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**GONZALES COUNTY
UNDERGROUND WATER CONSERVATION DISTRICT**

Rules of the District



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1.0 INTRODUCTION

The Gonzales County Underground Water Conservation District (GCUWCD) was created by order of the Texas Commission on Environmental Quality (TCEQ), formerly the Texas Natural Resource Conservation Commission (TNRCC), on November 19, 1993. GCUWCD serves the areas of Gonzales County and the southeast portion of Caldwell County.

These rules are adopted pursuant to the authority of Section 36.101, Texas Water Code, for the purpose of conserving, preserving, protecting, and recharging of the groundwater resources of the District, and these rules are adopted under the District's statutory authority to prevent waste and to protect rights of owners of interest in groundwater. These rules are used by the District as a guide in the exercise of powers conferred by law and in the accomplishment of the purposes of the law creating the District. They may not be construed as a limitation or restriction on the exercise of any discretion, nor may they be construed to deprive the District or board of the exercise of any powers, duties or jurisdiction conferred by law, nor may they be construed to limit or restrict the amount and the character of data or information that may be required to be collected for the proper administration of the law creating the District.

The rules of the GCUWCD are used to guide, define, and achieve the District's goals of water conservation and pollution prevention in an effort to preserve, protect, and enhance the groundwater within the District's jurisdictional boundaries.

2.0 DEFINITION OF TERMS

The definitions contained in the Texas Water Code, Chapter 36, shall apply to these Rules. The following words and terms, when used in these Rules, shall have the following meanings, unless the context clearly indicates otherwise.

“Abandoned Well” shall mean a well that is not in use. A well is considered to be in use if:

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

“Acre-foot” means the amount of water necessary to cover one acre of land to a depth of one-foot, or 325,851 U.S. gallons of water.

“Annexed Water Well” shall mean a groundwater production well that:

1. Was completed prior to March 18, 2008; and

2. Was located in an area that was annexed into the boundaries of the District after creation of the District pursuant to Texas Natural Resources Commission Order No. 101692-D04 issued on November 19, 1993.

“**Applicant’s Property**” shall mean the surface acres owned, leased, or otherwise controlled by an applicant for which the applicant also owns, leases, or otherwise controls the water rights and that are included in an application for the purposes of determining production allocation under Rule 18.B.

“**Aquifer**” shall mean a geologic formation, group of formations or part of a formation capable of storing and yielding water in usable quantities.

“**Artesian Pressure**” shall mean the pressure in a confined aquifer created by the overlying and underlying confining units.

“**Artesian Well**” shall mean an artificial water well in which the water, when properly cased, will rise by natural pressure above the first impervious stratum below the surface of the ground.

“**Authorized Well Site**” shall be:

1. The location of a proposed well on an application duly filed until such application is denied, canceled, or expires; or
2. The location of a proposed well on a valid permit.

“**Board**” shall mean the Board of Directors of the Gonzales County Underground Water Conservation District.

“**Borehole**” shall mean a hole in the earth drilled to a depth sufficient to penetrate or endanger water-bearing sands to pollution.

“**Capped Well**” shall mean 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. A well cap must be constructed in such a way that the covering cannot be easily removed by hand.

“**Chemigation**” shall mean a process whereby pesticides, fertilizers or other chemicals, or effluent from animal or human wastes are added to irrigation water applied to land or crops, or both, through an irrigation distribution system.

“**Commission**” shall mean the Texas Commission on Environmental Quality.

“**Completion of water well**” means the date when water well borehole is completed and casing is set.

“**Dam**” shall mean any barrier across the bottom chord of the pipe which is of sufficient height to back water into the low-pressure drain outlet and prevent any flow (check valve seepage) back into the water supply.

“**Deteriorated Well**” shall mean a well, the condition of which will cause, or is likely to cause, pollution of any groundwater in the District.

“District” shall mean the Gonzales County Underground Water Conservation District, maintaining its principal office in Gonzales, Texas. The District’s headquarters is at 920 Saint Joseph, Room 129, P.O. Box 1919, Gonzales, Texas 78629, Phone 830-672-1047 where applications, reports and other papers are required to be filed or sent to the District. The District shall also be known by the acronym “GCUWCD”.

“Domestic use” shall mean use of water by an individual or a household to support domestic activity. Such use may include water for drinking, washing, or culinary purposes; for irrigation of lawns, or of 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 or for which the product of the activity is sold.

“Easy Access” shall mean access is not obstructed by other equipment and the fitting can be removed and replaced with a minimum of tools without risk of breakage of the attachment parts.

“Exempt Well” shall mean a well that is exempt from the requirement to obtain a permit from the District under Rule 5.

“Flapper” shall mean the clapper, closing, or checking device within the body of the check valve.

“Foreign Substance” shall mean any element or combination of elements in excess of that naturally occurring in the groundwater including re-used or re-claimed water, tailwater and may also include instances where open-ditch water is treated when a pump discharge pipe is submerged in the ditch.

“General Manager” shall mean the duly appointed General Manager of the District.

“GPM” shall mean gallons per minute.

“Groundwater” shall mean water percolating below the surface of the earth.

“Groundwater Reservoir” shall mean a specific subsurface water-bearing reservoir having ascertainable boundaries containing groundwater.

“Hearing Body” shall mean the Board, any committee of the Board, or a Hearings Examiner at any hearing held under the authority of Chapter 36, Texas Water Code.

“Hearings Examiner” shall mean a person appointed by the Board of Directors to conduct a hearing or other proceedings including but not limited to an administrative law judge employed by the State Office of Administrative Hearings.

“Irrigation Distribution System” shall mean a device or combination of devices having a hose, pipe or other conduit which connects directly to any water well through which water or a mixture of water and chemicals is drawn and applied to land. The term does not include any hand held hose sprayer or other similar device which is constructed so that an interruption in water flow automatically prevents any backflow to the water source.

“Large hand Dug Water Well” shall mean a well with a diameter greater than 36” no more than 100’ in depth.

“Monitoring well” shall mean a well or artificial excavation constructed to measure or monitor the water level, water quality or quantity or movement of substances, elements, chemicals, or fluids beneath the surface

of the ground and designated by the District as a monitor well. The term does not include any monitoring well used in conjunction with the production of oil, gas, or any other minerals.

“Observation well” shall mean a well designated by the District constructed to measure or monitor the water level, water quality or quantity, or movement of water beneath the surface of the ground.

“Open or Uncovered Well” shall mean an artificial excavation at least 10 feet deep that is dug or drilled for the purpose of producing groundwater, or for injection, monitoring, or de-watering, or an oil and gas well converted to produce groundwater, and is not capped or covered.

“Owner” shall mean and include any person or other entity, public or private, that has the right to produce water from the land either by ownership, contract, lease, easement or any other estate in the land or water.

“Permit” shall mean either an authorization to drill and produce a well, an authorization to export groundwater outside the District’s boundaries, an authorization to install and operate a recharge facility, or an authorization to install and operate an aquifer storage and recovery facility.

“Permit Holder” shall mean a person with a well permitted or registered by the District, or person holding a District issued export permit, or a person holding an aquifer storage and recovery permit or a recharge facility permit.

“Permitted Production Rate” shall mean the authorized rate of withdrawal for a permitted well measured in gallons per minute.

“Permitted Well” shall mean a well that has received a permit from the District and has remained in substantial compliance with the Rules of the District. A permitted well is considered registered with the District.

“Person” shall mean any individual, partnership, corporation, organization, government, government subdivision or agency, business trust, estate or any other legal entity or association.

“Plug or Plugging” shall mean an absolute sealing of the well bore so that the well is closed permanently.

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

“Presiding Officer” shall mean the President of the Board or any other Board Member designated by the Board to preside at any hearing or other proceeding or a Hearings Examiner conducting any hearing or other proceeding.

“Public Water Utility” shall mean either a “retail public utility” or a “wholesale water or sewer service” provider as those terms are defined in Section 13.002, Water Code.

“Re-equip” shall mean to replace any portion of the water producing equipment in a well.

“Recharge Well” shall mean a well used to allow or cause water to flow out of the well into the aquifer either under a gravity head or a head maintained by an injection pump in order to replenish the groundwater.

“Registered Well” shall mean a permitted well or a non-exempt or exempt well that has been registered by the District on a form provided by the General Manager.

“Replacement Well” shall mean a well that is drilled to replace a well where (a) the well that is being replaced is permanently closed; (b) the replacement well is drilled within 250 feet from the closed well; and (c) the well will be used to produce the same amount of groundwater and for the same purpose of use of the original well.

