing or likely to allow escape of fresh groundwater into any other geologic strata or to the surface of the earth.

DEWATERING WELL – A well used for lowering the water table for construction purposes.

DISCHARGE – The amount of water that leaves an aquifer through natural means from springs or artificial means from a well.

DISTRIBUTION LIST – An electronic mailing list available to all interested parties to cover District announcements and activities.

DISTRICT – The Hays Trinity Groundwater Conservation District or one of its authorized representatives. The District includes all of Hays County not contained within the boundaries of the Edwards Aquifer Authority, the Barton Springs Edwards Aquifer Conservation District, or the Plum Creek Conservation District.

DISTRICT OFFICE – The main office of the District at such location as may be established by the Board.

DOMESTIC USE OR PURPOSE – The use of groundwater by an individual or a household, including a home-based business, including water for use inside the home; for irrigation of lawns, or of a family garden or orchard that produces fruits or vegetables for consumption within the residence and not for sale; for watering of domestic animals; for swimming pools associated with a single residence; for stock-watering ponds of less than ¼-acre extent with an average depth of less than 3-feet, that are lined with bentonite, geomembrane, or an equivalent sealing material as adjudged by the District.

DRILL – Drilling or completing wells, or increasing the diameter or depth of wells using drilling equipment.

ENABLING LEGISLATION – Special law enactments that created the District and govern operation of the District specifically Chapter 8843, Special District Local Laws Code.

ENFORCEMENT ACTION – An action taken by the District to enforce District Rules, orders, permits, or any other law within its enforcement authority.

EXEMPT USE – Any use for which the owner is not required to obtain an operating permit. To qualify for an exempt use the well must be registered with the District as an exempt use well and must be used exclusively for an exempt use.

EXISTING WELL - Any well in the District that was completed on or before September 1, 2001.

EXPORTING GROUNDWATER – Bulk transport by truck, ditch, canal, pipeline or similar conveyance of groundwater from a well inside the boundaries of the District to any point outside the boundaries of the District.

GEOEXCHANGE WELL – A well drilled for the exclusive purpose of heat exchange. Geoexchange wells do not produce groundwater and are considered exempt.

GEOPHYSICAL LOGS: also called Wireline Logs or Electric Logs – Recordings of continuous or point measurements of physical properties of rocks and fluids in a borehole by means of a specialized probe lowered into the hole by a wireline or cable. For purposes of these Rules, Geophysical Logs used for groundwater investigation include gamma-ray logs (natural-gamma logs), electric logs (resistivity logs, spontaneous-potential logs, single-point-resistance logs), temperature logs, caliper logs, or other special purpose downhole logs.

GROUNDWATER MANAGEMENT PLAN – A management plan developed by the District pursuant to Texas Water Code, Section 36.1071, that takes effect upon approval by the Executive Administrator of the Texas Water Development Board (TWDB)

GROUNDWATER OR UNDERGROUND WATER - Water percolating beneath the earth's surface.

GROUNDWATER RESERVOIR - A specific subsurface water-bearing reservoir having ascertainable boundaries and containing groundwater.

HEARING EXAMINER – A person approved by the District Board to conduct a hearing or hear a contested case and recommend actions on any contested issue.

INDUSTRIAL USE OR PURPOSE – Use of groundwater primarily in the building, production, manufacturing, or alteration of a product or goods, or to wash, cleanse, cool, or heat such goods or products. Industrial use or purpose is considered non-exempt.

INJECTION WELL - A well used to inject water or other material into a subsurface formation or into pipe or tubing placed in the formation for the purpose of storage or disposal of the fluid.

IRRIGATION USE OR PURPOSE - Use of groundwater to supply water for non-residential and non agricultural application to plants or land in order to promote growth of plants, turf, or trees. Irrigation use or purpose is considered non-exempt.

LICENSED WATER WELL DRILLER – a person who holds a license to drill water wells that is issued by the Texas Department of Licensing and Regulation pursuant to Texas Occupations Code Chapter 1901.

LICENSED WATER WELL PUMP INSTALLER – a person who holds a license to install water well pumps that is issued by the Texas Department of Licensing and Regulation pursuant to Texas Occupations Code Chapter 1901.

LIVESTOCK - Domesticated horses, cattle, goats, sheep, swine, poultry, ostriches, emus, rheas, exotic deer and antelope, and other similar animals involved in farming or ranching operations. Dogs, cats, birds, fish, reptiles, small mammals, potbellied pigs, and other animals typically kept as pets are not considered livestock. Livestock-type animals as pets or in a pet-like environment are not considered livestock.

MODELED AVAILABLE GROUNDWATER –The amount of groundwater that the Texas Water Development Board Executive Administrator determines may be produced on an average annual basis to achieve a Desired Future Condition .

MODIFY OR MODIFICATION OF A WELL - To change the physical or mechanical characteristics of a well, its equipment, or production capabilities. This does not include repair of well equipment, well houses or enclosures, or replacement with comparable equipment. A change in the purpose of use is considered a modification. Does not include lowering an existing pump within an existing well or well development activities intended to remove accumulated sediment from a well or improve well yield without modifying the basic dimensions or structure of a well or the pumping system.

MONITOR OR MONITORING WELL - A well generally used for collecting water-quality or water level data on an ongoing basis.

NEW WELL - Any well that is 1) not an existing well; 2) any existing well modified to increase water production, or to produce water from a different geologic strata, if such modification occurred or will occur anytime after September 1, 2001; or any well drilled or to be drilled after the effective date of these rules.

NEW WATER UTILITY SERVICE CONNECTION –a physical connection made to the system to service a customer after September 1, 2001.

NON-EXEMPT USE – Any use of groundwater that does not qualify as an exempt use. Non-exempt use requires an operating permit from the District.

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

OBSERVATION WELL – A well for observing water level changes during an aquifer test.

OPEN OR UNCOVERED WELL – An artificial penetration or excavation at least 10 feet deep that is dug or drilled for the purpose of producing groundwater, or for injection, monitoring, or de-watering purposes, and is not capped or equipped with an annular seal.

OPERATING PERMIT - The authorization issued by the District under which an owner or operator of property within the District may construct, drill, or modify a well in compliance with approved District and State of Texas standards and may withdraw a specific amount of groundwater for a non-exempt use for a designated period of time.

OWNER OR OPERATOR- Any person who has the right to produce groundwater, either by ownership, contract, lease, easement, or any other estate in the land.

PERMIT AMENDMENT - A District approved change in an operating permit.

PERMITTEE - A person or entity who has an operating permit or who has submitted an operating permit application.

PERSON - Includes a corporation, individual, organization, cooperative, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, or any other legal entity.

PLUGGING - The permanent closure of a borehole in accordance with approved State standards.

POLLUTION – The alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water in a manner that renders the water harmful, detrimental, or injurious to humans, animals, vegetation, or property, or to public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any reasonable purpose.

PRIORITY GROUNDWATER MANAGEMENT AREA (PGMA) - an area designated under Texas Water Code Chapter 35 as an area experiencing or expected to experience critical groundwater problems.

PRODUCTION CAPABILITY - The volume of water a well can produce as determined by either the maximum rated pumping capability of the pump as installed or as measured at the well head.

PUBLIC WATER SYSTEM –A system as defined by 30 Texas Administrative Code Section 290.38 for providing to the public water for human consumption. A public water system is considered non-exempt.

PUMPING OR GROUNDWATER PRODUCTION – The quantity of all water withdrawn from the ground.

RECHARGE – Entry of water from the ground surface into the saturated zone of the subsurface. This contrasts with aquifer leakage where water in the subsurface moves into or out of an aquifer.

REMEDIATION WELL – A well used to pump or vent contaminated air, water, or fluids from the ground.

RESIDENTIAL/DOMESTIC WELL – A well used solely for domestic use by a single private residential household and producing less than 25,000 gallons per day. Residential/Domestic well use is considered exempt.

SHARED WELL – One new or existing well on private property that serves no more than four single-family dwellings on the same property or adjoining properties and the groundwater is used exclusively for domestic use.

SPRING - A point or place of natural flow or discharge from an aquifer.

SWIMMING POOL - a man-made basin completely lined with concrete, plastic, or fiberglass, having a depth of at least 2 feet, and used primarily for swimming or recreational bathing.

TEST WELL – A well drilled to evaluate groundwater quality or quantity.

WASTE -

- A. The withdrawal of groundwater from a groundwater reservoir at a rate and in an amount that causes or threatens to cause intrusion into the reservoir of water unsuitable for agricultural, gardening, domestic, or stock raising purposes.
- B. The flowing or producing of wells from a groundwater reservoir if the water produced is not used for a beneficial purpose.
- C. The escape of groundwater from one groundwater reservoir to any other reservoir or geologic strata that does not contain groundwater.

- D. The pollution or harmful alteration of groundwater in a groundwater reservoir by saltwater or by other deleterious matter admitted from another stratum or from the surface of the ground.
- E. Willfully or negligently causing, suffering, or allowing groundwater to escape into any river, creek, natural watercourse, depression, lake, reservoir, drain, sewer, street, highway, road, or road ditch, or onto any land other than that of the owner of the well unless such discharge is authorized by permit, rule, or order issued by the Texas Commission on Environmental Quality under Texas Water Code, Chapter 26, "Water Quality Control."
- F. Groundwater pumped for irrigation that escapes as irrigation tail water onto land other than that of the owner of the well unless permission has been granted by the occupant of the land receiving the discharge.
- G. For water produced from an artesian well, "waste" has the meaning assigned by Texas Water Code, Section 11.205.
- H. Utilizing groundwater for a beneficial use in an amount that exceeds the amount reasonably needed for that purpose.

WATER CONSERVATION – Those water saving practices, techniques, and technologies that will reduce the consumption of water, improve efficiency in the use of water, or increase the recycling and reuse of water so that additional water supply is made available for future or alternative uses.

WATER TABLE - The upper boundary of the saturated zone in an unconfined aquifer.

WATER UTILITY - A person providing groundwater to the public for human consumption through pipes or other constructed conveyances.

WATER WELL - Any drilled or excavated well, facility, device, or method used to withdraw groundwater from the ground, other than a well used solely for the purpose of withdrawing water for sampling.

WELL - Any artificial penetration, excavation, borehole or other man-made feature constructed for the purposes of exploring for or producing groundwater, for injection, monitoring, remediation, or de-watering purposes, or for recovery of leachate. Also includes geexchange and cathodic wells.

WELL CONSTRUCTION FEE – The fee charged by the District for the construction of a new well drilled after September 1, 2001.

WELL CONSTRUCTION NOTIFICATION – Notice provided to the District on a District Form of intent to construct a new well.



WELL LOG OR STATE OF TEXAS WELL REPORT – The report that every well driller who drills, deepens, or alters a well is required to complete under the Texas Department of Licensing and Regulation Rules, as defined in 16 Texas Administrative Code § 76.10 and 76.700, including any special purpose geophysical well log that may be available for any given well

WELL PERFORMANCE TEST OR PUMPING TEST – A test conducted to determine the performance characteristics of a well. The test involves pumping from a single well for a period of time to determine the sustained productive capacity of the well.

WELL PUMPS AND EQUIPMENT - Devices and materials used to obtain water from a well, including the seals and safeguards necessary to protect the water from contamination.

WELL USE OR PURPOSE OF USE – The use of the well or the purpose for which water from the well will be used. The District shall use the definitions found in these Rules in determining the well use or purpose of use.

WITHDRAW OR WITHDRAWAL - The act of extracting groundwater by pumping or any other method, other than the discharge of natural springs.

*Adopted August 9, 2001. Amended March 25, 2004; Effective March 29, 2004 by Board Order 102. Amended February 24, 2005; Effective March 9, 2005 by Board Order. Amended August 31, 2005; Effective September 1, 2005 by Board Order 114. Amended June 14, 2007; Effective June 14, 2007 by Board Order 140. Amended and Effective April 3, 2013 by Board Order 159. Amended July 31, 2013; Effective September 1, 2013 by Board Order 162. Amended December 17, 2014; Effective January 1, 2015 by Board Order 174. Amended November 18, 2015; Effective December 1, 2015 by Board Order 178. Amended September XX, 2017; Effective January 1, 2018 by Board Order XXX.*

**END OF RULE 2**

*REMAINDER OF PAGE INTENTIONALLY LEFT BLANK*

# **RULE 3. WELL CONSTRUCTION NOTIFICATION , OPERATING PERMITS and WATER UTILITY CONNECTIONS**

## **Section 3.1 Introduction**

**(3.1.1)** All landowners shall notify the District prior to drilling a new well located within the District by completing and submitting a Well Construction Notification form. Based on the information provided, the staff will determine whether the use is exempt or non-exempt. Well owners withdrawing groundwater for a non-exempt use are required to obtain an operating permit. Operating a well without completing and submitting a Well Construction Notification form is a violation of these rules and will be subject to a penalty. Operating a non-exempt well without an operating permit is a violation of these rules and will be subject to a penalty.

**(3.1.2)** All wells constructed within the District shall be subject to District rules and to terms and conditions including the drilling, equipping, completion, or alteration of wells or pumps, and the District's definition of waste.

**(3.1.3)** The decision whether to grant or deny a permit required under these Rules, shall be based on the considerations required by Texas Water Code Section 36.113(d). As authorized by Texas Water Code Section 36.113(f).

