

HAYS TRINITY GROUNDWATER CONSERVATION DISTRICT RULEMAKING

Title: **HAYS TRINITY GROUNDWATER CONSERVATION DISTRICT RULES**
Rule 1 (Introduction)
Rule 2 (Definitions)
Rule 3 (Well Construction-~~Notification~~, Operating Permits and Water Utility Connections)
Rule 4 (Well Construction, Reports and Spacing)
Rule 5 (Hearings)
Rule 6 (Tagging Prohibited Use, Capping or Plugging Wells)
Rule 9 (Prohibitions Against Waste and Pollution; Water Loss Audits)
Rule 10 (Enforcement)
Rule 12 (Reporting)
Rule 13 (Drought Management)
Rule 15 (Management Zone)

Rule Type: **Proposed Rules (PRs) (redlined)**

Approved By:

Effective Date: ___ Board approves FRs: ___ Public Hearing on PRs: ___ Board approves PRs: ___ GM approves PRs: ___

GLOBAL EDITORIAL CHANGES	
Edit	Example
Uniform capitalization, abbreviations and use of terms, where appropriate	
Grammar and typos	
Re-number affected sections and subsections accordingly.	

RULE 1. INTRODUCTION

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 ~~r~~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.~~

Section 1.5 Regulatory Compliance

(1.5.1) All ~~persons within the~~ District, ~~including~~ land-owners, well owners ~~and operators, and wells, permits and~~ permittees shall comply with all applicable ~~r~~Rules, orders, regulations, requirements, resolutions, policies, directives, standards, guidelines, or any other regulatory measures ~~ad~~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 L~~aws.

(1.5.3) Following the contested case hearing concerning a NOAV, the Board shall make a decision on the proper resolution of the enforcement matter. The Board may:

A. recommend a settlement amount in lieu of litigation; or

B. file suit in a court of competent jurisdiction to seek civil penalties and/or injunctive relief, attorney's fees and costs necessary to resolve the matter.

Section 1.8 Petition for Rulemaking

(1.8.1) All Regular, Special, and Emergency Board Meetings will be called and conducted under the provisions of the Texas Open Meetings Act, Chapter 551, Government Code.

(1.8.2) A person with a real property interest in groundwater in the District may file a petition with the District to request the adoption of a rule.

(1.8.3) Petitions must be submitted in writing to the District office and must comply with the following requirements:

A. Each rule requested must be submitted by separate petition;

B. Each petition must be signed and state the name and address of each person signing the petition;

C. Each petition must include:

1) a brief description of the petitioner's real property interest in groundwater in the District;

2) a brief explanation of the proposed rule;

3) the text of the proposed rule prepared in a manner to indicate the words to be added or deleted from the text of the current rule, if any; and

4) an allegation of injury or inequity that could result from the failure to adopt the proposed rule.

(1.8.4) The General Manager may reject any petition for failure to comply with the requirements of this section and shall provide notice to the petitioner of the reason for the rejection.

(1.8.5) Within 90 days after submission of a petition that complies with this section, the Board shall either deny the petition, stating its reasons for denial in the minutes of the board meeting or in a letter providing a written explanation to the petitioner, or initiate rulemaking proceedings as provided by Section 36.101, Texas Water Code.

RULE 2. DEFINITIONS

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

DRILLING PERMIT – The authorization issued by the District under which a person may drill, equip, cap, plug, or complete any well or substantially alter the size of a well or well pump, or convert an oil and gas well to a water well.

EXEMPT USE WELL – ~~Any well use~~ for which the owner is not required to obtain a well drilling permit or an operating permit, as applicable. 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.

GEOEXCHANGE WELL – A well used solely for earth-coupled heat exchange purposes and not equipped to produce groundwater.

GPM – gallons per minute.

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

NOTICE OF ALLEGED VIOLATION (NOAV) – A notice sent under Section 10.1.2 to a person believed to be in violation of a rule, permit or order that the District is charged with enforcing.