“Rework” shall mean to accomplish by any mechanical or chemical means the alteration of a well.

“Saturated Thickness” shall mean the vertical distance between the water table and the base of the groundwater reservoir, and the pores between the solid particles that are filled with water.

“Specific Yield” shall mean the measurement of the water removed from the aquifer by the force of gravity to wells. It is defined as the ratio of the volume of water which an aquifer, after being saturated, will yield by gravity to the volume of the aquifer drained. The ratio is usually expressed as a percentage.

“Transportation Facility” shall mean any system for transporting water, which may include a pipeline, channel, ditch, watercourse or other natural or artificial facilities, or any combination of such facilities, if such water is produced from a well or wells located or to be located within the District, and if all or any part of such water is used or is intended for use outside of the boundaries of the District.

“Underground Water” is used synonymously with groundwater.

“Waste” as defined by Chapter 36 of Texas Water Code means any one or more of the following:

1. Withdrawal of groundwater from a groundwater reservoir at a rate and in an amount that causes or threatens to cause intrusion into the reservoir of water unsuitable for agricultural, gardening, domestic, or stock raising purposes;
2. The flowing or producing of wells from a groundwater reservoir if the water produced is not used for a beneficial purpose;
3. Escape of groundwater from a groundwater reservoir to any other reservoir or geologic strata that does not contain groundwater;
4. Pollution or harmful alteration of groundwater in a groundwater reservoir by saltwater or by other deleterious matter admitted from another stratum or from the surface of the ground;
5. Willfully or negligently causing, suffering, or allowing groundwater to escape into any river, creek, natural watercourse, depression, lake, reservoir, drain, sewer, street, highway, road or road ditch, or onto any land other than that of the owner of the well unless such discharge is authorized by permit, rule, or order issued by the Commission under Chapter 26 of the Texas Water Code;
6. Groundwater pumped for irrigation that escapes as irrigation tailwater onto land other than that of the owner of the well unless permission has been granted by the occupant of the land receiving the discharge; or
7. for water produced from an artesian well “waste” has the meaning assigned by Section 11.205 of the Texas Water Code.

“**Water**” is used synonymously with groundwater and underground water.

“**Water Rights**” shall mean a defined number of surface acres, within each tract of land, which a person has acquired the right to capture the groundwater from beneath, subject to the Rules of this District.

“**Water Well**” shall mean any artificial excavation constructed for the purpose of exploring for or producing groundwater. The term, however, does not include any test or blast holes in quarries or mines, or any well or excavation for the purpose of exploring for, or producing oil, gas, or any other minerals unless the holes are used to produce groundwater. The term shall include any injection water source well regulated by the Railroad Commission of Texas.

3.0 RULES

RULE 1 – PROCEDURES FOR ADOPTION AND REVISION OF DISTRICT RULES AND MANAGEMENT PLAN

A. Rulemaking

After notice and hearing, the Board shall adopt and enforce rules to implement Chapter 36 of the Texas Water Code, including rules governing procedure before the Board.

1. Not later than the 20th day before the date of a rulemaking hearing, the General Manager or Board shall:
 - a. post notice in a place readily accessible to the public at the District Office;
 - b. provide notice to the Gonzales and Caldwell County Clerk;
 - c. publish notice in one or more newspapers of general circulation in Gonzales and Caldwell County;
 - d. provide notice by mail, facsimile, or electronic mail to any person who has submitted a written request for notice of a rulemaking hearing.; and
 - e. make available to the public a copy of all proposed rules at the District Office during normal business hours.
2. The notice provided must include:
 - a. the time, date and location of the hearing;
 - b. a brief explanation of the subject of the rulemaking hearing; and
 - c. a location at which a copy of the proposed rules may be reviewed or copied.
3. Interested persons are encouraged to submit written comments on the rulemaking to the General Manager ten (10) days prior to the hearing. However, written and oral comments will be accepted and considered by the Board at the rulemaking hearing.
4. The presiding officer shall conduct a rulemaking hearing in the manner the presiding officer determines to be most appropriate to obtain information and testimony relating to the proposed rule as conveniently and expeditiously as possible without prejudicing the rights of any person at the hearing. The presiding officer may hold the record open after the conclusion of the hearing to receive additional written comments. The Board may require participants in a rulemaking hearing to submit a registration form stating the person's name, address and representation capacity.
5. The presiding officer shall prepare and keep a record of each rulemaking hearing in the form of an audio recording.

6. A person may submit to the General Manager a written request for notice of a rulemaking hearing. A written request for notice of a rulemaking hearing is effective for the remainder of the calendar year in which the request is received by the General Manager. To receive notice of a hearing in a later year, a person must submit a new request.
7. Failure to provide notice under Subsection 6 does not invalidate any action taken by the District at the hearing.
8. The District may use an informal conference or consultation to obtain the opinions and advice of interested persons about contemplated rules and may appoint advisory committees of experts, interested persons, or public representatives to advise the District about contemplated rules.
9. The Board may adopt emergency rules without prior notice or hearing in accordance with § 36.1011 of the Texas Water Code.
10. The Board shall have the right to revise or restructure, after due public notice and hearing, any portion of these Rules it deems necessary.

B. Management Plan

The above cited procedures are equally applicable to Board consideration of revisions to the District's management plan.

RULE 2 – GENERAL RULES

A. Regular Board Meeting

The Board's regular meeting day, time and location shall be adopted by resolution of the Board. The Board shall meet at least quarterly.

B. General Manager

The person employed by the Board as General Manager is the Chief Administrative Officer of the District and shall have full authority to manage and operate the affairs of the District, subject to Board orders. The General Manager, with approval of the Board, may employ all persons necessary for the proper handling and operation of the District and their salaries and compensation will be set by the Board.

C. 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 period shall begin on the day after the act or event of default in question and shall conclude on the last day of that period, unless it be a Saturday, Sunday or legal holiday on which the District office is closed, in which event the period runs until the end of the next day which is neither a Saturday, Sunday, nor a legal holiday on which the District office is closed.

D. Time Limit

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

E. Severability and Savings Clause

If any section, sentence, paragraph, clause, or part of these Rules should be held or declared invalid, illegal or unenforceable for any reason by a final judgment of the courts of this state or of the United States, such decision or holding does not affect the validity of the remaining portions of these Rules and these Rules shall be construed as if such invalid, illegal or unenforceable rules or provisions had never been contained in these Rules.

F. Ownership of Groundwater

1. The ownership and rights of the owners of the land and their lessees and assigns in groundwater are hereby recognized, and nothing in these rules shall be construed as depriving or divesting the owners or their lessees and assigns of the ownership or rights, except as those rights may be limited or altered by rules promulgated by the District. The District recognizes that a landowner owns the groundwater below the surface of the landowner's land as real property.
2. The groundwater ownership and rights described by this rule entitle the landowner, including a landowner's lessees, heirs, or assigns, to:
 - a. drill for and produce the groundwater below the surface of real property, subject to the statutes and rules governing the District, without causing waste or malicious drainage of other property or negligently causing subsidence; and
 - b. have any other right recognized under common law.
3. The groundwater ownership and rights described by this rule do not:
 - a. entitle a landowner, including a landowner's lessees, heirs, or assigns, to the right to capture a specific amount of groundwater below the surface of that landowner's land; or
 - b. affect the existence of common law defenses or other defenses to liability under the rule of capture.

RULE 3 – WASTE OR POLLUTION

- A. Groundwater may not be produced or used within the District in such a manner or under such conditions as to constitute waste as defined in Section 2.0 hereof. Groundwater may not be produced or allowed to flow from an abandoned or deteriorated water well.
- B. Any person producing or using underground water shall use every reasonable precaution, in accordance with approved methods, to cease and prevent waste of such water.
- C. A water well identified as an abandoned or deteriorated water well, or an open or uncovered water well, or a borehole, must be plugged, covered, or reworked in accordance with the requirements of

the District and any statewide agency or political subdivision having jurisdiction including, but not limited, to the Texas Department of Licensing and Regulation, and the Texas Commission on Environmental Quality.

- D. No person shall pollute or harmfully alter the character of the groundwater of the District by causing or allowing the introduction of pollutants or other deleterious matter from another stratum, from the surface of the ground, or from the operation of a water well.
- E. No person shall pollute or harmfully alter the character of the groundwater of the District by activities on the surface of the ground that will cause or allow pollutants to enter the reservoir through recharge features, whether natural or manmade.