*Adopted August 9, 2001. Amended March 25, 2004; Effective March 29, 2004 by Board Order 102. Amended June 14, 2007; Effective June 14, 2007 by Board Order 140. Amended and Effective April 3, 2013 by Board Order 159. Amended July 31, 2013; Effective September 1, 2013 by Board Order 162. Amended November 18, 2015; Effective December 1, 2015 by Board Order 178. Amended September XX, 2017; Effective January 1, 2018 by Board Order XXX.*

## **Section 3.2 Existing Wells**

**(3.2.1)** According to the Texas Water Code, Chapter 36.117(h): "A District shall require the owner of a water well to: register the well in accordance with the rules promulgated by the district". All Landowners of existing wells, drilled prior to September 1, 2001, will not be charged a well construction notification fee. Owners of existing exempt wells are requested to complete and submit a well registration form.

**(3.2.2)** Existing non-exempt wells are required to obtain an operating permit to continue producing groundwater. To prevent pollutants from entering the well and to prevent comingling of sub-aquifers, the well shall be updated to Texas Department of Licensing and Regulation and District construction standards, see Rule 4.

*Effective April 3, 2013 by Board Order 159. Amended July 31, 2013; Effective September 1, 2013 by Board Order 162. Amended September XX, 2017; Effective January 1, 2018 by Board Order XXX*

### **Section 3.3 New Wells**

**(3.3.1)** A one-time well construction fee will be incurred for all new wells except a well used solely for conventional farming and ranching activities, including such intensive operations as aquaculture, livestock feedlots, poultry operations, or a well used for dewatering and monitoring in the production of coal or lignite. A well owner claiming the farming and ranching exemption must provide a copy of their "Texas Agricultural or Timber Registration" card.

**(3.3.2)** Well Construction Notifications that are submitted to the District office that claim both domestic and agricultural use are subject to the current construction fee. An agricultural confirmation document will be issued by the District once the well construction notification has been processed.

*Effective April 3, 2013 by Board Order 159. Amended July 31, 2013; Effective September 1, 2013 by Board Order 162. Amended December 17, 2014; Effective January 1, 2015 by Board Order 174. Amended September XX, 2017; Effective January 1, 2018 by Board Order XXX.*

### **Section 3.4 Well Construction Notification**

**(3.4.1)** Prior to drilling any new well, a well construction notification must be completed and submitted to the District along with a property plat indicating the well location, Hays County property identification number, and a one-time well construction fee. Notifications will not be processed without the District first receiving the required fee and map.

**(3.4.2)** Once the notification is declared to be administratively complete by the District, District staff has a minimum of three work days to process and approve the well construction notification without Board action. A confirmation document will be sent to both the well owner and the drilling company allowing the drilling to begin. The application of intent to drill or alter a well is valid up to 90 days from the date of approval. Additional 90 day extensions, up to a total of 270 days, may be obtained from the District staff upon request. Drilling prior to District approval is a violation and subject to a penalty.

**(3.4.3)** Based on the information provided in the well construction notification, or other information available to the District, the District staff shall determine whether the well will

withdraw groundwater for exempt or non-exempt uses. A well owner or operator shall obtain an operating permit for any non-exempt groundwater withdrawals.

**(3.4.4)** It is the responsibility of the well driller to submit a completed State of Texas Well Report to the District within 60 days of well completion.

*Adopted March 25, 2004; Effective March 29, 2004 by Board Order 102. Amended February 24, 2005; Effective March 9, 2005 by Board Order. Amended August 31, 2005; Effective September 1, 2005 by Board Order 114. Amended June 14, 2007; Effective June 14, 2007 by Board Order 140. Amended and Effective April 3, 2013 by Board Order 159. Amended July 31, 2013; Effective September 1, 2013 by Board Order 162. Amended September XX, 2017; Effective January 1, 2018 by Board Order XXX.*

## **Section 3.5 New Operating Permit**

**(3.5.1)** An operating permit is required for all non-exempt wells. Prior to submittal of an operating permit application the applicant shall review District Rule 11 to confirm the appropriate Tier category and requirements.

**(3.5.2)** A completed operating permit application verified under oath or declaration must be submitted to the District prior to operating the well. The District General Manager has the authority to waive certain requirements if not applicable. In order for the operating permit application to be found administratively complete the following documentation shall be included for new and existing wells:

- a) A completed and approved Well Construction Notification/Well Registration;
- b) The physical location of the well, including an address and the latitude and longitude ;
- c) A completed and signed: User Drought Contingency Plan and a Water Conservation Plan;
  
- d) A property plat, survey, or map of the parcel showing the location of the proposed well and that includes existing or proposed buildings, all water wells (including those abandoned, deteriorated, or not currently in service), septic tanks, septic disposal areas, driveways, barns, feedlot, ponds, creeks, rivers, intermitted streams, property lines, and any other known or suspected potential sources of pollution;
- e) Annual production amount requested including all formulas and calculations used to determine the annual production amount;
- f) The capacity of the well and the requested rate of withdrawal;
- g) A description of the place of use or project where groundwater will be used;
- h) The purpose of use for the groundwater to be withdrawn;
- i) The name, phone number, mailing address, and email address for:
  - 1) the well owner;
  - 2) the well operator (if any);
  - 3) the person responsible for permit compliance; and
  - 4) the person responsible for reading the meter and reporting production to the District;

- j) A copy of the project engineering plans;
- k) For any commercial or industrial use: the number of full time employees, number of part-time employees, number of days open per week, number of sinks, number of toilets, number of showers/baths, number of ponds or pools, size of ponds/pools, rainwater collection storage amounts, non-rainwater storage amounts, will rainwater be used for outdoor irrigation or indoor use, describe outdoor irrigation area, will groundwater be used as a material item, number of buildings/structures, number of total occupants;
- l) A Geophysical Log of the well;
- m) A well-performance test (Tier 2) shall be required if the total annual production on a permit is greater than two (2) and less than or equal to six (6) acre feet. Test results shall be submitted to the District as part of the permit application. The performance test and report shall follow the guidelines of the District's "Certification of Groundwater Availability";
- n) An aquifer test (Tier 3) and aquifer report are required if the total annual production on a permit is greater than 6 acre feet per year or if the application is a permit amendment that increases the permit amount to a volume greater than 6 acre feet per year. Test results shall be submitted to the District as part of the permit application;
- o) For a new operating permit for an existing well, the State Well Report for that well;
- p) Provide evidence that well(s) do not allow comingling between sub-aquifers;
- q) The Owner's signature or the Owner's agent's signature, and the date the application was signed.

**(3.5.3)** A test well may be drilled upon receipt of a confirmation document from the District. After the test well is drilled the applicant must then provide the remainder of the information required prior to an operating permit being issued, including:

- a) proof a flow meter is installed;
- b) an Affidavit of Publication of the 10-day Notice of the Application and the 20-day Notice of the administratively complete application.
- c) full payment for any water connection fees due; and
- d) full payment for any outstanding fees or penalties owed by the applicant.

**(3.5.4)** In determining the aquifer testing approach, an applicant shall comply with the aquifer/well performance testing and report requirements of Rule 11. Applicants are required to meet with the District technical staff to discuss the planned testing approach prior to drilling and testing the well.

**(3.5.5)** The General Manager shall inform the applicant, in writing, of any deficiencies in the application. If the applicant fails to provide the required information within 180 days of the notice of deficiency, the application will be denied. The General Manager may request clarification of any information provided on the application or in any attachment thereto.

**(3.5.6)** The District's General Manager has the authority to approve, approve with conditions, deny or refer to the Board a permit application for an amount less than or equal to six (6) acre feet per year. If the applicant is not in agreement with General

Manager's action, the applicant may request that the operating permit application be scheduled to be heard by the Board of Directors. Applications seeking more than 6 acre feet of groundwater per year must be scheduled for a public hearing before the Board of Directors. An application that requires a public hearing shall be scheduled for a public hearing within 60 days after the date the operating permit application is deemed administratively complete.

**(3.5.7) Notice and Hearing of Applications.**

- A. Once the General Manager determines the new operating permit application has no deficiencies, District staff shall post a copy of submitted applications to the District's website and will send an email to the distribution list announcing that the application has been received and is posted on the District's website. The 10-Day public notice shall be published in a newspaper of local distribution to include the application information and the 10-Day deadline date for submitting public comments to the District. The applicant is responsible for the cost of the published notice. Written comments received by the deadline date will be considered in staff recommendations.
- B. Once the permit application has been deemed administratively complete, the District shall notify the applicant by electronic mail. The 20-Day public notice shall be published in a newspaper of local distribution to include the application information, Staff recommendations and the deadline date for submitting a protest. The applicant is responsible for the cost of the published notice.
- C. The District shall post a copy of the 20-Day notice to the District's website and email the distribution list an announcement stating the notice is available for review.
- D. The permit application may be scheduled for a public hearing:
  - 1) At the request of the applicant if not in agreement with staff recommendations; or
  - 2) If the application is requesting more than 6 acre feet; or
  - 3) If the application has been formally contested.

If the permit is scheduled for a public hearing, a notice of hearing shall be posted in a newspaper of local distribution, on the District's website, and provided to the Hays County Clerk's Office. The applicant is responsible for the cost of the published notice.

**(3.5.8)** During the public hearing the Board shall consider the application and any evidence presented. Any interested person may present oral or written testimony. Following the hearing, the Board may:

- A. if contested, send the application to a preliminary hearing;
- B. issue the permit;
- C. issue the permit with conditions; or
- D. deny the application.

**(3.5.9)** If the Board votes to issue the permit with conditions or denies the permit, the applicant may contest the Board's action by submitting a formal contested case letter

via certified mail to the District's US Post Office Box within ten (10) days after the Board's vote.

**(3.5.10)** The Board shall be guided by District Rules and Chapter 36, Texas Water Code in consideration of each application. The Board shall consider the following:

- A. Whether the application conforms to the requirements of Chapter 36 and District Rules.
- B. Whether the application is administratively complete
- C. Whether there is an adequate water supply available from a retail public water utility.
- D. Whether the proposed use of groundwater unreasonably affects existing groundwater and surface water resources or existing permit holders.
- E. Whether the proposed use of water is consistent with the District's approved management plan.
- F. Whether the applicant will use reasonable diligence to protect groundwater quality, has an adequate water conservation plan and an adequate drought contingency plan.
- G. Whether the conditions and limitations in the permit will prevent waste, achieve water conservation, minimize as far as practicable the drawdown of the water table or the reduction of artesian pressure, or lessen interference between wells.
- H. That the permit will not substantially affect the availability of water in the District or prevent the District from achieving the adopted Desired Future Condition.

**(3.5.11)** An operating permit shall specify:

- A. the business name;
- B. name of owner or authorized representative;
- C. the maximum authorized groundwater production from the well (in gallons per year or acre feet per year);
- D. the District's well construction notification number;
- E. the authorized purpose of use permitted;
- F. the authorized place of use permitted;
- G. issued date, renewal date and expiration date;
- H. operating permit term; operating permits issued by the District are valid for a period of one, two or three years; and
- I. any special permit conditions.

**(3.5.12)** When two or more non-exempt wells are owned and operated by the same water utility as a multi-well system, the District may issue an operating permit for an aggregate withdrawal amount for all the wells in the system. An operating permit for an aggregate withdrawal from several wells may allow groundwater to be produced such that the sum of withdrawals by wells in the system does not exceed the maximum authorized groundwater production specified in the permit. The aggregate wells shall be listed on the permit. The District may, through a permit amendment, disaggregate the wells and assign any portion of the aggregate permit to any of the associated wells.

**(3.5.13)** Operating permits issued may have their production prorated based on the approved annual production amount.

**(3.5.14)** A Permittee shall comply with all terms and conditions, reporting or monitoring requirements included in the operating permit.

*Adopted March 25, 2004; Effective March 29, 2004 by Board Order 102. Amended February 24, 2005; Effective March 9, 2005 by Board Order. Amended August 31, 2005; Effective September 1, 2005 by Board Order 114. Amended June 14, 2007; Effective June 14, 2007 by Board Order 140. Amended and Effective April 3, 2013 by Board Order 159. Amended July 31, 2013; Effective September 1, 2013 by Board Order 162. Amended December 17, 2014; Effective January 1, 2015 by Board Order 174. Amended September XX, 2017; Effective January 1, 2018 by Board Order XXX*

## **Section 3.6 Transportation Outside District Boundaries; Export Permit Required**

**(3.6.1)** The Board shall be guided by these Rules and Chapter 36, Texas Water Code in consideration of each Export permit application. The Board shall consider the following:

- A. that the applicant has a legitimate need for the amount of water to be transported as evidenced by inclusion of the proposed project in the approved regional water plan or the current State Water Plan;
- B. the availability of water in the District and in the proposed receiving area during the period for which the water supply is requested;
- C. the projected effect of the proposed transfer on aquifer conditions, depletion, subsidence, or effects on existing permit holders or other groundwater users within the District; and
- D. that the method of transportation will not result in waste.

**(3.6.2)** In considering the proposed permit, the Board shall consider the following:

- A. the quantity of water proposed to be transported;
- B. the requested term; and
- C. the approved District Management Plan.

**(3.6.3)** The applicant's right to transport shall be limited to the extent and purposes stated in the permit.

**(3.6.4)** The term for an Export permit shall be:

- A. three years if construction of a conveyance system has not been initiated prior to the issuance of the permit; or
- B. thirty years if construction of a conveyance system has been initiated prior to the issuance of the permit or if construction of a conveyance system begins before the expiration of a permit initially issued for three years.

**(3.6.5)** Retail water supply companies supplying bulk groundwater must adhere to the term of the operating permit.

*Effective April 3, 2013 by Board Order 159.*



## **Section 3.7 Renewal of an Operating Permit**

**(3.7.1)** Permits will be renewed for the same annual production amount and term if the permit renewal fee is received by October 1<sup>st</sup> of the year the permit expires.

