

RULES OF THE
WES-TEX GROUNDWATER CONSERVATION DISTRICT

PROPOSED ON:
June 3, 2004

ADOPTED ON:
August 26, 2004

EFFECTIVE DATE:
August 31, 2004

REVISED ON:
May 21, 2013

REVISED ON:
August 27, 2019

RULES OF THE Wes-Tex Groundwater Conservation District

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Chairman, Prec. 1, Incorporated**

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CHAPTER 1. GENERAL PROVISIONS

SUBCHAPTER A: GENERAL

§1.1 PURPOSE OF RULES.

(a) The purpose of these Rules of the Wes-Tex Groundwater Conservation District is to implement the powers and duties of the District under its enabling Act, Texas Water Code Chapter 36, and other applicable laws and to establish the general policies and procedures of the District.

(b) The District's Rules are promulgated under the District's statutory authority to achieve the following objectives: to provide for conserving, preserving, protecting, and recharging of the groundwater or of a groundwater reservoir or its subdivisions in order to control subsidence, or prevent waste of groundwater. The District's orders, rules, regulations, requirements, resolutions, policies, guidelines, or similar measures have been implemented to fulfill these objectives.

(c) The Rules of the Wes-Tex Groundwater Conservation District will guide, define, and achieve the District goals of water conservation and pollution prevention in an effort to preserve, protect, and enhance the groundwater within the District's jurisdictional boundaries.

§1.2 USE AND EFFECT OF RULES.

(a) The District uses these Rules as guides in the exercise of the powers conferred to it by law and in the accomplishment of the purposes of the Act. They shall not be construed as a limitation or restriction on the exercise of any discretion, where it exists; nor shall they be construed to deprive the District or Board of the exercise of any powers, duties or jurisdiction conferred by law; nor shall they be construed to limit or restrict the amount and character of data or information that may be required to be collected for the proper administration of the Act.

(b) Except as otherwise specified, these rules are effective August 31, 2004. References to Texas Water Code Chapter 36 include subsequent revisions and are effective upon the effective date of these Rules or upon the effective date of subsequent amendments to Texas Water Code Chapter 36.

§1.3 AMENDING RULES.

The Board may, following notice and hearing, amend these Rules or adopt new rules from time to time.

§1.4 HEADINGS AND CAPTIONS.

The section and other headings and captions contained in these Rules are for reference purposes only and shall not affect in any way the meaning or interpretation of these Rules.

§1.5 CONSTRUCTION OF RULES.

(a) Unless otherwise expressly provided for in these Rules, the past, present and future tense shall each include the other; the masculine, feminine and neuter gender shall each include the other; and the singular and plural number shall each include the other.

(b) The verbs “may,” “can,” “might,” “should,” or “could” are used when an action is optional or may not apply in every case. The verbs “will,” “shall,” or “must” are used when an action is required. The verb “cannot” is used when an action is not allowed or is unachievable.

§1.6 SEVERABILITY.

In case any one or more of the provisions contained in these Rules shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other Rules, or provisions hereof, and these Rules shall be construed as if such invalid, illegal, or unenforceable rule or provision had never been contained herein.

§1.7 SAVINGS CLAUSE.

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

§1.8 COMPUTING TIME.

In computing any period of time prescribed or allowed by these Rules, by order of the Board, or by any applicable statute, the day of the act, event, or default from which the designated period of time begins to run, is not to be included, but the last day of the period so computed is to be included, unless it be a Saturday, Sunday, or legal holiday on which the District is closed, in which event the period runs until the end of the next day that is neither a Saturday, Sunday, or a legal holiday on which the District is closed.

§1.9 TIME LIMITS.

Applications, requests, or other papers or documents required or permitted to be filed under these Rules must be received for filing at the District, within the time limit, if any, for such filing. The date of receipt and not the date of posting is determinative.

§1.10 REGULATORY COMPLIANCE.

Where District Rules and regulations are more stringent than those of other governmental entities, the District Rules and regulations shall control provided the rules and regulations are within the scope of the district's statutory authority and are not otherwise preempted by state or federal law.

SUBCHAPTER B: GENERAL OPERATIONS

§1.20 MEETINGS OF THE BOARD.

The Board of Directors will hold regular meetings at least quarterly. In addition, the Board may hold special meetings at the request of the chairman. The public is invited to attend all meetings of the Board of Directors. All board meetings will be held in accordance with Chapter 551 of the Texas Government Code.

SUBCHAPTER C: RULEMAKING PROCEDURES

§1.40 APPLICABILITY.

This subchapter applies to rulemaking by the District but does not apply to internal personnel rules or practices, bylaws, statements regarding internal management or organization, or other statements not of general applicability.

§1.41 PUBLIC HEARINGS ON PROPOSED RULES.

(a) The Board shall hold at least one public hearing on proposed rules prior to adoption of the proposed rules as final rules.

(b) The Board may direct the General Manager or any other person to serve as the presiding officer and to conduct the public hearings on the proposed rules.

(c) Public hearings will be conducted in the manner the Board or General Manager deems most suitable to conveniently, inexpensively, and expeditiously provide a reasonable opportunity for interested persons to submit relevant data, views, or arguments, in writing or orally, on proposed rules.

§1.42 NOTICE OF PUBLIC HEARINGS ON PROPOSED RULES.

- (a) The Board will set a time and place for any public hearing on proposed rules of the District.
- (b) The General Manager shall give prior notice of the public hearing at least twenty(20) days before the public hearing by posting the notice in the location where notices of the District’s Board meetings are posted and by publishing the notice in one or more newspapers of general circulation within the District, unless the Board determines an emergency to public health or safety exists. Notice for a hearing on proposed rules of the District for emergency situations shall be given at least five (5) days prior to the public hearing.
- (c) The notice shall advise the public of the following:
 - (1) the proposed agenda;
 - (2) the date, place, and time the public hearing is to be convened;
 - (3) the date and time by which written comments must be filed with the District; and
 - (4) the place at which written comments must be filed with the District.

§1.43 ADOPTION OF RULES.

- (a) The Board may adopt proposed rules as final rules at any time after the completion of the public hearing(s) and after the close of the written comment period.
- (b) The Board will compile its rules and make them available for public use and inspection at the District’s principal office.

CHAPTER 2. DEFINITIONS

§2.1 APPLICABILITY.

- (a) The District employs two types of definitions. General definitions apply to all Rules of the District. Specific definitions apply only to the chapter in which they are located. Specific definitions applying only to a particular chapter are set out in that chapter.
- (b) The District follows the definitions of terms set forth in Texas Water Code Chapter 36 and other definitions as set forth herein.

§2.2 DEFINITIONS.

Unless the context clearly indicates a contrary meaning, the following words and terms shall have the following meanings in these Rules:

- (1) **“Abandoned well”** means a well that has not been used for twelve consecutive months. A well is considered to be in use in the following cases:
 - (A) a non-deteriorated well which contains the casing, pump, and pump column in good condition; or
 - (B) a non-deteriorated well which has been capped.
- (2) **Acre Foot** ² the volume of water necessary to cover one acre of land one foot deep or 325,851 gallons.
- (3) **Act** ² the District's enabling legislation **H.B. No. 3659 of the 77th Legislature**, in conjunction with Texas Water Code Chapter 36, as amended.
- (4) **Aggregate System** ² Two or more wells permitted by the District for a total aggregate withdrawal.
- (5) **Aggregate Withdrawal** ² the amount of water withdrawn from two or more wells which are permitted for a total pumpage volume of all wells in the aggregate.
- (6) **Agricultural or Agricultural** ² means any use or activity involving agriculture as defined in Texas Water Code Section 36.001, including but not limited to aquaculture; irrigation to cultivate the soil to produce crops; the practice of floriculture, viticulture, silviculture, and horticulture, including nursery grower operations; raising, feeding, or keeping animals for breeding or production of food or fiber or other products with a tangible value; planting cover crops; wildlife management; or raising or keeping equine animals.
- (7) **Annular Space** ² the space between two cylindrical objects, one of which surrounds the other, such as the space between the walls of a drilled hole and the installed casing.
- (8) **Aquifer** ² a geologic formation with water in sufficient quantities to make the production of water from this formation feasible for beneficial use.
- (9) **Artesian Zone** ² a zone where water is confined in an aquifer under pressure so that the water will rise in the well casing or drilled hole above the bottom of the confining bed overlying the aquifer.
- (10) **“AWWA”** - American Water Works Association
- (11) **Beneficial Use** ² the use of water in a nonwasteful manner for one or more beneficial purposes as defined in Texas Water Code Section 36.001, including but not limited to agricultural use, domestic use, stock-raising, municipal use, mining, industrial use including manufacturing, commercial use, non-agricultural irrigation, recreational use including pleasure uses, oil and gas operations, or other uses including extraction for the purposes of remediation, injection operations, or leachate operations.