RULE 4 – REGISTRATION OF WATER WELLS

The District shall designate a unique registration number for each registered water well located within the District Boundaries. All registered water wells shall be equipped and maintained in accordance with these Rules as to drilling, installation of casing, completion, 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.

- A. All water wells to be drilled within the District must be registered by the owner and a copy of the State of Texas Well Report shall be submitted to the District office by the Water Well Driller or the landowner where the well is drilled unless such water well is exempt from the State of Texas Well Report requirement or the water well owner can show good cause as to why the well report is not available.
- B. All water wells drilled prior to the District being created must be registered with the District.
- C. All permitted water wells are considered registered with the District.
- D. Monitoring wells and drilling rig supply wells shall be registered with the District.

RULE 5 – EXEMPTIONS FROM PERMITTING

In addition to the permit exemptions granted in Section 36.117, Texas Water Code, the following water wells are exempt from District permit requirements as noted:

- A. A water well used or to be 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 (17.5 GPM) is exempt from the requirements to first obtain a drilling permit or an operating permit.
- B. An existing water well or a well to be drilled, that is drilled, completed, or equipped so that it is incapable of producing more than 100 GPM and is used solely for agricultural uses is exempt from the requirements to first obtain a drilling permit or an operating permit. In order to determine if a water well is exempt under this provision, the District may require the well owner or operator to submit information verifying the rate of production from the water well. Even though exempt from permitting, a water well exempt under this subsection must be registered with the District and report water usage annually.

- C. A water 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 is exempt from the requirement to obtain a drilling permit or an operating permit provided that the person holding the Railroad Commission permit is responsible for drilling and operating the water well and the water well is located on the same lease or field associated with the drilling rig. Water wells drilled after September 1, 1997, to supply water for hydrocarbon production must meet the spacing requirements of the District unless no space is available within 300 feet of the production well or the central injection station. This exemption expires as soon as the water well is no longer used solely to supply water for a rig that is actively engaged in drilling or exploration operations for an oil or gas well, and the water well must then, within one calendar year, either be plugged or the well owner must apply for an operating permit. Groundwater used for fracking an oil or gas well, or for secondary recovery efforts in an oil or gas field is not exempt from the operating permit requirement.
- D. A water well used solely to supply water for fracking a formation through a completed oil or gas well permitted by the Railroad Commission of Texas is exempt from the requirement to obtain a drilling permit or operating permit provided that the person holding the Railroad Commission permit is responsible for drilling and operating the water well and the water well is located on the same lease or field associated with fracking operation and the water well is constructed as follows:
1. For the Wilcox Aquifer, a water well completed and screened below the level where the water quality exceeds 3,000 parts per million of total dissolved solids;
 2. For the Carrizo Aquifer, a water well completed and screened below the level where the water quality exceeds 3,000 parts per million of total dissolved solids;
 3. For the Queen City Aquifer a water well completed and screened below the level where the water quality exceeds 3,000 parts per million of total dissolved solids;
 4. For the Sparta Aquifer a water well completed and screened below the level where the water quality exceeds 3,000 parts per million of total dissolved solids; and
 5. For the Yegua-Jackson Aquifer a water well completed and screened at a depth below 350 feet.
- E. An observation well or a monitoring well.
- F. A water well that is exempt under this Rule will lose its exempt status and the well owner or operator must obtain a permit to continue operating the water well if the water well is at any time used for purposes or in a manner that is not consistent with this Rule.

RULE 6 – ANNEXATION INTO DISTRICT BOUNDARIES

- A. Annexed water wells are exempt from permitting, spacing, and production limitations in the District's rules.
- B. Export of water outside the District from annexed water wells that serve as public water utility supply wells shall be limited to 5,000 acre feet of water per year in the aggregate and shall pay an export fee of 2.5 cents per thousand gallons of water exported outside the District's boundaries. Permittees shall submit reports to the District on a monthly basis. Monthly reports are due in the

District office by the 30th day of the following month. Monthly fees are due in the District office by the 30th day of the following month.

- C. A well owner must obtain a permit from the District and be subject to the District's rules if the owner makes any change in the place of use or purpose of use of water produced from the annexed water wells, or any increase in the rate of withdrawal or total amount of groundwater produced.
- D. A water well that qualifies for an exemption under this section shall be afforded the same rights as any other permitted or registered water well in the District.

RULE 7 – REQUIREMENTS FOR PERMIT APPLICATIONS

- A. Persons who wish to obtain a permit, or other approval from the District, shall submit a written or typed application to the District on a form prescribed by the District.
- B. The District shall furnish, at no charge, forms and instructions for the preparation of any application, or other document, required to be filed by the District. Supplements may be attached if there is insufficient space on the form.
- C. Prior to filing an application, applicants are encouraged to confer with District staff on any questions concerning the preparation of an application.

RULE 8 – HISTORIC USE STATUS

- A. Purpose

The District seeks to manage the groundwater resources in the District and ensure drawdown limitations set forth in Rule 18 are not exceeded while protecting existing water wells and historic users to the maximum extent practicable.

- B. Designation of Historic Use Status

Authorization issued by the District for groundwater withdrawals for a specified amount and type of use from a registered water well, permitted non-exempt water well, or registered exempt use water well existing and operational prior to or on January 1, 2009, shall be designated under a historic use status certification and subject to any and all applicable rules, regulations, protection, and requirements set forth by the District.

- C. Transfer of Historic Use Status

Historic use status is not a vested right of the permittee or well owner. The District may transfer a historic use status designation upon receiving an administratively complete approved Permit Application Form stating a request for a permit amendment specific to a request in Change of Ownership, provided the amendment does not increase the amount of withdrawal or change the purpose of use, the place of use or the point of withdrawal. Said application must comply with all appropriate District rules and regulations relating to permit amendments relative to change in ownership status.

D. Historical Period and Historical Use

The historical period is designated as the period between January 1, 2000 and January 1, 2009 and use will be determined based on the highest use in any calendar year during this period. The Historic Use Designation Certificate issued by the District states the amount of historic use water and the acreage encompassed in the historic use designation.

E. Groundwater Production Limits

The District may preserve groundwater use by historic status to the maximum extent practicable with respect to its rules limiting groundwater production.

F. Revocation of Historic Use Status

Historical user status may be revoked by the Board for violation of any terms or conditions of the certificate, obtaining the certificate by misrepresentation or failure to disclose relevant facts, or failure to comply with any applicable rules, regulations, fee schedule, special provisions, requirements, or orders of the District. A change in use shall invalidate the historic user status certificate.

RULE 9 – NOTICE OF INTENT TO DRILL TEST WELLS

A. A person wishing to explore for groundwater must, prior to commencement of drilling, file with the District a notice of intent to drill a test well. The notice of intent to drill a test well shall include the following information:

1. A legal description of the tract upon which the test well is proposed to be drilled;
2. The proposed date for commencing drilling of the test well;
3. The name and address of the driller or contractor;
4. An acknowledgment that the persons responsible for the drilling of the test well will provide drilling logs or plugging reports to the District upon completion of the test well operation;
5. An acknowledgment that the test well will be properly plugged or, if the test well will be converted to a water well, the test well will be capped with a covering capable of sustaining a weight of at least 400 pounds until the test well is converted to a water well;
6. A declaration of whether the drilling and operation of the test well is restricted to a geophysical exploration or will include pumping tests and the short-term production of groundwater for testing purposes only; and
7. Any other information deemed necessary by the General Manager subject to the approval of the Board.

B. No person may commence drilling a test well prior to District approval. The General Manager is delegated approval authority for test wells restricted to geophysical exploration absent pumping tests. Authorization to drill a test well which will include pumping tests and the production of groundwater is subject to Board approval as an uncontested matter.

- C. Each notice of intent to drill a test well shall be accompanied by a certified check or postal money order, payable to the District, at a rate set by the Board.
- D. Authorization for drilling and production evaluation of a test well will expire one (1) year from the date of approval by either the General Manager or the Board.

A copy of the form for an application for a Notice of Intent to Drill a Test Well is available at the District office.

