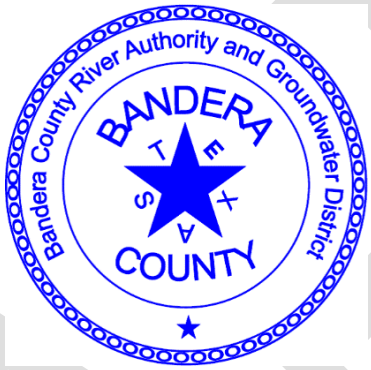


BANDERA COUNTY RIVER AUTHORITY AND GROUNDWATER DISTRICT

RULES

Chapter 36

DATE

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Rule 1 Definitions

Unless the context indicates a contrary meaning, the words hereinafter defined shall have the following meanings in these rules.

Abandoned well – A well that is not in use. A well is considered to be in use in the following cases:

(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.

Acre-feet – Unit of measurement for annual amount of groundwater water production.

Administratively complete application – An application in which all documentation required by these rules, and payment of all appropriate fees pertaining to the application have been received by the District.

Administrative decision – The decision of the District on an application for a permit, permit amendment, well registration, variance, or any other action authorized by law.

Agricultural use or purpose – The use of groundwater for:

(a) Cultivating the soil to produce crops for human food, animal feed, 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, 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; and

(f) Raising or keeping exotic or equine animals.

Applicant – The owner of the land on which the well or proposed well is located, or another person (agent) authorized by the owner and accepted by the District.

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.

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Beneficial use or purpose – The use of groundwater:

(a) for domestic, municipal, stock raising, agricultural, industrial, commercial, mining, manufacturing, irrigation, gardening, or pleasure/recreational purposes;

(b) for exploring, producing, handling, or treating oil, gas, sulfur, or other minerals; or

(c) and does not violate a permit condition.

(d) for any other purpose that is useful and beneficial to the user except when such use or purpose falls under the definition of "waste" as defined in these rules or Chapter 36 of the Texas Water Code.

Best available science – Conclusions that are logically and reasonably derived using statistical or quantitative data, techniques, analyses, and studies that are publicly available to reviewing scientists and can be employed to address a specific scientific question.

Board – The governing body of the District as prescribed by the District's enabling legislation.

Capped well – A well that is closed or capped with a covering capable of preventing surface pollutants from entering the well and sustaining weight of at least 400 pounds and constructed in such a way that the covering cannot be easily removed by hand, in accordance with the requirements of these rules and TDLR Rules.

Casing – A water-tight pipe which is installed in an excavated or drilled hole, temporarily or permanently, to maintain the hole sidewalls against caving, advance the borehole, and in conjunction with cementing and/or bentonite grouting, to confine the ground waters to their respective zones of origin, and to prevent surface contaminant infiltration.

Certificate of Convenience and Necessity (CCN) – A certificate that gives a retail public utility the exclusive right to provide retail water and sewer utility service to an identified geographic area, referred to as the "certificated service area."

Closed loop well – A vertical closed system well used to circulate water, and other fluids or gasses through the earth as a heat source or heat sink.

Commercial use or purpose – The use of groundwater to supply water for a business, including to properties or establishments that are in business to build, supply or sell products, or provide goods, services or repairs, and that use water in those processes; or to supply water to the business establishment primarily for employee and customer conveniences (e.g., flushing of toilets, sanitary purposes, or limited landscape watering).

Conservation – Practices, techniques, and technologies that will reduce the consumption of water, reduce the loss or waste of water, improve efficiency in the use of water, or increase the recycling and reuse of water so that a water supply is made available for future or alternative uses.

Deteriorated well – A well that, because of its condition, will cause or is likely to cause pollution

or degradation of any groundwater or cause a public nuisance.

Dewatering well – A well that is constructed to produce groundwater to lower the water table or potentiometric surface.

Director – An elected or appointed member of the board of directors of the District.

District – The Bandera County River Authority and Groundwater District or one of its authorized representatives.

District Management Plan – A management plan developed by the District pursuant to Texas Water Code, Section 36.1071.

Domestic use or purpose – The use of groundwater by a residence (not a business or other commercial structure) by the owner of the well and no more than three (3) total households located on or contiguous to the same property, where the users of groundwater have a documented legal right to use the groundwater on their property, to support essential domestic activity, including but not limited to:

(a) uses inside the residence;

(b) irrigation of lawns, flower beds, shrubs, and trees shading the residence, or of a garden or orchard that produces vegetables and fruit for consumption within the residence and not for sale;

(c) protection of foundations; and/or

(d) non-commercial recreation associated with the residence.

Edwards Formation – Cretaceous limestone overlying the Glen Rose Formation which may cap hills in Bandera County and in some areas continuous with the Edwards Plateau to the west of Bandera County.

Enabling legislation – Special law enactments by the legislature that created the District.

Exempt well – Any well exempt from the requirement to obtain a well permit under these rules.

Existing well – Any well that existed prior to 1991.

Floodway – The channel of a river or stream and any adjacent land area that will allow floodwaters to pass without increasing the water surface elevation by more than one foot.

Geophysical logs – (also called Wire Line Logs or Electric Logs) Continuous recording or point measurement 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 may 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.

Gallons per minute (GPM) – An instantaneous rate of pumping. Not an authorized annual amount of groundwater production.

Groundwater – Water percolating from or stored beneath the earth's surface.

Groundwater reservoir – A specific, subsurface, water-bearing formation having ascertainable boundaries and containing groundwater.

Industrial use or purpose – Use of groundwater in connection with industrial activity, including in the building, production, manufacturing, or alteration of a product or goods; or to wash, cleanse, cool, or heat such goods or products.

Injection well – A well utilized to inject or flow fluids into a subsurface formation.

Irrigation use or purpose – Use of groundwater to supply water for application to plants or land in order to promote the growth of plants, turf, or trees other than for a domestic use or purpose.

Licensed water well driller – Any person who holds a current license issued by the State of Texas pursuant to the provisions of the Texas Water Well Drillers Act and the substantive rules of the TDLR's Water Well Drillers and Pump Installers Program.

Livestock use or purpose – The use of groundwater for domesticated horses, cattle, goats, sheep, swine, poultry, ostriches, emus, rheas, exotic deer and antelope, and other similar animals involved in farming or ranching operations. Animals typically kept as pets (e.g., dogs, cats, birds, fish, reptiles, small mammals, potbellied pigs, or other small mammals) are not considered livestock.

Managed aquifer – The portion or extent of the following major or minor aquifers as further described by the Texas Water Development Board: the Fredericksburg Group (Edwards), Upper/Middle Trinity Aquifer (Glen Rose), Middle Trinity Aquifer (Hensel), the Middle Trinity Aquifer (Cow Creek) or the Lower Trinity Aquifer.

Managerial extension – An extension of the expiration date on well permit applications and well registrations that may be granted by the District’s general manager.

Modify – To alter the physical or mechanical characteristics of a well, its equipment, or production capacity. Modification can also mean an alteration in the designated purpose, use, or location of intended use. Modification does not include repair of well equipment, well houses or enclosures, or replacement with comparable equipment.

Monitoring well – A well that is constructed to measure or monitor the water level, quality and/or quantity, or movement of water beneath the surface of the ground.

Municipal use – The use of water within or outside of a community or municipality and its

environs, whether supplied by persons, municipalities, utilities, political subdivisions, or other water purveyors, including the use of treated effluent. The term includes: the use of water for domestic, recreational, industrial, or commercial uses, fire-fighting, sewer and drain flushing, swimming pools, maintenance of public property or for the watering of golf courses, parks and parkways, other public or recreational spaces.

Notice of violation – Written correspondence from the District notifying any person that he or she is in violation of laws or in violation of these rules or an order or policy of the District.

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

Permit – Subject to conditions, as stated in the permit or authorization by the District for the person to drill, complete and/or operate a water well or conduct another activity.

Permit amendment – A District-approved change in a permit.

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

Pollution – The alteration of the physical, thermal, chemical, or biological quality of, or the contamination of any water in the District that renders the water harmful, detrimental or injurious to humans, animal life, vegetation, or property, or to public health, safety, or welfare, or impairs the usefulness of the water for any lawful or reasonable purpose.

Production capability – The volume of water a well can produce as determined by either the rated pumping capability of the installed pump or as measured by the District.

Public water supply or public water system – A system that provides water for human consumption through pipes or other constructed conveyances, which include all uses described under the TCEQ's definition for drinking water. Such a system must have at least 15 connections or serve at least 25 individuals at least 60 days out of the year. This term includes community water systems, non-transient non-community water systems, and transient non-community water systems, which maintain and operate collection, treatment, storage, and distribution facilities for providing potable water.

Qualified land – Land in the District overlying productive portions of a managed aquifer, or severed groundwater rights associated with land overlying a managed aquifer, into which it is economically viable for a well to be drilled and produce groundwater at a reasonable flow and volume.

Registered well – A well that meets the requirements for registration, and is assigned a registered well number, and registered by the District.

Replacement well – A new well which replaces an existing well located on the same tract of land.

Residential connection – Water connection servicing a household.

Retail public utility – Any person, corporation, public utility, water supply or sewer service corporation, municipality, political subdivision or agency operating, maintaining, or controlling in facilities for providing potable water service or sewer service, or both, for compensation.

Rules – The rules of the District compiled in this document and as may be supplemented or amended from time to time by a process articulated in this document.

Seal – An official seal, tag, or label placed on a well or its equipment; or the act of placing such a tag or label, to indicate that further pumping of groundwater, or operation of the well, or continuing with other District-regulated activities not permitted by the District, shall be in violation of these rules, and may subject the violator to civil suit and/or penalties.

Special provisions – Conditions and/or requirements added to a permit.

Subdivision – A division of land platted and approved by Bandera County.

Substantial modification of a well – To change the physical or mechanical characteristics of a well or its equipment, or increase the production capability of a well to more than its authorized production, or the purpose or location of use of the water produced in a way that may impact whether a permit or permit amendment is required. This does not include maintenance or repair of well equipment, well houses or enclosures, or replacement with comparable equipment, or equipping capped wells that are permitted by the District if the production capability is not more than its authorized production.

TCEQ – Texas Commission on Environmental Quality or predecessor or successor agencies.

TDLR – Texas Department of Licensing & Regulation or predecessor or successor agencies.

Test well – An artificial excavation or well created from drilling, boring, or coring for the exploration for groundwater and/or testing aquifer conditions for pump tests.

Undesirable water – Water that has a TDS (Total Dissolved Solids) reading of 1200 or more or contains other concentrated constituents that are harmful to human health.

Unreasonably affect – To negatively affect, which may include causing an aquifer to become unconfined or resulting in the inability of others to economically utilize groundwater or surface water resources.

Variance – An authorized exception to requirements or provisions of these rules granted by the District.

Waste – Any one or more of the following:

(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 a 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 flow into any river, creek, natural watercourse, depression, lake, reservoir, drain, sewer, street, highway, road, or road ditch, or onto any land other than that of the owner of the well unless such discharge is authorized by permit, rule, or order issued by the TCEQ under Texas Water Code, Chapter 26;

(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) Water from an artesian well not used for a purpose and in a manner in which it may be lawfully used on the owner's land or water which is caused or knowingly permitted to run off the owner's land or to percolate through the stratum above which the water is found;

(h) Water from a well without a required permit or water from a well in excess of the rate approved for the well;

(i) Groundwater pumped into ponds, lakes, tanks, reservoirs, water courses, or other surface impoundments for holding water, except as provided in these rules or unless such discharge is authorized by permit, rule, or order issued by the TCEQ under Texas Water Code, Chapter 26; or

(j) Groundwater pumped for industrial use in excess of the quantity, if any, recognized by the industry according to its Standard Industrial Code classification to be the maximum amount of water necessary to efficiently meet the demands for the particular use or application in question.

Water table – The upper boundary of the saturated zone in an unconfined aquifer.

Well – A water well, test well, injection well, dewatering well, monitoring well, closed loop geothermal well, piezometer well, observation well, or recovery well. An excavation drilled or dug into the ground that may intercept or penetrate a water-bearing stratum or formation.

Well log or report – The State of Texas Well Report that every well driller who drills, deepens, or modifies a well is required to complete under the TDLR Rules, including any special purpose geophysical well log that may be available for any given well, such as a gamma ray log, a temperature log, an electric log, or a caliper log.

Well use or purpose of use – The use of the well or the purpose for which water from the well will be used.

Withdraw or withdrawal – The act of extracting groundwater by pumping or any other method, other than the discharge of natural springs.

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Rule 2 General Provisions

2.1 Purpose of Rules

These rules are promulgated to provide for the conservation, preservation and protection of aquifers under the authority given by Chapter 36 of the Texas Water Code and other applicable law.

2.2 Regulatory Compliance

All persons within the District, including well owners and operators, shall comply with all applicable rules, orders, regulations, requirements, resolutions, policies, directives, standards, guidelines, or any other regulatory measures implemented by the District. The board may issue policies to supplement these rules.

2.3 Variances

The general manager shall consider any requests for variances to these rules on a case-by-case basis. The applicant may request a hearing to appeal the general manager's decision or to submit the request to the board for a hearing within 14 days of a denial of a request but such request is not subject to a contested case hearing.

Rule 3 Groundwater Production

3.1 General Provisions

3.1.1 Beneficial Use; Prohibition on Waste

Produced groundwater may only be used for a beneficial purpose of use. No person may produce or use groundwater in a manner that constitutes waste, including producing groundwater in excess of the amount reasonably needed for beneficial use. Any person producing or using groundwater shall employ all reasonable methods to identify, prevent and stop the waste of water.

3.1.2 Operation of Well at Higher Than Authorized Rate Prohibited

No person may operate a well within the District's boundaries at a rate of production higher than the rate authorized by a permit, these rules, or other applicable law.

3.1.3 Conveyed Water; Pipelines

All persons shall use reasonable diligence to convey water from the wellhead where produced to the place of use in order to prevent evaporation, channel loss by percolation, or waste.

3.1.4 Permits Subject to Revocation

All permits granted by the District are based upon and contingent upon the accuracy of the information supplied by the applicant. A finding that false information has been supplied is grounds for immediate revocation of the permit by the District.

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3.1.5 General Provisions Applicable to Permits

a. A well permit is required to drill, complete, plug, or otherwise alter a well and to withdraw or produce groundwater from a non-exempt well.

b. A well permit confers only the right to use the permit under the provisions of these rules. The permit's terms may be modified or amended pursuant to the provisions of these rules.

c. Withdrawal or production of groundwater from a non-exempt well must be measured by the owner or operator and reported to the District according to the requirements of Rule 8 of these rules.

d. All well sites must be accessible to District representatives for inspection, and any owner or operator agrees to cooperate fully in any reasonable inspection of the well and well site by the District representatives.

e. The application for a well permit or a well permit amendment shall be in writing and sworn to by the applicant.

f. Within 30 days after the date of a change in ownership of a well permit, the permittee must notify the District in writing of the name and address of the new owner. Any person who becomes the owner of a well permit must, within 30 calendar days from the date of the change in ownership, file a notice of transfer of ownership or an application to amend the well permit, as applicable.

g. Violation of a well permit's terms, conditions, requirements, or special provisions, including pumping, withdrawing, or producing groundwater in excess of the quantity authorized by a well permit issued by the District, is a violation of these rules and is punishable by penalties as provided by these rules and any applicable law.

h. For any applications submitted to the District for which the applicant has requested that such applications be processed concurrently, the District may process and the District and board may consider such applications concurrently according to the standards and rules applicable to each.

i. Any increase in the volume of groundwater produced or in the rate of withdrawal from a well, or change in the purpose of use or place of use of groundwater of a well permit issued by the District, may not be made unless the District has first approved a permit amendment authorizing the change.