A permit amendment application along with the renewal fee is required if requesting a change to the permit. Renewal fees shall coincide with requested amended production amount or permit term.

**(3.7.2)** The District may charge and collect a permit renewal application fee not to exceed \$400 in accordance with Section 8843.1515.

**(3.7.3)** Renewals shall be automatically approved except when the applicant:

- (a) is delinquent in paying a fee required by the district;
- (b) is subject to a pending enforcement action for a substantive violation of a district permit, order, or rule that has not been settled by agreement with the district or a final adjudication; or
- (c) 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.

If the permit amendment process results in the denial of an amendment, the permit as it existed, shall be renewed without penalty, unless Subsection (a),(b) or (c) of this section applies to the applicant.

**(3.7.4)** Neither the permit holder nor the public may request a contested case hearing concerning an operating permit renewal. An amendment application may be contested in accordance with Rule 5.5.

*Adopted March 25, 2004; Effective March 29, 2004 by Board Order 102. Amended February 24, 2005; Effective March 9, 2005 by Board Order. Amended August 31, 2005; Effective September 1,2005 by Board Order 114. Amended June 14, 2007; Effective June 14, 2007 by Board Order 140. Amended and Effective April 3, 2013 by Board Order 159. Amended July 31, 2013; Effective September 1,2013 by Board Order 162. Amended November 18, 2015; Effective December 1, 2015 by Board Order 178. Amended Sept XX, 2017; Effective January 1, 2018 by Board Order XXX.*

## **Section 3.8 Permit Amendment and Revocation**

**(3.8.1)** An amendment to an operating permit is for the purpose of altering the total amount of annual groundwater production, a change in ownership, a change in the operating permit term, place of use, purpose of use, point of withdrawal, or rate of withdrawal. If a permit amendment application requests an increase in annual production that will alter the permit category to a Tier two (2) or to a Tier three (3), a well performance test or an aquifer test may be required. See District Rule 11.

All operating permit amendments shall follow the same process as a new operating permit application.

**(3.8.2)** To amend an operating permit, the owner shall submit to the District a completed Permit Amendment Application verified under oath or declaration. The production amount from an approved permit amendment will not be retro-active but prorated for the remainder of the year.

**(3.8.3)** For permit amendments requesting a production increase, the District shall review evidence of line loss since the issue date of the permit or over the past two years, whichever is less, to determine if the requested production increase can be achieved by eliminating some or all of the line loss.

**(3.8.4)** Change in Ownership: Any change in well ownership shall be reported to the District by the permit holder within 60 days of the change. An operating permit may be transferred to a new well owner if the District Manager determines that the use of the well remains the same and the well is in compliance with all District Rules and permit conditions. The District Manager may refer the transfer to the Board if the District Manager cannot, for any reason, determine if the permit may be transferred.

**(3.8.5)** Operating Permit Involuntary Amendment or Revocation: Operating permits are subject to involuntary amendment or revocation for violation of District Rules, violation of the permit or special permit conditions, violation of the provisions of Chapter 36 of the Texas Water Code, waste of groundwater, or other actions the Board determines to be detrimental to the allocation of groundwater resources within the District. Noncompliance with the approved Water Conservation Plan, Drought Contingency Plan or Drought Production Cutback Chart may also be grounds for involuntary Amendment or Revocation of the permit.

*Adopted March 25, 2004; Effective March 29, 2004 by Board Order 102. Amended February 24, 2005; Effective March 9, 2005 by Board Order. Amended August 31, 2005; Effective September 1, 2005 by Board Order 114. Amended June 14, 2007; Effective June 14, 2007 by Board Order 140. Amended and Effective April 3, 2013 by Board Order 159. Amended July 31, 2013; Effective September 1, 2013 by Board Order 162. Amended December 17, 2014; Effective January 1, 2015 by Board Order 174. Amended November 18, 2015; Effective December 1, 2015 by Board Order 178. Amended September XX, 2017; Effective January 1, 2018 by Board Order XXX*

## **Section 3.9      Modification of Well**

**(3.9.1)** Modification of a well – Requires the submission of a completed well modification application to the District.

**(3.9.2)** If the well modification changes the purpose of use from exempt to non-exempt, an operating permit application must be completed and submitted to the District office for review and approval. Making modifications by changing the well's use from exempt

to non-exempt prior to District approval is a violation and subject to a penalty. All operating permit applications shall follow the same process as a new operating permit application.

*Effective April 3, 2013 by Board Order 159. Amended July 31, 2013; Effective September 1, 2013 by Board Order 162. Amended November 18, 2015; Effective December 1, 2015 by Board Order 178. Amended September XX, 2017; Effective January 1, 2018 by Board Order XXX*

## **Section 3.10 Water Utility Connection Categories and Fees**

**(3.10.1)** There are two categories of water utility connections:

A. Community Water Connections - are long term supply. The most common community water connections:

- 1) Apartment Complex
- 2) Duplex
- 3) Home/Townhome
- 4) One (1) well supplying to more than four (4) residences
- 5) RV Park Slips

B. Non-Community Water Connections - Short Term, not designed nor intended for long term living. The most common non-community water connections:

- 1) Hotel / Motel
- 2) Bed and Breakfast
- 3) Small Businesses: gas station, convenience stores, restaurants
- 4) Dental / Medical Office
- 5) School
- 6) Hospital

**(3.10.2)** Service Connection Fees:

The District shall levy and collect a service connection fee for each new water utility service connection, and each new meter or tap will be charged a Service Connection Fee.

**(3.10.3)** Service Connection Fees for Community Water systems, with the exception of RV slips, will be assessed by the number of living units or dwellings multiplied by the connection fee amount. The connection fee for RV slips will be assessed at the rate of \$200 each.

**(3.10.4)** Service Connection Fees for Non-Community water systems will be assessed per building serviced by the well unless the system utilizes submeters in which case Service Connection Fees will be assessed for each meter.

**(3.10.5)** Applications for a new water utility service connection are available from the District.

**(3.10.6)** It is the responsibility of the permit holder to submit the completed water service connection form and the water connection fee to the District. Water connection fees are due prior to connecting to water supply. No water service connection form will be processed without the District first receiving the required connection fee. Once the form has been submitted to the District it will be processed and assigned a unique connection id number. The applicant and the permit holder or authorized agent will receive a certificate of confirmation as proof of compliance. Activating the water service connection prior to receiving confirmation of compliance is a violation of these rules and will be subject to a penalty.

*Amended and Effective April 3, 2013 by Board Order 159. . Amended July 31, 2013; Effective September 1, 2013 by Board Order 162. Amended December 17, 2014; Effective January 1, 2015 by Board Order 174. Amended September 21, 2016; Effective October 1, 2016 by Board Order 182. Amended September XX, 2017; Effective January 1, 2018 by Board Order XXX*

## **Section 3.11 Operating Permit Exemptions**

**(3.11.1)** New wells exempted from obtaining an operating permit must comply with District Rules and all State requirements and District well construction standards. The following wells are not required to obtain an operating permit:

- A. Residential/Domestic: A well used solely for domestic use by a single private residential household if the well is drilled, completed, or equipped so that its production capability does not exceed 25,000 gallons per day (17.36 gallons per minute).
- B. Agricultural: A well used solely for conventional farming and ranching activities, including such intensive operations as aquaculture, livestock feedlots, or poultry operations. Landscape irrigation such as sport fields are not considered agricultural use.
- C. A well used solely for dewatering and monitoring in the production of coal or lignite.
- D. A well used solely to supply water for a rig that is actively engaged in drilling or exploration operations permitted by the Railroad Commission of Texas provided that the person holding the permit is responsible for drilling and operating the water well and the well is located on the same lease or field on which the drilling rig is located or is in close proximity to the drilling rig. The District may not deny an application for a permit for any well used to supply water for hydrocarbon production activities if the application is in compliance with the spacing, density, and production Rules applicable to all permitted water wells of the District. If a well is no longer solely used to supply water for a rig actively engaged in drilling or exploration operations the well owner must obtain an operating permit from the District. Hydraulic fracturing is one means of enhanced recovery of oil and gas operations, and not part of the drilling or exploration process.
- E. A well authorized under a permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code, or for production from such a well to the extent the withdrawals are required for mining purposes regardless of any subsequent use of the water. These water wells are not required to comply with the spacing requirements of the District. The District shall require a well to be

permitted and comply with District Rules if the withdrawals from the well are no longer necessary for mining activities, or are greater than the amount necessary for mining activities specified in the permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code. An entity holding such a Chapter 134 permit for a water well shall report monthly to the District (1) the total amount of water withdrawn during the month; (2) the quantity of water necessary for mining activities; and (3) the quantity of water withdrawn for other purposes.

- F. A monitoring well, remediation well, injection well, construction dewatering well or cathodic protection well.
- G. A well or wells drilled used solely as geoexchange wells for earth-coupled heat exchange purposes. The well must comply with Rule 3.12. A geoexchange well may not produce groundwater and must be of a “closed loop” design.
- H. A Shared well.

**(3.11.2)** The District may cancel a previously granted exemption, and may require an operating permit for or restrict production from a well, and assess any appropriate fees if the groundwater withdrawals that were exempted are no longer used for domestic or agricultural use.

*Adopted March 25, 2004; Effective March 29, 2004 by Board Order 102. Amended February 24, 2005; Effective March 9, 2005 by Board Order. Amended June 14, 2007; Effective June 14, 2007 by Board Order 140. Amended and Effective April 3, 2013 by Board Order 159. Amended July 31, 2013; Effective September 1, 2013 by Board Order 162. Amended December 17, 2014; Effective January 1, 2015 by Board Order 174. Amended September XX, 2017; Effective January 1, 2018 by Board Order XXX*

## **Section 3.12 Geoexchange Wells (Geothermal wells; closed loop earth-coupled heat exchange wells)**

**(3.12.1)** Wells drilled for the exclusive purpose of heat exchange are considered as “exempt” by the District. These wells are not designed to produce groundwater and do not require an operating (pumping) permit. “Open Loop” Geoexchange wells are prohibited in the District. All Geoexchange wells shall comply with these minimum rules and standards, as well as the applicable requirements of Rule 4.

**(3.12.2)** Each well or well system shall register with the District on a form provided by the District. The planned total depth of the boreholes and, the anticipated depth of any Trinity Aquifer penetration shall be included with the registration. The Middle Trinity, Cow Creek aquifer may not be penetrated without review and approval by the General Manager, District Technical Staff, a licensed professional geoscientist, or engineer working with the District. At the operator’s or owner’s expense, the District requires at least one geophysical log be run in order to identify the geologic formations actually penetrated by the well. A hard copy and an electronic copy of the geophysical log shall be sent to the District for review. Wells programmed to bottom in the Upper Trinity may not be required to run a geophysical log. The District requires cutting samples from at least one well at 10 feet intervals.

**(3.12.3)** The District shall levy and collect a well construction fee total of \$300 for the first 5 wells to be drilled plus \$60 per additional well. The wells shall be spaced a minimum of 15 feet apart. The Geoexchange well driller must be licensed by the State of Texas.

**(3.12.4)** The closed loop shall be constructed of new, hi density polyethylene pipe designed for heat exchange wells. The circulation loop must be of a type that will prevent leakage and not cause contamination to the groundwater system. The heat exchange fluid circulating within the tubing shall be limited to potable water. The circulation loop shall be tested after backfilling has been completed. Should a loss of pressure occur, the system must be shut down and the source of the problem identified. The District must be notified and informed of proposed correctional procedures.

**(3.12.5)** The borehole shall be backfilled with Bentonite grout, or Cement-Bentonite grout from total depth to ground surface. The grout shall be placed from bottom hole up using a tremi pipe and hose. The grout product used must be consistent with the aquifer geochemistry, with particular attention paid to the sulfate content of the groundwater. Alternate backfill material such as crushed limestone or sand/gravel may be considered and discussed with the District. All sealing materials must meet Texas Department of Licensing and Regulation standards.

**(3.12.6)** Within 60 days of completion, the driller or installer shall submit to the District a completed State Well Report for the first well illustrating well construction. If all boreholes are completed in an identical manner then a statement to that effect should be entered on the State Well Report.

**(3.12.7)** Should a borehole encounter a subsurface void or cavern and lose returns, the problem interval shall be identified and the driller or contractor shall recommend a course of action to the General Manager, District Technical Staff, a licensed professional geoscientist or engineer working with the District. With District approval the well may be completed, if not, the interval shall be packed off and the well shall be sealed. The borehole shall be plugged in accordance with District Rule 6.3.

*Adopted and effective August 18, 2011 by Board Order 151. Amended and Effective April 3, 2013 by Board Order 159. Amended July 31, 2013; Effective September 1, 2013 by Board Order 162. Amended November 18, 2015; Effective December 1, 2015 by Board Order 178. Amended September XX, 2017; Effective January 1, 2018 by Board Order XXX*

**END OF RULE 3**

*REMAINDER OF PAGE INTENTIONALLY LEFT BLANK*

# **RULE 4. WELL CONSTRUCTION, REPORTS and SPACING**

## **Section 4.1 Well Construction Standards**

**(4.1.1)** Construction of wells and installation of pumps shall be in accordance with the Texas Occupations Code Chapter 1901, "Water Well Drillers" and Chapter 1902, "Water Well Pump Installers," as amended, and the Administrative Rules of the Texas Department of Licensing and Regulation, 16 Texas Administrative Code ("TAC"), Chapter 76, as amended, and as clarified by the District standards described in this Rule.