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.~~

PALMER DROUGHT SEVERITY INDEX (PDSI) - a standardized index based on a simplified soil water balance and estimates relative soil moisture conditions. The magnitude of PDSI indicates the severity of the departure from normal conditions. A PDSI value >4 represents very wet conditions, while a PDSI <-4 represents an extreme drought.

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

PERMITTEE - A person or entity who has an ~~operating~~ permit ~~from the Districter who has submitted an operating permit application.~~

PLUGGING - The permanent closure of a borehole, which should be performed in accordance with approved State standards and District Rules.

REAL LOSSES – Losses from main breaks and leaks, storage tank overflows, customer service line breaks, and line leaks.

DOMESTIC 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, and the well is drilled, completed, or equipped so that it is incapable of producing more than 25,000 gallons per day (17.36 GPM).

TEST WELL – A well drilled ~~prior to drilling a well in connection with an operating permit to evaluate groundwater quality or quantity, including a test well required under Section 11.6.4.~~

WELL CONSTRUCTION FEE – The fee charged by the District for ~~the construction of a new well drilled after September 1, 2004~~ drilling, equipping, capping, plugging, or completing any well or substantially altering the size of a well or well pump, or converting an oil and gas well to a water well.

WELL CONSTRUCTION NOTIFICATION – Notice provided to the District on a District Form of intent to drill, equip, cap, plug, or complete any well or substantially alter the size of a well or well pump, or convert an oil and gas well to a water well ~~construct a new well.~~

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

RULE 3. —WELL CONSTRUCTION ~~NOTIFICATION~~, OPERATING PERMITS and WATER UTILITY CONNECTIONS

Section 3.1 General Provisions~~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. Except as provided in Sections 3.3.1 or 3.11, well owners and others withdrawing groundwater for a non-exempt use are required to obtain a drilling permit and 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, capping, plugging, 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), a. As authorized by Texas Water Code Section 36.113(f).

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, are required to submit a completed well registration form. drilled prior to September 1, 2001, will not be charged a A well construction notification fee will not be required prior to drilling, completing or equipping wells drilled prior to September 1, 2001. Owners of existing exempt wells are requested to complete and submit a well registration form.~~

Section 3.3 Drilling Permits for New Wells

(3.3.1) (a) Except as provided in Subsection (d) of this section, the owner and/or operator of a well or proposed well must apply for and obtain a drilling permit from the District before drilling, equipping, capping, plugging, or completing any well or substantially altering the size of a well or well pump, or converting an oil and gas well to a water well.

(b) Any person seeking to drill, equip, cap, plug, or complete any well or substantially alter the size of a well or well pump, or convert an oil and gas well to a water well must file an application for a drilling permit on a form prescribed by the District.

(c) A drilling permit is not required for well maintenance or repair that does not increase the production capabilities of the well to more than its authorized production rate.

(d) The owner and/or operator of any of the following types of water wells is required to provide a well construction notification to the District in accordance with Section 3.4 but is exempt from the duty to obtain a drilling permit prior to drilling, completing, or equipping the well:

(1) a well drilled and operated solely for domestic use if the well is drilled, completed, or equipped so that it is incapable of producing more than 25,000 gallons of groundwater a day;

~~(1)~~(2) a well drilled and operated solely for providing water for wildlife, if the well is drilled, completed, or equipped so that it is incapable of producing more than 25,000 gallons of groundwater a day, and located on a tract of land equal to or greater than 10 acres;

(3) a well or proposed well drilled solely to supply water for a rig that is actively engaged in drilling or exploration operations for an oil or gas well 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 water well is located on the same lease or field associated with the drilling rig is exempt from the requirement to obtain a drilling permit;

(4) a well drilled and authorized under a permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code;

(5) a well for temporary use solely to supply water for a rig that is actively engaged in drilling a well to produce groundwater authorized by a drilling permit from the District;

(6) a well used solely for conventional farming and ranching activities, including such intensive operations as aquaculture, livestock feedlots, poultry operations; or

(7) a well used solely for dewatering and monitoring in the production of coal or lignite.