RULE 10 – APPLICATION FOR DRILLING AND OPERATING PERMITS

- A. No person may begin to drill a water well, or perforate an existing water well, or increase the size of a water well, or a pump therein, or produce groundwater from a water well without having first applied to the District and received a permit or a permit amendment to do so, unless the drilling and operation of the water well is exempt by law or by these Rules. An applicant may commence the drilling of a water well when the application has been approved and a permit issued by the District.
- B. An application for a drilling permit or a permit amendment is subject to spacing and production limitations relative to any approved or pending permit or existing registered well.
- C. Any person who is required to obtain a drilling and operating permit, or who requests an amendment or modification of a permit, shall complete, sign and submit an application to the General Manager according to the provisions of this rule. Failure to submit an administratively complete application, thirty (30) days after written notice by the General Manager listing the application's deficiencies, shall render the application void.
- D. Forms for a drilling and operating permit application will be made available by the General Manager. Each application for a permit shall include the following:
 - 1. Name and mailing address of the applicant and the owner of land on which the water well will be located;
 - 2. If the applicant is other than the owner of the property, documentation establishing the applicable authority to construct and operate a water well for the proposed use;
 - 3. The location of the water well expressed in Latitude and Longitude in degrees of arc and minutes of arc and seconds of arc to the first decimal place;
 - 4. The current landowner as listed on the tax rolls with the Gonzales County Deed Records and the number of feet to the nearest public road, property line or other legal description and a survey in which the land is located;
 - 5. A statement of the nature and purpose of the proposed use and the amount of water to be used for each purpose;
 - 6. The proposed maximum rate at which water will be withdrawn;
 - 7. The number of surface acres owned by the applicant or the amount of surface acres for which the applicant has groundwater rights within the aquifer management unit;

8. The name and address of the driller or contractor, if known;
 9. The date proposed drilling operations are to commence;
 10. The name and address of adjacent property owners as shown on the County Tax Rolls as of the date the application is filed;
 11. The name and address of all existing and registered and permitted well owners within one-half mile of the proposed water well as shown in the records of the District;
 12. An acknowledgment by the applicant that required information will be furnished to the District by the applicant upon completion of the water well and prior to production of water therefrom;
 13. A drought contingency plan if the application involves a public water utility;
 14. A water conservation plan or a declaration that the applicant will comply with the District's management plan;
 15. A water well closure plan or a declaration that the applicant will comply with well plugging guidelines and report closure to the TCEQ and the District;
 16. A map of the property upon which the water well is located and an indication of all other water wells on the property or a map of the city limits of any incorporated city in Gonzales County in which a water well is proposed to be drilled; and
 17. Any other additional information deemed necessary by the General Manager.
- E. Additional requirements for permit applications from the same producer or producers connected or to be connected to a common gathering/transportation piping system capable of producing greater than or equal to 3,000 acre-feet of groundwater per calendar year.
1. Include in the application a public-domain numerical groundwater availability model accepted by the District. The model shall demonstrate the effects of the proposed groundwater development upon the water table or artesian pressure of the Carrizo, Wilcox, Queen City and Sparta aquifers, as applicable, within and outside of the proposed well field over a 50 year modeling period. Applicants subject to this requirement shall, prior to submission of the model, contact the General Manager to obtain the District designation of specific data to be included in the model. The District shall engage a qualified and independent third party to confirm all inputs of the model (including the specific data provided by the General Manager) and may perform independent model runs to verify the results of the applicant's model runs. The cost of the independent third party review shall be paid by the applicant.

The modeling results do not guarantee that the applicant will receive the full permitted amount of groundwater over the permit period. The District will use actual groundwater level measurements in the field to assess the effects of pumping on the aquifers.
 2. Include in the application a monitoring plan to assess the effects of the project on the aquifer(s). This shall be accomplished by installing a sufficient number of groundwater observation wells in the permitted aquifer to monitor water levels and water quality around the well field. Applicants subject to this requirement shall, prior to submission of the application, contact the

General Manager to discuss the number and locations of the observation wells. The General Manager shall maintain a permanent record of the water level data recorded by the monitoring wells. All water level readings shall be available to the public through a Public Information Act request. Each observation well shall be equipped with an electronic water level recording device. In addition, water quality sampling and analysis may be conducted on any observation well to assess any changes in water quality that may be attributed to large-scale pumping. Applicants subject to this requirement shall, prior to submission of the application, contact the General Manager to obtain the District designation of specific water quality sampling data required. The monitoring plan, at permit issuance, shall be incorporated into a binding agreement between the permittee and the District.

3. In order to ensure no unreasonable effects on existing groundwater and surface water resources or existing permit holders, the District shall require a mitigation plan, acceptable to the District, to be included in the application to mitigate the effects of the drawdown of artesian pressure or the level of the water table upon the registered or permitted well owners potentially affected by that water well or wells. The mitigation plan, at permit issuance, shall be incorporated into a binding agreement between the permittee and the District. The plan shall include but not be limited to:
 - a. The actions and procedures to be taken by the holder of the drilling and operating permit in the event that pumping causes the water level in a registered or permitted well to drop to an unacceptable level.
 - b. The actions and procedures to be taken by the holder of the drilling and operating permit in the event that the pumping from the permitted well causes the water to become objectionable or renders the water unusable to a registered or permitted well owner.
 - c. The actions and procedures to be taken by the holder of the drilling and operating permit in the event that pumping causes the well casing or equipment to be damaged so that the recorded quality or quantity of water cannot be produced by the registered or permitted well owner.
 - d. The plan shall also include measures to be taken in cases where the reduction of artesian pressure causes an emergency to arise which may threaten human or animal health safety or welfare.
 - e. The plan shall also contain a specifically enumerated time schedule for the execution of the mitigation plan.

All wells in existence as of December 31, 2009 and registered as of June 1, 2010, not including wells connected or to be connected to a common gathering/transportation piping system capable of producing greater than or equal to 3,000 acre-feet of groundwater per calendar year, receive protection under the District's mitigation rules. Wells in existence as of December 31, 2009 and registered prior to June 1, 2010 that are not part of the leased or owned land in a well field but are located inside a well field producing greater than or equal to 3,000 acre-feet of groundwater per calendar year shall also be accorded protection under the District's mitigation rules. A permittee's negotiated mitigation plan may also identify additional wells that will receive protection under the District's mitigation rules. The District shall assist in identifying water wells that require mitigation and ensuring that mitigation is conducted in a timely manner but shall bear no costs for mitigation activities.

4. Include in the application:
 - a. A demonstration that the proposed well field is consistent with the District's approved management plan.
 - b. A map indicating the proposed area in which the other water wells in the proposed well field will be drilled.
 - c. The existing or proposed general route of the pipeline transporting the water.
 - d. A demonstration that the proposed water to be produced is consistent with the regional water plan that has been approved by the TWDB at the time the permit application is submitted.
 - e. The proposed schedule of water usage and the ultimate production amount of the water wells connected to the well field for which a permit application has been filed.
- F. It shall be considered to be a fraud upon the District and on the adjacent landowners and or owners of water rights for any person to knowingly and willfully give erroneous information on a well permit application.
- G. Each application for a drilling and operating permit shall be accompanied by a certified check or postal money order based on an amount, set by the Board, per acre/foot proposed to be produced annually and payable to the District for the permit application processing fee. This fee is in addition to the fee the applicant paid for an application fee pursuant to Rule 9 for a test well to be converted to a permanent well.

RULE 11 – ISSUANCE OF DRILLING AND OPERATING PERMITS

- A. Before granting or denying a permit or permit amendment, the District shall consider whether:
 1. The application contains all the information required to be submitted to the District in Rule 10 and is accompanied by the prescribed fees.
 2. The permit application is in conformance with the spacing requirements of Rule 18.A and production requirements of Rule 18.B.
 3. The modeling results do not significantly deviate from the production limitations of Rule 18.B
 4. The proposed use of water unreasonably affects existing groundwater or surface water resources or existing Permit Holders.
 5. The proposed use of water is dedicated to a beneficial use.
 6. The proposed use of water is consistent with District's approved water management plan.
 7. The applicant has agreed to avoid waste and achieve water conservation.
 8. The proposed use of the water will result in significant subsidence.