**(4.1.2)** The first fifty (50) feet of the well borehole must be three (3) inches larger in diameter than the outside casing diameter. The surface annular space grouting requirement for a well is from the surface to fifty (50) feet below ground level. The grouting requirement for this surface annular seal may be reduced to the interval from the surface to the depth of the first potable water bearing strata, if the well is targeting that interval for production. The surface annular seal must extend to a depth of at least ten (10) feet. The annular space grouting requirement shall be one hundred (100) feet below ground level if the well does not meet the following minimum spacing requirements:

- A. One hundred fifty (150) feet from any existing or proposed concentrated source of potential contamination (such as livestock or poultry facilities)
- B. Fifty (50) feet from a septic tank, and
- C. One hundred (100) feet from any septic system drain fields, or wastewater irrigation systems.

The annular space grouting for remediation wells will be determined by the District on a case-by-case basis.

**(4.1.3)** To prevent pollutants from entering the well, all wells, both new and existing, shall be completed with a watertight sanitary seal. Any existing well not meeting this requirement shall comply with this Rule the next time the wellhead is repaired or the pump is removed. Wells with odd-sized casing or those having well heads for which there is no factory made watertight sanitary seal available shall be completed or modified in such a manner that meets the intent of this Rule.

**(4.1.4)** All non-exempt use wells shall be equipped with an access tube, or some other means that will allow free and clear access to groundwater for the purposes of measuring water levels or disinfecting a well. The access tube must be one-inch I.D. PVC pipe, installed parallel to the production pipe, capped on the bottom, and have sufficient perforations to allow rapid and free flow of water to the inside of the tube. The tube must extend from the surface to just above the pump and have a secure, removable cap at the top. Control boxes, pipes, fittings, or other wellhead equipment may not hinder access to the access tube. Any existing well operated under a permit

that does not meet this requirement may comply with this Rule the next time the wellhead is repaired or the pump is removed for any purpose.

**(4.1.5)** Pursuant to Texas Department of Licensing and Regulation regulations for well construction, all wells, both exempt and non-exempt, shall be constructed such that there is no commingling between aquifers. Each well shall be completed such that it is open to only one of the three aquifers (Upper, Middle, or Lower Trinity) in order to prevent commingling of waters and the possible degradation of any aquifer or zone. For example, all wells completed to produce from the Lower Trinity Aquifer shall be constructed with a sufficient annular seal to seal off the Upper and Middle Trinity Aquifers. Annular seals for this purpose will consist of packers, bentonite or cement grout or other approved sealing material. A shale trap is not considered to be an adequate method to prevent commingling between the aquifers.

**(4.1.6)** All wells, both new and existing, that withdraw groundwater for non-exempt uses shall be instrumented with a totalizing water meter. Meters with reset capabilities must have that particular function disabled.

*Adopted March 25, 2004; effective March 29, 2004 by Board Order 102. Amended May 5, 2005; effective May 11, 2005 by Board Order 110. Amended August 31, 2005; Effective September 1, 2005 by Board Order 114. Amended June 14, 2007; Effective June 14, 2007 by Board Order 140. Amended and Effective April 3, 2013 by Board Order 159. Amended and Effective January 1, 2018 by Board Order XXX.*

## **Section 4.2 Reports and Monitoring**

**(4.2.1)** The State of Texas Well Report, any pump test data, water level data, water quality data, or any other data pertinent to a well shall be submitted to the District office within 60 days after well completion or after the data is compiled or prepared, whichever is earlier. This shall include information about the production capability of the well and type and location of groundwater use.

**(4.2.2)** A copy of all Geophysical logs run in any well shall be provided to the District in both paper copy and electronic format within sixty (60) days of well completion. The logs shall be of industry acceptable quality with complete headings including well elevation and coordinates. The source of these measurements shall be indicated. For example: GPS (state vertical and horizontal accuracy of instrument) or USGS topographic sheet (state contour interval and name of sheet).

**(4.2.3)** Upon District request, subsurface geological cuttings samples shall be provided to the District from all new non-exempt use wells, test wells, and monitoring wells within sixty (60) days of well completion. This includes geoexchange wells, at least one well per well registration. The samples shall be taken at ten (10) foot intervals to total depth. The samples shall be stored in cloth or plastic bags and properly labeled with well designation, number and depth interval. The samples shall be representative of the intervals drilled.



**(4.2.4)** During hydrological studies or pumping tests, calibrated production-monitoring devices shall be installed on wells at the expense of the permittee. The production-monitoring devices shall measure both instantaneous flow rate and cumulative volume pumped. These monitoring devices shall be made available for District inspection during normal business hours or during the pumping tests or studies as necessary.

**(4.2.5)** District employees, Board members, consultants or other agents may conduct random or periodic inspections of permitted wells. The District shall coordinate and schedule such inspections with the well owner, as authorized by Rule 7.

*Adopted March 25, 2004; effective March 29, 2004 by Board Order 102. Amended May 5, 2005; effective May 11, 2005 by Board Order 110. Amended August 31, 2005; Effective September 1, 2005 by Board Order 114. Amended June 14, 2007; Effective June 14, 2007 by Board Order 140. Amended and Effective April 3, 2013 by Board Order 159.*

## **Section 4.3 Well Location and Spacing**

**(4.3.1)** All wells drilled within the District shall comply with the spacing requirements of 16 Texas Administrative Code, Section 76.1000, as amended, Hays County Development Regulations, as amended, and Municipalities within the boundaries of the District. The Board may add additional permit conditions increasing the spacing requirements where necessary to minimize draw-down as far as practicable.

### **(4.3.2) Setback Distances from Property Lines and Potential Sources of Pollution**

All new water wells shall be located a minimum horizontal distance of:

- A. Fifty (50) feet from a property line,
- B. One hundred fifty (150) feet from any existing or proposed concentrated source of potential contamination (such as livestock or poultry facilities)
- C. Fifty (50) feet from a septic tank, and
- D. One hundred (100) feet from any septic system drain fields, or wastewater irrigation systems.
- E. All new wells shall be located no closer than ten feet from existing wells

If the well does not meet the minimum spacing requirements, the annular space grouting requirement shall increase to one-hundred (100) feet below ground level.

### **(4.3.3) Spacing from Retail Water Utility Service Area**

The District strongly encourages that all new wells, other than those belonging to the retail water utility, be located a minimum of fifty (50) feet outside the service area of the retail water utility. In doing so, this will minimize the drawdown of the water table, minimize the reduction of artesian pressure, control subsidence, prevent interference

between wells, prevent the degradation of the quality of groundwater, prevent waste of groundwater, preserve historic use of groundwater, and give consideration to the service areas of retail water utilities.

*Adopted March 25, 2004; Effective March 29, 2004 by Board Order 102. Amended June 14, 2007; Effective June 14, 2007 by Board Order 140. Amended and Effective April 3, 2013 by Board Order 159. Amended July 31, 2013; Effective September 1, 2013 by Board Order 162. Amended November 18, 2015; Effective December 1, 2015 by Board Order 178. Amended and Effective January 1, 2018 by Board Order XXX.*

**END OF RULE 4**

*REMAINDER OF PAGE INTENTIONALLY LEFT BLANK*

## **RULE 5. HEARINGS**

### **Section 5.1 Hearings for Matters Other Than Emergency Rules and Operating Permits**

**(5.1.1)** Once the District has developed a proposal involving its Desired Future Conditions, Management Plan, or Rules the District will decide at which Board meeting the proposal will be considered for action. The Board meeting at which the proposal is considered under this Rule shall be considered the public hearing on the proposal and fulfills the requirement, if any, for a public hearing. Nothing in this rule requires any matter be set for a public hearing that is not otherwise required by law. See District Rule on Notice Requirements for a Public Hearing.

**(5.1.2)** Written comments concerning the proposal, if received by the deadline date published in the public notice, shall be distributed to the Board for their review.

**(5.1.3)** Anyone interested in the proposal may attend the hearing and make oral comments at the time designated for comments.

**(5.1.4)** The District shall make an audio or video recording of the hearing.

**(5.1.5)** The Board shall issue a written order or resolution reflecting its decision on hearing items.

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

*Adopted March 25, 2004; Effective March 29, 2004 by Board Order 102. Amended August 31, 2005; Effective September 1, 2005 by Board Order 114. Amended June 14, 2007; Effective June 14, 2007 by Board Order 140. Amended and Effective April 3, 2013 by Board Order 159. Amended and Effective January 1, 2018 by Board Order XXX.*

### **Section 5.2 Notice Requirements for a Public Hearing**

**(5.2.1)** In addition to the notice required by the Open Meetings Act, not later than the 20<sup>th</sup> day before the date of the hearing, notice shall be provided as follows:

- A. Post notice in a place readily accessible to the public at the District office;
- B. Provide notice to the Hays County Clerk's office for posting;
- C. Publish notice in one or more newspapers of general circulation within the District boundaries of Hays County; and

- D. Provide notice by mail, facsimile, or electronic mail to any person who has requested notice. Failure to provide notice under this Rule does not invalidate an action taken by the District at a hearing.

**(5.2.2)** Notice of the hearing on the proposal shall include:

- A. A brief explanation of the subject of the hearing.
- B. The time, date, and location of the hearing.
- C. A statement that the proposal is available to be reviewed or copied at the District office and on the District's website prior to the hearing.
- D. A statement that the District will accept written comments or formal contested case letters until specified deadline date.
- E. A statement that oral public comment will be taken at the hearing.
- F. The notice shall include a statement announcing a preliminary hearing following the public hearing in the event a formal contested case letter is timely filed with the District.
- G. District Staff recommendations if applicable.

**(5.2.3)** Copies of the proposal shall be posted on the District's website prior to the hearing.

**(5.2.4)** A person may submit to the District a written request for notice of a hearing. The requestor will remain on the distribution list until a removal notification is provided to the District. Any changes in email addresses must be provided to the District.

*Adopted March 25, 2004; Effective March 29, 2004 by Board Order 102. Amended August 31, 2005; Effective September 1, 2005 by Board Order 114. Amended June 14, 2007; Effective June 14, 2007 by Board Order 140. Amended and Effective April 3, 2013 by Board Order 159. Amended and Effective January 1, 2018 by Board Order XXX.*

## **Section 5.3 Adoption of Emergency Rules**

**(5.3.1)** The District may adopt an emergency rule without following the notice and hearing provisions of Rule 5.2, if the Board:

- A. Finds that a substantial likelihood of imminent peril to the public health, safety, or welfare, or a requirement of state or federal law, requires adoption of a rule on less than 20 days' notice; and
- B. Prepares a written statement of the reasons for its finding.

**(5.3.2)** An emergency rule must be adopted at a meeting of the Board subject to the requirements of the Open Meetings Act (72 hour notice).

**(5.3.3)** Except as provided by Rule 5.3.4, a rule adopted under this Rule may not be effective for longer than 90 days.

**(5.3.4)** If notice of a hearing is given before the emergency rule expires the emergency rule is effective for an additional 90 days.

*Amended August 31, 2005; Effective September 1, 2005 by Board Order 114. Amended and Effective April 3, 2013 by Board Order 159.*

## **Section 5.4 Public Hearing on a Permit Application**

**(5.4.1)** Copies of the permit application information and any written staff recommendations shall be available at the District office and on the District's website prior to the meeting.

**(5.4.2)** Anyone interested in the operating permit application may submit written comments about the application to the District. Comments may be forwarded to the Board and to the applicant.

**(5.4.3)** Anyone interested in the application may attend the meeting and make oral comments at the time designated for comments.

**(5.4.4)** The applicant, under oath, shall present to the Board their permit application request.

**(5.4.8)** If the permit is not contested or the contested request has been withdrawn, the Board shall proceed with action on the permit application.

**(5.4.9)** If the application is contested the Board shall close the hearing and schedule a preliminary hearing to determine standing.

*Adopted March 25, 2004; Effective March 29, 2004 by Board Order 102. Amended February 24, 2005; Effective March 9, 2005 by Board Order. Amended August 31, 2005; Effective September 1, 2005 by Board Order 114. Amended June 14, 2007; Effective June 14, 2007 by Board Order 140. Amended and Effective April 3, 2013 by Board Order 159. Amended July 31, 2013 and Effective September 1, 2013 by Board Order 162.*

## **Section 5.5 Contesting Operating Permit and Amendment Applications**

- (5.5.1)** A person may protest a new operating permit or amendment application by:
- A. Submitting a timely filed formal contested case letter via certified mail addressed to the District's US Post Office Box by deadline date posted in the notice. The contested case letter shall include protestant's name, address, phone number, email address, map/plat detailing location of well, and reason for contesting.

Protestors shall have a minimum of twenty (20) calendar days starting from the date of the posted notice in a local newspaper; and

- B. The contested case letter shall be presented to the Board by the protestant or by their representative at the public hearing.
- C. The Board must determine if the protestant has standing and has raised justiciable issues during a preliminary hearing to move forward to an evidentiary hearing.

**(5.5.2)** To be considered to have standing a person must have a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest within the District's regulatory authority and affected by the permit or permit amendment application, not including persons who have an interest common to members of the public. A person is presumed to have a justiciable interest if the person owns a registered well within the boundaries of the District that is located:

- 1) within  $\frac{1}{4}$  mile from the applicant's well if the application is requesting 200 acre feet or less annually; or
- 2) within  $\frac{1}{2}$  mile from the applicant's well if the application is requesting more than 200 acre feet annually.

**(5.5.3)** The applicant may contest the Board's action on the permit by submitting a formal contested case letter via certified mail to the District's US Post Office Box within ten days after the Board action. Upon receipt of the contested case letter the application shall be declared contested and follow the contested case procedures.