- (12) **“Board”** - the Board of Directors of the Wes-Tex Groundwater Conservation District, Nolan County, Texas
- (13) **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.
- (14) **Casing** ” – a watertight pipe which is installed in an excavated or drilled hold, 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 groundwaters to their respective zones or origin, and to prevent surface contaminant infiltration.
- (15) **Cement Grout** ” a mixture of water and cement, which may also include a bentonite clay component.
- (16) **Commercial Use** ” a well used to supply water to properties or establishments which are in business to provide goods or services or repairs and which use water in those processes or incidental to the maintenance of the property or establishment including landscape irrigation; or a well used to supply water to the business establishment primarily for employee and customer sanitary purposes.
- (17) **Commission** ” means the Texas Commission on Environmental Quality or its successor agency.
- (18) **Conservation** ” those water saving practices, techniques, and technologies that will reduce the consumption of water, reduce the loss or waste of water, improve the 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.
- (19) **De-watering Well** ” – an artificial excavation that is constructed to produce groundwater for the purpose of lowering the water table or potentiometric surface and that is not primarily used for the purpose of utilizing the groundwater that is produced.
- (20) **Director** ” an elected or appointed member of the Board of Directors of the Wes-Tex Groundwater Conservation District.
- (21) **Discharge** ” the volume of water that passes a given point within a given period of time.
- (22) **“District”** - the Wes-Tex Groundwater Conservation District, Nolan County, Texas
- (23) **Domestic Use** ” – the use of water by an individual or a household to support domestic activity. Such may include water for drinking, washing or culinary purposes; for irrigation of lawns, or a family garden and/or orchard; for watering of domestic animals; and for water recreation including aquatic and wildlife enjoyment. If the water is diverted, it must be diverted solely through the efforts of the user. Domestic use does not include water used to support activities for which consideration is given or received of for which the product of the activity is sold.

- “ ”
- (24) **Exempt Well** - a well used solely for domestic use or for providing water for livestock or poultry that is either drilled, completed, or equipped so that it is incapable of producing more than 25,000 gallons of groundwater per day;
- (25) **Existing Well** - any well in the District that was drilled and completed, on or before the original effective date of these rules.
- (26) **“Export”** – the transport of groundwater out of the district.
- (27) **Export Fee** - a fee assessed by the District for groundwater that is exported out of the District. The fee may be assessed against pumpage from permitted and unpermitted wells.
- (28) **Extraction well** - a well used to extract contaminated fluids from the subsurface for the purpose of conducting an environmental remediation.
- (29) **“Fees”** - charges imposed by the District pursuant to Rule, Order, or the Act.
- (30) **Fiscal Year** - the business year of the District beginning October 1 of each year and ending on September 31 of the following year.
- (31) **Groundwater or Underground Water** - water located beneath the earth's surface but does not include water produced with oil and gas production.
- (32) **Groundwater Reservoir** - a specific subsurface water-bearing reservoir having ascertainable boundaries and containing groundwater.
- (33) **Hazardous Conditions** - any groundwater quality condition that may be detrimental to public health or affect the beneficial use of water from the aquifer.
- (34) **Hydrogeological Report** - a report that identifies the availability of groundwater in a particular area and formation, and which also addresses the issues of quantity and quality of that water and the impacts of pumping that water on the surrounding environment including impacts to nearby or adjacent wells.
- (35) **Incidental Use** - a beneficial use of water which is of a minor nature. Transport of water outside the District which is in no case more than 50,000 gallons annually per well is considered incidental use.
- (36) **Industrial Use** - the use of water integral to the production of primary goods and/or services provided by industrial, manufacturing or commercial facilities and used primarily in the building, production, manufacturing, or alteration of a product or goods, or a well used to wash, cleanse, cool, or heat such goods or products. Industrial use includes the use of water in the generation of electricity by means other than hydroelectric, including the use of water for cooling purposes, for uses associated with plant personnel, fire protection at the facility, and in maintaining associated property and facilities including mitigation and habitat areas. Industrial use does not include agriculture use.

- (37) **"Injection well"** means an artificial excavation or opening in the ground made by digging, boring, drilling, jetting, driving, or some other method, and used to inject, transmit, or dispose of industrial and municipal waste or oil and gas waste into a subsurface stratum; or a well initially drilled to produce oil and gas which is used to transmit, inject, or dispose of industrial and municipal waste or oil and gas waste into a subsurface stratum; or a well used for the injection of any other fluid; but the term does not include any surface pit, surface excavation, or natural depression used to dispose of industrial and municipal waste or oil and gas waste.
- (38) **Leachate well** means a well used to remove leachate from soil or groundwater. For the purposes of this definition, "leachate" means a liquid that has percolated through or drained from solid waste or hazardous waste and contains soluble, suspended, or miscible materials removed from such waste.
- (39) **Licensed Water Well Driller** means any person who holds a license issued by the State of Texas pursuant to the provisions of the Texas Water Well Drillers Act and the substantive rules of the Texas Department of Licensing and Regulation's Water Well Drillers and Pump Installers Program.
- (40) **Licensed Water Well Pump Installer** means any person who holds a license issued by the State of Texas pursuant to the provisions of the Texas Water Well Pump Installers Act and the substantive rules of the Texas Department of Licensing and Regulation's Water Well Drillers and Pump Installers Program.
- (41) **Meter** means a water flow measurement device which meets AWWA standards for the line size, pressures, and flows, and which is properly installed according to the manufacturer's specifications.
- (42) **Modify** means to alter the physical or mechanical characteristics of a well, its equipment, or production capabilities. This does not include repair of equipment, well houses or enclosures, or replacement with comparable equipment.
- (43) **Monitor or Observation Well** means a well generally used by a person other than the District for collecting water-quality and/or water-level data.
- (44) **Mean Sea Level (MSL)** means an average sea level reference datum determined by the National Oceanic and Atmospheric Administration. Used as a reference in the measurement of elevations.
- (45) **Municipal use** means the use of water for a public water system for residential, commercial, or public and institutional uses, including the application of potable water for irrigation of golf courses, parks and recreational uses; it does not include water for industrial uses even when industrial users are receiving potable water.
- (46) **New Well** means any well that is not an existing well or any existing well which has been substantially altered with respect to size or capacity after August 31, 2004.

- (47) **Nonexempt Well** ”a well required to obtain a drilling permit and be registered with the district.
- (48) **Open or Uncovered Well** ”an artificial excavation at least 10 feet deep and not more than six feet in diameter, that is dug or drilled for the purpose of producing the groundwater, or for injection, monitoring, or de-watering purposes, and is not capped or covered as required by the District.
- (49) **Operate or Operations** ”to produce or cause to produce water from a well or to use a well for injection or closed loop heat exchange purposes.
- (50) **Per Capita** ”one individual or person, a unit of population; may be phrased as a standard value such as: one active residential account or meter equals 3.0 per capita.
- (51) **Person** ”includes a corporation, individual, organization, cooperative, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, or any other legal entity.
- (52) **“Plug”** - to close a well permanently in accordance with approved District standards.
- (53) **Potable Water** ”water which is safe for human consumption in that it is free from impurities in amounts sufficient to cause disease or harmful physiological effects.
- (54) **Potentiometric Surface** ”the elevation to which water from a specific aquifer will rise in a well (water level).
- (55) **Public Water System** ” – a system that provides water for human consumption as defined by the rules of the Texas Commission on Environmental Quality. A “community water system” means a water system that has the potential to serve at least 15 residential service connections on a year-round basis or serves at least 25 people on a year-round basis.
- (56) **Pumpage or Groundwater Production** ”all water withdrawn from the ground, measured at the wellhead.
- (57) **Permit** ”an authorization issued by the District allowing the drilling, equipping, or completion of a well or withdrawal of a specific amount of groundwater from a nonexempt well for a designated period of time, generally in the form of millions of gallons or acre-feet per year.
- (58) **“Permit Amendment”** - a minor or major change in the permit.
- (59) **Recharge Zone** ”the area of the aquifer in which water infiltrates the surface and enters permeable rock layers.
- (60) **Recreational Use** ” – the use of water for fishing, swimming, water skiing, boating, hunting, and other forms of water recreation, including aquatic and wildlife enjoyment.

- (61) **Red Tag** -"An official seal, tag, or label placed on a well or its equipment, or the act of placing the tag or label, to indicate that further pumping of groundwater, or operation of the well, or continuing with other District regulated activities is not permitted by the District, will be in violation of District Rules, and may subject the well owner and operator to civil suit and/or penalties.
- (62) **"Registered Well"** – Any and all completed wells.
- (63) **"Rules"** - standards and regulations promulgated by the District.
- (64) **Seal** " the impermeable material, such as cement grout, bentonite, or puddling clay, placed in the annular space between the borehole wall and the casing to prevent the downhole movement of surface water or the vertical mixing of groundwater.
- (65) **Shrinkage** " the loss of water between the producing well(s) meter and the customers meter in a water system. [Note: when the amount of shrinkage becomes excessive (greater than 15% of pumpage volume) the loss of water may become waste. May also be termed "line loss".]
- (66) **Special Provisions** " conditions or requirements added to a permit which may be more or less restrictive than the Rules as a result of circumstances unique to a particular situation.
- (67) **"Spring"** - a point(s) of natural discharge from an aquifer.
- (68) **"Stratum"** - a layer of rock having a similar composition throughout.
- (69) **Surface Completion** " sealing off access of undesirable water, surface material, or other potential sources of contamination to the well bore by proper casing and/or cementing procedures.
- (70) **Subsidence** " – sinking of a portion of the land surface resulting from removal of fluids from subsurface reservoirs such as oil deposits, groundwater, or salt domes.
- (71) **Total Dissolved Solids (TDS)** " a measurement of the quantity of minerals, chemicals, elements, or other matter contained in a state of solution by water.
- (72) **Unconsolidated Formations** " naturally-occurring earth formations that are not lithified. Alluvium, soil, gravel, clay, and overburden are some of the terms used to describe this type of formation.
- (73) **"User"** - a person who produces, distributes, or uses water from the aquifer(s).
- (74) **Void** " a general term for pore space or other opening in rock. The openings can be very small to cave size, and are filled with water below the water table.
- (75) **Water Level Elevation or Altitude** " the measure or estimate of a water surface in a well or aquifer as measured in feet above mean sea level.