9. The applicant has agreed that reasonable diligence will be used to protect groundwater quality and that the applicant will follow well plugging guidelines at the time of well closure.
 10. The amount of existing water permitted, amount of existing water being produced, and the condition of the aquifer (average water pressure decline/water table decline) at the time the permit application is filed in order to achieve the DFC.
- B. The Board shall consider the impact of a well field when taking up the matter of an individual well permit that is proposed to be part of a well field.
- C. After the application for a drilling and operating permit has been granted, the water well, when drilled, must be within fifty feet of the location specified in the application and permit. If the water well should be commenced or drilled at a different location, the drilling or operation of such water well is prohibited and may be enjoined by the Board pursuant to Chapter 36.102, Texas Water Code and District Rules.
- D. A drilling or operating permit may be transferred to another person through change of ownership of the water well provided all permit conditions remain in compliance with District Rules and the District is notified, in advance, of the proposed change in ownership. The General Manager is authorized to effectuate the permit transfer.
- E. Permit Terms and Conditions
1. A drilling and operating permit may include:
 - a. The name and address of the person to whom the permit is issued.
 - b. The location of the water well.
 - c. The date the permit will expire.
 - d. A statement of the purpose for which the water well is to be used.
 - e. A requirement that the water withdrawn under the permit be put to beneficial use at all times.
 - f. The location of the use of the water from the water well.
 - g. A water well closure plan provision that the permittee will comply with the well plugging guidelines and report closure to the Texas Department of Licensing and Regulation.
 - h. The conditions and restrictions on the rate and amount of withdrawal.
 - i. Any conservation-oriented methods of drilling and operating prescribed by the District.
 - j. A drought contingency plan.
 2. Acceptance of the permit by the person to whom it is issued constitutes acknowledgment of and agreement to comply with all of the terms, provisions, conditions, limitations, and restrictions of these rules including, but not limited to, the following:

- a. Permits are granted in accordance with the provisions of the Texas Water Code and the Rules, Management Plan and Orders of the District, and acceptance of the permit constitutes an acknowledgment and agreement that the permittee will comply with the Texas Water Code, the District Rules, Management Plan, Orders of the District Board, and all the terms, provisions, conditions, requirements, limitations and restrictions embodied in a permit.
- b. A permit confers no vested rights in the holder, and it may be revoked or suspended, or its terms may be modified or amended pursuant to the provisions of the District's Rules.
- c. The operation of a water well for the authorized withdrawal must be conducted in a non-wasteful manner. In the event the groundwater is to be transported a distance greater than one-half mile from the water well, it must be transported by pipeline to prevent waste caused by evaporation and percolation.
- d. The permittee must keep records of the amount of groundwater produced and the purpose of the production, and such records shall be available for inspection by District representatives. Immediate written notice must be given to the District in the event production exceeds the quantity authorized by a permit, or the water well is either polluted or causing pollution of the aquifer. Reports of withdrawal amounts shall be filed annually by any permittee with authorized withdrawal up to 3,000 acre feet per year. Reports of monthly withdrawal amounts shall be filed within thirty (30) days of the end of each month.
- e. A well site must be accessible to District representatives for inspection, and the permittee agrees to fully cooperate in any reasonable inspection of the water well and well site by District representatives.
- f. Applications for which a permit is issued are incorporated in the permit and thus permits are granted on the basis of and contingent upon the accuracy of the information supplied in the application and any amendments to the application. A finding that false information has been supplied is grounds for immediate revocation of a permit. In the event of conflict between the provisions of a permit and the contents of the application, the provisions of the permit shall control.
- g. Suspension or revocation of a permit may require immediate cessation of all activities granted by the permit.
- h. Violation of a permit's terms, conditions, requirements or special provisions is punishable by civil penalties provided by the District's Rules.
- i. Where ever special provisions in a permit are inconsistent with other provisions or District Rules, the special provisions prevail.
- j. Changes in the withdrawal and use of groundwater during the term of a permit may not be made without the prior approval of a permit amendment authorizing the change issued by the District.

F. Permit Term

1. On approval of an application, the District shall issue a drilling and operating permit to an applicant. The permittee's right to drill and produce shall be limited to the extent and purposes

stated in the permit. The permit shall remain valid for a period of five years, at which time a new permit may be issued.

2. A permittee holding a drilling and operating permit due to expire may file a written request to renew the permit to the General Manager no later than thirty (30) days prior to the expiration date of the permit. An operating permit subject to renewal shall be administratively renewed for a period of five years in accordance to the rules in effect at the time of renewal. Requests to renew a permit shall be subject to review for substantial compliance with the rules of the District by the General Manager. The District is not required to renew a permit under this section if the applicant:
 - a. is delinquent in paying a fee required by the district;
 - b. is subject to a pending enforcement action for a substantive violation of a district permit, order, or rule that has not been settled by agreement with the district or a final adjudication; or
 - c. has not paid a civil penalty or has otherwise failed to comply with an order resulting from a final adjudication of a violation of a district permit, order, or rule.

An application for renewal of a permit that also requests a major amendment is subject to notice and hearing, and final approval by the Board. During consideration of a contested renewal application, the permit shall remain effective until final Board action on renewal of the permit.

- G. Multiple wells that are part of an aggregate well system all of which are owned and operated by the same permittee and serve the same subdivision, facility, or a certificated service area, and all of which are all located in the same aquifer management unit, may be authorized under a single permit at the sole discretion of the District. Multiple wells that are not part of an aggregate well system but that are all located on a single tract of land, are all owned and operated by the same permittee, and are all located in the same aquifer management unit, may, upon request by the permittee, be authorized under a single permit at the sole discretion of the District. If the operating permits are aggregated, associated export permits may be aggregated under a single export permit.
- H. For the purposes 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 of estimated production. 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.
- I. The General Manager may, without notice, hearing, or further Board action, act on an application for a drilling permit and a temporary operating permit for production rate of no more than 100 GPM if the well is to be located on a tract of land larger than 10 acres and the application and well meet all other requirements of these rules. The applicant shall comply with the District's rules relating to production limits and spacing as set forth in these rules. The General Manager shall report to the Board a list of the permits granted each month. Notice of the ruling shall be served upon the applicant. Any applicant may appeal the General Manager's ruling by filing, within ten (10) 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. The General Manager shall inform the Board of any drilling or temporary operating 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. A temporary operating permit expires

one year after the date it is issued. The well shall be plugged on or before the expiration date of the temporary permit unless the well is either:

1. Registered for an exempt use; or
 2. Issued an operating permit in accordance with these rules.
- J. A major permit amendment is any amendment that changes a substantive term, provision, requirement, or limiting parameter of a permit. Major permit amendments include, but are not limited to, increasing authorized amount of groundwater production, increasing authorized amount of groundwater exported, or adding additional groundwater production wells to a permitted transportation facility. Major amendments require notice and hearings applicable to permit applications.
- K. A minor amendment includes any of the following:
1. Changes to a permit issued by the District that will not cause a substantive change to a standard or criterion in the permit;
 2. Transferring pumping authorization from one well to another well within the same aquifer management unit if no more than 1,000 acre feet or 10 percent of the authorized pumping is transferred during the permit term, whichever is greater; or
 3. A change in the number of wells in a well field authorized by a permit if the well or wells meet the requirements of these Rules and the total amount of water authorized to be produced or exported does not increase.
- L. The General Manager is authorized to issue minor amendments to permits without notice, hearing or further action by the Board. The General Manager shall report any action taken at the next available Board meeting. On the motion of any Board member, and a majority concurrence in the motion, the Board may overrule the action of the General Manager.

RULE 12 – REWORK OR REPLACEMENT WELL PERMITS

- A. No person shall re-work, re-drill, replace, or re-equip a registered non-exempt well that increases the rate of production without receiving a permit from the District. All replacement wells must produce from the same water-bearing formation.
- B. A replacement well, in order to be considered as such must be drilled in the same water-bearing formation and within 250 feet of the well to be replaced and not elsewhere. It must not be located toward any other authorized or registered well site unless the new location complies with the spacing requirements set out in Rule 18; otherwise, the replacement well shall be considered to be a new well for which an application must be made under Rule 10.

Immediately upon completion of a replacement well, the well to be replaced shall be:

1. Plugged and abandoned.
2. Properly equipped in such a manner that it cannot produce more than 25,000 gallons of water per day.

- C. An application to re-work, re-drill, replace, or re-equip a well that increases the rate of production but does not raise the well classification, change the original use, or exceed the acreage production limitation may be granted by the General Manager without notice or hearing.
- D. An application to re-work, re-drill, replace, or re-equip a well that will result in a higher well classification (For example, changed from a “C” classification to a “D” classification as set out in Rule 18) may be granted by the Board without notice or hearing, provided that:
 - 1. There is no change in the original use.
 - 2. The acreage production limitation is not exceeded.
 - 3. The higher well classification does not violate the spacing requirements based on authorized well sites or existing wells.
- E. An application to re-work, re-drill, replace, or re-equip well that will result in a higher well classification and violates the spacing requirements of Rule 18.A based on authorized well sites or existing wells may be granted by the Board after public notice and hearing, provided that:
 - 1. There is no change in the original use.
 - 2. The acreage production limitation is not exceeded.
 - 3. Such a change will not cause unreasonable interference between water wells.
 - 4. The affected adjacent property owners indicate in writing that they have no objection to the proposed change.
- F. A replacement well, upon completion, will retain the seniority of the previously registered well.