**(5.5.4)** If the Board determines that a protestant has standing, the Board shall declare the application contested.

- A. The Board may require that the opposing parties resolve the application amongst themselves and report back to the District within thirty (30) days: or
- B. The Board may act as the hearing examiner and conduct the Evidentiary Hearing or direct the parties to schedule an Evidentiary Hearing with a hearing examiner. The cost of the hearing examiner shall be split equally between the applicant and any protestants. The District may not incur any hearing examiner costs. The District will provide a list of acceptable hearing examiners to the parties. An evidentiary hearing shall be scheduled or heard within 60 days.
- C. Upon request of the applicant or of the protestant, the Board may delegate to the State Office of Administrative Hearings ("SOAH") the authority to conduct hearings designated by the Board.
- D. If the Board refers a contested case hearing to SOAH, then the applicable rules of practice and procedure of SOAH (1 Tex. Admin. Code Ch. 155) govern any contested case hearing of the District, as supplemented by this subchapter.
- E. If the Board refers a contested case hearing to SOAH, the administrative law judge who conducts the contested case hearing shall serve as the hearing examiner and consider applicable District rules and policies in conducting the hearing. However, the District may not supervise the administrative law judge.

- F. If the Board refers a contested case hearing to SOAH, the District may not attempt to influence the findings of facts or the administrative law judge's application of the law in a contested case hearing except by proper evidence and legal argument.
- G. If requested by the applicant or other party to a contested case, the District shall contract with the State Office of Administrative Hearings to conduct the hearing. The party must file such a request not later than the fourteenth (14) day before the date the evidentiary hearing is scheduled to begin. The Board order granting the contested case hearing may designate a location for the hearing inside the boundaries of the District or in Travis County at a location designated by SOAH. The party requesting the hearing before the SOAH shall pay all costs associated with the contract for the hearing and shall, five business days before the hearing begins, deposit with the District an amount sufficient to pay the contract amount. At the conclusion of the hearing, the District shall refund any excess money to the paying party.
- H. The hearing examiner shall:
  - 1) Submit a report to the Board not later than the thirtieth (30) day after the date the conclusion of the evidentiary hearing, and
  - 2) Provide a copy to the applicant and each party to the hearing.
- I. The report shall include:
  - 1) A summary of the subject matter of the hearing,
  - 2) A summary of the evidence received; and
  - 3) The hearing examiner's recommendation for Board action on the subject matter of the hearing.

**(5.5.5)** The applicant and other parties to the hearing may submit to the Board written exceptions to the report within ten (10) days of issuance of the report.

**(5.5.6)** The Hearing Examiner may grant an extension on an amended application to continue producing groundwater for the same purposes and in the same annual amount while the contested case is proceeding. The Hearing Examiner may grant an increase in annual production levels if requested by the applicant following notice to all parties and a hearing. The Hearing Examiner may grant an applicant permission to proceed to drill a new well, at the applicant's own risk, if requested by the applicant following notice to all parties and a hearing. If the application is not granted, or if the Board grants a permit but does not allow the well to be drilled in that location, the applicant shall, within ninety (90) days, plug the well.

*Effective April 3, 2013 by Board Order 159. . Amended July 31, 2013; Effective September 1, 2013 by Board Order 162. Amended and Effective January 1, 2018 by Board Order XXX.*

## **Section 5.6 Contested Case Hearing Procedures**

**(5.6.1)** Contested case hearings shall be comprised of:

- A. Pre-Hearing Conference conducted by a quorum of the Board, a Board approved hearing examiner, or by the State Office of Administrative Hearings;
- B. Evidentiary Hearing conducted by a quorum of the Board, a Board approved hearing examiner, or by the State Office of Administrative Hearings; and
- C. Final Hearing conducted by the Board for action on the permit application.

**(5.6.2)** The Pre-Hearing Conference applies only to parties admitted to the contested case.

**(5.6.3)** If the applicant contests the action they are considered to have standing and shall be heard at an Evidentiary Hearing

**(5.6.4)** If the Evidentiary Hearing is conducted by a quorum of the Board, a notice shall be posted in accordance with the requirements of the Open Meetings Act.

**(5.6.5)** Final Hearings shall be posted in accordance with the requirement of Open Meetings Act. Notice of a Final Hearing on the application shall include the following:

- A. The name of the applicant;
- B. The address or approximate location of the well or proposed well;
- C. A brief explanation of the proposed permit or permit amendment, including any requested amount of groundwater, the purpose of the proposed use, and any change in use;
- D. The time, date and location of the hearing; and
- E. Any other information the District considers relevant and appropriate.

**(5.6.6)** The Board shall conduct the Final hearing once the Board concludes the Evidentiary hearing or receives the report from the Hearings examiner or from SOAH. The Final hearing must be conducted no later than the one-hundred and twentieth (120) day following receipt of the proposal for decision. A Final hearing is to review the submitted report, hear legal argument and deliberate the merits of the application. A Final hearing may be continued from time to time or day to day as needed to allow all the parties sufficient time to prepare additional arguments as required by the Board, or to allow time for the Board to fully consider and debate the merits of the application. At the conclusion of the Final hearing, the Board shall make a motion and vote on granting, denying or issuing the permit with conditions.

**(5.6.7)** The President shall preside over the hearing. If the President is not present, the Vice President shall preside.

- A. The presiding officer has the following authority and obligations:
  - 1) Shall convene the hearing at the time and place specified in the notice;



- 2) May establish the order for presentation of evidence;
- 3) May administer oaths to all persons presenting testimony;
- 4) May examine persons presenting testimony;
- 5) May ensure that information and testimony are introduced as conveniently and expeditiously as possible without prejudicing the rights of any party;
- 6) Shall admit relevant evidence and may exclude evidence that is irrelevant, immaterial, or unduly repetitious;
- 7) May prescribe reasonable time limits for testimony and the presentation of evidence.
- 8) May allow testimony to be submitted in writing and may require that written testimony be sworn to. On the motion of a party to the hearing, the presiding officer may exclude written testimony if the person who submits the testimony is not available for cross-examination by phone, a deposition before the hearing, or other reasonable means.
- 9) May continue a hearing from time to time and from place to place without providing notice. If the continuance is not announced on the record at the hearing, the presiding officer shall provide notice of the continued hearing by regular mail to the parties. In any event, if the hearing is being conducted by a quorum of the Board, Open Meetings notice shall be provided.
- 10) Unless the parties have agreed in writing to apportion the costs, may determine how to apportion among the parties the costs related to:
  - a. a contract for the services of a presiding officer; and
  - b. the preparation of the official hearing record.

**(5.6.8)** The District shall prepare and keep a record of each hearing in the form of an audio or video recording. Upon the request of a party to the contested case hearing, the hearing shall be transcribed by a court reporter. The District must be notified of the request ten (10) business days prior to the hearing. The costs of such court reporter shall be assessed against the party requesting it or among the parties to the hearing. The presiding officer may exclude a party from further participation in the hearing for failure to pay in a timely manner costs assessed against that party under this Rule.

**(5.6.9)** Request for findings of fact and conclusions of law, and motions for rehearing shall be considered as follows:

- A. Not later than the 20th day after the date of the Board's decision, an applicant or a party to a contested hearing may written findings of fact and conclusions of law.
- B. On receipt of a timely written request, the Board shall make written findings of fact and conclusions of law regarding a decision of the Board on an application. The Board shall provide certified copies of the findings of fact and conclusions of law to the person who requested them, and to each designated party, not later than the 35th day after the date the Board receives the request. The applicant or a party to the contested case hearing may request a rehearing before the Board not later than the 20th day after the date the Board issues the findings of fact and conclusions of law.
- C. A request for rehearing must be filed in the District office and must state the grounds for the request. The person requesting a rehearing must provide copies of the request to all parties to the hearing.
- D. If the Board grants a request for rehearing, the Board shall schedule the rehearing not later than the 45th day after the date the request is granted. Any action by the Board on a request for rehearing shall be made at a Board meeting subject to the Open Meetings Act.
- E. The failure of the Board to grant or deny a request for rehearing before the 91st day after the date the request is submitted is a denial of the request.

**(5.6.10)** A decision by the Board on an application is final if:

- A. A request for rehearing is not filed by the 20<sup>th</sup> day after the date of the Board's decision,
- B. The Board denies the request for rehearing; or
- C. The Board renders a written decision after rehearing.

**(5.6.11 )** An applicant or a party to a contested hearing may appeal a decision of the Board under Texas Water Code § 36.251 not later than the 60th day after the date on which the decision becomes final. A timely filed request for rehearing is a prerequisite to any such suit.

*Amended August 31, 2005; Effective September 1,2005 by Board Order 114. Amended June 14, 2007; Effective June 14, 2007 by Board Order 140. Amended and Effective April 3, 2013 by Board Order 159. Amended July 31, 2013; Effective September 1,2013 by Board Order 162.*

## **Section 5.7 Hearings on Enforcement Actions**

**(5.7.1)** Notice of Alleged Violations (N.O.A.V.) shall go before the Board of Directors as a contested case hearing item if the District receives a timely filed written contested case letter via certified mail to the District's US Post Office Box from a respondent who has received an N.O.A.V.

**(5.7.2)** To be considered timely filed:

- A. the certified letter must be received by the District office by the deadline date stated on the N.O.A.V; and
- B. Contested case letters shall be presented to the Board by the respondent or by their representative at the hearing.

**(5.7.3)** Permit holders who contest an N.O.A.V. concerning District Rule 10.1.3 (E or H) shall provide supporting evidence pertaining to their dispute to the District office prior to the Board Hearing.

**(5.7.4)** If the respondent contests the N.O.A.V. by timely filing a contested case letter, they shall be considered to have standing. The District Staff shall post notice of a contested case hearing concerning the N.O.A.V. at the next available Board hearing.

**(5.7.5)** Following the contested case hearing concerning the N.O.A.V., the Board shall make a decision on the proper resolution of the enforcement matter. The Board may:

- A. Assess a penalty in accordance with Rule 10;
- B. Make an offer of Compromise and Settlement in lieu of litigation; or
- C. File suit in a court of competent jurisdiction to seek civil penalties, injunctive relief or both.

*Adopted March 25, 2004; Effective March 29, 2004 by Board Order 102. Renumbered August 31, 2005; Effective September 1, 2005 by Board Order 114. Amended June 14, 2007; Effective June 14, 2007 by Board Order 140. Amended and Effective April 3, 2013 by Board Order 159. Amended December 17, 2014; Effective January 1, 2015 by Board Order 174*

**END OF RULE 5**

*REMAINDER OF PAGE INTENTIONALLY LEFT BLANK*

# **RULE 6. TAGGING PROHIBITING USE, CAPPING OR PLUGGING WELLS**

## **Section 6.1 Tagging Wells Prohibiting Use**

**(6.1.1)** Following public notice, the Board may order the tagging of a well prohibiting its use if it is in violation of District Rules or if the owner has been prohibited from producing groundwater. The reasons for ordering the tagging of a well prohibiting its use include, but are not limited to:

- A. failure to apply for an operating permit prior to drilling a well for a non-exempt use; or
- B. operating a well for a non-exempt use without an active operating permit; or
- C. when the Board has denied, cancelled, or revoked an operating permit.

**(6.1.2)** Once the Board has ordered a well tagged, prohibiting its use, the District, following the procedures of Rule 7, shall seal the well by physical means, post a tag or sign on, or near, it to indicate that the use of the well has been prohibited by the District. The physical seal is intended to preclude operation of the well or identify unauthorized operation of the well.

**(6.1.3)** Tampering with, altering, damaging, removing, or violating the seal or tag in any way, or pumping groundwater from a well that has been tagged prohibiting use constitutes a violation of District Rules and subjects the person who performs that action, as well as the well owner who authorizes, allows, encourages, or condones such action, to enforcement and penalties pursuant to all applicable District Rules.

*Adopted March 25, 2004; Effective March 29, 2004 by Board Order 102. Amended June 14, 2007; Effective June 14, 2007 by Board Order 140.  
Amended and Effective April 3, 2013 by Board Order 159.*

## **Section 6.2 Capping Wells**

**(6.2.1)** A land owner or well owner shall cap any open or uncovered well to prevent waste, pollution, or deterioration. The well shall remain capped until conditions that led to the capping are eliminated or until the well is properly plugged. The cap shall provide a sanitary seal to prevent the introduction of potential contaminants and shall be capable of sustaining a weight of at least four hundred pounds. If the owner fails to cap the well in compliance with District Rules, the District, following the procedures of Rule 7, may cap the well. Reasonable expenses incurred by the District in capping a well may be collected from the well owner or the land owner, and any amount due shall constitute a lien on the land on which the well is located pursuant to Section 36.118, Texas Water Code and Section 1901.256, Occupations Code.

*Adopted March 25, 2004; Effective March 29, 2004 by Board Order 102. Amended June 14, 2007; Effective June 14, 2007 by Board Order 140.  
Amended and Effective April 3, 2013 by Board Order 159.*

## **Section 6.3 Plugging Wells**

**(6.3.1)** Not later than the 180<sup>th</sup> day after the date a landowner or other person who possesses a deteriorated or abandoned well learns of its condition, the well shall be plugged in accordance with Texas Department of Licensing and Regulation, Title 16 of the Texas Administrative Code part 4, Chapter 76, Rule 76.1004. It is the responsibility of the landowner to ensure that such a well is plugged in order to prevent pollution of the groundwater and to prevent injury to persons. Not later than the 30<sup>th</sup> day after the date the well is plugged, the driller, licensed pump installer, or well owner who plugs the abandoned or deteriorated well shall submit a plugging report to the District, as required by Texas Occupations Code, section 1901.255 (d).

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

- A. following the procedures of Rule 7, plug the well. Reasonable expenses incurred by the District in plugging a well constitute a lien on the land on which the well is located pursuant to Texas Water Code Section 36.118; or
- B. as authorized by Texas Occupations Code, section 1901.256, otherwise enforce section 1901.255 related to landowners that have an abandoned or deteriorated well located on their property.