3.2 Groundwater Production Limitations

3.2.1 Groundwater Available for Production from the Upper/Middle Trinity Aquifer (Glen Rose), Middle Trinity Aquifer (Hensel), Middle Trinity Aquifer (Cow Creek), and the Lower Trinity Aquifer

a. The aggregate, annual volume of groundwater that may be produced from the Lower and Middle Trinity Aquifers from:

(1) exempt wells, as estimated in the District's approved groundwater management plan, if available, or as estimated by the District, if not available; and

(2) non-exempt wells operating pursuant to well permits,

shall be no greater than the amount necessary to achieve the DFC for each of the aquifers.

b. The estimated volume of groundwater from each aquifer allotted for production from exempt wells shall equal the amount stated in the District's approved groundwater management plan.

c. The volume of groundwater that may be produced from each aquifer by non-exempt wells shall not exceed the volume necessary to achieve the DFC for each aquifer less the estimated volume of groundwater from each aquifer allotted for production from exempt wells.

d. Notwithstanding any other provision in these rules, the District shall, to the extent possible, manage the total volume of groundwater authorized to be withdrawn pursuant to permits and exempt withdrawals in order to achieve the DFC for that aquifer.

3.3 Well Permits

3.3.1 Well Permits

a. The District may issue well permits to authorize groundwater withdrawals from non-exempt wells in accordance with § 3.2.1.

b. Groundwater may not be produced from a non-exempt well from an aquifer subject to production limits under § 3.2.1 without a valid well permit.

c. No permits will be issued for wells completed in the Edwards Formation.

3.3.2 Prohibition on Acidization of Wells Prior to Water Availability Study

No person shall acidize a well prior to the performance of a water availability study required for a well permit application.

3.3.3 Filing Deadline for Applications for Well Permits

An application for a well permit must be filed and a well permit obtained prior to the drilling, completion, plugging, otherwise altering a well or operating a well.

3.3.4 Applications for Well Permits

a. All well permit applicants must use the application form prescribed by the District and include all relevant information required by these rules.

b. In addition to the information specified in § 7.3.2 (Contents of and Requirements for All Applications, Registrations, and Notices of Transfer of Ownership), an application for a well permit shall contain the following:

(1) Name and address of owner. The full name, physical and mailing addresses, email, telephone number, and email address of the owner of the tract of land on which the well is or will be located and of the place of use.

(2) Name and address of operator. The full name, physical and mailing addresses, email, telephone number, and email address of the operator of the well and of the place of use, if other than the owner. Documentation establishing the authority to operate a well and/or use water on the place of use subject to this application should also be provided.

(3) Ownership of land. The deed and legal description for the tract of land on which the well is or will be located.

(4) Source of supply. A statement identifying the aquifer that is the sole source of groundwater from the well.

(5) Rate of withdrawal. The maximum rate of withdrawal, in gallons per minute, which the well is capable of producing from the aquifer, determined using a method approved by the District.

(6) Method of withdrawal. A description of the method used to withdraw groundwater.

(7) Purpose of use. A statement of the nature and purpose of the proposed use of the groundwater and the amount to be used for each purpose, including information to show a real and current need for the quantity of water requested and to support a finding that the amount of water requested is economically reasonable, when reasonable intelligence and reasonable diligence are used to apply the groundwater to that purpose.

(8) Term. Indicate the permit term sought.

(9) Well address and location. The physical address of the property upon which the well is located and a legal description of the location of the well, including: the county, section, block and survey, and the number of feet to the two nearest public streets or highways; or other adequate legal description approved by the District.

(10) Maps. If requested by the District, a city or county map with the location of the property on which the well is located highlighted, the place of use and adjacent owners' physical addresses and mailing addresses and a location map of all existing wells within a half (1/2) mile radius of the well.

(11) Place of use. The place of use of groundwater to be withdrawn from the well, including a copy of all deeds for the place of use.

(12) Compliance with management plan. A declaration that the applicant will comply with the District's approved groundwater management plan, and with the state and regional water plans.

(13) Water availability study and hydrological testing. Information, including a hydrogeological study with test wells conducted in accordance with all technical guidelines issued by the District, showing water availability and the projected effect of the proposed pumping on aquifer conditions and depletion, which should include modeling 1, 10, 30 and 50-year impacts, using at least the Theis equation, as requested by the District, and supporting a finding that the proposed production of water will not unreasonably affect existing groundwater or surface water resources, existing holders of permits issued by the District or exempt wells that are registered with the District, or result in pumping within the District exceeding the MAG or impairing achievement of the DFC for the aquifer from which production would be made, .

(14) Compliance with rules. A declaration that the applicant is in compliance with all applicable District Rules and will comply with the District Rules.

(15) Waste and conservation. A statement that the applicant agrees to avoid waste and achieve water conservation and a copy of the most recent water conservation plan and water loss audit submitted to the TCEQ or the TWDB.

(16) Drought contingency plans. A copy of the most recent drought contingency plan submitted to the TCEQ and/or TWDB.

(17) Groundwater quality. A statement that the applicant agrees to use reasonable

diligence to protect groundwater quality.

(18) Information regarding availability, access to, and cost to obtain water from sources other than the aquifer identified by the applicant.

(19) Other information. Any other information determined to be necessary by the District.

(20) The applicant may rely on any information previously submitted to the District as part of an earlier application for a well permit that meets any of the requirements of this rule.

c. All applicants for a well permit for municipal use, including for public water supply, shall also include:

(1) a report prepared by an engineer licensed in the State of Texas that provides the details and methods used to determine:

(A) the applicant's monthly and annual water use on a per meter and per capita basis for the previous 10 years;

(B) the estimated current and future water needs of the applicant;

(C) the applicant's billing amounts, rate structure, and billing efficiency;

(D) the estimate of water lost through leaks, unmetered connections, and any other loss;

(E) the water conservation methods implemented during the previous 5 years and the methods planned for implementation in the next 5 years;

(F) the economic analysis of using surface water or conservation methods to avoid the need for increased groundwater use; and

(G) the economic analysis of using groundwater from other groundwater sources to avoid the need for increased groundwater use from the aquifer; and

(H) information documenting the place of use of groundwater withdrawn from each well, including, as applicable, a copy of the deed and legal description for the place of use or a copy of the map identifying the boundaries of the applicant's CCN issued by PUC or if no CCN, a map showing the boundaries for service for public water supply, and notice of any application to the PUC to obtain or modify a CCN to provide water or wastewater service with water obtained pursuant to the requested permit.

d. All applicants for a well permit for agricultural, irrigation, recreational, or wildlife use shall also include a report prepared by an engineer licensed in the State of Texas or the United States Department of Agriculture Natural Resources Conservation Service that includes:

(1) the estimated current and future water needs of the applicant, including information as to the total number of acres that the applicant owns or leases where the well is to be located, the location and size of the property to be irrigated and a map showing the location of the property to be irrigated by the well;

(2) the amount of water used per unit of production (acre-feet per acre of crop, gallons per animal, acre-feet per acre of pond water surface, etc.);

(3) the amount of water lost through evaporation, seepage, or runoff;

(4) the amount of on-site surface water or rainfall usable for meeting proposed demands;

(5) the amount of groundwater needed during a year with average rainfall and during a year with extreme drought (drought of record);

(6) an estimate of water lost through leaks, unmetered uses, and any other loss;

(7) the water conservation methods implemented during the previous 5 years and those methods planned for implementation in the next 5 years;

(8) an economic analysis of using surface water or conservation methods to avoid the need for increased groundwater; and

(9) an economic analysis of using groundwater from other groundwater sources to avoid the need for increased groundwater use from the aquifer.

e. All applicants for a well permit for industrial or commercial use or another beneficial purpose of use shall also include:

(1) the applicant's monthly and annual water use for the previous 10 years;

(2) the estimated current and future water needs of the applicant;

(3) the amount of water used per unit of production and referenced to the typical amount of water used in the industry per unit of production (gallons per pound, gallons per item, gallons per unit processed, etc.);

(4) an estimate of water lost through leaks, unmetered uses, and any other loss;

(5) the water conservation methods implemented during the previous 5 years and those methods planned for implementation in the next 5 years;

(6) an economic analysis of using surface water or conservation methods to avoid the need for increased groundwater; and

(7) an economic analysis of using groundwater from other groundwater sources to avoid the need for increased groundwater use from the proposed aquifer.

3.3.5 Maximum Allowable Production under Well Permits

a. Subject to the limitations of Subsection c, the annual production limits for well permits shall not exceed the amount of water that is necessary and reasonable for each proposed use, and shall to the extent groundwater is determined by the District to be available, be as follows: the product of the applicable water allocation per acre factor, which is to be calculated as set forth in Subsection b, multiplied by the number of contiguous acres of qualified land that are owned by the applicant or within an applicant's Certificate of Convenience and Necessity, and shall not exceed the amount of groundwater determined to be reasonably necessary for the applicant's proposed beneficial use without waste.

b. The District shall calculate, and set forth in a board order, as necessary, an applicable water allocation per acre factor for each aquifer based on the total amount of groundwater available for withdrawals from non-exempt wells pursuant to § 3.2.1, as follows:

WAFa = (MAGa – EPa – FPa) / QLa

WAFa = Water Allocation Factor, for the aquifer in units of annual acre-feet of groundwater production per acre of qualified land

MAGa = Modeled Available Groundwater for the aquifer in units of annual acre-feet of groundwater production

EPa = Existing Production, average annual acre-feet per year of groundwater production over a five-year time period for permitted non-exempt and exempt well uses for the aquifer

FPa = Future Production, annual acre-feet per year of groundwater production to be available for future permitted non-exempt and exempt well uses for the aquifer

QLa = Contiguous acres of qualified land for the aquifer

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c. The annual production amount for a well permit, taking into account any existing wells on the tract being utilized for the new well into account when setting the production limit, may not exceed the following:

(1) 0.25 acre-foot per acre per year for wells producing from the Lower Trinity, up to 0.50 acre-foot per year for wells producing from the Middle Trinity, and up to 0.50 acre-foot per year for wells producing from any other formation times the total number of acres in the tract of land owned by the permit applicant and identified in the permit application as associated with the well;

(2) 0.5 acre-feet times the total number of acres in the tract of land owned by the permit applicant and identified in the permit application as associated with the well(s) from all groundwater sources; or

(3) for a public water system, production limits shall be based on the size of the service area and number of connections served instead of ownership of acreage and may not exceed the amount needed to reasonably and efficiently serve the number of connections.

d. A lower production limit may be set in areas where water availability studies indicate insufficient water is available for permitting or the best available science indicates that the requested amount is not available without causing harm to existing groundwater or surface water resources, existing holders of permits issued by the District or exempt wells that are registered with the District, or result in impairing achievement of the DFC for the aquifer from which production would be made.

e. A variance to the production limits outlined by this rule may be considered by the board. The applicant shall produce documentation showing the beneficial use and documented need for the higher amount of groundwater production. The board may require water availability studies with test wells, a geological survey outlining the impact to neighboring properties and aquifer conditions, or any other relevant information.

f. Nothing in these rules entitles any landowner or applicant to the right to capture a specific amount of groundwater.

g. The maximum quantity of groundwater that may be withdrawn pursuant to a well permit is subject to change if necessary to ensure that the total volume of groundwater withdrawals permitted is managed on a long-term basis to achieve the desired future condition of the aquifer.

3.3.6 Basis for Action on Well Permit Applications

(a) The board shall grant an application for a well permit if the board finds that:

(1) the application is complete and provides all of the information required in § 3.3.4;

(2) the application complies with the rules of the District;

(3) all applicable fees and deposits have been paid;

(4) the applicant owns the proposed or existing well or has a legal right to produce groundwater from the proposed or existing well;

(5) the applicant owns the water rights for which a permit is sought;

(6) the applicant has a legal right to produce groundwater from the proposed or

existing well and to use groundwater on the place of use for the term sought;

(7) the well is or will be physically located within the boundaries of the District;

(8) the withdrawals are proposed to be placed to a beneficial use, without waste, and the amount of water proposed to be used for each purpose of use is necessary for a real and current use and is economically reasonable, when reasonable intelligence and reasonable diligence are used, for the intended purpose and place of use stated in the application;

(9) the activities of the applicant constituting the purpose of use for which the groundwater will be beneficially used will be managed to preserve, protect, prevent the pollution, degradation, or harmful alteration of, control and prevent the waste of, prevent the escape of groundwater from, and achieve the conservation of groundwater in and produced from, the aquifer;

(10) the place of use is located within the District's boundaries, unless the applicant also has obtained a groundwater export permit from the District;

(11) there is sufficient water available from the aquifer within the District under § 3.2.1 in order to issue the permit;

(12) the proposed production of water will not unreasonably affect existing groundwater or surface water resources, existing holders of permits issued by the District or exempt wells that are registered with the District, or result in impairing achievement of the DFC for the aquifer from which production would be made, considering the modeled available groundwater the modeled available groundwater determined by the TWDB, the TWDB's estimate of the current and projected amount of groundwater produced under exemptions granted by these rules, the amount of groundwater authorized under permits previously issued by the District, a reasonable estimate of the amount of groundwater that is actually produced under permits issued by the District, and yearly precipitation and production patterns;

(13) operation of the well will not cause unreasonable interference between wells;

(14) the applicant has existing permits or rights to use water that are underutilized and fails to document a substantial need for the requested permit;

(15) the applicant and any predecessor in interest to applicant is in compliance with any permits the applicant holds from the District and with District Rules;

(16) the application is consistent with the District's approved groundwater management plan and its goals of providing the most efficient use of groundwater, controlling and preventing the waste of groundwater and achieving the desired future conditions established for the aquifer from which water is proposed to be produced, and with the state and regional water plans;

(17) the permit may require monitoring of groundwater conditions at the location of the well and at the site of neighboring properties to ensure that sufficient groundwater is available to support pumping under the permit and to minimize the impacts of pumping on groundwater resources and other well owners;

(18) the permit may include special conditions requiring groundwater production rates and production from the well to be reduced or ceased if the District determines that such reduction is necessary based on the best available science to avoid unreasonable impacts to existing permittees, or result in impairing achievement of the DFC for the aquifer from which production would be made; and

(19) the permit may include special conditions that allow the District to permit

additional pumping authorization(s) phased in over a period of time based on applicant providing verification to the District of the need for additional amounts of groundwater for the requested purposes of use.

b. Aggregation of Withdrawals. The authorized withdrawal amount for a given well permit may be aggregated with the authorized withdrawal amounts for other well permits held by the same permittee and within the same aquifer or aquifer subdivision. Where aggregated, the total authorized withdrawal amount will be assigned to the wells in aggregate, rather than allocating to each well its pro-rata share of production.

3.3.7 Contents of Well Permits

a. A well permit issued by the District shall include the following terms and conditions:

1. the name of the person or entity to whom the permit is issued;
2. the date the permit is issued;
3. legal description of the location of the well, including, county, section, block and survey, and the latitude and longitude for the well based on readings from a global positioning satellite (GPS) accurate to within 50 feet;
4. identification of the legal authority to produce groundwater from the well (production permit) which the applicant either owns or is seeking to obtain;
5. the groundwater source;
6. the purpose of use for which the water produced from the well will be used;
7. the specific location of the place of use of the water produced from the well;
8. if the place of use is not within the District's boundaries, the permittee must obtain a groundwater export permit from the District prior to the withdrawal of groundwater under the permit;
9. the maximum rate of production in gpm, and any conditions relative thereto;
10. the requirements for the conveyance of water produced from the well to the place of use;
11. the maximum amount of production in acre-feet per annum for each purpose of use, and any conditions relative thereto;
12. borehole diameter; external and internal diameter of casing; total depth of casing; depth of grout; total well depth; screen, perforation, and filter pack intervals; and other well installation specifications, as appropriate;
13. any conservation-oriented methods of drilling, completing, plugging, or otherwise altering a well prescribed by the District;
14. installation and completion schedule;
15. a requirement that the permittee must file all applicable reports with the District prior to the production of water from the well, except for such production necessary to drill and test the well;
16. a term of up to five years;
17. a water well closure plan if for plugging activities or a declaration that the applicant will comply with well plugging requirements and report closure to the District and the TDLR;
18. metering and reporting requirements;
19. a statement that the permit is subject to the Standard Permit Conditions set

forth in § 3.3.8 of these rules; and

20. a statement that the permit is subject to limitations or modifications as may be provided in the District Rules or other applicable law; and

21. other terms and conditions as may be required by the board.

b. Within 30 days of issuance, a well permit shall be recorded with the Clerk of every county in which the well or wells and/or place of use are located, and a copy of each permit recorded shall be provided to the District and the permittee, which costs shall be paid or reimbursed by the permittee.