RULE 13 – AQUIFER STORAGE AND RECOVERY OR RECHARGE FACILITY PERMITS

A. Pre-Application Meeting and Project Proposal

Prior to submission of an application, every applicant is required to attend a pre-application meeting with the General Manager of the Groundwater District. At the pre-application meeting, the applicant shall provide a written project proposal that summarizes the project goals and objectives and describes the method(s) to be used to achieve the project goals. The following information, unless considered inappropriate by the Groundwater Conservation District and the applicant, is to be included in the project proposal and discussed at the pre-application meeting:

- 1. The mapped location of the proposed project and related facilities which shows existing and planned features of the site.
- 2. Description of the purpose and scope of the proposed project.
- 3. Description of the estimated area of hydrologic effect of the project.
- 4. Description of the estimated area of hydrologic effect of the project.

5. Description of the proposed method of recharge (i.e. aquifer storage and recovery wells, injection wells, and infiltration basins).
6. Topographic map which shows the location of surface water bodies (natural and man-made), canals and ditches, wells, other recharge and recovery sites, and areas within the estimated area of hydrologic effect where there is potential for impairment to water rights or harm to land owners.
7. Relevant information on potential environmental impacts and plans for mitigating any harmful effects.
8. Information on existing wells, springs, and seeps, and a description of the methods that will be used to analyze possible impairment and harm from the recharge project.
9. Source water characterization including flow rate, total volume, reliability of deliveries, chemical composition, and conveyance methods.
10. Water characterization of the ambient water in the aquifer in which the recharged water will be stored.
11. Scope of work for proposed hydrologic investigations to include: the installation of observation wells, methodologies for obtaining aquifer parameters, groundwater level and quality monitoring plans, surface water (including springs and base flow) flow and quality measurements, and groundwater or surface water modeling.
12. Hydrogeologic information:
 - a. Depth to groundwater and elevation of groundwater (or potentiometric surface of groundwater) in the area of hydrologic effect.
 - b. Perched groundwater conditions.
 - c. Groundwater flow direction.
 - d. A description of the aquifer selected for storage, including its areal extent and any associated confining or semi-confining layer(s).
 - e. Rock and soil types in the vicinity of the site.
 - f. Subsurface lithology and mineralogy/geochemistry in the vicinity of the site.
 - g. Aquifer test parameters.
 - h. Groundwater quality data and the methods used to estimate their values.
 - i. Water wells within the estimated area of hydrologic effect.
 - j. Subsidence data.
13. Planned duration of the project and its facilities.

14. Relevant information on past and present land use.
15. Demonstration that the applicant has a valid water right and will meet all relevant state and federal rules and regulations.

B. Application for Permit

The application procedure for an Aquifer Storage and Recovery Permit or a Recharge Facility Permit is a two-step process:

1. Hydrologic, Technical, and Financial Capability Report

The applicant shall submit a Hydrologic, Technical, and Financial Capability Report to the District. A Hydrologic, Technical, and Financial Capability Report will enable the District to review and evaluate technical information to determine the feasibility of a full-scale, long-term project. The Report shall include the following information:

- a. Executive Summary.
- b. Project Objectives.
- c. Evidence of Technical Capability.
- d. Evidence of Hydrologic Feasibility.
- e. Area of Hydrologic Effect of Proposed Recharge Facility Project.
- f. Hydro-geologic Characterization of the Area of Hydrologic Effect.
- g. Evaluation of Impairment to Water Rights and Harm to Owners of Land within the area of hydrologic effect.
- h. Site Description.
- i. Facility Description.
- j. Facility Design.
- k. Facility Operation and Maintenance.
- l. Hydro-geographic Characterization of the Area of Hydrologic Effect.
- m. Effects Created by a Recharge Facility Project.
- n. Water Level Monitoring Plan.
- o. Water Quality Monitoring Plan.
- p. Contingency Plan.
- q. All other relevant information required by the General Manager.

2. Report Review

After receipt of the Hydrologic, Technical, and Financial Capability Report, the General Manager will conduct a review of the report. The purpose of the review will be to evaluate whether the operational, hydrologic, and geologic data needed to support an application for permit are complete and hydrologically feasible.

- a. If the General Manager determines that the report is incomplete, defective as to form, is not in compliance with these regulations, or is lacking sufficient technical data, he shall return the report to the applicant.
- b. If the General Manager determines the report to be complete, in compliance with these regulations, and the operational, hydrologic, and geologic data needed to support an application for permit are complete and hydrologically feasible he shall provide to the applicant mailed notice of the General Manager's determination of administrative completeness of the report.

3. Application for Permit

Upon notice of administrative completeness the permittee shall prepare an application for an aquifer storage and recovery or recharge facility permit and provide a complete description of the project and submit to the Groundwater District. The description shall be accompanied by the findings from the Hydrologic, Technical, and Financial Capability Report.

- a. After receipt of a permit application, the General Manager will conduct an initial review of the application. If the General Manager determines that an application is incomplete, defective as to form, or is not in compliance with these regulations, he shall return the application to the applicant. The applicant shall provide all information required by the General Manager. An application that is determined by the General Manager to be complete, in compliance with these regulations, and in recognition that any issued permit may be limited in duration, will be accepted for filing. The General Manager shall provide to the applicant mailed notice of the General Manager's determination of administrative completeness.
- b. It shall be considered to be a fraud upon the District and on the adjacent landowners and or owners of water rights for any person to willfully give erroneous information on a Full-Scale project permit application.
- c. An application for a Full-Scale project permit shall be accompanied by a cashier's check or postal money order in an amount set by the Board and payable to the District for a permit application processing fee.
- d. A form for an application for an aquifer storage and recovery or recharge facility permit is available at the District office.
- e. The Board, in considering the application for a Full-Scale Project permit, shall consider:
 - 1) Whether the operation of the Full-Scale Project will result in waste.
 - 2) Whether the operation of the Full-Scale Project will result in pollution.
 - 3) Whether the operation of the Full-Scale Project will result in subsidence.
 - 4) Whether the operation of the Full-Scale Project will result in degradation of groundwater quality.

- 5) Whether the operation of the Full-Scale Project will endanger the structural characteristics of the recharge formation.
- f. The permit term for a Full-Scale Project will be thirty (30) years. If a written request is filed prior to permit expiration to renew the current permit, the permit will remain in effect until Board action on the reissuing of the permit. Requests to renew a permit shall be subject to review for substantial compliance with the rules of the District.
- g. The operator of the Full-Scale Project shall be required to implement a groundwater observation well network that will include:
 - 1) Observation wells at the depths and locations identified by the General Manager.
 - 2) Installation, monitoring, and maintenance of dedicated water level data loggers and specific conductivity meters.
 - 3) Water sampling to monitor deviations from baseline water quality in the recharge water, water in the receiving aquifer, recovered water, and the observation wells.
- h. The operator of the Full-Scale Project shall be required to keep records and make reports to the District. Reports to the District shall be made on an annual basis, beginning at the time a permit is issued to operate. Such reports shall include but are not limited to:
 - 1) The total quantity of water stored and recovered under the permit.
 - 2) The amount of water stored and recovered during the previous calendar year.
 - 3) A discussion on the water quality of the recharge water, the water in the receiving aquifer, the recovered water, and the observation wells.
 - 4) Discussion on the operation and maintenance of the facilities.
 - 5) Discussion on the development of the project facilities.
 - 6) Discussion of changes to estimates or parameters used in the capability report.
 - 7) Discussion of any other revisions to the capability report.
 - 8) Discussion on permittee's compliance with all other relevant state and federal permits required to operate the Full-Scale Project.
 - 9) List of the expiration dates for all other state and federal permits required to operate the recharge, storage and recovery facility.
 - 10) List of all significant deviations between monitored and modeled results for water level and water quality analysis.
 - 11) Discussion of recommendations for changes to the monitoring program or the operation and maintenance of the site facilities that may be implemented upon approval by the General Manager.
 - 12) All other relevant information requested by the General Manager.
 - 13) A sworn affidavit attesting to the truthfulness and accuracy of the report.