*Adopted March 25, 2004; Effective March 29, 2004 by Board Order 102. Amended August 31, 2005; Effective September 1, 2005 by Board Order 114.  
Amended and Effective April 3, 2013 by Board Order 159.*

**End of Rule 6**

*REMAINDER OF PAGE INTENTIONALLY LEFT BLANK*

# **RULE 7. WELL AND PROPERTY ACCESS**

## **Section 7.1 Well Inspections & Investigating**

**(7.1.1)** The District has authority under Texas Water Code Section 36.123 to enter any non-exempt permit holder's public or private property located within the District at any reasonable time for purposes of inspecting and investigating conditions relating to water quality, wells, or compliance with District Rules, regulations, permits, or other orders. The District may conduct well and well site inspections during the registration, application, drilling, or completion process to confirm well location, status, production capability, measure water levels, take water samples, or conduct other appropriate well-related investigations and inspection activities deemed necessary by the District.

*Adopted August 9, 2001. Amended March 25, 2004; Effective March 29, 2004 by Board Order 102. Amended February 24, 2005; Effective March 9, 2005 by Board Order. Amended June 14, 2007; Effective June 14, 2007 by Board Order 140. Amended and Effective April 3, 2013 by Board Order 159.*

## **Section 7.2 Property Access**

**(7.2.1)** The District respects individual property rights and shall endeavor to minimize any inconvenience to property owners while conducting District business. For access to any property the District shall be prepared to present proper credentials, identifying themselves as employees or agents of the District, to the property owner or their representative. The District shall notify and shall endeavor to obtain permission from non-exempt property owner, or their representative, prior to accessing the property to inspect the well or well site. The District may not enter property to inspect an exempt well without the property owner's permission.

*Adopted August 9, 2001. Amended March 25, 2004; Effective March 29, 2004 by Board Order 102. Amended February 24, 2005; Effective March 9, 2005 by Board Order. Amended June 14, 2007; Effective June 14, 2007 by Board Order 140. Amended and Effective April 3, 2013 by Board Order 159.*

**END OF RULE 7**

*REMAINDER OF PAGE INTENTIONALLY LEFT BLANK*

## **RULE 8. REPEALED**

Repealed February 24, 2005; Effective March 9, 2005 by Board Order.

**END OF RULE 8**

*REMAINDER OF PAGE INTENTIONALLY LEFT BLANK*

## **RULE 9. REPEALED**

Repealed and Effective *April 3, 2013 by Board Order 159.*

**END OF RULE 9**

*REMAINDER OF PAGE INTENTIONALLY LEFT BLANK*



# **RULE 10. ENFORCEMENT**

## **Section 10.1 Enforcement**

**(10.1.1)** These rules may be enforced by injunction, mandatory injunction or other appropriate remedy in a court of competent jurisdiction and as authorized by Chapter 36 of the Texas Water Code.

**(10.1.2)** The District shall send a notice of alleged violation to a person who is believed to be in violation of District Rules or Board Orders. The notice shall include information about the violation(s) and may require remedial action and may include a payment amount required to settle the violation. The notice shall provide the opportunity for a contested case hearing.

**(10.1.3)** Penalty Schedule:

- A. Incomplete or late submission of the State of Texas Well Report (Well Log) or other reports required by District Rules.....up to \$500.00
- B. Failure to submit a Well Construction Notification for a new well prior to drilling or failure to submit a Well Construction Notification for an existing non-exempt well .....up to \$500.00
- C. Operating a non-exempt well without an operating permit; or failure to submit an operating permit application; or failure to comply with permitting rules.....up to \$500.00
- D. Failure to comply with the terms and conditions of an operating permit.....up to \$500.00 plus \$100.00 per day of noncompliance after 30 days of receipt of N.O.A.V.
- E. Exceeding production limit of an operating permit.....up to \$500.00 plus \$5.00 per 1,000 gallons in excess of the total approved annual amount permitted based on either meter readings or other reliable evidence of the amount pumped. Applicable penalties will be calculated annually upon submission and review of yearly meter reading reporting totals.
- F. Failure to submit or to comply with Water Service Connection requirements.....up to \$500.00 per violation
- G. Failure to comply with a Board Order or District Rule..... up to \$500.00 plus \$100.00 per day of noncompliance after 30 days of receipt of N.O.A.V.

- H. Failure to comply with the terms and conditions of the User Drought Contingency Plan, the Water Conservation Plan, or the Drought Production Cutback Chart .....up to \$500.00  
plus \$5.00 per 1,000 gallons in excess of the annual drought cutback reduction total. Applicable penalties will be calculated annually upon submission and review of yearly reporting totals.
- I. Incomplete or late submission of quarterly reporting as agreed to in the operating permit.....up to \$500.00  
plus \$100.00 per day of noncompliance beginning the 31<sup>st</sup> day after receipt of N.O.A.V.
- J. Groundwater produced from within the District boundaries shall not be used in such a manner or under such conditions as to constitute waste as defined within District Rule 2. If a conflict between determining whether a use is beneficial use or waste, beneficial use is subordinate to waste. If the District Board of Directors identifies a person or entity responsible for waste..... up to \$500.00

**(10.1.4)** If a permit holder receives an N.O.A.V. concerning non-compliance issues with District Rule 10.1.3(E or H), the N.O.A.V. shall reference only the highest penalty amount.

**(10.1.5)** The above penalty schedule shall apply to all enforcement matters brought before the District. The District retains the right to file suit to recover civil penalties up to \$10,000 per day, per violation in any case that is not settled with the District.

**(10.1.6)** If a permit holder receives an N.O.A.V. concerning non-compliance issues in an amount less than \$20, that penalty may be waived by the District General Manager.

*Adopted August 9, 2001. Amended March 25, 2004; Effective March 29, 2004 by Board Order 102. Amended February 24, 2005; Effective March 9, 2005 by Board Order. Amended August 31, 2005; Effective September 1, 2005 by Board Order 114. Amended June 14, 2007; Effective June 14, 2007 by Board Order 140. Amended and Effective April 3, 2013 by Board Order 159. Amended July 31, 2013; Effective September 1, 2013 by Board Order 162. Amended December 17, 2014; Effective January 1, 2015 by Board Order 174. Amended November 18, 2015; Effective December 1, 2015 by Board Order 178. Amended and Effective January 1, 2018 by Board Order XXX.*

**END OF RULE 10**

*REMAINDER OF PAGE INTENTIONALLY LEFT BLANK*

# **RULE 11. AQUIFER TEST / WELL PERFORMANCE TEST AND REPORT**

## **Section 11.1 Aquifer Test Categories & Project Process**

For Tier 2 and Tier 3 operating permit applications (tier classification is provided below), a well-performance test or aquifer test shall be conducted if the well has never been tested or if the most recent test is more than 3 years old. An accompanying test report shall be provided in order for the application to be considered administratively complete. This rule provides the specific requirements for these tests and accompanying reports.

**(11.1.1)** A new or amended operating permit application shall be categorized as one of the following:

- A. Tier 1: An operating permit for a total production amount less than or equal to two (2) acre feet.
- B. Tier 2: An operating permit for a total production amount greater than or equal to two (2) acre feet but less than or equal to six (6) acre feet.
- C. Tier 3: An operating permit for a total production amount greater than six (6) acre feet.

**(11.1.2)** A well-performance test shall be required:

- 1. For new operating permit applications requesting an annual production amount at Tier 2; or
- 2. For permit amendment applications requesting a production amount within Tier 2, if the permit amendment represents an increase of 50% or more of the permit amount, or if the aggregate total of all permit amendments during the previous three (3) years equals or exceeds 50% of the permit amount; or
- 3. If the most recent well performance test was not designed to meet or exceed the requested amendment amount.

Test results shall be submitted to the District as part of the permit application. The performance test and report shall follow the guidelines of the District's "Certification of Groundwater Availability". Additional requirements are within Rule 11 including but not limited to: water quality analysis, well construction diagram, cuttings samples and a geophysical log which shall be provided to the District in both paper copy and electronic format

**(11.1.3)** An aquifer test shall be required:

- 1. For new operating permit applications requesting an annual production amount greater than 6 acre feet per year; or

2. For permit amendment applications requesting an annual production amount at Tier 3, unless there was an aquifer test for the requested amount within the prior three years; or
3. For permit amendment applications requesting an annual production amount increase of 50% where the current approved permit annual production amount is between 6 and 20 acre feet; or
4. For permit amendment applications requesting an annual production amount increase of 20% where the current approved permit annual production amount is greater than 20 acre feet; or
5. If the most recent aquifer test was not designed to meet or exceed the requested total permit amount.

Test results shall be submitted to the District as part of the permit application. The test and report shall be performed as provided in the entirety of Rule 11. The Water Availability Study Investigation required by Hays County under its subdivision ordinance does not fulfill the requirement for Tier 3 of this Rule.

**(11.1.4) Project Process:**

- A. Well Construction: All permit applications shall submit a well construction notification form for each well to be permitted.
- B. Applications requiring a Tier 3 aquifer test shall submit a written document detailing the test design to the District for review. This document should include at a minimum: the planned location and producing sub-aquifer of all test wells and observation wells, well casing intervals, completion methods, pump depth setting, and pumping rate. District technical staff will review the work plan and may recommend changes to ensure it meets the requirements laid out in Rule 11.
- C. After receiving a Notice to Proceed from the District, the applicant may proceed with drilling the test well and collecting data for the test and report.
- D. If the applicant finds the test results favorable and wishes to proceed with the project, the applicant shall complete and submit the Permit Application including the Test Report Results to the District. The District may carry out an independent analysis of the test report results.
- E. Once the District receives all the required documents and deems them administratively complete, the permit application shall go before the Board of Directors.

**(11.1.5) Well Construction Notification, Well Registration and Permit Application forms are available from the District or on the District's website.**

**(11.1.6) Aquifer test reports shall be organized according to this Rule and shall include all of the information required. Information Guidelines and Charts are located in the "Regulatory" section under Quick Links on the District website.**

*Adopted May 5, 2005; effective May 12, 2005 by Board Order 110. Amended August 31, 2005; Effective September 1, 2005 by Board Order 114. Amended and Effective April 3, 2013 by Board Order 159. Amended December 17, 2014; Effective January 1, 2015 by Board Order 174. Amended XXX, 20XX; Effective XXXX, 20XX by Board Order XXX.*

## **Section 11.2 Administrative Information**

**(11.2.1)** A well performance test or an aquifer test report shall include the following:

- A. Name of the proposed project;
- B. Any previous or other name(s) which identifies the tract of land;
- C. Name, address, phone number, email and facsimile number of the property owner or owners;
- D. Name, address, phone number, email and facsimile number of the person submitting the operating permit application;
- E. Name, address, phone number, email, facsimile number, and registration number of the licensed professional geoscientist or the licensed professional engineer preparing the certification required by this Rule;
- F. Location and legal property description of the proposed project.
- G. Copies of all well registrations/ well construction notifications and associated state well reports for all the wells associated with the project.

*Adopted May 5, 2005; effective May 11, 2005 by Board Order 110. Amended and Effective April 3, 2013 by Board Order 159. Amended XXXX, 20XX; Effective XXXX, 20XX by Board Order XXX.*

## **Section 11.3 Proposed Water Use Information**

**(11.3.1)** The aquifer test report should describe in detail the anticipated use of the water and note whether the water will be used outside the District. For example: residential subdivision, commercial, industrial, public supply, irrigation, landscape irrigation, ornamental water feature, or other specific uses. The description shall utilize the definitions of specific uses provided in District Rules whenever applicable. The report shall include the following minimum information:

- A. The annual amount of groundwater withdrawal;
- B. The purpose of use;

- C. The anticipated rate of withdrawal in gallons per minute;
- D. The place of use;
- E. The method of distribution;
- F. The planned term of use; and
- G. The well's capability to sustain production at the desired rate over the term of the planned use, including during severe and critical drought conditions.
- H. If the water is for a subdivision, the report shall provide the following additional information:
  - 1) The type of the proposed subdivision, (for example, single family residential, multi-family residential, commercial, industrial, or mixed use);
  - 2) The size of the proposed subdivision in acres;
  - 3) The number of proposed lots within the proposed subdivision;
  - 4) The range and average size (in acres) of the proposed lots in the proposed subdivision;
  - 5) The anticipated method of water distribution to the proposed lots in the proposed subdivision including, but not limited to:
    - a) an expansion of an existing public water supply system to serve the proposed subdivision using groundwater as all or part of the source of water supply;
    - b) a new public water supply system for the proposed subdivision;
    - c) individual water wells to serve individual lots; or
    - d) a combination of methods; and
  - 6) any additional project specific information the District may request due to the anticipated unique character of the project or location.