3.3.8 Standard Permit Conditions for Well Permits

All well permits issued by the District shall be subject to the following additional conditions:

a. the duty to beneficially use and avoid waste of groundwater;

b. the duty to conserve water in accordance with applicable law, and comply with the District's water conservation plan and the permittee's plan approved by the District, as applicable;

c. the duty to file all applicable reports with the District, and other appropriate federal, state, or local governments;

d. the duty to reduce water production or consumption during times of drought in accordance with applicable law, and to comply with the District's drought management plan and the permittee's plan approved by the District, as applicable;

e. the duty to comply with the District's approved groundwater management plan;

f. the duty to use diligence to protect groundwater quality within the District;

g. the duty to comply with the District Rules;

h. any permit review, renewal, or extension conditions;

i. the duty to locate all wells, and confirm the actual location with the proposed location in the application or as provided for in the permit, consistent with the District's well spacing rules, prior to the production from any wells identified in the permit or application;

j. the continuing right of the District to supervise and manage groundwater withdrawals and protect groundwater;

k. the duty to install, equip, operate, maintain, and close (cap or plug) all wells in accordance with the District Rules, and other applicable federal, state, and local law;

l. the duty to comply with the District Rules relating to transfers and amendments of permits;

m. the duty to pay and be current in the payment of all applicable fees;

n. the duty not to export groundwater from a well within the District's boundaries to a place of use outside the District's boundaries without a required groundwater export permit issued by the District;

o. the duty to give notice to the District of any changes in name, address, email, or telephone number of the permittee, or the authorized representative, as applicable, in accordance with these rules;

p. the duty to comply with all of the terms and conditions of the permit;

q. the duty to ensure that the well site is accessible to District representatives for inspection, and to cooperate fully in any reasonable inspection of the well and well site by District representatives;

r. the right of the District to enter land under § 36.123, Texas Water Code;
s. the duty to comply with the metering and reporting requirements set forth in Chapter 8 of these rules;
t. the duty to comply with any proportional adjustments mandated by these rules; and
u. any other conditions as the District may deem appropriate.

3.3.9 Groundwater Withdrawals in Violation of Well Permit Prohibited

No holder of a well permit may withdraw or use groundwater in a manner inconsistent with the terms of the permit, and any such production is illegal, wasteful per se, and a nuisance.

3.3.10 Transfer of Ownership or Lease of Well Permit; Notice

Within 30 days after transfer of the ownership of all or part of a well permit, or all or part of a lease of the right to withdraw groundwater thereunder, the transferee shall file with the District a notice of the transfer of ownership on a form prescribed by the District, accompanied by evidence of the change of ownership. For transfers of ownership, if the notice is complete, and the transfer is otherwise in compliance with this subchapter, the general manager shall reflect the new ownership and issue an amended well permit to the transferor, transferee, or both, as may be appropriate. For leases, the general manager will update the District's permit records to reflect the lease.

3.3.11 Well Permit Transfers and Amendments and Renewals; Applications

a. A well permit may be amended as follows:
    1. purpose of use;
    2. place of use;
    3. the volume of groundwater authorized to be withdrawn in acre-feet per annum; or
    4. rate of production in gpm;
    5. point of withdrawal; or
    6. ownership in accordance with § 3.3.10.

b. Any person seeking to amend a permit as provided in Subsection (a)(1)-(5), must first file with the District an application to amend on a form prescribed by the District meeting the requirements of §§ 3.3.4, 3.3.6, and this section.

c. No permit amendment as provided in Subsection (a)(1)-(5) is effective until the amendment has been approved by the board.

d. A well permit may be renewed if the following conditions are met:
    1. an application to renew is filed with the District prior to the permit's expiration date;
    2. the applicant has timely paid all required fees to the District;
    3. the applicant is not subject to a pending and unresolved enforcement action for a violation of a District permit, order, or rule;
    4. the applicant has not failed to pay any civil penalty or to comply with an order resulting from a final adjudication of a permit, order, or rule of the District;
    5. the applicant is not requesting any change to the permit conditions that would

require an application to amend to be filed under Subsection (b); and

6. renewal of the well permit will not cause production in the District to exceed the maximum allowable production under well permits set forth in § 3.3.5.

e. If the conditions to obtain a renewal in Subsection (d) are not met, a new application for a well permit must be filed prior to the expiration of the permit, however, a timely filed application to renew under Subsection (d)(1), or to amend a permit, will automatically extend the term of a well permit until the later of the expiration of the permit or final action on the application.

3.3.12 Basis for Action on Applications to Amend Well Permits

The board shall grant an application to amend a well permit if it finds that:

1. the requirements in §§ 3.3.4, 3.3.6, and 3.3.11 are satisfied; and
2. during the term of the permit, the applicant, transferor, or transferee, as may be appropriate, has a positive compliance history with the permit's terms and conditions and these rules.

3.3.13 Proportional Adjustment of Well Permits Based on Desired Future Conditions

If the aggregate volume of groundwater permitted for production annually pursuant to well permits exceeds the amount authorized to be produced under § 3.2.2, then after 30 days' notice to permittees and a hearing, the District, by board order, shall proportionally reduce the authorized production amount of each and every well permit in order to equal the authorized production amount under § 3.3.2, and such order shall constitute a modification of each well permit.

3.3.14 Reduction in Amount or Cancellation of Well Permit for Non-Use

a. If all or part of the water authorized to be produced under a well permit has not been put to beneficial use at any time since the time the permit is issued and three years thereafter, then the permit is subject to cancellation by the District in whole or a reduction in the annual volume of production authorized by the permit.

b. Prior to any cancellation or reduction, the District shall provide the opportunity for a hearing and give notice to the permittee at least 30 days before the date of the hearing.

c. The District shall also have the notice of the hearing published at least 30 days before the date of the hearing in a newspaper published in each county in which production of water from the source of supply was authorized or proposed to be made and in each county in which the water was authorized or proposed to be used, as shown by the records of the District. If in any such county no newspaper is published, then the notice may be published in a newspaper having general circulation in the county.

d. The District shall hold a hearing and shall give the permittee and other interested persons an opportunity to be heard and to present evidence on any matter pertinent to the questions at issue.

e. At the conclusion of the hearing, the District may cancel the permit in whole or in part to the extent that it finds that:

1. the water or any portion of the water authorized to be produced under the permit has not been put to a beneficial use during the three-year period; and

2. the permittee has not used reasonable diligence in applying the water or the unused portion of the water to an authorized beneficial use or is otherwise unjustified in the nonuse.

3.4 Wells Exempt from Well Permits

3.4.1 Wells Exempt from Well Permits; Loss of Exempt Well Status

a. The following types of water wells are exempt from the duty to obtain a well permit:

1. a well drilled and operated solely for domestic use or for providing water for livestock, poultry, or 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

2. drilling a water well solely to supply water for a rig that is actively engaged in drilling or exploration operations for an oil and 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; or

3. a well drilled and authorized under a permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code, or for production from the well to the extent the withdrawals are required for mining activities regardless of any subsequent use of the water, however an entity holding such a permit shall comply with § 3.4.3;

4. drilling a well for temporary use of up to 180 days to supply water for a rig that is actively engaged in drilling a groundwater production well permitted by the District, which exemption may be extended by the District;

5. a dewatering well that is less than 65 feet in depth that is used solely for the purpose of dewatering the ground within an active construction area for which notice is provided to the District by the driller before drilling has started;

6. a monitoring well;

7. a closed loop geothermal well, a seismic shotholes or a well drilled for cathodic protection;

8. a well drilled into any aquifer not identified in § 3.3.3 of these rules; and

9. a well that was previously registered and determined by the District to be exempt under the District's rules and that has not been subsequently altered, equipped, or used for a purpose or in a manner that is not exempt.

b. An exempt well will lose its exempt status if the well is subsequently altered, equipped, or used for a purpose or in a manner that is not exempt.

c. The District may require a well to be permitted pursuant to these rules if any of the applicable criteria in § 36.117(d), of the Texas Water Code is satisfied.

d. An exemption provided under this section does not apply to a well if the groundwater withdrawn is used to supply water for a subdivision of land for which a plat approval is required by Chapter 232, Local Government Code.

e. Groundwater withdrawn under an exemption provided in accordance with this section and subsequently transported outside the boundaries of the District is subject to any applicable production and export fees under these rules.

3.4.2 Registration of Exempt Wells; Well Logs

a. No person may operate a well within the boundaries of the District without first registering the well with the District using a registration form approved by the District, and obtaining written District approval of the registration and agreement that the well qualifies as exempt or will be authorized under a well permit.

b. The driller of an exempt well shall file a well log for the well with the District within 60 days of completion of the exempt well.

c. In addition to the information specified in § 7.3.2, a well registration shall contain the following, as applicable:

1. the name, address and phone number of the registrant and the owner of the land on which the well is or will be located;
2. if the registrant is other than the owner of the property, documentation establishing the applicable authority to construct and operate a well for the proposed use;
3. a statement of the nature and purpose of the existing or proposed use and the annual amount of water used or to be used for each purpose;
4. the location of the well and the estimated rate at which water is or will be withdrawn;
5. the physical address of the property upon which the well is located;
6. the location where the water from the well will be used;
7. information relating to the size, source of power, and estimated production rate (in gpm) of the pump used or to be used in the well;
8. the depth or proposed depth of the well and the depth of the casing;
9. the internal diameter of the well casing;
10. the approximate date that the well was or will be constructed;
11. the name, address, email, and telephone number of the well driller who constructed or will construct the well, and related information;
12. a copy of any well drilling and completion report, driller's logs, geophysical logs, or well equipping report which pertain to the well;
13. the size of the tract of land on which the well site is located, including the total number of acres owned by the registrant upon which the well is or will be located;
14. a legal description of the location of the well, including: the county, section, block and survey, and the number of feet to the two nearest public streets or highways; or other adequate legal description approved by the District;
15. if requested by the District:
    (A) a city or county map with the location of the property on which the well is located highlighted and the location of the well pinpointed; and
    (B) a map or plat of the property on which the well is located, drawn to scale, not greater than 1000 feet to an inch (1" = 1000') that shows the pinpoint location of the well;
16. the maximum amount of groundwater that the well is or will be capable of withdrawing per day stated in gallons;

17. where applicable, a copy of any permit issued by the Railroad Commission of Texas relevant to the well; and

18. any other information deemed necessary by the board in order to determine whether the well qualifies for exempt well status or a well permit.

d. Geothermal vertical loop systems may be registered by individual well or by an area registration. Details and plans for geothermal vertical loop systems must be provided to the District to include the following:

a. well construction method completion and depth;

b. well location and spacing (plat);

c. owner and operator, owner and operator address, phone number, and legal description of the property on which the system is located; and

d. documentation of TCEQ or other governmental permitting.

e. Water Well Loop System- Geothermal systems designed to use well water on the surface are prohibited in Bandera County.

f. The general manager may approve a well registration if the general manager finds that:

1. the well is eligible to be registered;
2. the registration is complete;
3. the registration complies with the District Rules;
4. all applicable fees have been paid;
5. the registration identifies a proposed or an existing well;
6. the wellhead is or will be physically located within the boundaries of the District;
7. the production from the well is proposed to be placed to a beneficial use;
8. the registrant has a legal right to make withdrawals from the well;
9. for new wells, the proposed well location complies with the spacing rules;
10. the registrant is in compliance with any permits the registrant holds from the District and with District Rules;
11. the well will be installed, equipped, operated, maintained, or closed, as appropriate, to preserve, protect, prevent the pollution, degradation, or harmful alteration of, control and prevent the waste of, prevent the escape of, and achieve the conservation of groundwater in the aquifer;
12. the registrant intends to install, equip, operate, maintain, and close the well, as appropriate, in accordance with the manufacturer's standards, instructions, or recommendations, as may be applicable; and
13. the well meets the criteria for exempt well status pursuant to § 5.401 of these rules or will be authorized by a well permit.

g. If the general manager makes a preliminary determination that the well is ineligible to be registered, and the registrant disagrees with that determination, then the matter shall be referred to the board for its consideration. If the board determines that the well is ineligible to be registered, then the owner and/or operator of the well shall file an application for, as applicable, a well permit, to transfer a well permit, or cease all withdrawals from the well and close the well as appropriate, under these rules.

h. No well driller shall register a well as an exempt well if the driller has information from the well owner or any other source that the well is intended to be used or is being used as a

non-exempt well.

3.4.3 Maintenance of Exempt Wells; Certain Reporting Requirements

a. All exempt wells shall be equipped and maintained so as to conform to the District Rules requiring installation of casing, pipe, and fittings to prevent the escape of groundwater from a groundwater reservoir to any reservoir not containing groundwater and to prevent the pollution or harmful alteration of the character of the water in any groundwater reservoir.

b. All exempt wells shall comply with the spacing requirements set forth in these rules.

c. The owner and/or operator of an exempt well must ensure that the well site is accessible to District representatives for inspection, and must cooperate fully in any reasonable inspection of the well and well site by District representatives.

d. All penetrations shall be plugged or completed to comply with the District's construction standards as described in these rules. Copies of the TDLR plugging report shall be submitted to the District within 30 days of well plugging.

e. In addition to the information provided in the registration application, accurate driller's logs and records of equipping and completion of wells shall be kept, including any electric logs made, pump test data, water level data, water quality data or any data pertinent to the well. Such data shall be filed in the District office in Bandera, Texas, within 60 days of completion of the well. Failure to do so may invoke action to cap the well.

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

3.5.1 Wells Exempt from Well Permits

3.5.2 Loss of Exemption; Notice of Changed Circumstances

The owner and/or operator of a well that is exempt under this subchapter loses the exemption if the nature of the well changes such that the well no longer qualifies for the exemption. Within 30 days of the occurrence of any facts that may cause a well to lose its exemption, the owner and/or operator of the well shall give written notice to the District of the changed circumstances. If the board determines that the changed circumstances have caused the well to lose its exemption, then the board will issue an order declaring the loss of exemption and advising the well owner and/or operator that the well is subject to District regulation, including the duty to obtain a permit, or other regulation, as may be applicable.

3.5.3 Well Conversions

a. If the owner and/or operator of a well for which a well permit has been issued desires to convert the well to one exempt from the duty to obtain a well permit, the owner and/or operator must claim the exemption by abandoning the well permit and registering the well as exempt as provided in § 3.4.2.

b. If the owner and/or operator of a well exempt from the duty to obtain a well permit

desires to convert the well to one for which a well permit is required, then the owner and/or operator must apply for and obtain a well permit.

Rule 4 Fees

4.1 Registration Fees for Exempt Wells

a. For exempt wells completed so as, in the opinion of the District, to be capable of producing water from any of the aquifers, the District shall assess a non-refundable fee per well to file a well registration with the District per the approved fee schedule in effect at the time of registration.

b. The applicable registration fee must accompany the registration form and be paid at the time of filing. If the registrant fails to pay the fee at the time of filing, the District may refuse to accept the registration for filing and/or commence any other action to enforce its rules as authorized by law.