RULE 14 – SPECIAL GROUNDWATER PRODUCTION UNIT PERMITS

A. Pre-Application Meeting and Project Proposal

Prior to submission of an application, every applicant is required to attend a pre-application meeting with the General Manager. At the pre-application meeting, the applicant shall provide a written project proposal that summarizes the project goals and objectives and describes the method(s) to be used to achieve the project goals. The following information, unless considered inappropriate by the Groundwater District and the applicant, is to be included in the project proposal and discussed at the pre-application meeting:

1. The mapped location of the proposed project and related facilities which shows existing and planned features of the site.
2. Description of the purpose and scope of the proposed project.
3. Description of the estimated area of hydrologic effect of the project.
4. Description of the purpose and scope of the pilot/demonstration project.
5. Description of the estimated area of hydrologic effect of the pilot/demonstration project.
6. Description of the proposed method of disposing of concentrated brine water.
7. Topographic map which shows the location of surface water bodies (natural and man-made), canals and ditches, wells, other recharge and recovery sites, and areas within the estimated area of hydrologic effect where there is potential for impairment to water rights or harm to land owners.
8. Relevant information on potential environmental impacts and plans for mitigating any harmful effects.
9. Information on existing wells, springs, and seeps, and a description of the methods that will be used to analyze possible impairment and harm from the special groundwater production unit water project.
10. Water characterization of the ambient water in the aquifer.
11. Scope of work for proposed hydrologic investigations to include: the installation of observation wells, methodologies for obtaining aquifer parameters, groundwater level and quality monitoring plans, surface water (including springs and base flow) flow and quality measurements, and groundwater or surface water modeling.
12. Discussion of the proposed method to demonstrate that pumpage of the special groundwater production unit water will not unreasonably affect the other water resources or aquifer levels in the District.
13. Discussion of the proposed method of brine water disposal and location of proposed disposal facilities.
14. Hydrogeologic information:

- a. Depth to ground water and elevation of ground water (or potentiometric surface of ground water) in the area of hydrologic effect.
 - b. Ground water flow direction.
 - c. A description of the aquifer selected for a special groundwater production unit, including its areal extent and any associated confining or semi-confining layer(s).
 - d. Rock and soil types in the vicinity of the site.
 - e. Subsurface lithology and mineralogy/geochemistry in the vicinity of the site.
 - f. Aquifer test parameters.
 - g. Ground water quality data and the methods used to estimate their values.
 - h. Water wells within the estimated area of hydrologic effect.
15. Planned duration of the project and its facilities.
16. Relevant information on past and present land use.
17. Demonstration that the applicant can obtain a valid disposal well permit and will meet all relevant state and federal rules and regulations.

B. Application for Permit

The application procedure for a special groundwater production unit permit is a two-step process:

1. Pilot/Demonstration Project

The applicant shall submit an application for a pilot/demonstration project, a complete description of the pilot/demonstration project, a capability report for the pilot/demonstration project, and a preliminary description of the full-scale project (the preliminary description should attempt to estimate the area of hydrologic effect and the scope and purpose of the full-scale project as closely as possible). The information required for a pilot/demonstration project capability report is the same as that for a full-scale project. However, during the course of developing the capability report for a pilot/demonstration project it may become apparent that not all the necessary information is available. In this case, an abbreviated capability report may be submitted. In cases where data does not exist or is lacking, the applicant must indicate how they plan on collecting the necessary data during the pilot/demonstration project. The data required for the pilot/demonstration project are dependent on the duration, volume, purpose, operation, and the geologic and hydrologic complexity of the project.

- a. A pilot/demonstration project is a prerequisite of a full-scale project.
 - 1) The purposes of a pilot/demonstration project are to determine if a full-scale, long-term project is hydrologically feasible and to collect and evaluate the operational, hydrologic, and geologic data needed to support an application for permit for a full-scale project.

- 2) A pilot/demonstration project will enable a Groundwater District to review and evaluate technical information to determine the feasibility of a full-scale, long-term project.
 - 3) Prior approval must be obtained from the TCEQ to dispose of concentrated brine water for a limited period of time in order to generate the data necessary for a full-scale project.
 - 4) A pilot/demonstration project permit will be limited to a volume and duration determined acceptable by the Groundwater District.
 - 5) If an applicant has completed a pilot/demonstration type project prior to applying for a permit, and the Groundwater District is satisfied that the applicant's project fulfills the essential purposes of the prescribed pilot/demonstration project, then the Groundwater District will accept the applicant's pilot/demonstration type project and its results in support of a full-scale project.
- b. The hydrologic, technical, and financial Capability Report shall include the following information:
- 1) Executive Summary.
 - 2) Project Objectives.
 - 3) Evidence of Technical Capability.
 - 4) Evidence of Hydrologic Feasibility.
 - 5) Area of Hydrologic Effect of Proposed Special Groundwater Production Zone Water Project.
 - 6) Hydrogeologic Characterization of the Area of Hydrologic Effect.
 - 7) Evaluation of Impairment to Water Rights and Harm to Owners of Land within the Area of Hydrologic Effect.
 - 8) Site Description.
 - 9) Facility Description.
 - 10) Facility Design.
 - 11) Facility Operation and Maintenance.
 - 12) Hydrogeographic Characterization of the Area of Hydrologic Effect.
 - 13) Effects Created by a Special Groundwater Production Unit Water Project.
 - 14) Water Level Monitoring Plan.
 - 15) Water Quality Monitoring Plan.

- 16) Contingency Plan.
- 17) All other relevant information required by the General Manager.
- c. After receipt of a pilot/demonstration project application, the General Manager will conduct an initial review of the application. If the General Manager determines that an application is incomplete, defective as to form, or is not in compliance with these regulations, he shall return the application to the applicant. The applicant shall provide all information required by the General Manager. An application that is determined by the General Manager to be complete, in compliance with these regulations, and in recognition that any issued permit may be limited in duration, will be accepted for filing. The General Manager shall provide to the applicant mailed notice of the General Manager's determination of administrative completeness of the application and pursuant to Rule 24.A instructions on the publication and mailing procedures of the Notice of Permit Application. The notice shall reference the District's Rules applicable to permit hearing procedures. Failure of the applicant to timely comply with Rule 24.A may result in the General Manager returning the application as void.
- d. It shall be considered to be a fraud upon the District and on the adjacent landowners and or owners of water rights for any person to willfully give erroneous information on a special groundwater production unit water permit application.
- e. An application for a special groundwater production unit water permit shall be accompanied by a cashier's check or postal money order in an amount set by the Board and payable to the District for a permit application processing fee.
- f. A form for an application for a pilot/demonstration project permit is available at the District office.
- g. The Board, in considering the application for a pilot/demonstration project permit, shall consider:
- 1) Whether the operation of the pilot/demonstration project will result in waste.
 - 2) Whether the operation of the pilot/demonstration project will result in pollution.
 - 3) Whether the operation of the pilot/demonstration project will result in subsidence.
 - 4) Whether the operation of the pilot/demonstration project will result in degradation of groundwater quality.
- h. The permit term for a pilot/demonstration project will be limited to a volume and duration determined acceptable by the District. If additional time is required to complete the pilot/demonstration project, a written request must be filed prior to permit expiration to renew the pilot/demonstration permit, the permit will remain in effect until Board action on the reissuing of the permit. Requests to renew a permit shall be subject to review for substantial compliance with the rules of the District.

2. Full Scale Project

Upon completion of a successful pilot/demonstration project, the permittee shall prepare an application for a full-scale project and provide a complete description of the full-scale project and submit to the Groundwater District. The description shall be accompanied by the findings from the pilot/demonstration project and a capability report for the full-scale project that is based on the information gathered during the pilot/demonstration project.