- (76) **Water Meter Seal** ‐ a physical seal that is installed in or on the water meter to prevent tampering with meter readings.
- (77) **“Water-Quality Report”** - a report prepared by the Texas Department of Health, the U.S.G.S. or any other governmentally or District-approved laboratory that is the product of testing the water for bacteria, solids, elements, chemicals, or contaminants.
- (78) **“Water Table”** - the upper boundary of the saturated zone in an unconfined aquifer.
- (79) **Water Tight Seal** ‐ a seal, which prohibits the entrance of liquids or solutions, including water, which may enter through the wellhead and potentially, contaminate the well.
- (80) **Water Table Zone** ‐ that part of the aquifer confined only by atmospheric pressure (water levels will not rise in the well above the water table).
- (81) **Well** ‐ any artificial excavation or borehole constructed for the purposes of exploring for or producing groundwater, or for injection, monitoring, or de-watering purposes.
- (82) **“Well Elevation”** - the ground surface elevation of the well bore.
- (83) **Well Log** ‐ an accurately kept record made during the process of drilling on forms prescribed by the Water Well Drillers Team, showing the depth of the well bore, thickness of the formations, character of casing installed, together with any other data or information required by the Water Well Drillers Team; or any other special purpose well log that may be available for a given well, such as a gamma ray log, a temperature log, an electric log, or a caliper log.
- (84) **Well Pumps and Equipment** ‐ devices and materials used to obtain water from a well, including the seals and safeguards necessary to protect the water from contamination.
- (85) **Well Registration** ‐ the creation of a record of the well by use and a well identification number for purposes of registering the well as to its geographic location and for notification to the well owner in cases of spills or accidents, data collection, record keeping and for future planning purposes.
- (86) **Withdraw or Withdrawal** ‐ the act of extracting groundwater by pumping or any other method, other than the discharge of natural springs.

CHAPTER 3. REGISTRATION, PERMITS, FEES, AND OTHER REQUIREMENTS

SUBCHAPTER A: SCOPE AND APPLICABILITY

§3.1 REGISTRATION REQUIRED.

(a) Except for those types of wells listed in Subsection (c), all wells within the District whether exempt or non-exempt from permitting are required to be registered with the District on forms approved by the General Manager.

(b) Registration of an existing, exempt well will provide the owner or operator of the well with evidence that the well existed before the effective date of these Rules. Registration of an existing, exempt well will also include the well in the spacing protections provided by Chapter 6.

(c) The following types of wells are not required to be registered with the District: leachate wells, extraction wells, injection wells, and dewatering wells.

§3.2 REGISTRATION OF EXISTING WELLS.

(a) The owner or operator of an existing well, except for those types of wells listed in Subsection 3.1(c), located in the District shall register the well by completing an application form provided by the District and submitting the completed form to the District within 12 months of the effective date of these Rules.

(b) District staff will review the application and make a preliminary determination of whether the well meets the exemptions from further regulation provided in Section 3.5. The General Manager will classify all existing well registrations as “Currently Exempt from Further Regulation” or “Not Exempt from Further Regulation.”

(c) The owner or operator of an existing well must be fully compliant with all registration requirements and other applicable provisions of these Rules within 12 months of the effective date of these Rules.

§3.3 REGISTRATION OF NEW WELLS.

(a) All new wells, except for those types of wells listed in Subsection 3.1(c), must be registered by the well owner, well operator, or water well driller prior to being drilled, equipped, completed, or substantially altered with respect to size or capacity. Substantially alter means to increase the inside diameter of the pump discharge column pipe in any way or to otherwise increase the capacity of the well by more than five percent.

(b) The owner, operator, or water well driller shall register the new well by completing an application form provided by the District and submitting the application to the District for review and approval. District staff will review the application and make a preliminary determination of whether the well meets the exemptions from permitting provided in Section 3.5 and whether the well is in compliance with District rules. The District staff will inform the registrant of their determination within five business days of receipt of the completed application.

(c) If the staff's preliminary determination is that the well is exempt and in compliance with all District spacing and rules, the registrant may begin drilling or other activity immediately upon receiving the approved registration. If the staff's preliminary determination is that the well is exempt, but is not in compliance with all District spacing rules, the General Manager shall notify the registrant of the provisions that are not in compliance and the changes needed to bring the proposed well into compliance. The registrant may re-submit the application to the District after correcting the appropriate provisions.

(d) If the preliminary determination is that the well is not exempt, the District staff will inform the registrant of any further application information or fees required to process the application as a permit application.

(e) If the preliminary determination is that the well not exempt, no person may drill, equip, complete, or substantially alter the well without first obtaining the appropriate permit or amendment thereto from the District.

(f) A violation of this Rule occurs on the first day the drilling, equipping, completion, or alteration without the appropriate registration or permit begins and continues each day thereafter until the appropriate registration or permit is issued.

§3.4 DRILLING PERMIT REQUIREMENTS.

(a) Except as otherwise stated in Subsection (c) of this section, a permit from the District is required prior to drilling, equipping, completing, or substantially altering, any well within the District that is not exempt under §3.5 of these rules. It is a violation of these Rules for a well owner, well operator, water well driller, or any other person acting on behalf of the well owner, to drill, equip, complete, substantially alter, operate, or produce groundwater from a non-exempt well within the District without first obtaining the proper permit or permit amendment.

(b) An application for a permit, or permit amendment, shall be submitted in accordance with Subchapter B of this Chapter.

(c) The following types of wells do not require a permit from the District: leachate wells, extraction wells, injection wells, dewatering wells, and monitoring wells that produce less than 5,000 gallons per year.

§3.5. EXEMPTIONS FROM DRILLING PERMITS

(a) The following wells are not required to have a drilling permit from the district:

(1) a well used solely to supply water for a rig that is actively engaged in drilling or exploration operations for an oil or gas well permitted by the Railroad Commission of Texas provided that the person holding the Railroad Commission permit is responsible for drilling and operating the water well and the well is located on the same lease or field associated with the drilling rig;

(2) a water well authorized under a permit issued by the Railroad Commission of Texas under Natural Resources Code Chapter 134, provided the withdrawals are no greater than the amount necessary for mining activities specified in the Railroad Commission permit, regardless of any subsequent use of the water.

(b) A well exempt under Subsection (a) will lose its exempt status and must be permitted if the well is subsequently used for a purpose or in a manner that is not exempt under Subsection (a). Such non-exempt use from an exempt well is considered a major violation of the District's Rules, and the well owner and/or operator may be subject to the enforcement provisions in Chapter 11.

(c) A water well exempt under Subsection (a) shall be:

(1) registered in accordance with these Rules; and

(2) equipped and maintained so as to conform to the District's 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.

(d) The driller of a well exempted under Subsection (a) shall file the drilling log with the District.

(e) Groundwater withdrawn from a well exempt from permitting under this section and subsequently exported outside the boundaries of the District requires notice to the District and is subject to any applicable production and export fees.

(f) The board may require the well owner or operator to submit information verifying the amount of annual production from **any** well and the Board may require that a water meter be installed within a specified time period.

SUBCHAPTER B: APPLICATION REQUIREMENTS AND PROCESSING

§3.10 PREPARATION OF AN APPLICATION.

- (a) Form of Application. Application for a well registration, permit, or permit amendment shall be made on forms provided by the District. Applications shall be in writing and sworn to.
- (b) Proper Registrant, Applicant, or Declarant. The application must be submitted and signed by the well owner, well operator, or an authorized agent of the owner or operator. The agent may be required to provide the District with a notarized authorization from the landowner.
- (c) Completeness of an Application. An application shall be considered administratively complete if it includes all information required to be included in the application; is properly completed, signed, and notarized; is accompanied by payment of all applicable fees, including any penalties or past due fees; and includes any maps, documents, or supplementary information requested by the Board or staff. A determination of administrative completeness will be made by the General Manager.
- (d) Action on Incomplete Applications. The District will not take action on an application which is not administratively complete or which has not proceeded in a manner consistent with District Rules. An application may be rejected as not administratively complete if the District finds that substantive information required by the application or District staff is missing, false, or incorrect. Applicants submitting incomplete applications will be notified by the District in writing.

§3.11 REQUIREMENTS FOR APPLICATIONS.