4.2 Application Fees

a. The District shall, in an amount set by the board, assess a non-refundable application fee. The application fee shall be assessed for the purpose of compensating the District for the administrative functions associated with the following applications:

(1) a new, renewal, or amended well permit application; and

(2) a new, renewal, or amended groundwater export permit application.

b. All required fees must accompany the application form and be paid at the time of filing. If the applicant fails to pay the fee at the time of filing, the District may refuse to accept the application for filing, or otherwise cease processing the application.

c. If an application fee is determined by the District to be insufficient to cover the anticipated costs of processing the application, the District shall require the applicant to post additional funds in an amount determined to be sufficient to cover anticipated costs. The costs for which the District may require the posting of additional funds include, but are not limited to, the cost for public notices, legal fees, expert fees, hearing facility rental fees, and other expenses. If the applicant fails to pay the additional amounts, then the District may suspend processing the application, and may return the application. As application processing costs are incurred by the District, at the District's discretion, the District may incur costs itself and seek reimbursement from the additional deposited funds, or may expend deposited funds directly to pay for additional application processing costs. The applicant shall be provided periodic accountings of billings against the deposit. If the additional deposit is determined by the District to be insufficient to cover the application processing costs, then the applicant may be required to pay additional fee deposits. Any unexpended and unobligated fee deposits will be promptly returned to the applicant after the board issues a final order disposing of the application.

d. Except for withdrawals of groundwater made from an exempt well, all persons making withdrawals of groundwater from a well within the boundaries of the District are required to pay to the District the groundwater production fees as assessed pursuant to this section. Each well owner and/or operator shall complete a groundwater use report as required by § 8.004, and return the completed report, along with payment of the applicable groundwater production fees, to the District by no later than January 15th for the previous year's

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withdrawals. The amount due becomes delinquent if payment in full is not received by the District by January 30th following the year for which the fees are due.

Rule 5 Export of Groundwater Out of the District

5.1 Groundwater Export Permit Required

a. Exporting groundwater from the District without a required groundwater export permit is illegal, wasteful per se, and a nuisance.

b. Any person seeking to export groundwater to a place of use outside of the District's boundaries is required to first file with the District an application to export groundwater on a form prescribed by the District and obtain a groundwater export permit from the District.

c. An application filed to comply with this section shall be considered and processed under the same procedures as other applications for other permits and may be combined with applications filed to obtain a permit for in-District water use from the same applicant, if any.

d. The District may not deny a permit under this subchapter based on the fact that the applicant seeks to export groundwater outside of the boundaries of the District, but may restrict a groundwater export permit to the annual production of groundwater and the purpose of use allowed under the associated well permit.

5.2 Applications for Groundwater Export Permits

In addition to the information specified in § 7.3.2, an application for a groundwater export permit shall contain information reasonably related to the information to be contained in a groundwater export permit under §§ 5.5 and 5.6, and the elements to be considered by the board in determining whether to grant or deny the application under § 5.3 and under this section. The application shall be submitted on a District form and shall include the following:

(a) Legal Basis of Right to Withdraw Groundwater. The applicant shall identify the legal basis under which groundwater will be withdrawn from the well, specifying all existing operating permits and applications for operating permits that will provide the basis for the application, with supporting documentation of ownership of those specified rights.

(b) Place of use. Information documenting the place of use of the groundwater, including, as applicable, a copy of the deed and legal description for the place of use or a copy of the map identifying the boundaries of the applicant's CCN issued by PUC or if no CCN, a map showing the boundaries for service for public water supply, and notice of any application to the PUC to obtain or modify a CCN to provide water or wastewater service with water obtained pursuant to the requested permit.

(c) Purpose of use. A statement of the nature and purpose of the proposed use of the groundwater and the amount to be used for each purpose, including information to show a real and current need for the quantity of water requested and to support a finding that the amount of water requested is economically reasonable, when reasonable intelligence and diligence are used to apply the groundwater to that purpose.

(d) Term. Indicate the permit term sought.

(e) A water conservation plan and a statement that the applicant agrees to avoid waste and achieve water conservation, and a copy of the most recent water conservation plan and water

loss audit submitted to the TCEQ or the TWDB for the place of use.

(f) Drought contingency plans. A drought contingency plan and a copy of the most recent drought contingency plan submitted to the TCEQ and/or TWDB for the place of use.

(g) Technical report. Information to show how the application will affect: the availability of water in the District and in the proposed place of use during the period for which the water is requested; the projected effect of the proposed export on aquifer conditions, depletion, subsidence, or effects on existing permit holders or other groundwater users within the District; and how the proposed export is consistent with the approved regional water plan and District groundwater management plan.

(h) Alternate sources of supply that might be utilized by the applicant, and the feasibility and the practicability of utilizing such supplies, including information regarding availability, access to, and cost to obtain water from sources other than the aquifer identified by the applicant.

(i) Construction and operation plans for the proposed facility, including, but not limited to a technical description of the facilities to be used for transportation of water.

(j) If the water is to be used by someone other than the applicant, a signed contract between the applicant and the user or users.

(k) Compliance with groundwater management plan. A declaration that the applicant will comply with the District's approved groundwater management plan and with the state and regional water plans.

(l) Information documenting and explaining any change to the information submitted to the District for related well drilling or operating permits.

(m) Compliance with rules. A declaration that the applicant is in compliance with all applicable rules and will comply with the rules.

(n) Other information. Any other information determined to be necessary by the District. The applicant may rely on any information previously submitted to the District as part of an earlier application that meets any of the requirements of this section

5.3 Basis for Action on Groundwater Export Permit Applications

The board shall grant an application for a groundwater export permit if the board finds that:

a. the application is complete;

b. the application complies with the rules of the District;

c. all applicable fees and deposits have been paid;

d. the water to be exported is proposed to be placed to a beneficial use;

e. the place of use is identified specifically and located outside the District's boundaries;

f. the well to be used for the proposed exportation project is identified specifically and located within the District's boundaries;

g. the applicant is in compliance with any permits the applicant holds from the District and with the District Rules;

h. the applicant owns or has legal rights to a well permit issued by the District to produce the groundwater necessary for the proposed exportation project, or has a contract to purchase the groundwater from a third party who holds such permit or other authorization;

i. there is insufficient water available in the proposed receiving area to

substantially meet the actual or projected demand during the proposed term of the groundwater export permit, including consideration of feasible and practicable alternatives to the application;

j. there is sufficient water available within the District to substantially meet the actual or projected demand during the proposed term of the groundwater export permit;

k. the proposed exportation of water will not unreasonably affect existing groundwater or surface water resources, existing holders of permits issued by the District or exempt wells that are registered with the District, including by causing unreasonable interference between wells, or result in impairing achievement of the DFC for the aquifer from which production would be made, considering the modeled available groundwater the modeled available groundwater determined by the TWDB, the TWDB's estimate of the current and projected amount of groundwater produced under exemptions granted by these rules, the amount of groundwater authorized under permits previously issued by the District, a reasonable estimate of the amount of groundwater that is actually produced under permits issued by the District, and yearly precipitation and production patterns;

l. the proposed exportation is consistent with the applicable regional water plans approved by the TWDB; and

m. the proposed exportation is consistent with the District's groundwater management plan.

5.4 Groundwater Export Permit Term; Renewal

a. The permit term for an export permit shall be set by the board, consistent with the following criteria:

1. the permit term shall be three years, if construction of a conveyance system in the District's boundaries has not been initiated prior to the issuance of the permit; or

2. the permit term shall be 30 years, if construction of a conveyance system has been initiated in the District's boundaries prior to the issuance of the permit.

b. The three-year term specified in Subsection (a)(1) shall automatically be extended to thirty years if construction of a conveyance system is begun before the expiration of the three-year period. For the purposes of this section, construction of a conveyance system does not include any existing or previously constructed facilities that were not constructed specifically for use in exporting the groundwater considered under the permittee's groundwater export permit application.

c. An export permit may be renewed for a term not shorter than the remaining term of the associated well permit. Any person seeking the renewal of a groundwater export permit must file with the District an application to renew on a form prescribed by the District. The application must be filed with the District no later than one year prior to the expiration of the permit term.

5.5 Contents of Groundwater Export Permits

A groundwater export permit shall include the following terms and conditions:

a. the name, address, email, and telephone number of the permittee;

b. the well permit number associated with the groundwater export permit;

c. if the permittee does not own the well from which the production for exportation is made, then the name, address, email, and telephone number of the well owner;

d. if not the permittee, the name, address, email, and telephone number of the owner of the land on which the well is located;

e. the permit term, including dates of issuance, effectiveness, and termination;

f. the purpose of use for which the water produced from the well is to be used;

g. a requirement that the water produced under the permit be put to beneficial use without waste;

h. the location of the place of use outside the District's boundaries;

i. the maximum amount of production for each purpose of use in acre-feet per annum that may be exported from the District, which will be limited to the amount that could be produced by the well for in-District use pursuant to the production limitations set forth in these rules, and any conditions or restrictions relative thereto;

j. the metering and reporting requirements;

k. the requirements for the conveyance of water produced from the well to the place of use; and

l. other terms and conditions as may be required by the board.

5.6 Standard Permit Conditions for Groundwater Export Permits

All groundwater export permits shall be issued with and subject to the following additional conditions:

a. the duty to beneficially use and avoid waste of water;

b. the duty to conserve water in accordance with applicable law, and comply with the District's water conservation plan and the permittee's plan approved by the District, as applicable;

c. the duty to file all applicable reports with the District and other appropriate federal, state, or local governments;

d. the duty to reduce water consumption during times of drought in accordance with applicable law, and comply with either the District's drought management plan or the permittee's plan approved by the District, as appropriate;

e. the duty to comply with the District's groundwater management plan;

f. the duty to use all reasonable diligence to protect groundwater quality within the District;

g. the duty to comply with these rules;

h. permit review, renewal, or extension conditions, including periodic review by the District of the amount of water authorized to be exported under an export permit, and subsequent limitation of the production amount if warranted, considering the availability of water in the District and in the proposed receiving area during the period for which the water supply is requested, the proposed effect of the proposed transfer on aquifer conditions, depletion, subsidence, or effects on existing permit holders or other groundwater users within the District, and the approved regional water plan and approved district management plan, as long as such limitation is no more restrictive than those imposed on other well permits in the area;

i. the continuing right of the District to supervise and manage groundwater

withdrawals and protect groundwater;

j. installation, equipping, operation, and maintenance of all meters in accordance with the District Rules;

k. the installation of water quality and or quantity monitoring wells may be required;

l. the duty to comply with the District Rules relating to transfers and amendments of permits;

m. the duty to pay and be current in the payment of all applicable fees;

n. the duty to record the permit;

o. the duty to give notice to the District of any changes in name, address, email, or telephone number of the permittee, or the authorized representative, or the landowner, as may be appropriate;

p. the duty to comply with all of the terms and conditions of the permit;

q. the duty to ensure that the well site is accessible to District representatives for inspection, and to cooperate fully in any reasonable inspection of the well and well site by District representatives;

r. the right of the District to enter land under § 36.123, Texas Water Code; and

s. any other conditions as the District may deem appropriate.

5.7 Withdrawals in Violation of Groundwater Export Permit Prohibited

No holder of a groundwater export permit may export groundwater in a manner inconsistent with the terms of the permit, and any production in violation of a groundwater export permit is illegal, wasteful per se, and a nuisance.

5.8 Transfer of Ownership or Lease; Notice

Within 30 days after transfer of the ownership of all or part of a groundwater export permit, or all or part of a lease of the right to export thereunder, the transferee shall file with the District a notice of transfer of ownership on a form prescribed by the District, accompanied by evidence of the change of ownership. For transfers of ownership, if the notice is complete, and the transfer is otherwise in compliance with this subchapter, the general manager shall reflect the new ownership and issue an amended permit to the transferor, transferee, or both, as may be appropriate. For leases, the general manager will update the District's permit records to reflect the lease.

5.9 Groundwater Export Permit Transfers or Amendments; Applications

a. A groundwater export permit may be amended as follows:

1. place of use;
2. the volume of groundwater exported in acre-feet per annum;
3. rate of production in gpm;
4. point of withdrawal; or
5. ownership in accordance with § 5.8.

b. Any person seeking to amend their permit as provided in Subsection (a)(1)-(4), must first file with the District an application to amend on a form prescribed by the District.

c. No permit amendment is effective until the amendment has been approved by the board.

5.10 Basis for Action on Applications to Amend Groundwater Export Permits

The board shall grant an application to amend a groundwater export permit if it finds that:

a. the requirements in § 5.3 are satisfied; and

b. during the term of the permit, the applicant, transferor, or transferee, as may be appropriate, has a positive compliance history with the permit's terms and conditions, and these rules.

Rule 6 Well Construction, Capping and Plugging and Well Spacing

6.1 Well Construction Standards

a. No person may begin to drill, complete, plug, or otherwise alter a well unless a District Driller Certification form has been filed with and approved by the District. A well permit is required to be approved by the District prior to any person drilling, completing, plugging, or otherwise altering a non-exempt well.

b. Except as otherwise provided in Subsection (c) of this rule, no person may drill, complete, plug, or otherwise alter a well within the District's boundaries unless the person first holds a well driller's license issued by the TDLR under Chapter 1901, Texas Occupations Code; and Chapter 76, 16 Texas Administrative Code.

c. The requirement to hold a well driller's license pursuant to Subsection (b) of this section does not apply to any person who personally drills, constructs or alters a water well on his or her own property for his or her own use.

d. Except as otherwise provided in Subsection (e) of this section, within the District's boundaries, no person may install or repair a water well pump unless the person first holds a pump installer's license issued by the TDLR under Chapter 1902, Texas Occupations Code; and Chapter 76, 16 Texas Administrative Code.

e. The requirement to hold a pump installer's license issued by the TDLR pursuant to Subsection (d) of this section does not apply to:

(1) any person who personally installs or repairs a water well pump on his own property, or on property that he has leased or rented, for his own use; or

(2) any person who is a ranch or farm employee whose general duties include personally installing or repairing a water well pump or equipment on his employer's property for his employer's use, but who is not employed or otherwise in the business of installation or repair of water pumps or equipment.

f. Regardless of whether a license is required, all persons engaging in well drilling, completion, plugging, or otherwise altering a well or pump installation or repair must comply with the applicable standards set forth in the TDLR Rules at 16 Texas Administrative Code Chapter 76, in these rules and in any technical guidance approved by the District.

g. Except for a property owner drilling, completing, plugging, or otherwise altering his or her own well, a TDLR licensed water well driller shall be present during active drilling completing, plugging, or otherwise altering a well operations, including when casing is set and the well is grouted. This driller shall be the same driller that signs the well log.

h. All wells shall be drilled, equipped, completed, plugged, or otherwise altered so as to comply with the standards set by the Texas Department of Health, TCEQ, TDLR and these rules.

i. All wells shall be completed in a way that ensures groundwater is confined strictly to the single zone of origin. Waters from the Fredericksburg Group (Edwards), Upper/Middle Trinity Aquifer (Glen Rose), Middle Trinity Aquifer (Hensel), the Middle Trinity Aquifer (Cow Creek) or the Lower Trinity Aquifer shall not be allowed to commingle in the casing, borehole annulus or the filter pack and cause quality degradation of any aquifer or zone. Variances may be issued by the general manager for technical reasons, including when the best available science indicates that specific aquifers are not well delineated in the area of drilling and that waters of different quality are not mixing.

j. All wells must be completed so that the borehole is a minimum of three inches larger in diameter than the outside diameter of the casing used. The well must be cased to the total depth with perforated casing or screen across the producing interval. The general manager may grant a variance for open hole completion provided the casing is grouted or cemented from the top of production zone to the surface.

k. No person may begin to drill, complete, plug, or otherwise alter a well without notifying the District at least 3 business days before that action is to commence so that the District can have an inspector available to inspect different phases of operations, at the District's discretion.

l. The casing annulus for all wells drilled in the lower Trinity aquifers (Hosston Sand) must be filled with cement or other TDLR or TCEQ-approved material from the lowermost portion of the Hammett Shale to the land surface.

m. The casing annulus for all wells completed in the Fredericksburg Group aquifers, the Upper Trinity aquifer, and the Middle Trinity aquifers must be pressure grouted with cement or other TDLR or TCEQ-approved material to within twenty (20) feet of the top of the producing interval to the land surface.

n. All wells completed in the Hosston Formation must be cased from the land surface to the bottom of the borehole utilizing perforated casing in the production zone as needed. The casing annulus must be filled with cement, or other TSRA approved material, from the top of the production zone to the surface. A variance may be granted by the general manager upon a request by the landowner for an open hole completion in the production zone and if the driller sets and pressure-cements or grouts the casing from the top of the production zone to the surface.

o. All wells are to be completed with a sample valve at or near the well, which sample valve must be placed before the storage tank, and which may be installed after the bladder tank, and with a ½ inch access port for measuring the water level in the well. The ½ inch access must be accessible.

p. All wells must have a marker permanently installed in the concrete or concrete slab to identify the well's registration or permit number. The District shall provide the marker.

q. If lost circulation occurs during drilling, the driller must either:

(1) set casing or regain circulation for proper lithological logging of the well, or

(2) pressure grout the well from the top of the production zone to the surface.