(3.3.2) Except as provided by 3.3.3, a one-time well construction fee will be incurred for all new wells.

~~(3.3.3) A~~ 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 is not required to pay the well construction fee. Wells used for both domestic use and conventional farming and ranching activities are not exempt from the duty to pay the well construction fee in Section 3.3.2. A ~~person~~well-owner claiming the conventional farming and ranching activities 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.~~

Section 3.4 Well Construction Notification

~~(3.4.1) All persons shall notify the District prior to drilling, equipping, capping, plugging, or completing any well or substantially altering the size of a well or well pump, or converting an oil and gas well to a water well by completing and submitting a well construction notification form. Based on the information provided, staff will determine whether the person is required to file an application for a drilling permit. A~~ Prior to drilling any new well, a well construction notification form must be completed and submitted to the District along with include a property plat and map, indicating the well location, Hays County property identification number, and a ~~one-time~~ well construction fee. Incomplete nNotifications will not be processed without by 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~~ for wells exempt from drilling permit requirements without Board action. A confirmation document will be sent to both the well owner or operator and the drilling company allowing the drilling to begin. The ~~confirmation~~application to drill or alter a well for wells exempt from drilling permit requirements is valid ~~for up to~~ 90 days from the date of issuanceapproval. Additional 90-day extensions, up to a total of 270 days, may be obtained from ~~the~~ District staff upon request. An applicant seeking a well drilling permit for a test well is required to meet with District staff to discuss the planned testing approach as part of the application process. 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~~ at the well will withdraw groundwater for is exempt or non-exempt from the requirement to obtain a drilling permit and/or operating permituses. 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.

Section 3.5 New Operating Permits

(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 or other withdrawals of groundwater by springs, or means other than a well, as appropriate:

- a) ~~a~~ completed and approved wWell cConstruction nNotification, wWell rRegistration, and/or drilling permit, as applicable;
- b) ~~t~~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) ~~a~~Annual production amount requested including all formulas and calculations used to determine the annual production amount;
- f) ~~t~~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) ~~t~~The purpose of use for the groundwater to be withdrawn;
- i) ~~t~~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's s engineering plans;
- k) ~~f~~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-gGeophysical logs of the well, including gamma-ray log (natural-gamma logs), electric logs (resistivity logs, spontaneous- potential logs, and single-point-resistance logs), temperature logs, and caliper logs, and any other downhole logs available;

- ~~h)m)~~ a study and other information showing the impacts of the proposed use of the well on water availability, existing groundwater and surface water resources, and on other permittees and groundwater users;
- ~~m)n)~~ 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)o)~~ aAn 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)p)~~ fFor a new operating permit for an existing well, the State Well Report for that well;
- ~~p)q)~~ Provide evidence that well(s) do not allow comingling between sub-aquifers; and
- ~~r)~~ tThe applicant~~Owner~~'s signature or the applicant~~Owner~~'s agent's signature, and the date the application was signed.

Section 3.6 Transportation Outside District Boundaries; Export Permit Required

(3.6.6) The Board will adopt an export fee rate each year as authorized by Sections 36.122(e)(3) and (e-1), Texas Water Code. Each person transporting groundwater outside the boundaries of the District shall report the total amount of groundwater transported during the previous calendar year no later than January 30th. The District will send an invoice based on the amount of groundwater transported outside the boundaries of the District at the then-applicable export fee rate. Each person transporting groundwater outside the boundaries of the District shall pay an export fee to the District for the amount of groundwater transported outside the District boundaries during the previous calendar year.

Section 3.7 Renewal of an Operating Permit

(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.

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. The District shall adopt fees for each water utility service connection and each new meter or tap by resolution and order.

(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.~~

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 and others withdrawing groundwater 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 it is production-incapableility of producing more than 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 ~~domestic s~~Shared well.