- (a) A separate application is required for each well.
- (b) Content Requirements. An application must contain the following information in sufficient detail to be acceptable to the District:
 - (1) Minimum Requirements. All applications shall include the following:
 - (A) the name, physical address, the 911 system address, and phone number of the applicant and the owner of the property on which the well is or will be located;
 - (B) if the applicant is other than the owner of the property, documentation establishing the applicable authority to construct and operate a well for the proposed use;
 - (C) a detailed statement of the nature and purpose of the proposed uses and the amount of groundwater to be used for each purpose, including the estimated annual pumpage volume for the well; the number of cultivated acres being

irrigated and anticipated crop type, if applicable; an explanation of any anticipated growth in total water demand and associated pumpage needs; and any alternative water sources being used by the applicant;

(D) the location of the well and the estimated rate at which water will be withdrawn from the well, and for a proposed aggregate system, a description of the system and the estimated annual pumpage for the system;

(E) the proposed location(s) of use of the water from the well;

(F) the proposed casing size and pump capacity;

(G) a statement by the applicant that the water withdrawn under the permit will be put to a beneficial, non-wasteful use at all times and that the applicant will comply with all District Rules, orders, and permit provisions;

(H) a water well closure plan or a declaration that the applicant will comply with well plugging and capping guidelines set forth in these Rules and will report well closures to the District;

(I) a water conservation plan, if the applicant is required by law to have a water conservation plan;

(J) a drought contingency plan, if the applicant is required by law to have a drought contingency plan; and

(K) any other information deemed necessary for the evaluation of the application by the General Manager or the Board.

(2) Additional Requirements. An application for a permit that involves the export of groundwater from the District shall include the following additional information:

(A) the location of the proposed receiving area for the water to be exported;

(B) a detailed statement of the nature and purpose of the various proposed uses in the proposed receiving area and the amount of groundwater to be used for each purpose;

(C) information describing the projected effect of the proposed exportation of water on aquifer conditions, depletion, subsidence, and existing permit holders or other groundwater users within the District;

(D) a copy of a proposed plan, if any, to mitigate any adverse impacts of the proposed export on groundwater users within the District;

(E) a description of how the proposed export is addressed in any approved regional water plan(s), if applicable; and

(F) a technical description of the facilities to be used for transportation of the groundwater and a time schedule for construction thereof.

(c) Hydrogeological Report. An applicant for a new well, other than a replacement well, or an applicant for permit renewal for a well that has not previously been the subject of a hydrogeological report, that involves the export of groundwater out of the District or the production of more than 1000 acre-feet of groundwater annually, shall submit to the District a current hydrogeological report addressing the area of influence, drawdown, recovery time, and other pertinent information required by the District. The well must be equipped to test for its ultimate planned use and the hydrogeological report must address the impacts of that use. The hydrogeological report shall be prepared by a qualified person who is properly licensed by the State of Texas to prepare such report. The report shall include hydrogeologic information addressing and specifically related to the proposed water pumpage levels at the proposed pumpage site. Applicants may not rely solely on reports previously filed with or prepared by the District. The report must be submitted within 120 days of the date the permit is granted, and failure to submit a hydrogeological report as required by the District is a violation of these Rules and shall be grounds for cancellation of the permit. The Board shall make the final determination of whether a hydrogeological report meets the requirements of this subsection.

(d) Fees Included with Application. The application must be accompanied by the application processing fee, inspection fee, or other fees as appropriate. Such fees must be paid before an application may be declared administratively complete. Application processing fees are non-refundable.

(e) Activities Not Considered Export. For purposes of this section, the following activities are not considered to be an export of groundwater:

- (1) the export of groundwater from the District for incidental use as defined in Chapter 2 of these Rules;
- (2) the export of groundwater for an agricultural operation that overlaps or is adjacent to the District boundary; or
- (3) the export of groundwater that occurs as a result of the distribution of water within a single, aggregate system of a retail public water system that overlaps the District boundary.

§3.12 SCHEDULING AND NOTICE OF HEARING ON AN APPLICATION.

(a) Staff Recommendation. Once an application for a drilling permit has been declared administratively complete by the General Manager, the District Staff will perform a technical review of the application, certify the spacing of the proposed well with regard to all district spacing rules, and prepare a staff recommendation to the Board. The staff recommendation will include a summary of the facts related to the application and staff recommendations for Board action on the application.

(b) Scheduling of Hearing. If the General Manager determines that the permit application is not in compliance with all district rules and should be heard by the Board, the General Manager

or Board will schedule the application for a hearing at a regular or special meeting of the Board. If the General Manager determines that the proposed well is in compliance with all district rules, then the drilling permit may be approved by the General Manager, and the drilling operation may proceed without a full board hearing. The Board may schedule hearings for additional dates, times, and places if the hearing is to be presided over by a hearings examiner. The General Manager or Board may schedule more than one application for consideration at a hearing. Well registrations do not require a hearing or Board action.

(c) Notice of Hearings. The General Manager shall give notice of all hearings involving permit applications in the following manner:

(1) Notice of the date, time, and location of the hearing shall be sent to the applicant in writing at least ten calendar days before the date of the hearing by certified mail, return receipt requested. The notice to the applicant shall include the staff recommendation on the application.

(2) A copy of the notice shall be posted at the District office and at the county courthouse in the place where notices are usually posted. The date of posting may not be less than ten calendar days before the date of the hearing.

(d) Contents of Notice. The notice shall include:

(1) the name of the applicant;

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

(3) any other information the General Manager or Board deems relevant or appropriate.

§3.13 HEARING PROCEDURES.

(a) General Provisions. Hearings on permit matters will be conducted by a quorum of the Board or an individual to whom the board has delegated the responsibility to preside as a hearings examiner. The board president, or another board member designated by the president, or the hearings examiner shall serve as the presiding officer for the hearing.

(b) Hearing Registration. The District may require each person who attends a hearing to submit a hearing registration form stating the person's name, address, whom the person represents, and whether the person wishes to testify.

(c) Conduct of Hearings. Hearings will be conducted in the manner the presiding officer deems most suitable to conveniently, inexpensively, and expeditiously provide a reasonable opportunity for interested persons to submit relevant data, views, or arguments, in writing or orally. In addition, the presiding officer may:

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

- (2) set any necessary additional hearing dates;
- (3) establish the order for presentation of evidence;
- (4) administer oaths to all persons presenting testimony;
- (5) examine persons presenting testimony;
- (6) limit testimony or the presentation of evidence to persons who, in the presiding officer's determination, are affected by the subject matter of the hearing;
- (7) allow testimony to be submitted in writing and may require that written testimony be sworn to;
- (8) ensure that information and testimony are introduced as conveniently and expeditiously as possible without prejudicing the rights of any party; and
- (9) prescribe reasonable time limits for testimony and the presentation of evidence.

(d) Continuance. The presiding officer may continue a hearing from time to time and from place to place without providing notice under Section 3.12 by announcing at the hearing the time, date, and location of the continued hearing.

(e) Recording. The District shall prepare and keep a record of each hearing in the form of either minutes, or audio or video recording, or court reporter transcription, or the report described by Subsection (f) of this section. If a hearing is transcribed at the request of a party to the hearing, the presiding officer may assess the costs associated with producing the transcript to one or more parties. If a hearing involved a contested application, then the District shall keep a record of the hearing in the form of audio or video recording or a court reporter transcription.

(f) Report. The presiding officer shall submit a report to the board not later than the 30th day after the date a hearing is concluded, unless the hearing was conducted by a quorum of the board. If the hearing was conducted by a quorum of the board, the presiding officer shall determine at the presiding officer's discretion whether to prepare and submit a report to the board under this section. The report must include:

- (1) a summary of the subject matter of the hearing;
- (2) a summary of the evidence or public comments received; and
- (3) the presiding officer's recommendations for board action on the subject matter of the hearing.

§3.14 ACTION ON APPLICATIONS.

(a) Before granting or denying a permit, in whole or in part, the District shall consider whether the application conforms to the requirements prescribed by these Rules and Texas Water Code Chapter 36, and is accompanied by the prescribed fees.

(b) In determining whether to issue a permit, and in setting the terms and provisions of the permit, the District shall consider the purposes of the District and all other relevant factors, including, but not limited to:

- (1) the amount and purposes of use for which water is needed;
- (2) whether the proposed use of water is dedicated to a beneficial, non-wasteful use; and
- (3) whether the proposed use of water is consistent with the District's certified groundwater management plan and any applicable spacing requirements or applicable production limitations.

(c) The District shall make a written determination granting or denying in whole or part the application.

§3.15 TERM OF DRILLING PERMITS.

(a) All drilling permits are effective for six months from the date of issuance, unless otherwise stated on the permit. The Board may issue a permit with a term longer than six months, but not to exceed two years, when doing so aids the District in the performance of its duties and accomplishing the goals of the Act.

(b) The permit term will be shown on the permit.

§3.16 PERMIT ISSUANCE AND FORMAT

(a) Permit Contents. The permit shall include the following information in a format approved by the General Manager:

- (1) the name and address of the person to whom the permit is issued;
- (2) the state well number or District-assigned well number for the well;
- (3) the date the permit is issued;
- (4) the date the permit is to expire;
- (5) the location of the well(s);

- (6) the type or purpose(s) of use of the groundwater;
- (7) the place of use of the groundwater;
- (8) a requirement that the water withdrawn under the permit be put to a beneficial use at all times;
- (9) any other conditions, provisions, or restrictions the District prescribes; and
- (10) any other information the District deems necessary.