The general manager may grant variances to this requirement.

r. Lithological logging of the well - The driller shall collect washed drill cuttings for each 10-foot interval drilled and lay out those cuttings in a suitable area for District inspection during

drilling operations and after the well is complete. Lithos shall be adequately and fully described in the driller's completion log.

s. A pump installer must report to the District on forms provided by the District, any new well completion or the recompletion of a well where a new pump that increases the production rate of the well, has been set. The pump installer shall report the pump data on new wells to the District.

t. All wells drilled through the Edwards Formation must be cased and cemented or grouted from the top of the production zone to the surface.

u. No wells may be completed into an alluvial deposit of groundwater or into a floodway.

v. Within 15 days of drilling, all wells and test wells must be cased and grouted or sealed to prevent co-mingling between aquifers and contamination from the surface.

w. Any test well shall be plugged according to these rules upon completion of testing, and in no event later than 120 days after drilling, unless the well is to be completed as a water well. If a test well is completed as a water well, the District shall be notified and application forms must be completed. A credit will be given for test hole registration fee if the test hole is completed and approved as a permitted well.

x. Public water supply wells require a pump test in accordance with the District's approved technical guidelines to be completed following completion of the well and the water level of the aquifer shall be monitored during the test to determine specific yield and estimated transmissibility of the well. The District must receive a copy of the final pump test data and report before the well is placed in operation. The District must be notified of any subsequent pump test performed on the well. All public water supply wells must run and submit to the District copies of all geophysical logs run on the well. The logs shall include at a minimum gamma ray and four-point resistivity data logs for the entire depth.

y. Once it is determined by the District or the State that a well should be plugged, the well shall be plugged within thirty (30) days.

z. The District shall be notified within 24 hours if a problem or condition exists that prevent compliance with these rules.

6.2 Notice of Condition Affecting Groundwater Quality; Corrective Action

If at any time a well owner or operator has reason to believe that a well condition may exist that may cause the pollution, degradation, or harmful alteration of the character of the groundwater in an aquifer within the District, then the owner and/or operator shall, within forty-eight (48) hours of learning of the fact(s), notify the District in writing of the well condition. The District may conduct an investigation and, if facts warrant, direct the owner and/or operator of the well, at the owner's or operator cost, to evaluate and test the well conditions and take appropriate corrective action, including replacement, to bring the well into proper working condition in conformance with these rules.

6.3 Injection Wells

Unless exempt from the District's permitting requirements, all injection wells, including those permitted by the TCEQ and the Railroad Commission of Texas, must be permitted by the District.

6.4 Replacement Wells

a. A new well which replaces an existing exempt well shall be registered with the District prior to use, and within 30 days of replacement, the existing well shall be permanently removed from service by plugging in accordance with these rules and State rules.

b. A new well within 100 feet of the original permitted location which replaces an existing permitted well in the same aquifer need not apply for a new permit if the permittee of the existing well opts to transfer the permit of the existing well to the new well and the new well or pump is not changed to a larger size or capacity so as to increase the rate of production authorized in the permit. The request to transfer the permit shall be in writing to the District and shall be accompanied by the permit fee for a new permitted well. The new well will be subject to current District rules and requirements regarding well construction, inspections, and usage.

6.5 Capping and Plugging Requirements

a. It is the responsibility of the well owner and/or operator to plug or have plugged any well that is deteriorated or abandoned, in accordance with Chapter 1901, Texas Occupations Code, and Title 16, Chapter 76, Texas Administrative Code.

b. Every owner or operator of any land upon which is located any open or uncovered well shall be required to cap or close the well with a covering capable of preventing the entrance of surface pollutants into the well and of sustaining a weight of at least four hundred (400) pounds, which must not be easily removed, except when said well is in actual use by the owner or operator thereof.

c. In addition, every owner or operator of any land upon which is located a flowing artesian water well shall be required to cap or close the well with a covering capable of preventing any flow, and prevent waste, except when the well is in actual use by the owner or operator thereof and all withdrawals are applied to beneficial use.

d. Any person that plugs a well shall, within thirty (30) days after plugging is complete, submit a copy of the plugging report (on forms furnished by the TDLR) to the District.

6.6 Well Spacing

a. All wells shall comply with the spacing requirements of 16 Texas Administrative Code Chapter 76 and with the regulations of Bandera County and other governmental entities within the District, as applicable. The District may add additional permit conditions increasing the spacing requirements where necessary to minimize draw-down as far as practicable.

b. Spacing requirements for wells.

Required spacing between wells and property lines for all new wells:

Projected Pumping Capability of Proposed Well, in Daily Average Gallons per Minute and Acre-Feet per Year	Minimum Horizontal Distance Between Proposed Well and Existing Wells[1]	Minimum Horizontal Distance Between Proposed Well and Adjacent Property Lines[2]

<1 ac-ft/yr (<17.36 GPM)	150 feet	50 feet[3]
1 to <25 ac-ft/yr (17.36 GPM to <40 GPM)	300 feet	150 feet
25 to <100 ac-ft/yr (40 to <161 GPM)	750 feet	375 feet
100 to <150 ac-ft/yr (161 to <240 GPM)	1,200 feet	600 feet
≥150 ac-ft/yr (≥240 GPM)	1,500 feet	750 feet

[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 from 50 feet, provided, the District approves the proposed well location, the proposed well location complies with District rules and applicable regulations, and 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 less than 50 feet, otherwise the minimum horizontal distance from the property line shall be 50 feet. Where tract size prohibits compliance with the minimum horizontal distance of 50 feet, the alternative siting methods prescribed by the TDLR under 16 Texas Administrative Code Section 76.100(b)(2) shall apply.

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

(1) fifty (50) feet from any property line, a septic tank and from a retail public utility providing water;

(2) one hundred (100) feet from any septic system drain fields, or wastewater irrigation systems; and

(3) one hundred fifty (150) feet from any existing or proposed concentrated source of potential contamination (such as livestock or poultry facilities).

Rule 7 Procedures before the District; Hearings

7.1 Rulemaking and Management Plan Hearings

a. Not later than the 20th day before the date of a rulemaking or management plan hearing, the District shall:

(1) post notice in a place readily accessible to the public at the District office;

(2) provide notice to the county clerk of Bandera County;

(3) publish notice in one or more newspapers of general circulation in Bandera County; and

(4) provide notice by mail, facsimile, or electronic mail to any person who has requested notice under this section; and

(5) make available a copy of the proposed rules or management plan at a place accessible to the public during normal business hours and post an electronic copy of the rules on the District's website.

b. Notice of the hearing on the proposed rules or management plan shall include:

(1) the date, time and location of the hearing;

(2) a brief explanation of the subject of the hearing;

(3) a location or website at which a copy of the proposed rules may be reviewed or copied;

(4) a statement that the District will accept written comments and the deadline for submitting written comments; and

(5) a statement that oral public comment will be taken at the hearing.

c. Written comments about proposed rules or proposed management plan may be submitted to the District at least 5 business days prior to the scheduled hearing.

d. A person may submit to the District a written request for notice of a rulemaking or management plan hearing. A request is effective for the remainder of the calendar year in which the request is received by the District. To receive notice of a hearing in a later year, a person must submit a new request. An affidavit of an officer or employee of the District establishing attempted service by first class mail, facsimile, or email to the person in accordance with the information provided by the person is proof that notice was provided by the District.

e. Anyone interested in the proposal may attend the meeting and make oral comments at the time designated for comments.

f. The District shall make and keep in its files an audio or video recording of the hearing.

7.2 Adoption of Emergency Rules

a. The District may adopt an emergency rule without following the notice and hearing provisions of § 7.1 if the board:

(1) finds that a substantial likelihood of imminent peril to the public health, safety, or welfare, or a requirement of state or federal law requires adoption of a rule on less than 20 days' notice; and

(2) prepares a written statement of the reasons for its finding under this subsection.

b. Except as provided by Subsection (c), a rule adopted under this section may not be effective for longer than 90 days.

c. If notice of a hearing under Subsection (a) is given before the emergency rule expires

under Subsection (b), the emergency rule is effective for an additional 90 days.

7.3 Requirements for Applications and Registrations

7.3.1 Proper Applicant, Registrant, or Filer

If there is only one owner or operator of property or an activity requiring an application, registration or filing with the District, that owner or operator shall file the application, registration or filing with the District. If there is more than one owner or operator of an activity requiring an application, registration or filing with the District, a joint application, registration, notice or other filing shall be filed by those owners or operators. In such an instance, the owners or operators shall select one among them to act for and represent the others in filing the application, registration, or filing. Written documentation of such a selection satisfactory to the District shall be filed with the application, registration or other filing.

7.3.2 Contents of and Requirements for All Applications, Registrations, and Notices of Transfer of Ownership

All applications, registrations, and notices of transfer of ownership filed with the District shall be typewritten or printed legibly in ink and shall include:

a. The full name, physical and mailing addresses, email, and telephone number of the applicant, registrant, or transferee. If the applicant, registrant, or transferee is a partnership, the name of the partnership shall be followed by the words “a partnership.” If the applicant, registrant, or transferee is acting as trustee for another, the trustee’s name shall be followed by the word “trustee.” If one other than the named applicant, registrant, or transferee executes the application, registration, or notice of transfer of ownership, the person executing the application, registration, or notice of transfer of ownership shall provide their name, position, physical address, mailing address, email, and telephone number.

b. Signature of Applicant, Registrant, or Transferee. The application, registration, or notice of transfer of ownership shall be signed as follows:

(1) If the applicant, registrant, or transferee is an individual, the application, registration, or notice of transfer of ownership shall be signed by the applicant, registrant, transferee, or a duly appointed agent. An agent shall provide written evidence of his or her authority to represent the applicant, registrant, or transferee. If the applicant, registrant, or transferee is an individual doing business under an assumed name, the applicant, registrant, or transferee shall attach to the application, registration, or notice of transfer of ownership an assumed name certificate filed with the county clerk of the county in which the principal place of business is located or with the Secretary of State.

(2) Joint applications, registrations, and notices of transfer of ownership. A joint application, registration, or notice of transfer of ownership shall be signed by each applicant, registrant, or transferee, or each applicant’s, registrant’s, or transferee’s duly authorized agent with written evidence of such agency submitted with the application, registration, or notice of transfer of ownership. If a well or proposed well is owned by two spouses, each person shall sign the application or registration. Joint applicants or registrants shall select one among them to act for and represent the others in pursuing the application, registration, or notice of

transfer of ownership with the District with written evidence of such representation to be submitted with the application, registration, or notice of transfer of ownership.

(3) If the application, registration, or notice of transfer of ownership is by a partnership, the name of the partnership shall be followed by an indication of whether it is a general partnership, a limited partnership or a limited liability partnership, as applicable and the application, registration, or notice of transfer of ownership shall be signed by one of the general partners or another entity authorized to sign on behalf of the partnership. If the applicant, registrant, or transferee is a partnership doing business under an assumed name, the applicant, registrant, or transferee shall attach to the application, registration, or notice of transfer of ownership an assumed name certificate filed with the county clerk of the county in which the principal place of business is located or with the Secretary of State.

(4) If the applicant, registrant, or transferee is an estate or guardianship, the application, registration, or notice of transfer of ownership shall be signed by the duly appointed guardian or representative of the estate and a current copy of the letters testamentary issued or order appointing guardian by the court shall be attached to the application, registration, or notice of transfer of ownership.

(5) If the applicant, registrant, or transferee is a corporation, public district, county, municipality or other corporate entity, the application, registration, or notice of transfer of ownership shall be signed by a duly authorized official. Written evidence specifying the authority of the official to take such action shall be submitted along with the application, registration, or notice of transfer of ownership, including in the form of bylaws, charters, or resolutions. A corporation may file a corporate affidavit as evidence of the official's authority to sign.

(6) If the applicant, registrant, or transferee is acting as trustee for another, the name of the trust shall be provided and the applicant, registrant, or transferee shall sign as trustee and in the application, registration, or notice of transfer of ownership shall disclose the nature of the trust agreement and give the name and current address of each trust beneficiary.

c. Attestation. Each applicant, registrant, or transferee shall subscribe and swear or affirm under oath that the facts set out in the application, registration, or notice of transfer of ownership are accurate before any person entitled to administer oaths who shall also sign his or her name and affix his or her seal of office to the application, registration or notice of transfer of ownership.

7.4 Application and Registration Processing by the District

7.4.1 Initial Action on Applications and Registrations

All applications and registrations received by the District shall be stamped or marked "received" with the date of receipt clearly indicated.

7.4.2 Review for Administrative Completeness

a. The general manager will conduct an initial review of each application or registration for administrative completeness and advise the applicant of the results of the review.

b. In reviewing an application or registration for administrative completeness, the general manager will assess whether the application or registration contains the necessary information

in legible form to allow:

(1) the District staff to conduct a technical review, if appropriate; and

(2) the District to take or recommend action on the application or registration, as appropriate.

c. Upon the general manager determining that an application or registration is administratively complete, the District will notify the applicant or registrant by mail or email.

7.4.3 Return of Applications and Registrations Deemed Not Administratively Complete

a. If the District determines that an application or registration is not administratively complete, the District will notify the applicant or registrant of any such deficiencies by written correspondence. Illegible applications or registrations will be returned to the filer.

b. The applicant or registrant may submit any additional necessary information in response to written correspondence sent by the District pursuant to Subsection (a) of this section, within 30 days of receipt of the written correspondence noting the deficiencies.

c. If the additional necessary information is not forthcoming within 30 days of the date of receipt of the written correspondence noting the deficiencies, the District will return the incomplete application or registration to the applicant or registrant.

7.4.4 Technical Review

a. After an application is determined by the District to be administratively complete, District staff will commence a technical review of the application as necessary and appropriate.

b. The applicant shall be notified in writing of any additional material necessary for a complete technical review. If the applicant provides the information within 30 days of the date it is requested, District staff will complete the technical review of the application. If the necessary additional information is not received by the District within 30 days of the date the information is requested and the information is considered essential by the District, the District may return the application to the applicant. Decisions to return an application to the applicant during the technical review will be made on a case-by-case basis.

c. The general manager or his or her designee is entitled to enter public or private property at any reasonable time and upon reasonable notice for the purpose of inspecting, investigating or verifying conditions or information submitted in connection with an application.