*Adopted May 5, 2005; effective May 11, 2005 by Board Order 110. Amended June 14, 2007; Effective June 14, 2007 by Board Order 140. Amended and Effective April 3, 2013 by Board Order 159.*

## **Section 11.4 Projected Water Demand Estimate**

**(11.4.1)** Projected water demand shall be documented as part of the report as follows:

- A. Residential water demand estimate. The residential water demand estimate shall account for indoor and outdoor demand at full build-out on an annual basis. Indoor and outdoor demand shall be estimated by:
  - 1) the number of proposed housing units at full build-out;
  - 2) the average number of persons per housing unit (which shall be estimated at 1 person per bedroom plus 1 additional person);
  - 3) assume a per day per person usage rate of 110 gallons; and provide the total expected residential water demand per year for the entire proposed project (acre feet per year).
- B. Non-residential water demand estimate. Water demand estimates at full build-out or full usage shall be provided for all non-residential uses. Non-residential uses shall be specified by type of use and groundwater demand per year (acre feet per year) for each type of use. The estimate shall also include the existing non-residential demand of any well supplying water to the project including those identified under “existing well inventory” required by Rule 11.6.2 (relating to Site-Specific Groundwater Data/Aquifer Test Design).
- C. Total annual groundwater demand estimate. An estimate of the total expected annual groundwater demand, including residential and non-residential estimates at full build-out (acre feet per year), shall be provided.
- D. Basis of the assumption. The basis of the assumptions used in the calculations performed to determine the groundwater demand estimates required by this section shall be noted and referenced in the report.
- E. The report shall provide any additional groundwater demand back-up information required by the District.

*Adopted May 5, 2005; effective May 11, 2005 by Board Order 110.  
Amended and Effective April 3, 2013 by Board Order 159.*

## **Section 11.5 Regional Groundwater Resource Setting**

**(11.5.1)** Describe the regional geologic and hydrogeologic setting for the project. This Rule outlines the major regional topics that shall be summarized in the report and Rule Section 11.6 details site specific criteria that shall be described and discussed when submitting an aquifer test report. At a minimum, consider and discuss the following topics from a regional perspective:

- A. Aquifer identification. Identify and describe the hydrogeological unit the target aquifer for the project (e.g. Upper, Middle, Lower Trinity or Paleozoic etc.). Also identify and describe the specific target hydrostratigraphic units, such as the

Lower Glen Rose member, Hensel member etc., from which the wells are producing. Good references for descriptions of District aquifers include Texas Water Development Board Report 339, 'Evaluation of the Ground-Water Resources of the Paleozoic and Cretaceous Aquifers in the Hill Country of Central Texas', August 1992, Robert L. Bluntzer, and; Texas Department of Water Resources, Report 273, 'Ground-water Availability of the Lower Cretaceous Formations in the Hill Country of South Central Texas', January 1983, John B. Ashworth, and; more recent Texas Water Development Board GAM and other publications.

B. Geologic and groundwater information. The following regional geologic and groundwater information shall be considered when planning and designing the aquifer test. At a minimum, the topics below shall be described and discussed, based on a literature review, as to how they may have influenced the test, the availability and quality of groundwater.

- 1) The regional stratigraphy of the geologic units in the vicinity of the project. Include a generalized regional stratigraphic column. This column shall include the names of the geologic units, their range of thickness, their lithology, a brief description of the hydrostratigraphic units, and general water quality descriptions (e.g. TDS, predominant anions, etc.);
- 2) The lithology of the geologic strata;
- 3) The regional geologic structure and the presence or absence of faulting;
- 4) The regional characteristics of the aquifer(s) and their hydraulic relationships to adjoining units (e.g. is the aquifer confined, leaky or unconfined, which units are the confining units, is there karst porosity, regional anisotropy to the aquifer etc.);
- 5) The regional recharge system of the aquifer(s), and movement and discharge of groundwater from the aquifer(s) as described in the literature; and
- 6) The regional quality of water in the aquifer(s).

*Adopted May 5, 2005; effective May 11, 2005 by Board Order 110. Amended and Effective April 3, 2013 by Board Order 159. Amended XXXX, 20XX; Effective XXXX, 20XX By Board Order XXX.*

## **Section 11.6 Site-Specific Groundwater Data / Aquifer Test Design**



**(11.6.1)** This rule details the site-specific data and analysis that is required in the aquifer test report. Site data that is found to be anomalous or exceptional from what is expected based on the regional data shall be discussed in regards to its implications upon the aquifer test results and permit application.

**(11.6.2)** Existing well inventory. All known existing, abandoned, and inoperative wells within the proposed project shall be identified, located, and mapped by on-site surveys and shown on a project site plan. Existing wells within 1/2-mile of the test well shall be shown on a USGS 7 ½ minute quadrangle base map if the site plan is not of adequate scale to include them. Wells outside the project boundary may be located by a 'drive-by' survey of the neighborhood, a review of District well records (GIS and paper files), State Well Reports, and a review of District aerial photography. A 'well inventory' table shall be included in the report that provides the following data if known: the State well number, longitude, latitude and ground elevation for each existing well and whether those coordinates were estimated or surveyed, total depth, open hole or screened interval, probable hydrogeological unit(s) the well is open to, and the current use of the well. The well construction information shall be determined from the State Well Reports, inspection of the well, conversation with the owner or stated as "unknown." Copies of existing State Well Reports shall be included in the report.

**(11.6.3)** Adjoining property owners. Provide a table and figure showing the adjoining property owners within ½-mile of the test well. The table shall include: the Hays County property Tax ID number, name and address of the owners. Adjoining property owners include those separated from the subject property by a road or right of way. The figure shall generally show the location of the test well and property boundaries, of the adjoining property owners. This data may be obtained from the Hays County Central Appraisal District Mapping Department.

**(11.6.4)** Aquifer testing. An aquifer test shall be conducted to measure the hydraulic parameters of the aquifer(s) underlying the proposed project. The aquifer test shall provide sufficient information to allow evaluation of each aquifer that is being considered as a source of water supply for the proposed project. All wells shall be constructed pursuant to Texas Department of Licensing and Regulation (TDLR) administrative rules, Chapter 76 regulating Water Well Drillers and Pump Installers, and when applicable, the specifications of the Texas Commission on Environmental Quality under 30 TAC, Chapter 290 and any other local or regional regulations that apply. An aquifer test conducted under this section utilizing established methods shall include, but not be limited to, the following:

- A. Test well and observation well(s). At a minimum, one separate test well (i.e., pumping well) and one observation well, shall be required to conduct an adequate aquifer test under this section. Additional observation wells shall be used for the aquifer test if it is practical or necessary to confirm the results of the test. The observation well(s) shall be completed in the same aquifer or aquifer production zone as the test well (within the same hydrogeological interval). The

locations of the test and observation well(s) shall be shown on the site plan submitted as part of the operating permit application.

- B. If an existing well is used as an observation well, it may not be pumped during the drawdown and recovery period.
- C. For wells used in the test, include a well construction table that lists coordinates, elevation, total depth, depth of casing, screened interval, static water level, depth of packers, annular seal types and intervals and other pertinent well construction information.
- D. Discuss the impact of partial aquifer penetration of a well on test interpretation and well performance, if the well does not fully penetrate the aquifer.
- E. Well construction diagrams. Create a well construction diagram for each pumping and observation well on an 8 1/2" x 11" sheet of paper that details: GPS location and elevation of well casing, project name, borehole diameters and depth intervals; total depth of borehole; casing diameters, wall thickness, type (steel, pvc etc.) and depth intervals; screen diameter, wall thickness, type, slot sizes and depth intervals; filter pack interval, volume and material; type and depth of packers; volume, interval and type of annular space fill material; surface completion detail including casing sizes and elevations above ground or cement pad; pump size and setting depth of intakes; and static water-level.
- F. For existing wells where the information required by Rule 11.6.4 E is not known, create a diagram that includes available information for example: GPS location and elevation, static water-level, total depth of well, casing type and diameter, and surface completion.
- G. Location of wells. The test and observation well(s) shall be on the project plan and shall be located by latitude and longitude. The optimal location for the observation well(s) may be determined by best professional judgment after completion and evaluation of the test well. The rationale used for the location of the observation well (such as the evaluation of specific capacity data generated during development of the well) shall be described in the report. In general, observation wells in unconfined aquifers shall be placed no farther than 300 feet from the test well, and no farther than 700 feet in thick, confined aquifers. The observation well shall also be placed no closer to the test well than two times the thickness of the aquifer's production zone. The final location of any production well must be within 1,000 feet of the test well.
- H. Lithologic and geophysical logs. The test and observation well(s) shall be lithologically and geophysically logged to map and characterize the geologic unit(s) and the aquifer(s) in which the aquifer test(s) is to be performed. A cut of all samples and digital copies of all geophysical logs are to be submitted to the District within 60 days.

- 1) Drill cuttings shall be collected at 10-foot intervals throughout the depth of the borehole. All samples shall be properly bagged and labeled and submitted to the District.
  - 2) A lithologic log (for each well) based on the drill cuttings shall be prepared showing the depth of the strata, thickness and lithology (including but not limited to: rock and grain type, grain size, rounding, sphericity, color, staining, observed porosity, mineralogy, cementing and fossil content if observed), occurrence of water bearing strata, and any other special notes that are relevant to the drilling and evaluation process and to the understanding of subsurface conditions. Provide an interpretive site-specific stratigraphic column based on published literature, interpretation of geophysical logs and drill cuttings of the boreholes.
  - 3) Geophysical logs shall be run which provide qualitative information on aquifer characteristics and groundwater quality. When hole conditions permit, the geophysical logs shall include but not be limited to, an electrical log with shallow and deep-investigative curves (e.g., 16-inch short normal/64-inch long normal resistivity curves or induction log) with a spontaneous potential curve, natural gamma, and caliper. As a minimum requirement for cased holes, a gamma ray log shall be run and the logging program discussed with the District. A paper copy and a digital recording of the geophysical logs shall be included in the aquifer test report. The hydrogeologic characteristics of the borehole as indicated by the geophysical logs, drilling performance, and lithology shall be discussed. Any pertinent literature or regional information shall be noted.
- I. Well development and performance estimation. The test and observation well(s) shall be developed prior to conducting the aquifer test to repair damage done to the aquifer(s) during the drilling operation. Development shall insure that the hydraulic properties of the aquifer(s) are restored as much as practical to their natural state.
- 1) Well development procedures applied to the well(s) may vary depending on the drilling method used and the extent of the damage done to the aquifer(s).
  - 2) During well development, the test well shall be pumped or air-lifted for a minimum of 4 hours to estimate the specific capacity of the well, the maximum anticipated drawdown, the maximum productive discharge rate of the well, drawdown, and to determine the appropriate distance to locate an observation well(s) in order to obtain useful data.
  - 3) Water pumped out of the well during well development may not be allowed to locally recharge the aquifer and influence well performance results. The report shall describe measures taken to achieve this objective.
- J. Protection of groundwater. All reasonably necessary precautions shall be taken during construction of test and observation wells to ensure that surface contaminants do not reach the subsurface environment and that undesirable

groundwater (water that is injurious to human health and the environment or water that can cause pollution to land or other waters) if encountered, is sealed off and confined to the zone(s) of origin. Such precautions may include those of TDLR Water Well Drillers and Pump Installers Administrative Rules, sections 76.701 and 76.1001 through 76.1011.

- K. Pre-test background water-level data. Water Level data from the test well or observation well shall be collected on an hourly basis for a minimum of 24 hours prior to initiating testing to determine if the water-level has recovered from well development and if it is being influenced by any local or regional influence or trends. Aquifer testing may not commence until water levels (after well development) have stabilized.
- L. Duration of aquifer test and recovery. The duration of the aquifer test depends on the amount of annual production requested in the application or amendment, and local and geologic conditions. The pumping rate during the test shall meet or exceed the proposed maximum pumping rate required for the project at its peak demand at full build-out. Water pumped during the test may not be allowed to influence the test results by locally recharging the aquifer.
  - 1) For new permit applications or amendments requesting less than or equal to 25 acre feet per year, a uniform-rate aquifer test shall be conducted for a minimum of a 24-hour duration. A 48-hour duration test is preferred. For permit applications and amendments requesting greater than 25 acre feet per year, a 48-hour duration is required. Testing shall continue long enough to observe a straight-line trend on a plot of water level versus the logarithm of time pumped. If necessary, the duration of the test shall be extended beyond the above minimum limits until the straight-line trend is observed. The plot of water level versus the logarithm of time pumped for both the pumping well and observation well shall be included in the aquifer test report.
  - 2) If it is impractical to continue the test until a straight-line trend of water level versus the logarithm of time pumped is observed beyond 48 hours, the test shall continue at least until a consistent pumping-level trend is observed. In such instances, failure to observe the straight-line trend shall be recorded and the possible causes and implications of this discussed in the report.
  - 3) The frequency of water level measurements during the aquifer test shall be such that adequate definition of the time-drawdown curve is made available. As much information as possible shall be obtained in the first ten minutes of testing (i.e., pumping). The District strongly recommends that pressure transducers with a data acquisition system be used to record water levels in the pumping and closest monitoring wells due to their ability to collect rapid early time data. Water Level data shall be presented in table format in the report. If water levels are collected electronically, an electronic copy of the data file shall be submitted to the District with the final report.
  - 4) Water-level recovery data shall be obtained to verify the accuracy of the data obtained during the pumping portion of the test. Recovery measurements

shall be initiated immediately at the conclusion of the pumping portion of the aquifer test and shall be recorded with the same frequency as those taken during the pumping portion of the aquifer test. The District strongly recommends that pressure transducers with a data acquisition system be used to record water levels in the pumping and closest monitoring wells during the recovery phase of the test due to their ability to collect rapid early time data. Time-recovery measurements shall continue until the water levels have recovered to pre-pumping levels or at least to 90% of that level.

M. Use of existing wells and aquifer test data.

- 1) An existing well may be utilized as an observation well under this Rule if sufficient information is available for that well to demonstrate that it meets the requirements of this Rule.
- 2) The District may accept the results of a previous aquifer test in lieu of a new test if:
  - a) the previous test was performed on a well located within a 1,000 footradius of the newly proposed well location;
  - b) the previous test fully meets all the requirements of this section;
  - c) the previous test was conducted in the same geologic formation and hydro-stratigraphic unit of an aquifer which is being considered as a source of water supply for the proposed project based upon subsurface data such as well cuttings, geophysical log data, and water level data;
  - d) the previous test was conducted at the same or higher discharge rates, and;
  - e) aquifer conditions (e.g., water levels, gradients, etc.) during the previous test were approximately the same as they are presently.