I. A well drilled and operated solely for providing water for wildlife, if the well is drilled, completed, or equipped so that it is incapable of producing more than 25,000 gallons of groundwater a day, and located on a tract of land equal to or greater than 10 acres, or others withdrawing groundwater solely for providing water for wildlife in an amount of no more than 25,000 gallons of groundwater a day, and where the withdrawals are occurring on a tract of land equal to or greater than 10 acres.

J. A temporary water well used solely to supply water for a rig that is actively engaged in drilling a groundwater production well permitted by the District.

K. Withdrawals of groundwater by springs, or means other than a well: (1) for solely domestic use or for wildlife in an amount not to exceed 25,000 gallons of groundwater a day for use on a tract of land equal to or greater than 10 acres; (2) solely to supply water for a rig that is actively engaged in drilling or exploration operations for an oil or gas well 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 water well is located on the same lease or field associated with the drilling rig is exempt from the requirement to obtain a drilling permit; (3) solely for temporary use to supply water for a rig that is actively engaged in drilling a well to produce groundwater authorized by a drilling permit from the District; or (4) solely for conventional farming and ranching activities, including such intensive operations as aquaculture, livestock feedlots, poultry operations.

Section 3.12 Geexchange 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” Geexchange wells are prohibited in the District. All g~~Geexchange wells shall comply with these minimum rules and standards, as well as the applicable requirements of Rule 4. “Open Loop” gGeexchange wells are prohibited in the District.

Section 3.13 Project Dormancy

(3.13.1) An authorization or permit from the District shall be considered dormant for purposes of Section 245.005, Texas Local Government Code, if no progress has been made toward completion of the project for which the authorization or permit was obtained within two years of the issuance of the authorization or permit.

(3.13.2) A project for which an authorization or permit from the District was required shall be considered dormant for purposes of Section 245.005, Texas Local Government Code, if no progress has been made toward completion of the project for which the authorization or permit was obtained within five years of the issuance of the first authorization or permit.

(3.13.3) For purposes of this section, progress towards completion of a project shall include any one of the following:

(1) a required application for a final plat or plan is submitted to a regulatory agency other than the District for the project;

(2) a good-faith attempt is made to file with a regulatory agency other than the District an application for an authorization or permit necessary to begin or continue towards completion of the project;

(3) costs have been incurred for developing the project including, without limitation, costs associated with roadway, utility, and other infrastructure facilities designed to serve, in whole or in part, the project (but exclusive of land acquisition) in the aggregate amount of five percent of the most recent appraised market value of the real property on which the project is located;

(4) fiscal security is posted with a regulatory agency other than the District to ensure performance of an obligation required by the regulatory agency for the project;
or

(5) required utility connection fees or impact fees for the project have been paid to a regulatory agency other than the District.

RULE 4. WELL CONSTRUCTION, REPORTS AND SPACING

Section 4.2 Reports and Monitoring

(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 and shall identify the Hammett Shale and its depth.

Section 4.3 Well Location and Spacing

(4.3.4) Spacing between Wells and Property Lines for All New Wells

<u>Projected Pumping</u> <u>Capability of Proposed</u> <u>Well, in Daily Average</u> <u>Gallons per Minute</u>	<u>Minimum</u> <u>Distance</u> <u>Proposed</u> <u>Existing Wells¹</u>	<u>Horizontal</u> <u>Between</u> <u>Well and</u> <u>Adjacent Property</u> <u>Lines²</u>
<u>Up to 17.36 GPM</u>	<u>150 feet</u>	<u>100 feet³</u>
<u>17.36 – 50 GPM</u>	<u>300 feet</u>	<u>150 feet</u>
<u>50 – 100 GPM</u>	<u>750 feet</u>	<u>375 feet</u>
<u>100 – 300 GPM</u>	<u>1,200 feet</u>	<u>600 feet</u>
<u>> 300 GPM</u>	<u>1,500 feet</u>	<u>750 feet</u>