7.4.5 General Manager's Proposed Action on Applications and Technical Summary

a. Following completion of technical review, the general manager will determine whether to recommend granting or denying the application and will prepare a written statement summarizing the recommendation and the reasons for that recommendation. If the general manager recommends full or partial granting of a permit or permit amendment application, the general manager shall also prepare a draft permit. The general manager's recommendation and any draft permits are subject to change by the general manager or board during the course of the proceedings on the application. The statement and proposed permit shall be available for public review and inspection.

b. In conjunction with the proposed permit or denial, the general manager will prepare a

technical summary that will include the following, as appropriate:

(1) the applicant's name and address;

(2) a summary of the application;

(3) the location of each point of withdrawal;

(4) the reasons and technical basis for the recommended action;

(5) if applicable, a summary of the proposed permit;

(6) the proposed purpose(s) of use;

(7) notice that the general manager may modify his or her recommendation, or seek additional information from the applicant, in the course of the District's proceeding on the application;

(8) as may be authorized by this chapter, a statement that the applicant, or other affected persons may file a request for a contested case hearing on the application on or before the deadline set forth in § 7.5.2; and

(9) any other information that the general manager determines to be appropriate.

c. The general manager will provide the applicant with a copy of the general manager's statement, any proposed permit (or denial) and the technical summary.

7.4.6 Action by Board on Applications Where There is No Right to a Contested Case Hearing

a. Applicability. This section applies to all applications to be considered by the board, other than applications for applications for well permits for more than 500 acre-feet or more than 10% of the MAG or for groundwater export permits.

b. Scheduling the board meeting. Following technical review and the referral of the proposed action to the board, the general manager will schedule the presentation of the application and any proposed permit, approval, authorization or denial to the board. The board may reschedule the presentation of the application and any proposed permit, approval, authorization or denial.

c. Notice of board meeting. At least 10 days prior to the board meeting, the District will notify the applicant of the date of the board meeting referred to above. If rescheduled by the board, the District will send notice of the rescheduled meeting date to the applicant no later than ten days before the rescheduled meeting. In addition, the District will provide public notice that the application and any permit, approval, authorization or denial will be considered by the board by including an item on the board's agenda pursuant to the Open Meetings Act. Except to the extent that such items contain information excepted from public disclosure under the Public Information Act, copies of the application and any proposed permit, approval, authorization or denial will be made available to the public for inspection and copying at the offices of the District during the District's designated business hours and may be provided by email.

d. Consolidation or Severance of Matters. Consistent with notices required by law, the board may consolidate related matters if the consolidation will not injure any party and may save time and expense or otherwise benefit the public interest and welfare. The board may sever issues in a proceeding or hold special hearings on separate issues if doing so will not injure any party and may save time and expense or benefit the public interest and welfare.

e. Oral presentation before the board. The applicant and the general manager or his or her designee may make an oral presentation at the board meeting at which the application and any proposed permit, approval, authorization or denial are presented to the board. Oral presentations before the board will be limited to 15 minutes each, excluding time for answering questions, unless the presiding officer establishes other limitations. Before the board meeting, the presiding officer may allot time for oral presentations. Oral presentations and responses to questions will be directed to the board.

f. Public comment. In addition, public comment on the application and any proposed permit, approval, authorization or denial will be accepted.

g. Upon consideration of the application and any proposed permit, approval, authorization or denial at its meeting, the board may issue an order granting or denying an application in whole or in part, dismissing proceedings, amending or modifying a proposed permit, or taking any other appropriate action.

7.4.7 Notice of Permit Hearing Where There is a Right to a Contested Case Hearing

a. Applicability. This section applies only to applications for well permits for more than 500 acre-feet or more than 10% of the MAG or for groundwater export permits.

b. A notice of hearing on an application for a permit shall be prepared by the District. At a minimum, the notice shall state the following information:

(1) the name and address of the applicant;

(2) the name or names of the owner or owners of the land or well, if different from the applicant;

(3) the name or names of the operator or operators of the land or well, if different from the applicant;

(4) the date the application was filed and the number assigned to it;

(5) the time, date and location of the hearing;

(6) the address or approximate location of the well or proposed well;

(7) a brief explanation of any permit or permit amendment sought, including any requested amount of groundwater, the purpose of the proposed use, and any change in use;

(8) a summary of the action on the application recommended by the general manager pursuant to § 7.4.5 of these rules;

(9) a statement of the legal authority and jurisdiction under which the hearing is to be held;

(10) a brief description of the technical summary;

(11) a statement that a copy of the proposed action, technical summary, and application are available for inspection by the public at the offices of the District;

(12) a statement that the application will be presented to the board for action at the hearing unless a request for a contested case hearing is submitted at least 14 days prior to the date of the hearing pursuant to § 7.5.2;

(13) a statement that the applicant or another affected person may request a contested case hearing on the application by filing a request with the District, at least 14 days before the date of the hearing, in accordance with § 7.5.2; and

(14) any other information the board or general manager considers relevant and appropriate.

c. The District shall, not less than 20 days before the date of the hearing:

(1) post the notice in a place readily accessible to the public at the offices of the District;

(2) provide the notice for posting at the Bandera County Courthouse to the county clerk;

(3) provide the notice:

(A) by regular mail to the applicant; and

(B) by regular mail, facsimile, or email to any person who has requested notice under Subsection (d) below; and

(4) publish the notice at least once in a newspaper of general circulation in the District.

d. Any person may request to receive written notice of permit hearings by submitting a request to the District in writing. The request must identify with as much specificity as possible the types of permit hearings for which written notice is requested. The request remains valid for the remainder of the calendar year in which the request is received by the District, after which time a new request must be submitted.

e. The applicant, at the applicant's expense, shall give the notification by first class mail to the owner of any land contiguous to the land identified by the applicant in the application, or to the extent not already provided, to an owner of an operating water well within ¼ mile of the proposed well, not less than ten (10) days before the hearing. The applicant will provide the District with proof of service including a list of names and addresses of the landowners and/or well owners that were notified.

7.5 Contested Case Hearings Procedures

7.5.1 Persons Entitled to Request a Contested Case Hearing

The following persons may request a contested case hearing on the general manager's recommendation on an application subject to this subchapter:

(1) the applicant, if the applicant desires to contest the general manager's recommendation; and

(2) any other affected person.

7.5.2 Timing, Form, and Contents of Requests for Contested Case Hearing

a. A request for a contested case hearing may only be made for applications for well permits for more than 500 acre-feet or more than 10% of the MAG or for groundwater export permits.

b. A request for a contested case hearing must be in writing and be filed by United States mail, electronic mail, or hand delivery to the District by no later than three business days before the date of the hearing specified in the notice made pursuant to § 7.4.7 or if by an applicant for an application for which a request for contested case hearing may be made, for which no other request for a contested case hearing was granted, then not later than the 20th

day after the board issues an order granting the application, demand a contested case hearing if the order included special conditions that were not part of the application as finally submitted and the general manager's recommendation on the application or granted a maximum amount of groundwater production that was less than the amount requested in the application.

c. A hearing request must substantially include the following:

1. the name, address, email, and telephone number of the person filing the request. If the request is made by a corporation, partnership, or other business entity, the request must identify the entity and one person by name, physical and mailing address, email, daytime telephone number, and fax number who shall be responsible for receiving all documents on behalf of the entity;

2. the basis for the contention that the person will be injured and has a personal justiciable interest in the matter such that a contested case hearing is appropriate;

3. a request for a contested case hearing;

4. whether or not the requestor is seeking a hearing to be conducted by SOAH;

5. any other information requested in the notice of hearing; and

6. the person filing the request shall subscribe and swear or affirm under oath that the facts set out in the request are true and correct before any person entitled to administer oaths who shall also sign his or her name and affix his or her seal of office to the request.

d. When a request for a contested case hearing is filed by a person other than the applicant, a copy of that request must be served on the applicant at or before the time that the request is filed with the District. The request shall include a certificate indicating the date and manner of service and the name and address of all persons served.

e. If a person is requesting a contested case hearing on more than one application, a separate request must be filed in connection with each application.

7.5.3 Processing of Hearing Requests

a. Except as provided in Subsection (d), the general manager shall schedule any timely filed contested case hearing request for board consideration at a preliminary hearing. At least three business days prior to the board hearing, the general manager shall provide notice to the applicant and other persons making a timely hearing request of the hearing. The board may receive relevant oral testimony or documentary evidence at the board hearing during which the contested case hearing request is evaluated.

b. The hearing request will be the initial matter considered at the hearing on the permit application.

c. Persons may submit a written response to the hearing request. Responses shall be filed with the District, the applicant and any persons filing a hearing request in connection with that matter. The response should address the question of whether the person requesting the contested case hearing has a personal justiciable interest related to the application at issue.

d. The board shall evaluate the hearing request and any written responses thereto at the scheduled board hearing and shall determine that any person requesting the hearing:

1. does not have a personal justiciable interest related to the application and deny the hearing request and not admit the person as a party to the hearing; or

2. has a personal justiciable interest relating to the application, refer the application to a contested case hearing, and admit the person as a party to the hearing.

e. The board may delegate to a hearing examiner the processing of requests for contested case hearing.

f. The determination of whether a hearing request should be granted is not itself a contested case hearing.

g. Persons requesting a contested case hearing that are admitted as a party to a contested case to be held before SOAH shall pay all costs associated with the contract between the District and SOAH for the hearing and shall deposit with the District an amount sufficient to pay the contract amount not later than 30 days following the admission of the parties to the contested case.

7.5.4 General Hearing Procedures in Contested Cases

a. The procedures provided in this subchapter apply to contested case hearings. If the board refers a contested case hearing to SOAH, then the hearing shall be conducted as provided by §§ 36.416(b) and (c) and 36.4165, Texas Water Code, Subchapters C, D, and F, Chapter 2001, Government Code, and the applicable rules of practice and procedure of SOAH (Title 1, Chapter 155, Tex. Admin. Code) governing any contested case hearing of the District conducted by SOAH, as supplemented by these rules. For contested case hearings not referred to SOAH, to the extent not in conflict with these rules, the presiding officer may apply the Texas Rules of Civil Procedure.

b. At the board's determination, a contested case hearing of the District must be conducted by:

(1) a quorum of the board;

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

(3) a SOAH administrative law judge, if a contested case hearing is to be conducted by SOAH pursuant to § 7.5.2, or a delegation is made at the board's discretion.

c. Except as provided by Subsection (d), the board chair or the hearings examiner shall serve as the presiding officer at the hearing.

d. If the hearing is conducted by a quorum of the board, the directors conducting the hearing may select the board president or another director to serve as the presiding officer.

e. Authority of presiding officer: The presiding officer may conduct the hearing in the manner the presiding officer deems most appropriate for the particular proceeding. The presiding officer has the authority to:

(1) convene the hearing at the time and place specified in the notice for public hearing;

(2) set hearing dates;

(3) designate the parties;

(4) establish the order for presentation of evidence;

(5) administer oaths to all persons presenting testimony;

(6) examine persons presenting testimony or comments;

(7) ensure that information and testimony are introduced as conveniently and expeditiously as possible, without prejudicing the rights of any party to the proceeding;

(8) prescribe reasonable time limits for testimony and the presentation of evidence;

(9) exercise the procedural rules of the District;

(10) issue subpoenas when required to compel the attendance of witnesses or the production of papers and documents;

(11) require the taking of depositions and compel other forms of discovery under these rules;

(12) reopen the record of a hearing for additional evidence when necessary to make the record more complete;

(13) establish the jurisdiction of the District concerning the subject matter under consideration;

(14) rule on motions and on the admissibility of evidence and amendments to pleadings;

(15) conduct public hearings in an orderly manner in accordance with these rules;

(16) recess any hearing from time to time and place to place;

(17) consolidate related matters if the consolidation will not injure any party and may save time and expense or otherwise benefit the public interest and welfare;

(18) sever issues in a proceeding or hold special hearings on separate issues if doing so will not injure any party and may save time and expense or benefit the public interest and welfare;

(19) exercise any other appropriate powers necessary or convenient to effectively carry out the responsibilities of the presiding officer.

f. Alignment of Parties in a Contested Case Hearing; Number of Representatives Heard: Parties in a contested case hearing may be aligned according to the nature of the hearing and their relationship to it. The presiding officer may require the participants of an aligned class to select one or more persons to represent them in the hearing or on any particular matter or ruling and may limit the number of representatives heard, but must allow at least one representative of an aligned class to be heard in the proceeding or on any particular matter or ruling.

g. Appearance by Applicant or Movant: The applicant, movant or party requesting the hearing or other proceeding or a representative should be present at the hearing or other proceeding. Failure to so appear may be grounds for withholding consideration of a matter and dismissal without prejudice or may require the rescheduling or continuance of the hearing or other proceeding if the presiding officer deems it necessary in order to fully develop the record.

h. Reporting: Contested case hearings will be recorded by audio or video recording or, at the discretion of the presiding officer, may be recorded by a certified court reporter transcription. The District does not prepare transcripts of hearings or other proceedings recorded on District equipment for the public, but the District will arrange access to any recording. On the request of a party to a contested case hearing, the presiding officer shall have the hearing transcribed by a court reporter. The presiding officer may assess any court reporter transcription costs against the party that requested the transcription or among the parties to the hearing. Except as provided by this subsection, the presiding officer may exclude a party from further participation in a hearing for failure to pay in a timely manner costs assessed against that party under this subsection. The presiding officer may not exclude a party from further participation in a hearing as provided by this subsection if the parties have agreed that

the costs assessed against that party will be paid by another party. If a proceeding other than a contested case hearing is recorded by a reporter, and a copy of the transcript of testimony is ordered by any person, the testimony will be transcribed and the original of any transcript will be filed with the District and placed in the papers of the proceeding at the expense of the person requesting the transcript of testimony. Copies of the transcript of testimony of any hearing or other proceeding thus reported may be purchased from the reporter.

i. Continuance: The presiding officer may continue hearings in a contested case hearing from time to time and from place to place without the necessity of publishing, serving, mailing or otherwise issuing a new notice under § 7.5.7. If the presiding officer continues a contested case hearing without announcing at the hearing the time, date and location of the continued hearing, the presiding officer must provide notice of the continued hearing by regular mail or email to all parties.

j. Costs for hearing examiner: The persons other than the general manager that are admitted as parties to a contested case shall pay all costs associated with the hearing examiner and shall deposit with the District an amount determined by the general manager to be sufficient to pay those estimated costs not later than 30 days following the admission of the party to the contested case.

7.5.5 Conduct and Decorum

Every person participating in or observing a contested case hearing, or other associated proceeding, must conform to ethical standards of conduct and exhibit courtesy and respect for all other participants or observers. No person may engage in any activity during a proceeding that interferes with the orderly conduct of District business. If, in the judgment of the presiding officer, a person is acting in violation of this provision, the presiding officer shall first warn the person to refrain from engaging in such conduct. Upon further violation by the same person, the presiding officer may exclude that person from the proceeding for such time and under such conditions as the presiding officer deems necessary.

7.5.6 Hearing Registration Forms

Each individual attending who provides comments or testimony in a contested case hearing shall submit a hearing registration form providing the following information: name, address, email, telephone number, who the person represents, if the person is not there in the person's individual capacity, whether the person plans to testify or provide comments, and any other information relevant to the hearing.

7.5.7 Opportunity for Hearing and Participation; Notice of Hearing

In a contested case, each party is entitled to an opportunity:

(1) for hearing; and

(2) to respond and to present evidence and argument on each issue involved in the case.

7.5.8 Pre-Hearing Conferences

a. The presiding officer may hold one or more pre-hearing conferences at which the

presiding officer may consider any matter which may expedite the hearing or otherwise facilitate the hearing process.

b. Matters Considered. Matters which may be considered at a pre-hearing conference include, but are not limited to:

(1) the withdrawal of a protest;
(2) the designation of parties;
(3) the formulation and simplification of issues;
(4) the necessity or desirability of amending applications or other pleadings;
(5) the possibility of making admissions or stipulations;
(6) the scheduling of discovery;
(7) the identification of and specification of the number of witnesses;
(8) the filing and exchange of prepared testimony and exhibits; and
(9) the procedure at the hearing.