(b) Corrections or Administrative Modifications. The General Manager, on his own motion or at the request of the permittee, may make non-substantive corrections or administrative modifications to any permit either by reissuing the permit or by issuing an endorsement to the permit, without observing formal amendment or public notice procedures. The General Manager must notify the permittee and file a copy of the endorsement or corrected permit in the District's official records.

§3.17 PERMIT TERMS AND CONDITIONS

All permits are granted subject to these Rules, orders of the Board, and the laws of the State of Texas. In addition to any special provisions or other requirements incorporated into the permit, each permit issued shall be subject to the following terms and conditions:

- (1) The permit is granted in accordance with the provisions of **H.B. No. 3659 of the 77th Texas Legislature** in conjunction with Texas Water Code Chapter 36, and the Rules and orders of the District, and acceptance of the permit constitutes an acknowledgment and agreement that the permittee will comply with all the terms, provisions, conditions, requirements, limitations, and restrictions embodied in the permit and with the Rules and orders of the District.
- (2) The permit confers no vested rights in the holder and the permit is non-transferable. The permit may be revoked or suspended or its terms may be modified or amended pursuant to the requirements of the Act and any applicable Rules and orders of the District. Upon the sale of the well covered by the permit, written notice must be given by the permittee to the District within ninety (90) days.
- (3) The drilling and operation of the well for the authorized use shall be conducted in such a manner as to avoid waste, pollution, or harm to the aquifer.
- (4) The well site shall be accessible to District representatives for inspection. The permittee agrees to cooperate fully in any reasonable inspection of the well site and related monitoring or sampling by District representatives.
- (5) The application pursuant to which a permit has been issued is incorporated in the permit, and the permit is granted on the basis of and contingent upon the accuracy of the information supplied in that application and in any amendments thereof. A finding that false information has been supplied shall be grounds for immediate revocation of the permit. In the event of conflict between the provisions of the permit and the contents of the application, the provisions of the permit shall control.

- (6) Driller's logs must be submitted within thirty (30) days of the drilling of a well. Failure to submit a driller's log will be grounds for denial of future permits and forfeiture of any deposit.
- (7) Violation of the permit's terms, conditions, requirements, or special considerations is a violation of these Rules and shall be punishable by civil penalties as provided by the Act and these Rules.
- (8) If special provisions on a permit are inconsistent with other provisions or regulations of the District, the special provisions shall prevail.
- (9) Community water system permittees should maintain at least 85 percent accountability. If losses or unaccounted for water exceeds 15 percent, the District may require the permittee to submit a report to the District outlining the steps the permittee will take to improve system accountability.

§3.18 PERMIT AMENDMENTS.

- (a) It is a violation of these Rules for a permittee to violate any term, provision, or restriction contained in a permit issued by the District. A permittee must apply for and receive an amendment to their permit prior to changing any term, provision, or restriction in the permit.
- (b) Amendment Types:
 - (1) Minor amendments include a request to:
 - (A) change the name or address of the well owner without any change in use;
 - (B) convert two or more wells individually permitted by the same permittee into an aggregate system under one permit.
 - (C) an incidental relocation of the well site within a 250 feet radius of the original site. The relocation site must still comply with all spacing rules.
 - (2) All other amendments, including all amendments to permits involving the export of groundwater, are major amendments.
- (c) Minor amendments may be granted by the General Manager without notice, hearing, or further action by the Board.
- (d) Major amendments shall be subject to all the requirements and procedures applicable to issuance of a new permit for a new well.
- (e) An application for permit amendment shall be made on forms supplied by the District and must be accompanied by any applicable application processing fee established by the Board. No application processing fee will be required from permittees requesting a decrease in maximum authorized withdrawal.

§3.19 PERMIT REVOCATION, CANCELLATION, OR MODIFICATION.

(a) A permit is not a vested right of the holder.

(b) After notice and an opportunity for hearing, a permit may be revoked, suspended, terminated, canceled, modified, or amended in whole or in part for cause, including, but not limited to (i) violation of any terms or conditions of the permit, (ii) obtaining the permit by misrepresentation or failure to disclose relevant facts, or (iii) failure to comply with any applicable Rules, regulations, fee schedule, special provisions, requirements, or orders of the District. The permittee shall furnish to the District upon request, and within a reasonable time, any information to determine whether cause exists for revoking, suspending, terminating, canceling, modifying, or amending a permit.

§3.20 AGGREGATION.

(a) In issuing a permit, the authorized withdrawal for a given well may be aggregated, at the discretion of the District, with the authorized withdrawal from other permitted wells designated by the District. The geographic location of each well and integrated distribution systems will be considered in determining whether or not to allow aggregation of withdrawal of groundwater.

(b) For the purpose of categorizing wells by the amount of groundwater production, when wells are permitted with an aggregate withdrawal, the aggregate value shall be assigned to the group, rather than allocating to each well its prorated share or estimated production. Water withdrawn from each well shall be independently measured or metered.

§3.21 TEMPORARY EMERGENCY APPROVALS.

(a) Basis for Temporary Emergency Permit. Upon application to the District, the General Manager may issue a temporary emergency permit that authorizes the withdrawal of water from a well not currently drilled. An application for a temporary emergency permit must present sufficient evidence that:

(1) no suitable alternative supply of water is immediately available to the applicant;
and

(2) an emergency need for the groundwater exists such that issuance of the permit is necessary in order to prevent an immediate and serious threat to human life or health or to prevent extensive and severe property damage or economic loss to the applicant or intended recipient of the water.

(b) Action on Request. The General Manager may rule on any application for a temporary emergency permit without notice, hearing, or further action by the Board, or with such notice and hearing as the General Manager deems practical and necessary under the circumstances. The General Manager may deny an application for a temporary emergency permit on any reasonable ground, including, but not limited to, a determination that the applicant is currently

in violation of these Rules or Texas Water Code Chapter 36, that the applicant has a previously unresolved violation on record with the District, or that the application does not meet the requirements of this Rule. Written notice of the ruling shall be given to the applicant. Any applicant may appeal the General Manager's ruling by filing, within ten business days of the General Manager's ruling, a written request for a hearing before the Board. The Board will hear the applicant's appeal at the next available regular Board meeting.

(c) Board notification. The General Manager shall inform the Board of any temporary emergency permits granted. On the motion of any Board member, and a majority concurrence in the motion, the Board may overrule the action of the General Manager.

(d) Permit Fee. The permit fee to be assessed for a temporary emergency permit under this Rule shall be the same as a permit issued under Section 3.14.

(e) Term of Temporary Emergency Permit. No temporary emergency permit may be issued unless an application for a permit issued under Section 3.14 has been filed with the District addressing the same well. The term of any temporary emergency permit issued by the General Manager under this rule shall extend only until the Board makes a final decision on the application for the permit under Section 3.14.

§3.22 FINAL DECISION; APPEAL.

(a) Board Action. After the record is closed and a permitting matter is submitted to the Board, the Board may take the matter under advisement, continue it from day to day, reopen or rest the matter, refuse the action sought, grant the action sought in whole or part, or take any other appropriate action. Board action takes effect at the conclusion of the meeting in which the Board took the action and is not affected by a request for rehearing.

(b) Requests for Rehearing. A decision of the Board made under this Rule may be appealed by requesting a rehearing before the Board within 20 calendar days of the Board's decision. Such a rehearing request must be filed at the District Office in writing and must state clear and concise grounds for the request. Such a rehearing request is mandatory with respect to any decision or action of the Board before an appeal may be brought. The Board's decision is final if no request for rehearing is made within the specified time, upon the Board's denial of the request for rehearing, or upon the Board's rendering of a decision after rehearing. If the rehearing request is granted by the Board, the date of the rehearing will be within 45 calendar days thereafter unless otherwise agreed to by the parties to the proceeding. The failure of the Board to grant or deny a request for rehearing within 90 calendar days of the date of submission will be deemed to be a denial of the request.

SUBCHAPTER C: REQUIREMENTS OF WELL OWNERS, OPERATORS AND WELL DRILLERS

§3.40 REPORTS.

(a) Pumpage and Export Reports.

(1) Any entity holding a permit issued by the Railroad Commission of Texas under Texas Natural Resources Code Chapter 134 that authorizes the drilling of a water well shall report annually to the District:

- (A) the total amount of water withdrawn each month;
- (B) the quantity of water necessary for mining activities;
- (C) the quantity of water withdrawn for other purposes; and
- (D) The Report shall include, if it has not already been provided to the District, the driller's log, a description of the casing and pumping equipment, and the capacity of the well.

(2) Any entity exporting water out of the district boundaries will provide the district with an annual report of amounts of water exported. A report form will be provided by the district.

(b) Water Quality Reports.

(1) All community water system permittees required by statute or regulation to conduct water quality analyses (including public water systems) shall, at the time of obtaining results of the analyses, submit a duplicate copy to the District.

(2) If a community water system is required by the TCEQ to notify its customers that water fails to meet TCEQ standards, the permittee shall immediately notify the District by submitting a copy of the TCEQ's report.

§3.41 FEES AND PAYMENT OF FEES.