N. Need for additional aquifer testing and observation wells. The District may determine if additional observation wells or aquifer tests are needed to adequately demonstrate groundwater availability. To determine if additional information is needed, the District shall consider the assumptions, the site-specific information derived from the aquifer test, the size of the proposed project, and the proposed method of water delivery.

*Adopted May 5, 2005; effective May 11, 2005 by Board Order 110. Amended June 14, 2007; Effective June 14, 2007 by Board Order 140. Amended and Effective April 3, 2013 by Board Order 159.*

## **Section 11.7 Determination of Groundwater Quality**

**(11.7.1)** Water quality analysis. Water samples shall be collected for chemical laboratory analysis during the aquifer test or well performance test. Samples should be collected after Temperature, Conductivity, and pH values can be considered “stable” as defined by section (11.7.1 C) below. Ideally samples should be collected toward the

end of the pumping phase of the test. Samples shall be collected from each aquifer being considered for water supply for the proposed project.

A. For proposed subdivisions where the anticipated method of water delivery is from an expansion of an existing public water supply system or a new public water supply system, the samples shall be submitted for bacterial and chemical analysis as required by 30 Texas Administrative Code, Chapter 290, Subchapter F (relating to Drinking Water Standards Governing Drinking Water Quality and Reporting Requirements For Public Water Supply Systems).

B. Water samples collected under Section 11.7 shall be analyzed for the following:

- 1) calcium;
- 2) magnesium;
- 3) manganese;
- 4) iron;
- 5) potassium;
- 6) chloride;
- 7) sodium;
- 8) fluoride;
- 9) silica
- 10)sulfate
- 11)nitrate (as nitrogen)
- 12)bicarbonate
- 13)carbonate
- 14)conductivity;
- 15)pH;
- 16)total hardness;
- 17)total dissolved solids;
- 18)lead;
- 19)arsenic;
- 20)mercury;
- 21)phosphorus

The report shall include a table of these values from the water sample analysis with a comparison, where applicable, to drinking water Primary Maximum Contaminant Level (PMCL) and Secondary Maximum Contaminant Level (SMCL) as established by the United States Environmental Protection Agency (US EPA).

C. Temperature, Conductivity, and pH values shall be measured in the field during the pumping phase of the test until stable for two hours of pumping. Conductivity values should be considered stable when they are within plus or minus 10%. pH values should be considered stable when they are within plus or minus 0.1 standard pH units. Interpretation of the implications of changes in these values over time as pumping progresses shall be discussed in the report.

- D. Qualitative descriptions of water. Every 4 hours during the aquifer test the discharging water shall be described based on clarity, color and smell. Interpretation of the implications of changes in these values over time as pumping progresses shall be discussed in the report.

*Adopted May 5, 2005; effective May 11, 2005 by Board Order 110.*

*Amended and Effective April 3, 2013 by Board Order 159. Amended XXXX, 20XX and Effective XXXX, 20XX by Board Order XXX.*

## **Section 11.8 Determination of Groundwater Availability**

**(11.8.1)** Time frame for determination of groundwater availability. At a minimum, both a short- and long-term determination of groundwater availability shall be made, each considering the estimated total water demand at full build-out or condition of maximum projected usage rates. Groundwater availability shall be evaluated for ten years and thirty years, using average and maximum expected pumping rates. Availability shall consider historical and projected groundwater levels during severe and critical drought conditions during these periods. The study shall include an analysis of the impact of this application to the Modeled Available Groundwater and on the District's ability to achieve the Desired Future Conditions for aquifers in the District. The study shall include an analysis of the potential build out of the neighboring property areas as part of the Modeled Available Groundwater.

**(11.8.2)** Determination of aquifer parameters. The time-drawdown and time-recovery data obtained during the aquifer test shall be used to determine aquifer parameters utilizing the non-equilibrium equations developed by Theis and Cooper-Jacob, or acceptable modifications thereof. Describe and discuss the assumptions of the analytical method used and the applicability of those assumptions to the reality and uncertainties of the site conditions and the specific hydrostratigraphic unit tested. The following aquifer parameters shall be determined and the basis of the determinations discussed:

- A. rate of yield and drawdown;
- B. specific capacity;
- C. transmissivity;
- D. coefficient of storage;
- E. hydraulic conductivity;
- F. recharge or barrier boundaries, if any are present;
- G. thickness of the aquifer(s); and
- H. assumed aquifer condition (unconfined, confined, leaky).

Include a table that shows this data by well, calculation method, and the portion of the data (e.g. early or late time) used in the analysis.

**(11.8.3)** Determination of groundwater availability. Using the information and data identified and determined in subsection 11.8.2. of this section, the following calculations shall be made.

- A. Time-drawdown. The amount of drawdown at the pumped well(s) and at the boundaries of the proposed property shall be determined for the time frames identified under subsection (11.8.1) of this section. If a range of aquifer properties is determined from the pumping test, multiple analyses shall be performed using the highest and lowest values.
- B. Distance-drawdown. The distance(s) from the pumped well(s) to the outer edges of the cone(s)-of-depression shall be determined for the time frames identified under subsection 11.8.1 of this section. If a range of aquifer properties is determined from the pumping test, multiple analyses shall be performed using the highest and lowest values. Contoured water table drawdown figures shall be produced for each analysis reported.
- C. Well interference. For multiple wells in a proposed project, calculations shall be made to:
  - 1) determine how pumpage from multiple wells will affect drawdown in individual wells for the time frames identified under subsection 11.8.1 of this section; and
  - 2) Determine a recommended minimum spacing limit between individual wells and well yields from the wells that will allow for the continued use of the wells for the time frames identified under subsection 11.8.1 of this section.
  - 3) Aquifer modeling runs, using a verified and documented analytical model. Include a project drawdown modeling run that has boundary conditions around the project that reflect maximum allowable density under the rules the adjoining property was platted under. If the adjoining property is not currently subdivided, and could be subdivided under existing Hays County rules, then use the County's OSSF Minimum Lot Sizing Table 10.1 to determine the lot size allowed. Assume the lots will be served by a 'public waste-water' system and private wells for each lot. This maximum lot density shall extend out at least 4- lots deep around the perimeter of the property, where the project is bordered by raw developable land. The water use for each hypothetical bordering lot shall be 250 gallons per day. If the project adjoins an existing project, then projected pumping from the adjoining project at full build- out shall be considered in the model.
  - 4) Using aquifer properties and proposed pumping rates for the full project build-out, provide cumulative drawdown calculations for selected radial distances up to one half mile of the proposed project boundaries, or a distance where measurable drawdown effects at known wells identified in the well inventory may be expected or to a distance where the drawdown is negligible.
  - 5) Perform modeling runs assuming no recharge.



**(11.8.4)** Determination of groundwater quality. The water quality analysis required under Rule 11.7 (relating to Determination of Groundwater Quality) shall be compared to the EPA's primary and secondary public drinking water standards and the findings documented in table format.

*Adopted May 5, 2005; effective May 11, 2005 by Board Order 110. Amended June 14, 2007; Effective June 14, 2007 by Board Order 140.  
Amended and Effective April 3, 2013 by Board Order 159.*

## **Section 11.9 Groundwater Availability and Usability Statements and Certification**

**(11.9.1)** Groundwater availability and usability statements. Based on the information developed under Rule 11.8 (relating to Determination of Groundwater Availability), the following information shall be provided:

- A. the estimated drawdown of the aquifer at the pumped well(s) over a ten-year period and over a thirty-year period;
- B. the estimated drawdown of the aquifer at the project boundary over a ten-year period and over a thirty-year period;
- C. the estimated distance from the pumped well(s) to the outer edges of the cone(s)-of-depression over a ten-year period and over a thirty-year period;
- D. the recommended minimum spacing limit between wells and the recommended well yield; and
- E. the sufficiency of available groundwater quantity to meet the intended use of the project.

**(11.9.2)** Groundwater availability determination conditions. The assumptions and uncertainties that are inherent in the determination of groundwater availability shall be clearly identified. These conditions shall be identified to adequately define the basis for the availability and usability statements. These bases shall include, but are not limited to, uncontrollable and unknown factors such as:

- A. Future pumpage from the aquifer or from interconnected aquifers from area wells outside of the project area or any other factor that cannot be predicted that will affect the storage of water in the aquifer;
- B. long-term impacts to the aquifer based on climatic variations; and

- C. future impacts to usable groundwater due to unforeseen or unpredictable contamination.
- D. Certification. Based on best professional judgment, current groundwater conditions, and the information developed and presented as required by Rule 11, the licensed professional geoscientist or licensed professional engineer certifies by signature, seal, and date that adequate groundwater is available from the underlying aquifer(s) to supply the estimated demand of the proposed project and is sufficient quality for the intended uses.

*Adopted May 5, 2005; effective May 11, 2005 by Board Order 110. Amended June 14, 2007; Effective June 14, 2007 by Board Order 140.  
Amended and Effective April 3, 2013 by Board Order 159.*

**END OF RULE 11**

*REMAINDER OF PAGE INTENTIONALLY LEFT BLANK*

# **RULE 12. REPORTING**

## **Section 12.1 Reporting Requirements**

**(12.1.1)** As part of the Operating Permit, permittees shall submit quarterly reports to the District. The quarterly report may be submitted on-line, instructions are available on the District website. These reports are due by the 10<sup>th</sup> of the month following the end of each calendar quarter. Failure to submit a completed report on time may be subject to penalties. The report shall document information as agreed to in the operating permit. Operating permits of 250,000 gallons per year or less are not subject to drought cutback curtailments.

*Adopted June 14, 2007; Effective June 14, 2007 by Board Order 140.  
Amended and Effective April 3, 2013 by Board Order 159. Amended December 17, 2014;  
Effective January 1, 2015 by Board Order 174. Amended November 18, 2015; Effective  
December 1, 2015 by Board Order 178*

**END OF RULE 12**

*REMAINDER OF PAGE INTENTIONALLY LEFT BLANK*

# **RULE 13. DROUGHT MANAGEMENT**

## **Section 13.1 Drought Conditions & Provisions**

**(13.1.1)** The District shall designate the various drought conditions and implement the applicable provisions of this rule upon determination that such implementation may be necessary for the conservation, preservation, protection and recharge of the groundwater within the District boundaries.

## **Section 13.2 Drought Triggers**

**(13.2.1)** The District's drought triggers are based upon the discharge flow rates provided by the USGS for the Pedernales and Blanco Rivers. The District also references the Palmer Drought Index as its third drought trigger. To see the latest drought trigger indicators, District Drought Stage Chart, or Drought Stage History visit the District's website.

**(13.2.2)** The District shall monitor the discharge flow rates of the Pedernales and Blanco Rivers and the Palmer Drought Index Map to determine the drought stage level. Drought stages will move up and down the vertical drought chart as follows:

- A. To move into a drought stage, both rivers must flow thirty consecutive days within that drought stage trigger.
- B. To move out of a drought stage, both rivers must flow sixty consecutive days within the lesser drought stage trigger.

**(13.2.3)** The General Manager shall declare any drought stage level changes when they occur and provide a written Order for the Board to approve and sign at the next available Board meeting. Once drought stage has been initiated, all permit holders shall be notified of current drought status and its effective date. Permit holders are required to reduce groundwater production as indicated on their individual Drought Production Cutback Chart.

## **Section 13.3 Drought Stages**

**(13.3.1)** District drought management consists of four drought stages:

1. No Drought /Voluntary Conservation;
2. Alarm;
3. Critical; or
4. Emergency.

## **Section 13.4 User Drought Contingency and Water Conservation Plans**

**(13.4.1)** Operating permit holders shall file with the District an acceptable User Drought Contingency Plan and Water Conservation Plan, which shall be kept current so as to remain consistent with the District's:

- A. Management Plan;
- B. Drought Contingency Plan, including but not limited to drought stage target pumpage volume;
- C. Water Conservation Plan; and
- D. Rules.

**(13.4.2)** Permit holders who are found to be in non-compliance with District drought management rules, the User Drought Contingency Plan, the Water Conservation Plan or the Drought Production Cutback Chart, may be subject to penalties.

*Adopted August 9, 2001. Amended March 25, 2004; Effective March 29, 2004 by Board Order 102. Amended February 24, 2005; Effective March 9, 2005 by Board Order. Amended June 14, 2007; Effective June 14, 2007 by Board Order 140. Amended and Effective April 3, 2013 by Board Order 159. Amended December 17, 2014; Effective January 1, 2015 by Board Order 174. Amended November 18, 2015; Effective December 1, 2015 by Board Order 178. Effective and Amended January 1, 2018 by Board Order XXX.*

**END OF RULE 13**

*REMAINDER OF PAGE INTENTIONALLY LEFT BLANK*

# **RULE 14. VARIANCES**

## **Section 14.1 Variances**

**(14.1.1)** Requests for the following variances must be submitted along with the well registration or application. To request a variance, complete and submit the Variance Request and Notice form.

**(14.1.2)** The Board of Directors may grant variances for the following:

- 1) Well Performance Tests, Tier 2;
- 2) Aquifer Tests, Tier 3;
- 3) Active Resolutions that specify an allowance for a variance; or
- 4) Installation of an access tube for the purpose of reporting water level measurements.

*Effective April 3, 2013 by Board Order 159. Amended December 17, 2014; Effective January 1, 2015 by Board Order 174. Effective and Amended January 1, 2018 by Board Order XXX.*

**END OF RULE 14**