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

7.5.9 Designation of Parties

The following persons shall be designated as parties in a contested case hearing:

(1) the general manager of the District is a party in all contested case hearings;
(2) the applicant is a party in a contested case hearing on its application; and
(3) any person who timely requested a contested case hearing pursuant to § 7.5.2, and who has been determined by the presiding officer to be a person entitled to a contested case hearing under the standard set forth in § 7.5.3.

7.5.10 Informal Disposition of Contested Case Hearing

An informal disposition may be made of a contested case hearing by:

(1) stipulation;
(2) agreed settlement;
(3) consent order; or
(4) default.

7.5.11 Hearing Conducted by Hearings Examiner

a. This section applies only to contested case hearings presided over by a hearings examiner.

b. A hearings examiner who conducts a contested case hearing shall consider applicable District rules or policies in conducting the hearing.

c. The District shall provide the hearings examiner with the District rules or policies applicable to the matter under consideration in the hearing.

d. The District may not attempt to influence the findings of fact or the hearings examiner's application of law in a contested case hearing except by proper evidence and legal argument.

e. The District may change a finding of fact or conclusion of law made by the hearings examiner, or may vacate or modify an order issued by the hearings examiner, only if the District determines:

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(1) that the hearings examiner did not properly apply or interpret applicable law, District rules or policies provided under Subsection (c), or prior administrative decisions;

(2) that a prior administrative decision on which the hearings examiner relied is incorrect or should be changed; or

(3) that a technical error in a finding of fact should be changed and the District shall state in writing the specific reason and legal basis for a change made under this subsection.

7.5.12 Certified Questions

a. At any time during a contested case hearing presided over by a hearings examiner or SOAH, on a motion by a party or on the hearings examiner's or administrative law judge's own motion, a question may be certified to the District.

b. Issues regarding District policy, jurisdiction or the imposition of any sanction by the hearings examiner or SOAH that would substantially impair a party's ability to present its case are among the types of issues appropriate for certification. Policy questions for certification purposes include, but are not limited to:

(1) the District's interpretation of its rules and applicable statutes;

(2) which rules or statutes are applicable to a proceeding; or

(3) whether District policy should be established or clarified as to a substantive or procedural issue of significance to the proceeding.

c. If a question is certified, the hearings examiner or administrative law judge shall submit the certified issue to the general manager. The general manager will place the certified issue on the agenda of the earliest possible meeting of the board, in compliance with the Open Meetings Act and other applicable law. The general manager will give the hearings examiner or administrative law judge and parties notice of the meeting at which the certified question will be considered. The parties to the proceeding may file with the District briefs on the certified question. Briefs shall be filed with the parties with a copy served on the hearings examiner or administrative law judge. The general manager will provide copies of the certified question and any briefs to the board. The hearings examiner may abate the hearing until the District answers the certified question, or continue with the hearing if the hearings examiner or administrative law judge determines that no party will be substantially harmed.

d. The District will issue a written decision on the certified issue within 30 days following the meeting at which the certified issue is considered. A decision on a certified issue is not subject to a request for written findings and conclusions, a motion for rehearing, appeal or judicial review prior to the issuance of the District's final decision in the proceeding.

7.5.13 Service of Documents filed in a Contested Case Hearing

a. Service of all Documents Required. For any document filed with the District or the judge in a contested case hearing, the person filing that document must serve a copy on all parties to the contested case including the general manager at or before the time that the request is filed.

b. Certificate of Service. A document presented for filing must contain a certificate of service indicating the date and manner of service and the name and address of each person served. The District may permit a document to be filed without a certificate of service but will require the certificate to be filed promptly thereafter.

7.5.14 Privilege

In a contested case hearing, the District shall give effect to the rules of privilege recognized by law.

7.5.15 Objections to Evidence

An objection to an evidentiary offer in a contested hearing may be made and shall be noted in the record.

7.5.16 Burden of Proof

The burden of proof is on the applicant to establish, by a preponderance of the evidence that the applicant is entitled to have the application granted.

7.5.17 Assessing Costs

Upon the timely request of any party, or at the discretion of the presiding officer, any party or the presiding officer may make a recommendation to the board regarding the assessment of the costs incurred by the District for the hearing, including the District's expenditures for attorney's fees and technical experts, and any reporting and transcription costs to one or more of the parties. If the hearing is conducted by the board, a hearing report with recommendations need not be filed, and the board may directly assess the District's hearing costs and reporting and transcription costs to one or more of the parties. The presiding officer must consider the following factors in assessing the District's hearing costs and the reporting and transcription costs:

(1) whether costs were incurred based on evidence presented to the District only after the contested case hearing was requested;

(2) the financial ability of the party to pay the costs;

(3) the extent to which the party participated in the hearing;

(4) the relative benefits to the various parties of having the costs incurred by the District;

(5) the budgetary constraints of a governmental entity participating in the proceeding; and

(6) any other factor that is relevant to a just and reasonable assessment of costs.

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

7.5.18 Rights of Designated Parties

Subject to the direction and orders of the presiding officer, parties have the right to conduct discovery; present a direct case; cross-examine witnesses; make oral and written arguments; obtain copies of all documents filed in the proceeding; receive copies of all notices issued by the District concerning the proceeding; and otherwise fully participate in the proceeding.

7.5.19 Ex Parte Communications

Except as otherwise provided below, the presiding officer or a member of the board assigned to render a decision or to make findings of fact or conclusions of law on a contested permit application may not communicate, directly or indirectly, about any issue of fact or law during the pendency of the contested case with any representative of the District or other designated party to the contested case, except on notice and opportunity for all parties to participate. This rule does not apply to a board member who abstains from voting on any matter in which he or she engaged in ex parte communications. A member of the board may communicate ex parte with other members of the board consistent with the requirements of other law, such as the Open Meetings Act. A member of the board or the presiding officer may communicate ex parte with a District employee who has not participated in any hearing in the contested case for the purpose of using the special skills or knowledge of the District employee in evaluating the evidence.

7.5.20 Evidence

The presiding officer shall admit evidence that is relevant to an issue at the hearing. The presiding officer may exclude evidence that is irrelevant, immaterial, or unduly repetitious. The Texas Rules of Evidence may be referred to in order to determine the admissibility and introduction of evidence in contested case hearings. However, evidence not admissible under the Texas Rules of Evidence may be admitted if the evidence is:

(1) necessary to ascertain facts not reasonably susceptible of proof under those rules;

(2) not precluded by statute; and

(3) of a type on which a reasonably prudent person commonly relies in the conduct of the person's affairs.

In addition, evidence may be stipulated to by agreement of all parties.

7.5.21 Written Testimony

a. When a proceeding will be expedited and the interests of the parties will not be prejudiced substantially thereby, the presiding officer may allow testimony in a contested case hearing to be received in written form.

b. The written testimony of a witness, either in narrative or question and answer form, must be sworn to by the witness and may be admitted into evidence upon the witness being sworn and identifying the testimony as a true and accurate record of what the testimony would be if given orally. The witness must be available, in person, by phone, or by other reasonable means, for clarifying questions and cross-examination, and the prepared testimony will be subject to objection. On the motion of a party, the presiding officer may exclude written testimony if the person who submits the testimony is unavailable for cross-examination by phone, a deposition before the hearing, or other reasonable means.

7.5.22 Requirements for Exhibits

a. Exhibits of a documentary character must be sized to not unduly encumber the files and records of the District. All exhibits must be numbered and, except for maps and drawings, may

not exceed 8-1/2 by 11 inches in size.

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

c. Introduction and Copies of Exhibits. Each exhibit offered must be tendered for identification and placed in the record. Copies must be furnished to the presiding officer and to each of the parties, unless the presiding officer rules otherwise.

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

7.5.23 Official Notice; District Evaluation of Evidence

a. In connection with a contested case hearing, the presiding officer may take official notice of:

(1) all facts that are judicially cognizable; and

(2) generally recognized facts within the area of the District's specialized knowledge.

b. Each party shall be notified, either before or during the hearing, or by reference in a preliminary report or otherwise, of the material officially noticed, including staff memoranda or information.

c. Each party is entitled to be given an opportunity to object to material that is officially noticed.

7.5.24 Agreement of Parties; Remand to Board

a. No agreement between parties or their representatives affecting any pending matter shall be considered by the presiding officer unless it is in writing, signed, and filed as part of the record, or unless it is announced at the prehearing conference or the hearing and entered of record.

b. An agreed disposition of a contested case may be made by stipulation, settlement, consent order, or the withdrawal of all requests for a contested case hearing so that no facts or issues remain controverted. Upon settlement of a matter, the presiding officer shall remand the matter to the board. If the person requesting the contested case hearing defaults, then the presiding officer may also deem the request for a contested case hearing to have been withdrawn by the person and remand the case to the board. Applications remanded under this section shall be considered to be uncontested. The presiding officer shall summarize the evidence, including findings of fact and conclusions of law based on the existing record and any other evidence submitted by the parties at the hearing. Any stipulations, settlements, consent orders, withdrawals of requests for contested case hearing, orders, findings of default, presiding officer summary of the proceedings, and other relevant documents shall be presented to the board for its consideration.

7.5.25 Discovery

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

7.5.26 Documents in District Files

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

7.5.27 Oral Argument

At the discretion of the presiding officer, oral arguments may be heard at the conclusion of the presentation of evidence. Reasonable time limits may be prescribed. The presiding officer may require or accept written briefs in lieu of, or in addition to, oral arguments. When the matter is presented to the board for final decision, further oral arguments may be heard by the board if the board did not preside over the hearing.

7.5.28 Closing the Record

At the conclusion of the presentation of evidence and any oral argument, the presiding officer may close the record or, if the board has not taken final action on the application, keep it open and allow the submission of additional testimony by a person who testified at the hearing, or exhibits, briefs, or proposed findings and conclusions from one or more of the parties. Any supplementation of the record must be filed not later than the 10th day after the date of the final hearing. A person who files additional written material with the presiding officer under this section must also provide the material, not later than the 10th day after the date of the hearing, to any person who provided comments on an uncontested application or any party to a contested case hearing. A person who receives additional written material under this section may file a response to the material with the presiding officer not later than the 10th day after the date the material was received. No additional evidence, exhibits, briefs, or proposed findings and conclusions may be filed unless permitted or requested by the presiding officer.

7.5.29 Proposal for Decision

Except for contested cases presided over by a quorum of the board or SOAH, no later than 60 days following the completion of the contested case hearing, the presiding officer shall submit a proposal for decision to the District and serve a copy on the applicant and each designated party to the contested case. A proposal for decision shall include a summary of the subject matter of the hearing, a summary of the evidence or public comments received, and the presiding officer's recommendations for board action on the subject matter of the hearing. The presiding officer, when submitting the proposal for decision, shall notify the parties of the deadlines for the filing of exceptions and replies.

7.5.30 Exceptions to the Proposal for Decision

Prior to board action, within 15 days of the issuance of a proposal for decision, any party in a contested case may file written exceptions. Any reply to the exceptions shall be filed within 15 days. Within 30 days of the deadline for filing writing exceptions, the presiding officer examiner may reopen the record for the purpose of developing additional evidence, or may deny the exceptions and submit the proposal for decision and exceptions to the board or may take no action. The board may, at any time and in any case, remand the matter to the hearing examiner for further proceedings.

7.5.31 Scheduling a Meeting of the Board

After receiving the proposal for decision or proposed order, following the consideration of any filed exceptions, the general manager shall schedule the presentation of the proposal for decision or proposed order to the board. The general manager shall provide at least 10 days' prior notice to the parties of the date of the board meeting at which the proposal for decision or proposed order will be presented and considered.

7.5.32 Oral Presentation before the Board

a. Any party to the contested case hearing may make an oral presentation at the board meeting in which the proposal for decision in that case is presented to the board.

b. Any party to the contested case hearing may make an oral presentation at the board meeting in which the proposed order in that case is considered by the board.

c. Oral presentations before the board shall be limited to 15 minutes each, excluding time for answering questions, unless the chair establishes other limitations. Before the board meeting, the chair may allot time for oral presentations. Oral presentations and responses to questions shall be directed to the board.

7.5.33 Reopening the Record

The board, on the motion of any party to a contested case or on its own motion, may order the presiding officer to reopen the record for further proceedings on specific issues in dispute. The order shall include instructions as to the subject matter of further proceedings and the presiding officer's duties in preparing supplemental materials or revised proposals based upon those proceedings for the board's adoption.

7.5.34 Decision

a. No later than 60 days following the completion of a contested case hearing at SOAH or no later than 30 days following the completion of any other contested case hearing, the presiding officer shall submit a proposal for decision to the District or the board shall render its decision. The decision, if adverse to any party, must be in writing or stated in the record. If a timely written request is filed in accordance with § 7.5.36, then the board's decision must be in writing and shall include findings of fact and conclusions of law separately stated regarding the decision of the board. The board shall provide certified copies of the findings and conclusions to the person who requested them, and to each person who provided comments or each designated party, not later than the 35th day after the date the board received the request.

b. For contested cases presided over by SOAH, no later than 180 days after the date of receipt of a final proposal for decision from SOAH, the board shall render its decision.

c. The board may change a finding of fact or conclusion of law made by the presiding officer, or may vacate or modify an order issued by the presiding officer, only if the board determines:

(1) that the presiding officer did not properly apply or interpret applicable law, District rules, written policies provided to the presiding officer by the District, or prior administrative decisions:

(2) that a prior administrative decision on which the presiding officer relied is incorrect or should be changed; or

(3) that a technical error in a finding of fact should be changed.

d. For contested cases presided over by SOAH the board may change a finding of fact or conclusion of law made by the presiding officer, or may vacate or modify an order issued by the presiding officer, only if the board determines:

(1) that the presiding officer did not properly apply or interpret applicable law, District rules, written policies provided to the presiding officer by the District, or prior administrative decisions:

(2) that a prior administrative decision on which the presiding officer relied is incorrect or should be changed; or

(3) that a technical error in a finding of fact should be changed.

7.5.35 Notification of Decisions and Orders

a. The District shall notify all parties in a contested case by certified mail, return-receipt requested, first-class mail or email, of any decision.

b. The District shall send a copy of the decision in a contested case by first-class mail or email to attorneys of record and shall keep an appropriate record of the mailing. If a party is not represented by an attorney, the District shall send a copy of the decision by first-class mail or email to the party and shall keep an appropriate record of the mailing.

c. A party or attorney of record notified by mail under Subsection (b) is presumed to have been notified on the third day after the date on which the notice is mailed if mailed by first-class mail.

7.5.36 Request for Findings and Conclusions; Motion for Rehearing

a. Filing motion. Only a party to the contested case or an applicant in an uncontested hearing may file a request for written findings and conclusions or a motion for rehearing.

b. A request for written findings and conclusions shall be filed with the District within 20 days of the date of the board's decision.

c. A motion for rehearing may also be filed with the District within 20 days of the date of the board's decision.

d. If a timely request for written findings and conclusions is filed, a motion for rehearing shall be filed no later than the 20th day after the date the board issues its written findings and conclusions.

e. Failure to timely file a request for written findings and conclusions or motion for

rehearing shall result in the board not considering the request or motion.

f. On or before the date of filing of a request for written findings and conclusions or motion for rehearing, the party filing the request or motion shall mail or deliver a true and correct copy of the request or motion to all parties with certification of service furnished to the District.

g. A request for written findings and conclusions or motion for rehearing shall contain:

(1) the name and representative capacity of the person filing the request or motion;

(2) the style and official docket number assigned by the District;

(3) the date of the decision; and

(4) for motions for rehearing, the grounds for the motion, including a concise statement of each allegation of error.

h. Consolidation of motions for rehearing. The board shall hear motions filed by multiple parties together, and no more than one set of motions may be considered with respect to a particular matter.

i. On receipt of a timely filed request for written findings and conclusions, the board shall make written findings and conclusions regarding a decision of the board. The board shall provide certified copies of its written findings and conclusions to each party to the contested case proceeding not later than the 35th day after the request was filed with the District.

j. Only a party to the contested case proceeding may reply to a request for written findings and conclusions or a motion for rehearing. A reply must be filed with the District within 20 days after the date the request for written findings and conclusions or motion for rehearing is filed.

k. A timely filed motion for rehearing will be scheduled for consideration during a board meeting. If any party has timely filed a request for written findings and conclusions, the motion shall not be scheduled for consideration by the board prior to the board's issuance of its written findings and conclusions.

l. Upon the request of a board member, a motion for rehearing shall be scheduled for consideration during a board meeting. Unless the board rules on the motion for rehearing, the failure of the board to grant or deny a request for rehearing before the 91st day after the date the request is submitted constitutes a denial of the request by operation of law.

m. A motion for rehearing may be granted in whole or in part. When a motion for rehearing is granted, the decision is nullified. The board may reopen the hearing to the extent it deems necessary. If the board grants a motion for rehearing, the board shall schedule the rehearing not later than the 45th day after the date the motion is granted. Thereafter, the board shall render its decision not later than 90 days after the date of the decision that was the subject of the motion for rehearing.