1 Any person seeking to drill a new well may provide, and the District may consider, site-specific geological or hydrogeological information that supports the use of an alternative Minimum Horizontal Distance between the proposed well and registered wells in the same Aquifer Management Zone. The District may authorize the use of an alternative Minimum Horizontal Distance between the proposed well and registered wells in the same Aquifer Management Zone, provided the site-specific geological or hydrogeological information supports a finding that the proposed well location and use will not create any unreasonable impacts. If no such site-specific geological or hydrogeological information is provided, or if the site-specific geological or hydrogeological information does not support a finding that the well's location and use will not create any unreasonable impacts, the Minimum Horizontal Distance requirements apply.

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

3 The Minimum Horizontal Distance between a proposed well and recorded property line may be reduced to 50 feet, provided,

(1) the District approves the proposed well location,

(2) the proposed well location complies with District Rules and applicable Texas regulations, and

(3) the top 100 feet of annular space of the proposed well is pressure cemented. The well owner is required to obtain authorization to reduce the Minimum Horizontal Distance from a property line to 50 feet, otherwise the Minimum Horizontal Distance from the property line shall be 100 feet. Where tract size prohibits compliance with the Minimum Horizontal Distance of 50 feet, the Alternative Siting Methods prescribed by the Texas Department of Licensing and Regulation under 16 TAC § 76.100(b)(2) shall apply.

RULE 5. HEARINGS

Section 5.6 Contested Case Hearing Procedures

(5.6.6) The Board shall conduct the ~~f~~Final hearing once the Board concludes the ~~e~~Evidentiary hearing or receives the report from the ~~h~~Hearings examiner or from SOAH. The ~~f~~Final hearing must be conducted no later than the one ~~_~~-hundred and twentieth (120~~th~~) day following receipt of the proposal for decision. A ~~f~~Final hearing is to review the submitted report, hear legal argument and deliberate the merits of the application. A ~~f~~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 ~~f~~Final hearing, the Board shall make a motion and vote on granting, denying or issuing the permit with conditions. For contested case hearings conducted by the State Office of Administrative Hearings, the Board decision on a proposal for decision must be made no later than 180th day after the date the District received the final proposal for decision from SOAH. The Board is considered to have adopted a final proposal for decision of the administrative law judge as a final order on the 181st day after the date the administrative law judge issued the final proposal for decision if the board has not issued a final decision by:

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

(2) issuing revised findings of fact and conclusions of law as provided by this

section.

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

- 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 and shall make a final decision on the application not later than the 90th day after the date of the decision by the board that was subject to the motion for rehearing. Any action by the Board on a request for rehearing shall be made at a Board meeting subject to the Open Meetings Act.

Section 5.7 Hearings on Enforcement Actions

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

A. recommend a settlement amount~~Assess a penalty~~ in accordance with Rule 10;
B. ~~Make an offer of Compromise and Settlement in~~ lieu of litigation; or

~~BC. f~~File suit in a court of competent jurisdiction to seek civil penalties and/or, injunctive relief, attorney's fees and costs or both necessary to resolve the matter.

RULE 6. TAGGING PROHIBITING USE, CAPPING OR PLUGGING WELLS

Section 6.2 Capping Wells

(6.2.1) A ~~land owner or~~ well owner or operator or other person who possesses a well shall cap any open or uncovered well to prevent waste, pollution, or deterioration. A drilling permit from the District is required prior to capping a well. 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.

Section 6.3 Plugging Wells

(6.3.1) Not later than the 180th day after the date an ~~land~~owner or operator 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. A drilling permit from the District is required prior to plugging a well. 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 30th 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 Section 1901.255(d), Texas Occupations Code, ~~section 1901.255 (d)~~.