(a) Application, Registration, and other Administrative Fees. The Board shall establish a schedule of administrative fees by resolution. The Board will attempt to set fees at an amount that does not unreasonably exceed the cost to the District of performing the function for which the fees are charged. Such costs may include maintenance of a fund balance for contingencies. Wells used by the district solely for monitoring purposes are exempt from application fees, registration fees, and well log deposits.

(b) Export fees. The District may establish an export fee in accordance with Texas Water Code Chapter 36. The export fee rate will be established by Board resolution and the fee rate will be included in the District's fee schedule. Export fees will not be applied to:

(1) the export of groundwater from the District for incidental use as defined in Chapter 2 of these Rules;

(2) the export of groundwater for an agricultural operation that overlaps or is adjacent to the District boundary; or

(3) the export of groundwater that occurs as a result of the distribution of water within a single, aggregate system of a retail public water system that overlaps the District boundary.

(c) Production Fees. The District may establish a production fee in accordance with the Act and Texas Water Code Chapter 36. The Production Fee Rate will be established by Board resolution.

(d) Payment of Fees. All administrative fees are due at the time of application or registration unless otherwise specified by the Board. Export fees and production fees shall be paid upon receipt of a fee statement from the District. The validity of any permit is contingent upon payment of any applicable export or production fee, and if the fee is not paid within 45 days of the date of the fee statement, the permit may be cancelled by the Board. The Board by resolution may establish procedures for the payment of export or production fees in installments.

(e) Returned Check Fee. The Board may, by resolution, establish a fee for checks returned to the District for insufficient funds, account closed, signature missing, or any other problem causing a check to be returned by the District's depository.

(f) Well Log Deposit. The Board may, by resolution, establish a Well Log Deposit to be held by the District for return to the depositor if well logs are submitted to the District within thirty (30) days following surface completion of the well.

§3.42 DRILLER'S REQUIREMENTS PRIOR TO DRILLING

(a) Current License. All drillers must have a copy of their current license on file with the district before beginning the drilling of any well. This shall be faxed or mailed to the district annually upon renewal of the license.

(b) State Well Reports. In accordance with the Texas Administrative Code §76.700(3) and §76.701, well drilling reports and undesirable water reports shall be filed with the Wes-Tex Groundwater District within thirty (30) days of completion of the well or the discovery of undesirable water.

CHAPTER 4. RESERVED FOR FUTURE USE

CHAPTER 5. GENERAL PROVISIONS AND PROHIBITIONS

§5.1 GENERAL PROHIBITION.

Groundwater produced from within the District shall not be used in such a manner or under such conditions as to constitute waste. No person shall intentionally or negligently commit waste.

§5.2 SUBSURFACE POLLUTION.

No person shall pollute or harmfully alter the character of the groundwater reservoirs of the District by operating or constructing a well that causes or allows the introduction of salt water pollutants or other deleterious matter from another stratum from the surface of the ground.

§5.3 SURFACE POLLUTION.

No person shall pollute or harmfully alter the character of the groundwater reservoirs of the District by activities on the surface of the ground, which cause or allow pollutants to enter the groundwater reservoirs through well head or well bore.

§5.4 ORDERS TO PREVENT WASTE/POLLUTION.

After providing notice to affected parties and opportunity for a hearing, the Board may adopt orders to prohibit or prevent waste or pollution. If the factual basis for the order is disputed, the Board shall direct that an evidentiary hearing be conducted prior to entry of the order. If the Board determines that an emergency exists, requiring the immediate entry of an order to prohibit waste or pollution and protect the public health, safety, and welfare, it may enter a temporary order without notice and hearing provided, however, the temporary order shall continue in effect for the lesser of fifteen (15) days or until a hearing can be conducted.

CHAPTER 6. REGULATION OF WELL SPACING AND PRODUCTION

SUBCHAPTER A: GENERAL PROVISIONS

§6.1 PURPOSE.

The purpose of this chapter is to achieve the District's statutory goals of conserving, preserving, protecting, and recharging the groundwater resources within the District by establishing aquifer management requirements consistent with Texas Water Code Chapter 36, and appropriate to the aquifer system.

§6.2 APPLICABILITY.

All permitted wells are required to meet the well spacing and production regulations set forth in this chapter.

§6.3 BASIS FOR LIMITATION OF WELL SPACING AND PRODUCTION.

The requirements of this chapter are based on the District's statutory authority to regulate the spacing of water wells and the production of groundwater in order to minimize the drawdown of the water table or the reduction of artesian pressure, to control subsidence, to prevent interference between wells, to prevent degradation of water quality, or to prevent waste.

SUBCHAPTER B: SPACING REQUIREMENTS

§6.10 DRILLING WELLS AT UNAPPROVED LOCATIONS PROHIBITED

(a) It is a violation of these Rules for a well owner, well operator, or water well driller to drill a new well that does not comply with the spacing and location requirements of this subchapter.

Any new, non-exempt well drilled out of compliance with the spacing, density, or location requirements in this Chapter is subject to the District's enforcement provisions in Chapter 8 and Chapter 11 of these Rules.

(b) It will not be considered a violation of this rule if a well drilled at a given location is found to not be productive and after communication, coordination, and approval by the District, a subsequent well is then drilled so long as the subsequent well is still in compliance with the spacing and density requirements of this Chapter. The initial, non-productive well must be plugged in accordance with these rules, and any location data or other identifying information in the applicable permit must be updated with the District within fifteen (15) days as such information pertains to the new well.

§6.11 MINIMUM SPACING APPLICABLE TO ALL NON-EXEMPT WELLS

- (a) All non-exempt wells, regardless of casing diameter, must be spaced a minimum of 300 feet from the nearest property line and a minimum of 600 feet from any existing well. Additionally, all new wells must comply with spacing and location requirements set forth by the Texas Department of Licensing and Regulation and set forth under Title 16, Texas Administrative Code Chapter 76, Water Well Drillers and Pump Installers Rules.
- (b) A well must be located a minimum horizontal distance of 50 feet from any water tight sewage facility and liquid waste facility. {TAC Ch.76.1000(a)(3)}
- (c) A well must be located a minimum horizontal distance of 150 feet from any contamination, such as existing or proposed livestock or poultry yards, privies, lateral sewage drain lines and septic system absorption fields.
- (d) No well may be located within 500 feet of a sewage treatment plant, solid waste disposal sight, or land irrigated by sewage plant effluent, or within 300 feet of a sewage wet well, sewage pumping station, or a drainage ditch that contains industrial waste discharges or wastes from sewage treatment systems.
- (e) The spacing requirements of this section do not apply to:
 - (1) a well in existence on or before the effective date of these Rules;
 - (2) a replacement well that is drilled within 50 feet of the original well;
 - (3) a well used solely to supply water for a rig that is actively engaged in drilling or exploration operations for an oil or gas well permitted by the Railroad Commission of Texas provided that the person holding the Railroad Commission permit is responsible for drilling and operating the water well and the well is located on the same lease or field associated with the drilling rig; or
 - (4) a water well authorized under a permit issued by the Railroad Commission of Texas under the Natural Resources Code Chapter 134 if the well is exempt under Section 3.5(a)(3).
- (f) If a well that is exempt from spacing under Subsections (e)(3) or (e)(4) of this section is subsequently converted to a type of use that is not exempt, then the well will become subject to the District's spacing requirements, and if the well is not in compliance with the District's spacing requirements, it must be plugged in a manner consistent with the Texas Department of Licensing and Regulation Water Well Drillers and Pump Installers Rules and Regulations.

§6.12 MAXIMUM DENSITY REQUIREMENTS APPLICABLE TO ALL NEW WELLS

No more than 4 wells may be located on any quarter section (being Southeast, Southwest, Northeast or Northwest quarter of the section) of a surveyed section (approximately 640 acres.) This subsection shall not be construed to require the closing, capping or plugging of any existing well. For a parcel of land that is owned by more than one landowner, any additional wells that may be drilled on that parcel under this density rule will be assigned to the landowner based on the proportion of the parcel in the quadrant owned by each landowner and the number of wells already owned by each landowner in the quadrant where the well is proposed. The number of allowable Non-Exempt wells can be calculated with the following formula and rounded down to the nearest well: $A = \frac{X}{40}$ where A=the number of allowable wells, X= the number of owned acres in a tract, $[\]$ denotes the Greatest Integer Function, $A = [X/40]$

§6.13 EXCEPTIONS TO SPACING AND DENSITY REQUIREMENTS

- (a) If an applicant presents waivers signed by all adjoining landowner(s) stating that they have no objections to the proposed location of a new well site, the Board may determine that the spacing requirements of Subsection(a) of Section 6.11 will not apply to the new well location.
- (b) If an applicant can show by clear and convincing evidence that the proposed location of a new well site will not result in the movement of contaminated water or the contamination of fresh water supplies, the Board may determine that the spacing requirements in Subsections (b) (d) in Section 6.11 will not apply to the proposed new well location.
- (c) If the Board chooses to grant a permit to drill a well that does not meet the spacing requirements in Section 6.11, the Board may monitor production of the well and may limit the production if deemed reasonable or necessary to ensure that no injury is done to adjoining landowners or aquifers.
- (d) A well used solely for domestic use by a single family or livestock will be exempted from spacing requirements of Section 6.11 and density requirements of Section 6.12 if the tract of land owned is too small to achieve the necessary spacing. These wells will be exempt only if they are equipped in such a way as to produce no more than 25,000 gallons of groundwater per day.