7.5.37 Decision Final

a. If the board fails to render a decision within 180 days of the issuance of a final proposal for decision by the administrative law judge in matters referred to SOAH, the administrative law judge's proposal for decision is final and appealable 180 days from issuance.

b. Except as provided in Subsection (a), in the absence of a timely filed request for written findings and conclusions or motion for rehearing in accordance with § 7.5.36, a decision of the board is final on the expiration of the period for filing a motion as provided for in § 7.5.36.

c. Except as provided in Subsections (a) and (b), if a party files a timely request for written findings and conclusions or motion for rehearing, a decision of the board is final on the later of

the following dates:

1. if no request for written findings and conclusions is filed and the motion for rehearing is denied, the date the board denies the motion for rehearing, including a denial by operation of law if the motion is not denied within 90 days of the date the motion was filed;
2. if no request for written findings and conclusions is filed and the motion for rehearing is granted, the date the board issues its written decision after the rehearing;
3. if no motion for rehearing is filed but a request for written findings and conclusions is filed, the date the board issues its written findings and conclusions;
4. if a request for written findings and conclusions is filed, and a party thereafter timely files a motion for rehearing, and the motion for rehearing is denied, the date the board denies the motion, including a denial by operation of law if the motion is not denied within 90 days of the date the motion was filed;
5. if a request for written findings and conclusions is filed, and a party thereafter timely files a motion for rehearing as provided in § 7.5.36(d), and the motion for rehearing is granted, the date the board issues its written decision after the rehearing;
6. if a motion for rehearing is filed, and a party thereafter timely files a request for written findings and conclusions as provided in § 7.5.36(b), and the motion for rehearing is subsequently denied after the board issues its written findings and conclusions, the date the board denies the motion, including a denial by operation of law if the motion is not denied within 90 days of the date the motion was filed; or
7. if a motion for rehearing is filed, and a party thereafter timely files a request for written findings and conclusions as provided in § 7.5.36(b), and the motion for rehearing is subsequently granted after the board issues its written findings and conclusions, the date the board issues its written decision after the rehearing.

7.5.38 Appeal of Final Decision

a. Not later than the 60th day after the date on which the decision of the board becomes final, a party to a contested case hearing or an applicant in an uncontested hearing may appeal the District's decision by filing suit under § 36.251, Texas Water Code. Regardless of whether or not a motion for rehearing is timely filed, a suit may not be filed against the District under § 36.251 if a request for written findings and conclusions was not timely filed as provided in § 7.5.36(b). An applicant or a party to a contested case hearing may not file suit against the District under § 36.251 if a request for rehearing was not filed on time.

b. The record. The record in a contested case shall include the following:
    1. all pleadings, motions and intermediate rulings;
    2. evidence received or considered;
    3. a statement of matters officially noticed;
    4. questions and offers of proof, objections and rulings on them;
    5. summaries of the results of any conferences held before or during the hearing;
    6. proposed findings, exceptions and briefs;
    7. any decision, opinion or report issued by the presiding officer;
    8. pre-filed testimony;
    9. all memoranda or data submitted to or considered by the presiding officer; and
    10. the final order and all interlocutory orders.

7.5.39 Costs of Record on Appeal

A party who appeals a final decision in a contested case shall pay all costs of preparation of the record of the proceeding that is required to be transmitted to the reviewing court. A charge imposed as provided by this section is considered to be a court cost and may be assessed by the court in accordance with the Texas Rules of Civil Procedure.

7.6 Hearings on Enforcement Actions

a. If the District receives a written request for a hearing within 30 days from a respondent who has received a notice of violation from the District, or wishes to appeal any enforcement action taken by the general manager, including the denial or rescinding of a well registration or well permit based on enforcement issues, the District shall decide at which board meeting the enforcement action will be considered.

b. Notice of the hearing on the enforcement action shall be mailed to the respondent by certified mail, return receipt requested, first-class mail or email, at least ten days prior to the scheduled hearing date.

c. The board, at its sole discretion, may administer an oath to the staff, the respondent and anyone who makes oral comments on the enforcement matter.

d. The board, at its sole discretion, may appoint a hearings officer or committee of the board to conduct the hearing on the enforcement matter. Any hearing conducted by a hearing examiner shall be conducted in the same manner as provided in this rule. At the close of the hearing, the presiding officer for the hearing shall make a written recommendation to the board. The board may then take any action on the enforcement matter.

7.7 Hearings on Proposed Desired Future Conditions for Managed Aquifers

A. Not later than the 10th day before the date of a public hearing on the groundwater management area's adoption of any proposed DFC or a board meeting to adopt any DFC declared by the TWDB to be administratively complete, the general manager shall provide notice of the hearing or meeting as follows:

1. post a notice in a place readily accessible to the public at the District Office;
2. provide a copy of the notice to the county clerk, to be posted at the county courthouse;
3. publish the notice in one or more newspapers of general circulation in the District; and
4. make available a copy of the DFCs at a place accessible to the public during normal business hours and on the District's website.

b. The notice shall include the following information:

1. the DFCs and a list of any other agenda items;
2. the date, time, and location of the hearing or meeting;
3. the name, telephone number, and address of the person to whom questions or requests for additional information may be submitted;
4. the names of the other districts in the District's groundwater management area; and

5. information on how the public may submit comments and the location and website at which a copy of the DFCs may be reviewed or copied.

Rule 8 Meters and Reporting

8.001 Meters Required

a. Duty to Install: The owner and/or operator of a non-exempt well shall equip the well with a meter meeting the specifications of these rules and shall operate and maintain the meter to measure the instantaneous flow rate and cumulative amount of groundwater withdrawn from the well. No groundwater shall be withdrawn from a non-exempt well unless the well is equipped with a measuring method complying with these rules.

b. Approved Meters: Meters must be mechanically driven, digital, totalizing water meters. The digital totalizer must not be resettable by the permittee and must be capable of a maximum reading greater than the maximum expected pumping during a permit term. Battery operated registers must have a minimum five-year life expectancy and must be permanently hermetically sealed. Battery operated registers must visibly display the expiration date of the battery. All meters must meet the requirements for registration accuracy set forth in the American Water Works Association standards for cold-water meters.

c. Installation and maintenance: Meters must be installed, operated, maintained, and repaired according to the manufacturer's published specifications, and shall ensure accuracy of not greater than plus or minus five percent. If no specifications are published, there must be a minimum length of five pipe diameters of straight pipe upstream of the meter and one pipe diameter of straight pipe downstream of the meter. These lengths of straight pipe must contain no check valves, tees, gate valves, back-flow preventers, blow-off valves, or any other fixture other than those flanges or welds necessary to connect straight pipe to the meter. The pipe must be completely full of water throughout the area of the meter. All installed meters must measure only groundwater.

d. Bypasses: All bypasses must be metered. A bypass is any pipe of any size connected to the discharge pipe between the well and the meter.

e. Meter accuracy to be tested: The District may require the permittee, at the permittee's expense, to test the accuracy of the meter and submit a certificate of the test results. The certificate must be on a form provided by the District. The District may further require that the test be performed by a third party qualified to perform meter tests. Certification tests will be required no more than once every three years for the same meter and installation. If the test results indicate an accuracy outside the 95% - 105% of the actual flow, then appropriate steps must be undertaken by the permittee to repair or replace the meter within 90 calendar days from the date of the test. The District, at its own expense, may undertake further random tests and other investigations for the purpose of verifying meter readings. If the District's tests or investigations reveal that a meter is not registering within an accuracy of 95% - 105% of actual flow, or is not properly recording the total flow of groundwater withdrawn from the well, or well system, the permittee must reimburse the District for the costs of those tests and investigations, and the permittee must take appropriate steps to remedy the problem within 90 calendar days from the date of the tests or investigations. If a water meter or related piping or equipment is tampered with or damaged so that the measurement accuracy is impaired, the

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District may require the permittee, at the permittee's expense, to take appropriate steps to remedy any problem, and to retest the meter within 90 calendar days from the date the problem is discovered and reported to the permittee.

8.002 Alternative Measuring Methods

a. Any non-exempt well owner and/or operator shall register with the District any alternative measurement(s) method it seeks to use on the well.

b. Any alternative measurement(s) method registered in accordance with Subsection (a) of this section shall be inspected by the District for compliance with the requirements of these rules. No groundwater shall be withdrawn from a non-exempt well for which an alternative measuring method is sought unless the District first approves the requested method.

8.003 Removal and Disabling of Meters

a. A meter may not be removed or otherwise disabled, including for routine maintenance, unless the well owner or operator gives the District prior notice, in writing, of the intent to remove or disable the meter. Except in cases of routine maintenance, such notice must be approved in writing by the District before the meter is removed or disabled.

b. A meter may be removed or otherwise disabled, only by the well owner or operator or his or her authorized representative.

c. During a period that a meter is removed or otherwise disabled, groundwater may not be withdrawn from the well, unless the District has approved an alternative measuring method.

d. If at any time a well owner or operator has reason to believe that a condition, of any kind whatsoever, may exist that affects the accuracy of a meter or an approved alternative measuring method, then the well owner and/or operator shall, within seven days of learning of the fact(s), notify the District that the accuracy of the meter or alternative measuring method may be in question. Such notification shall be in writing.

e. The District may conduct an investigation and, if facts warrant, direct the well owner and/or operator, at the well owner and/or operator's cost, to evaluate and test the accuracy of the meter or alternative measuring method and take appropriate corrective action, including replacement, to restore the accuracy and proper working condition of the meter or alternative measuring method in conformance with the requirements of these rules.

8.004 Meter Reading and Groundwater Use Reporting

The well owner and/or operator must read the meter associated with the well and record the meter readings and the actual amount of withdrawals in a log at least monthly. The logs containing the recordings shall be available for inspection by the District during reasonable business hours. Before January 15th of each year, each non-exempt well owner and/or operator must submit to the District an annual groundwater use report, on a form provided by the District. The report shall provide the following: (1) name of the well owner and/or operator; (2) the well number; (3) the total amount of groundwater produced by the well or aggregate system during the immediately preceding calendar year (January 1 through December 31); (4) the total amount of groundwater produced by the well or aggregate system during each separate month of the immediately preceding calendar year; (5) the purpose for which the groundwater was used; and (6) any other information requested by the District as indicated on

the report form.

Rule 9 Water Quality

9.1 Prohibition on Pollution of Groundwater

A person or entity may not pollute or contribute to the pollution of groundwater in the District.

Rule 10 Investigations and Enforcement

10.1 Right to Enter Land

Any District employee, agent or representative is entitled to enter any public or private property within the boundaries of the District at any reasonable time for the purpose of inspecting or investigating conditions relating to the quality or quantity of groundwater or in regard to the compliance with the District Act, Chapter 36 of the Texas Water Code, or any rule, permit, or order of the District. Such persons acting under this authority who enter private property shall, prior to entry, give notice in writing or in person or by telephone to the owner, lessee, or operator, agent, or employee of the property, as determined by information contained in the application or other information on file with the District, if any.

10.2 Conduct of Investigation

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

10.3 Judicial Civil Enforcement

a. The District may enforce its rules by injunction, mandatory injunction, or other appropriate remedy in a court of competent jurisdiction.

b. If the District prevails in any suit to enforce its rules, the District may seek and the court shall grant, in the same action, civil penalties, recovery for attorney's fees, costs for expert witnesses, and other costs incurred by the District before the court.

c. Civil penalties for breach of any rule of the District shall be not less than $100 per day per violation and not more than $25,000 per day per violation.

d. A penalty under this section is in addition to any other penalty provided by the law of this state and may be enforced by complaint filed in a court of competent jurisdiction.

10.4 Enforcement Action by the General Manager

If the general manager determines that a person, or his predecessor in interest, is in violation of these rules, or any other federal, state or county requirements, the terms or conditions of a permit, or TDLR Rules the District is authorized to enforce, he or she may suspend the processing of any application, registration or authorization that the person has pending before

the District.

10.5 Enforcement Action by the Board

If the board determines that a person, or his or her predecessor in interest, violated, is violating, or is threatening to violate these rules, the terms or conditions of a permit, or TDLR Rules the District is authorized to enforce, it may, after providing a 10-day written notice to the person and an opportunity for the person to appear and be heard at a meeting of the board:

(1) suspend the processing of any application, registration or authorization that the person has pending before the District, until the violation is remedied;

(2) suspend any permit, registration or authorization issued by the District, which is held by that person, until the violation is remedied;

(3) commence any action authorized by law to address the violation, including filing a civil suit in state district court seeking an injunction, a mandatory injunction, civil penalties, and attorney's fees and other costs associated with bringing a suit; or

(4) enter into, or authorize the general manager to enter into, a settlement agreement with the person.

10.6 Enforcement Related to Annual Groundwater Production Limitations

a. If the board determines that the holder of a well permit has exceeded the annual authorized withdrawal amount in the permit, the board may suspend taking enforcement action for a period of time in order to determine whether the holder of the permit has average annual withdrawals over a three-year period in excess of the permit's annual authorized withdrawal amount.

b. If the board determines that the holder of a well permit has annual withdrawals over a three-year period in excess of the permit's annual authorized withdrawal amount, the general manager and the board may commence any enforcement action authorized by these rules and other law to enforce the terms of the permit.

10.7 Plugging, Sealing or Marking of Wells

a. For wells for which the owner or operator refuses to plug or cap the well in accordance with Chapter 1901, Texas Occupations Code, after the District provides notice and an opportunity to be heard to the owner or operator, District staff or a person, firm or corporation employed or engaged by the District may go on the land and plug or cap the well safely and securely.

b. District staff or a District representative may physically mark the well to indicate that the District has plugged or sealed the well and may also undertake other appropriate action to prevent contamination of groundwater, preclude operation of the well or to identify unauthorized operation of the well.

c. Tampering with, altering, damaging, or removing the seal or marking placed by the District on the well, or in any other way violating the integrity of the District's seal or mark, or withdrawing groundwater from a well that has been plugged, sealed, or marked shall constitute a violation and shall subject the person performing that action, as well as any well owner or operator who authorizes or allows that action, to such penalties as provided by applicable law.

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d. The well owner or operator is responsible for reimbursing the District for all expenses incurred.

e. Reasonable expenses incurred by the District in closing or capping a well under this rule constitute a lien on the land on which the well is located.

The lien described by this rule arises and attaches on recordation of, in the deed records of the county where the well is located, an affidavit executed by and person conversant with the facts stating the following:

(1) the existence of the well;

(2) the legal description of the property on which the well is located;

(3) the approximate location of the well on the property;

(4) the failure or refusal of the owner or lessee, after notification, to close or cap the well before the expiration of 10 days after the notification;

(5) the closing or capping of the well by the District, or by an authorized agent, representative, or employee of the District; and,

(6) the expense incurred by the District in closing or capping the well.

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