(6.3.2) If ~~an~~the owner, operator or other person who possesses a well 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 Section 36.118, Texas Water Code ~~Section 36.118~~; or

~~A.~~

B. as authorized by Section 1901.256, Texas Occupations Code, ~~section 1901.256~~, otherwise enforce Section 1901.255 related to ~~landowners,~~ operators or other persons who ~~that~~ have an abandoned or deteriorated well located on their property.

RULE 9. PROHIBITIONS AGAINST WASTE AND POLLUTION; WATER LOSS AUDITS

Section 9.1 Prohibition Against Waste and Pollution

(9.1.1) A person may not waste groundwater within the District or water withdrawn from any aquifer within the District. No person shall withdraw or use groundwater in such a manner as to constitute waste. Producing groundwater that exceeds the amount reasonably needed for beneficial use or a beneficial purpose is wasteful and prohibited. Groundwater used by a water utility for line flushing or water system maintenance that is required by Texas Commission for Environmental Quality Rules and groundwater used for emergency response purposes, including firefighting, are not considered to be waste.

(9.1.2) No person may pollute or contribute to the pollution of groundwater.

RULE 10. ENFORCEMENT

Section 10.1 Enforcement

(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.

(10.1.2.1) Settlement of an NOAV for violating the withdrawal limitations in a permit may include:

- a. payment of the settlement amount;
- b. negotiation of a settlement amount based on receipts proving repair to a water system negatively impacted by an “act of God”; and
- a.c. negotiation of a settlement amount based on receipts proving installation of improved water conservation or management systems.

(10.1.3) Civil Penalty Schedule: The District hereby establishes a civil penalty schedule of \$100 to \$10,000 per day, per violation.

(10.1.4) Settlement Schedule: The District shall adopt by resolution and order a settlement schedule to resolve enforcement actions.

~~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 permitup 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 Ruleup 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 Chartup 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 31st 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 wasteup to \$500.00~~

~~(10.1.54) 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 tThe District General Manager may agree to dismiss an enforcement matter that seeks a settlement amount of less than \$20.~~

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 10th 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.~~

RULE 13. DROUGHT MANAGEMENT

Section 13.2 Drought Triggers

(13.2.2) C. The General Manager shall report the current stage of the Palmer Drought Severity Index at every Board meeting, and the Board may take action to implement the next drought stage ~~based on the drought triggers in Section 13.3. according to the following schedule:~~

- ~~➤ PDSI = -1 to -1.94 No Drought 0% Curtailment~~
- ~~➤ PDSI = -1.5 - 1.9 Conservation 10% Curtailment~~
- ~~➤ PDSI = -2 to -2.9 Alarm 20% Curtailment~~
- ~~➤ PDSI = -3 to -4.9 Critical 30% Curtailment~~
- ~~➤ PDSI = -5.0 or less Emergency 40% Curtailment~~

Section 13.3 Drought Stages

(13.3.1) District drought management consists of four drought stages. When streamflow drops below a drought trigger (shown in the table below), or the PDSI reaches the indicated level, a daily counter begins. If the counter for either of the drought indicators

reaches 30 days, the General Manager will declare the appropriate drought stage. When streamflow increases above a drought trigger and the PDSI reaches the next less severe drought severity level or indicates no drought and remains there for the entirety of a period of 60 days, the General Manager will declare the lesser drought stage.

Percent Curtailment	Drought Stage	<u>PDSI level or Pedernales River flow rate</u>	<u>PDSI level or Blanco River flow rate</u>
0%	No Drought/Voluntary Conservation	Above 31.6 cfs	Above 28.5 cfs
<u>10%</u>	<u>Conservation</u>	<u>PDSI = -1.5 – 1.9; or at or below 59 cfs</u>	<u>PDSI = -1.5 – 1.9; or at or below 41 cfs</u>
20%	Alarm	<u>PDSI = 2 to 2.9; or aAt or below 31.6 cfs</u>	<u>PDSI = 2 to 2.9; or aAt or below 28.5 cfs</u>
30%	Critical	<u>PDSI = 3 to 4.9; or aAt or below 10.2 cfs</u>	<u>PDSI = 3 to 4.9; or aAt or below 14.5 cfs</u>
40%	Emergency	<u>PDSI = 5 or more; or aAt or below 2.23 cfs</u>	<u>PDSI = 5 or more; or At or below 9.28 cfs</u>