SUBCHAPTER C: PRODUCTION LIMITS

§6.20 PRODUCTION LIMITS.

Pending collection of additional hydrogeologic and other scientific data, production is not limited, except to the extent necessary to ensure that the groundwater is put to a beneficial, non-wasteful use. However, in order to accomplish the purposes of Texas Water Code Chapter 36, and achieve the stated purposes and goals of the District, including managing the sustainability of the aquifers and preventing significant, sustained water-level declines within the aquifers, the Board reserves the right to amend this section in the future to establish any production limits necessary on new or existing permits. All permits are issued subject to any future production limits adopted by the District.

CHAPTER 7. DRILLING, EQUIPPING AND CONSTRUCTION

§7.1 APPLICABILITY.

The requirements of this chapter are applicable to all wells drilled in the District, including exempt wells.

§7.2 RECORDS.

(a) Complete records shall be kept and reports thereof made to the District concerning the drilling, equipping, and completion of all wells drilled in the District. Such records shall include an accurate driller's log, depth to water, any electric log that shall have been made, and such additional data concerning the description of the well, its discharge, and its equipment as may be required by the Board. Such records shall be filed with the District within thirty (30) days after drilling of the well.

(b) No person shall operate any well drilled and equipped within the District, except operations necessary to the drilling and testing of such well and equipment, unless or until the District has been furnished an accurate driller's log, any special purpose log or data which have been generated during well development, and a registration of the well correctly furnishing all available information required on the forms furnished by the District.

§7.3 DRILLING AND COMPLETION OF WELLS.

(a) Drilling and completion of wells must satisfy all applicable requirements of the Texas Commission on Environmental Quality and the Texas Department of Licensing and Regulation, and any additional well construction standards adopted by the District.

(b) All wells must be completed in accordance with the well completion standards set forth under the requirements promulgated by the Texas Department of Licensing and Regulation and set forth under Title 16, Texas Administrative Code Chapter 76, Water Well Drillers and Pump Installers Rules.

(c) The Board of Directors may adopt additional well construction standards for wells drilled within the District. Approved well construction standards will be made available to the public at the District office.

§7.4 INSTALLATION OF WELL PUMPS AND EQUIPMENT.

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

§7.5 SUSPENSION

The General Manager or Board of Directors may suspend an authorization for a well registration or permit for failure to comply with the requirements of this chapter.

CHAPTER 8. ABANDONED, OPEN AND UNCOVERED WELLS

§8.1 REGISTRATION AND SEALING.

- (a) Any owner or lessee of land on which an open or uncovered well or an abandoned well is located must register the well with the District.
- (b) Any well not registered with the District shall be classified as abandoned.

§8.2 MINIMUM STANDARDS.

(a) Capping of Open or Uncovered Wells.

- (1) At a minimum, open or uncovered wells must be capped in accordance with these Rules and in accordance with the standards set forth in the Texas Water Well Drillers and Pump Installers Administrative Rules, Title 16, Chapter 76, Texas Administrative Code.
- (2) The owner or lessee shall keep the well capped with a water tight covering capable of sustaining weight of at least 400 pounds except when the well is in actual use. The covering for a capped well must be constructed with a water tight seal to prevent entrance of surface pollutants into the well itself, either through the well bore or well casing.
- (3) If, after thirty (30) days of receiving notice that closing or capping is required, an owner or a lessee fails or refuses to close or cap a well in compliance with this section or a Board order, District staff, or any person employed by the District, may go onto the land and close or cap the well safely and securely.

(b) Plugging of Abandoned Wells.

All abandoned wells must be plugged in accordance with standards set forth in the Texas Water Well Drillers and Pump Installers Administrative Rules, Title 16, Chapter 76, Texas Administrative Code. If, after thirty (30) days of receiving notice that plugging is required an owner or a lessee fails or refuses to plug an abandoned well in compliance with this section or a Board order, District staff or any person employed by the District including an authorized representative or contractor of the District licensed to conduct plugging activities, may go onto the land and plug the well safely and securely.

- (1) Prior to plugging a well, the owner or operator shall notify the General Manager in writing of their plans to plug the well. It is a violation of these Rules for any water well driller or pump installer to plug an abandoned well for which the District has not received prior written notice. The General Manager may require the well owner to take a water sample and have a water quality analysis conducted as part of, or prior to, the plugging operation at the well owner's expense.
- (2) A copy of any plugging report required by Texas Department of Licensing and Regulation shall be submitted to the District.

§8.3 ENFORCEMENT.

If, after thirty (30) days of receiving notice that action is required the owner or lessee or operator of a well fails or refuses to cap or plug the well in compliance with this rule and District standards after being requested to do so in writing by an officer, agent, or employee of the District, then, upon Board approval, any person, firm or corporation employed by the District may go onto the land (pursuant to Texas Water Code Section 36.118) and plug or cap the well safely and securely. This provision applies to any new, non-exempt well drilled out of compliance with the requirements of Chapter 6 of the District's Rules.

§8.4 LIEN FOR RECOVERY OF EXPENSES INCURRED BY DISTRICT.

(a) Reasonable expenses incurred by the District in plugging or capping a well will be assessed to the landowner and shall constitute a lien on the land on which the well is located.

(b) The District shall perfect the lien by filing in the deed records of the county where the well is located an affidavit, executed by any 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 the well within thirty (30) days after the notification;
- (5) the closing 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 the well.

§8.5 PENALTIES.

Pursuant to Chapter 11 of these Rules, penalties shall be applicable in cases of failure or refusal to plug abandoned wells or cap wells not currently in use.

§8.6 REPLACEMENT WELLS

A well that has ceased to be functional and is being replaced with a new well must be properly plugged in manner consistent with the Texas Department of Licensing and Regulation Water Well Drillers and Pump Installers Rules and Regulations, and within thirty (30) days of receipt of notice from the District that such action is required.

CHAPTER 9. WATER CONSERVATION

§9.1 CONSERVATION POLICY.

The District may implement conservation policies through various programs initiatives and incentives including public education, technical assistance, special programs, through grants and loans, from support by various local, state, and federal programs, industries, foundations, non profits, public and private individuals, corporations, partnerships, and other interest groups that will further the District s goals of cost-effective water conservation, pollution prevention, and waste prevention of the District s water re\$ources.

§9.2 WATER CONSERVATION PLANS.

Each permittee who is required to prepare, adopt, and implement a water conservation plan by another agency of the State of Texas or by any water wholesale provider shall submit a copy of that plan to the District for the District s files in order to assist the District in monitoring the success of water conservation efforts within the District.

CHAPTER 10. DROUGHT

§10.1 PURPOSE.

The purpose of this chapter is to provide guidelines to well owners and operators and water users within the District area regarding groundwater availability and use in response to drought or other uncontrollable circumstances that have disrupted the normal availability of groundwater supplies, causing localized and/or regional water availability and water quality emergencies. This chapter establishes procedures intended to preserve the availability and quality of water during such conditions.

§10.2 APPLICABILITY.

This chapter applies to all permittees within the District. In addition, the District shall utilize public education and assistance programs to encourage compliance with this chapter by owners of wells exempt from permitting and all other water users located within the District's jurisdictional area.

This chapter is directly applicable to water users of Edwards-Trinity Plateau and the Dockum Aquifers. The District may apply these Rules to all groundwater aquifers and water-bearing formations located within its jurisdictional boundaries.

§10.3 DROUGHT CONDITION.

The District shall define and declare drought and its specific stages according to the Palmer Drought Severity Index as published by the Texas Water Development Board or similar agency. The index ranges from 4 (Extremely Wet) to -4 (Extreme Drought) --- see Table 10.1 -- and takes into account hydrologic factors such as recent precipitation, evaporation, and soil moisture. Upon declaration of a drought stage of Moderate drought or worse, water well owners, operators or users are encouraged to implement the corresponding drought measures stipulated in any drought plan of the owner, operator, or user.

4.0 or more	extremely wet
3.0 to 3.99	very wet
2.0 to 2.99	moderately wet
1.0 to 1.99	slightly wet
0.5 to 0.99	incipient wet spell
0.49 to -0.49	near normal
-0.5 to -0.99	incipient dry spell
-1.0 to -1.99	Mild drought
-2.0 to -2.99	moderate drought
-3.0 to -3.99	severe drought
-4.0 or less	extreme drought

§10.4 WATER QUALITY.

The District may monitor groundwater quality of water supply wells in the District as it determines necessary.

§10.5 AQUIFER EMERGENCY WARNINGS.

(a) When the concentration of Total Dissolved Solids (TDS) increases above Safe Drinking Water Standards in any groundwater well(s) within the district and/or other contamination or hazardous conditions affecting groundwater quality or groundwater quantity exist, an Aquifer Emergency Warning may be declared by the Board of Directors.

(b) During an Aquifer Emergency Warning the District may:

- (1) initiate further detailed analysis to determine whether significant changes have occurred in the water quality;
- (2) encourage permittees or other water users within the District to identify and implement measures to conserve water or reduce groundwater pumpage ; and
- (3) encourage the interconnection of public and private water systems to prevent health hazards and localized water shortages or depletions.

§10.6 DROUGHT MANAGEMENT PLANS

Each permittee who is required by another agency or political subdivision of the state to maintain a drought management plan shall submit a copy of the plan to the District for the District's files in order to assist the District in monitoring the success of drought management efforts within the District.

CHAPTER 11. ENFORCEMENT

§11.1 NOTICE AND ACCESS.

Pursuant to Texas Water Code Section 36.123, any authorized officer, agent, employee, or representative of the District, when carrying out technical and other investigations necessary to the implementation of the Rules or the Act, and after reasonable notice to the owner or operator, may enter upon private property for the purpose of inspecting and investigating conditions relating to the withdrawal, waste, water quality, pollution, or contamination of groundwater or other acts covered by these Rules or the Texas Water Code.

§11.2 ENFORCEMENT PROCEEDINGS, SHOW CAUSE ORDERS, AND COMPLAINTS.

Upon determination by the District that a person has violated or is violation of any provision of the District's Rules, including the terms of any rule or order issued by the District, it may employ any of the following means, or a combination thereof, in providing notice of the violation.

- (a) **Informal Notice:** The officers, staff or agents of the District acting on behalf of the District or the Board may inform the person of the violation via telephone by informing, or attempting to inform, the appropriate person to explain the violation and the steps necessary to cure the violation. The information received by the District through this informal notice concerning the violation and the date and time of the telephone call will be documented and will remain in the District's files. Nothing in this subsection shall limit the authority of the District to take action, including emergency actions or any other appropriate enforcement action, without prior notice provided under this subsection.
- (b) **Written Notice of Violation:** The District may inform the person of the violation through written notice of violation. Each notice of violation issued herein shall explain the basis of the violation, identify the rule or order that has been violated or is currently being violated, and list specific required actions that must be satisfactorily completed to cure a past or present violation to address each violation raised, and may include the payment of applicable civil penalties. Notice of a violation issued herein shall be provided through a delivery method in compliance with these Rules. Nothing in this Subsection shall limit the authority of the District to take action, including emergency actions or any other appropriate enforcement action, without prior notice provided under this subsection.

- (c) Compliance Meeting: The District may hold a meeting with any person whom the District believes to have violated, or to be violating, a District Rule or District order to discuss each such violation and the steps necessary to satisfactorily remedy each such violation. The General Manager may conduct a compliance meeting without the Board, unless otherwise determined by the Board or General Manager. The information received in any meeting conducted pursuant to this rule subsection concerning the violation will be documented, along with the date and time of the meeting, and will be kept on file with the District. Nothing in this subsection shall limit the authority of the District to take action, including emergency actions or any other appropriate enforcement action, without prior notice provided under this subsection.
- (d) Show Cause Hearing: The Board, either on its own motion or upon receipt of sufficient written protest or complaint, may at any time, after due notice to all interested parties, cite any person owning or operating a well within the District, or any person in the District violating the Act, these Rules, or an Order of the Board. Under the citation, that person is ordered to appear before the Board in a public hearing and require him to show cause why an enforcement action should not be initiated or why his operating authority or permit should not be suspended, cancelled, or otherwise restricted and limited, for failure to abide by the terms and provisions of the permit, these Rules, or the Act.

§11.3 CONDUCT OF INVESTIGATION.

When investigations or inspections require entrance upon private property, such investigations and such inspections shall be conducted at reasonable times, and shall be consistent with all applicable rules and regulations concerning safety, internal security, and fire protection. The persons conducting such investigations shall identify themselves and present District identification upon request by the owner, operator, lessee, management in residence, or person in charge.

§11.4 SEALING OF WELLS.

Following notice to the well owner and operator and upon resolution by the Board, the District may seal wells that are prohibited by the Act, Rules, or Board orders from withdrawing groundwater within the District when the General Manager, or his designated District employee, determines that such action is reasonably necessary to assure that a well is not operated in violation of the Act, Rules, or Board orders. This authorization to seal a well or to take other appropriate action to prohibit the withdrawal of groundwater extends to, but is not limited to, the following circumstances in which:

- (1) a permit has been granted, but the applicable fees have not been paid within the time period provided for payment;
- (2) representations have been made by the well owner or operator that no groundwater is to be withdrawn from a well during a particular period;

- (3) no application has been made for a permit to withdraw groundwater from an existing well that is not excluded or exempted from the requirement that a permit be obtained in order to lawfully withdraw groundwater;
- (4) the Board has denied, cancelled, or revoked a permit;
- (5) Permit conditions have not been met;
- (6) a threat of, or potential for, contamination to the aquifer exists;
- (7) a landowner or well owner failed to comply with the requirements of Chapter 6 of these rules related to location, spacing, and density of wells; or
- (8) water withdrawn from an exempt well is used for a purpose or in a manner that is not exempt under District Rule 3.5(a)

The well may be physically sealed by the District upon the expiration of thirty (30) days following the date the District notifies the responsible party of the basis for District action (a) under Rule 11.4(a). and if sealed by the District, the well shall then be red-tagged to indicate that the well has been sealed. Other appropriate action may be taken as necessary to preclude operation of the well or to identify unauthorized operation of the well.

(b) Tampering with, altering, damaging, or removing the seal or red tag of a sealed or red tagged well, or in any other way violating the integrity of the seal or red tag, or the pumping of groundwater from a well that has been sealed or red tagged shall constitute a violation of these Rules and shall subject the person performing that action, as well as any well owner and/or operator who authorizes or allows that action, to such penalties as provided by the Act and these Rules.

§11.5 REQUEST FOR INJUNCTIVE RELIEF.

If it appears that a person has violated, is violating, or is threatening to violate any provision of the Act or any Rule, permit, Board order, or other order of the District, the Board may institute and conduct a suit in the name of the District for injunctive relief, for recovery of a civil penalty, or for both injunctive relief and penalty.

§11.6 PENALTIES FOR LATE PAYMENT OF FEES.

(a) Failure to Make Export Fee Payment. Failure to make the export fee payment within the time period specified shall constitute grounds for the District to declare the permit void.

(b) Late Payment Penalties. Failure to make complete and timely payments of a fee will automatically result in a late payment penalty of 10 percent of the amount not paid. The fee payment plus the late payment fee must be made within thirty (30) days following the date the payment is due, otherwise the permit may be declared void by the Board.

(c) After a permit is declared void for failure to make payment of production or export fees, all enforcement mechanisms provided by this Rule and the Act shall be available to prevent unauthorized use of the well, and may be initiated by the General Manager without further authorization from the Board.

(d) Applications shall not be accepted for filing or processing or hearings scheduled until receipt by the District of all applicable fees established by Board resolution; nor will any application be accepted for filing or processing if the applicant, driller, operator, or owner of the well:

(1) is delinquent in paying any fee required or outstanding judgment obtained by the District;

(2) has been properly notified of a pending enforcement action for a substantive violation of a District permit, order, or rule that has not been settled by agreement with the District or a final adjudication; or

(3) has not paid a civil penalty, has otherwise failed to comply with an order resulting from a final adjudication of a violation of a District permit, order, or rule or a judgment from a court of proper jurisdiction.

§11.7 FAILURE TO REPORT EXPORTED VOLUMES.

The accurate reporting and timely submission of exported volumes is necessary for the proper management of water resources. Failure of the permittee to submit complete, accurate, and timely export and water quality reports, as required by Section 3.40 of these Rules, may result in forfeiture of the permit, civil penalties, or payment of increased meter reading and inspection fees as a result of District inspections to obtain current and accurate pumpage and/or exported volumes and water quality reports.

§11.8 EMERGENCY ORDERS.

The District will develop Emergency Contingency Plans to deal with water quality or water quantity emergencies. Public hearings on Emergency Contingency Plans shall be conducted by the Board prior to adoption. To implement Emergency Contingency Plans, the Board, or the General Manager if specifically authorized by an Emergency Contingency Plan, may adopt emergency orders of either a mandatory or prohibitory nature, requiring remedial action by a permittee or other party responsible for the emergency condition.

§11.9 CIVIL PENALTIES.

(a) The District may enforce these Rules by injunction or other appropriate remedy in a court of competent jurisdiction in Nolan County, Texas.

(b) Any person who violates any District Rule is subject to a civil penalty of up to \$10,000 for each violation and for each day of continuing violation. Each day a violation continues may be considered a separate violation.

(c) The civil penalty for a violation of any District rule is hereby set at the lower of \$10,000.00 per violation or a lesser amount made by determination of the Board of Directors in consideration of the following factors:

- (1) compliance history of the violator with District rules and other applicable law;
- (2) efforts to correct the violation and whether the violator made a good faith effort to cooperate with the District;
- (3) the penalty amount necessary to ensure future compliance and deter future noncompliance;
- (4) any enforcement costs related to the violation; and
- (5) any other matters deemed necessary by the Board.

(d) All civil penalties recovered by the District shall be paid to the **Wes-Tex Groundwater Conservation District**.

(e) A penalty under this section is in addition to penalties provided under **H.B. 3659 , Acts of the 77th Legislature**.