(13.3.3) The following additional restrictions apply during each indicated stage:

- A. During Stage 2 (Alarm), Stage 3 (Critical), or Stage 4 (Emergency) conditions, groundwater withdrawn for a non-exempt use may not be used to fill or refill ponds or for landscape irrigation.
- B. During Stage 3 (Critical) or Stage 4 (Emergency) conditions, the District will not accept any application for a new operating permit or any amendment to increase production under an existing operating permit.
- C. During Stage 3 (Critical) or Stage 4 (Emergency) conditions, no new well may be constructed other than wells drilled to replace existing permitted wells or wells for exempt uses. The Board may grant a variance to this rule if an existing condition in the District for new wells used to alleviate conditions imminently threatening the health, safety, or welfare of the public will be significantly lessened by a proposed new well.

RULE 15. MANAGEMENT ZONE

Section 15.1 Jacob’s Well Groundwater Management Zone (JWGMZ)

(15.1.2) Any existing Tier 2 or Tier 3 non-exempt use well within the JWGMZ drilled prior to March 5, 2020, and all other permitted wells thereafter, must comply with all standard operating permit requirements plus the following additional requirements:

- 1) Each existing non-exempt use well owner must record and report the amount of groundwater produced each calendar month. During a curtailment period, groundwater production reports must be submitted to the District within 5 business days after the end of the month being reported.
- 2) Each operating permit must include a Monthly Baseline Production Amount for groundwater production within the JWGMZ.
- 3) A well located within the JWGMZ may not be aggregated under a single permit with any other well or well field located outside the JWGMZ. The Board may allocate a Monthly Baseline Production Amount based on aggregate pumping amounts reported for any well located inside JWGMZ that was operated in aggregate with one or more wells outside JWGMZ during 2017.
- 4) An operating permit to produce groundwater from the Upper Trinity aquifer or the Middle Trinity aquifer may not be amended to increase the annual production total if the amendment application is filed after the effective date of this rule.

Section 15.2 Drought Curtailments

(15.2.1) Drought curtailments are mandatory for all ~~Tier 2 or Tier 3~~ non-exempt use wells within the JWGMZ. The District will post the then current drought curtailment percentage applicable to that month on the first business day each month that a drought curtailment applies. The amount of groundwater authorized to be withdrawn during that month may not exceed the baseline amount as adjusted by the applicable drought curtailment amount. Monthly Baseline Production Amounts may be averaged only during contiguous months of a specific drought stage.

(15.2.2) Monthly Baseline Production Amount. Each Tier 2 or Tier 3 non-exempt use well permit shall include a Monthly Baseline Production Amount based on the average actual amount of groundwater produced and put to a beneficial use for each calendar month from January 2017 through December 2019. The Monthly Baseline Production Amount only applies during a curtailment period. A permittee may amend the Monthly Baseline Production Amount by filing a Monthly Baseline Production Amount adjustment request form with the District. ~~Rule 3.8 does not apply to a permit amendment for the purpose of adjusting the Monthly Baseline Production Amount.~~ The Monthly Baseline Production Amount may be adjusted if the Board determines any of the following: . . .

(15.2.5) Each permittee shall prepare a Drought Curtailment Implementation Plan detailing how the required production curtailments will be achieved. Drought Curtailment Implementation Plans must be ~~submitted~~ presented to the District as part of applications for

~~operating permits with the District no later than one (1) calendar year following adoption of this rule. During that time period, the District may not take any enforcement action nor recommend any settlement amounts assess any Penalty Fees for the failure to meet the requirements of the Drought Cutback Chart or exceeding the adjusted Monthly Baseline Production Amount during any drought curtailment period.~~