- a. After receipt of a Full-Scale Project application, the General Manager will conduct an initial review of the application. If the General Manager determines that an application is incomplete, defective as to form, or is not in compliance with these regulations, he shall return the application to the applicant. The applicant shall provide all information required by the General Manager. An application that is determined by the General Manager to be complete, in compliance with these regulations, and in recognition that any issued permit may be limited in duration, will be accepted for filing. The General Manager shall provide to the applicant mailed notice of the General Manager's determination of administrative completeness.
- b. The General Manager may determine that the legal notice published after the filing of the pilot/demonstration project application reasonably informed the public of the final proposed full-scale project and no additional notice is necessary. A revised notice must be published if the General Manager determines that the scope of the full-scale project has significantly changed since the publication of the original notice.
- c. It shall be considered to be a fraud upon the District and on the adjacent landowners and or owners of water rights for any person to willfully give erroneous information on a special groundwater production unit water permit application.
- d. An application for a Full-Scale project permit shall be accompanied by a cashier's check or postal money order in an amount set by the Board payable to the District for a permit application processing fee.
- e. A form for an application for a Full-Scale Project permit is available at the District office.
- f. The Board, in considering the application for a Full-Scale Project permit, shall consider:
 - 1) Whether the operation of the Full-Scale Project will result in waste.
 - 2) Whether the operation of the Full-Scale Project will result in pollution.
 - 3) Whether the operation of the Full-Scale Project will result in subsidence.
 - 4) Whether the operation of the Full-Scale Project will result in degradation of groundwater quality.
- g. The permit term for a Full-Scale Project will be thirty (30) years. If a written request is filed prior to permit expiration to renew the current permit, the permit will remain in effect until

Board action on renewal of the permit. Requests to renew a permit shall be subject to review for substantial compliance with the rules of the District.

- h. The operator of the Full-Scale Project shall be required to implement a groundwater monitoring network that will include:
 - 1) Observation wells at the depths and locations identified by the General Manager.
 - 2) Installation, monitoring, and maintenance of dedicated water level data loggers and specific conductivity meters.
 - 3) Conductance of a fluorescent dye tracer study using the production wells and observation wells to evaluate possible hydrologic communication between the special groundwater production unit and the overlying fresh water zone.
 - 4) Water quality sampling to monitor deviations from baseline water quality from both the special groundwater production unit water production wells and the observation wells.
- i. The operator of the Full-Scale Project shall be required to keep records and make reports to the District. Reports to the District shall be made on an annual basis, beginning at the time a permit is issued to operate. Such reports shall include but are not limited to:
 - 1) Volumes of brackish water removed from the aquifer.
 - 2) Volumes of concentrated brine reject water.
 - 3) Documentation showing proper disposal of the concentrated brine reject water.
 - 4) Results of a mechanical integrity test of the well, every five years, to ensure there is no significant leakage in the casing and there is no significant fluid movement into an underground source of drinking water through vertical channels adjacent to the well bore.
 - 5) Results of the annual water quality sampling from both the special groundwater production unit water production well and the observation wells.
 - 6) Discussion on the operation and maintenance of the facilities.
 - 7) Discussion on the development of the project facilities.
 - 8) Discussion of changes to estimates or parameters used in the capability report.
 - 9) Discussion of any other revisions to the capability report.
 - 10) Discussion on permittee's compliance with all other relevant state and federal permits required to operate the Full-Scale Project.
 - 11) List of the expiration dates for all other state and federal permits required to operate the recharge, storage and recovery facility.
 - 12) List of all significant deviations between monitored and modeled results for water level and water quality analysis.

- 13) Discussion of recommendations for changes to the monitoring program or the operation and maintenance of the site facilities that may be implemented upon approval by the General Manager.
- 14) All other relevant information requested by the General Manager.
- 15) A sworn affidavit attesting to the truthfulness and accuracy of the report.

RULE 15 – EXPORTATION OF GROUNDWATER FROM THE DISTRICT

- A. In accordance with Chapter 36.122 of the Texas Water Code, if the proposed use of a water well or wells is for exportation of water outside the District additional information shall be required and an export permit must be obtained before exporting any groundwater. Such applications shall be on forms provided by the District and shall be in accordance with and contain the information called for in the export permit application form. Failure to submit an administratively complete application, thirty (30) days after written notice by the General Manager listing the application's deficiencies, shall render the application void.

The General Manager shall provide to the applicant mailed notice of the General Manager's determination of administrative completeness of the application and pursuant to Rule 24.A instructions on the publication and mailing procedures of the Notice of Permit Application. The notice shall reference the District rules applicable to permit hearing procedures. Failure of the applicant to timely comply with this Rule 24.A may result in the General Manager returning the application as void.

B. Exceptions:

1. An export permit, as provided for herein, is not required if the export of water commenced prior to the November 26, 1997, the registered pumping capacity of the facility as of November 26, 1997 is not increased, and annual aggregate amount of water to be exported does not exceed 5,000 acre feet.
2. If a transportation facility is excepted from permitting, as provided herein above, a registration of such a transportation facility is required.

C. The following information will be provided to the General Manager with a registration of an existing facility or an application for a permit to export water:

1. The name and address of the owner or operator of the export facility.
2. The legal description of the location of the water well or wells from which water to be exported is to be produced.
3. The name and address of the water right owner of the proposed or existing well or wells used to produce water to be exported.
4. The permit number or registration number of the water well or wells used to produce water to be exported.

5. A technical description of the water well or wells that are producing water for export and the formation they are producing from including, but not limited to:
 - a. A copy of the driller's log.
 - b. A completion record showing the depth of the water well, the casing diameter, type and setting, and the perforated interval.
 - c. The size of the pump or pumps used to produce water to be exported.
 - d. The date the water well was drilled.
 - e. Electric logs including a spontaneous potential log and a resistivity log.
6. The use of water exported.
7. The volume of water exported during the previous calendar year.
8. A technical description of the facilities used to export water.
9. The proposed volumes of water to be exported outside the District, on a per annum basis for a thirty (30) year period commencing upon (expected) permit issuance.
10. The availability of water in the District and in the proposed receiving area during the period for which the water supply is requested.
11. The projected effect of the proposed transfer on aquifer conditions, depletion, subsidence, or effects on existing permit holders or other groundwater users within the District.
12. Additional information that may be required by the General Manager.

D. Factors for Board Consideration of Export permits.

In reviewing a proposed transfer of groundwater outside the District, the Board shall consider:

1. The availability of water in the District and in the proposed receiving area during the period for which the water supply is requested;
2. The projected effect of the proposed transfer on aquifer conditions, depletion, subsidence, or effects on existing permit holders or other groundwater users within the District; and
3. The approved regional water plan and certified District management plan.

E. Permit Conditions

1. The export permit, if issued, after notice and hearing may include the following terms and provisions:
 - a. The name and address of the person to whom the permit is issued.
 - b. The location of the pipeline facility.

- c. A statement of the purpose for which the transportation facility will be used.
 - d. A requirement that the water exported under the permit will be put to a beneficial use at all times.
 - e. The location of the use of the water from the transportation facility.
 - f. Conditions and restrictions, if any, placed on the rate and amount of water exported.
 - g. Any conservation-oriented methods of constructing and operating the transportation facility.
 - h. A drought contingency plan prescribed by the District.
 - i. The amount of water that may be transferred out of the District.
 - j. The period for which the water may be transferred, in accordance with Rule 15.J.
 - k. The specific water wells from which water to be exported is to be produced.
2. Acceptance of the permit by the person to whom it is issued constitutes acknowledgment of an agreement to comply with all of the terms, provisions, conditions, limitations and restrictions of these rules including but not limited to the following:
- a. Permits are granted in accordance with the provisions of the Texas Water Code and the Rules, Management Plan and Orders of the District and acceptance of the permit constitutes an acknowledgment and agreement that the permittee will comply with the Texas Water Code, the District Rules, Management Plan, Orders of the District Board, and all the terms, provisions, conditions, requirements, limitations and restrictions embodied in the permit.
 - b. A permit confers no vested rights in the holder and it may be revoked or suspended or its terms may be modified or amended pursuant to the provisions of the District's rules.
 - c. The operation of the transportation facility must be conducted in a non-wasteful manner.
 - d. The permittee must keep records of the amount of groundwater produced and exported and such records shall be available for inspection by District representatives. Immediate written notice must be given to the District in the event export exceeds the quantity authorized by a permit.
 - e. A transportation facility must be accessible to District representatives for inspection and the permittee agrees to fully cooperate in any reasonable inspection of the transportation facility by District representatives.
 - f. Applications for which a permit is issued are incorporated in the permit and thus permits are granted on the basis of and contingent upon the accuracy of the information supplied in the application and any amendments to the application. A finding that false information has been supplied is grounds for immediate revocation of a permit. In the event of conflict between the provisions of a permit and the contents of the application, the provisions of the permit shall control.

- g. Suspension or revocation of a permit may require immediate cessation of all activities granted by the permit.
 - h. Violation of the permits terms, conditions, requirements or special provisions is punishable by civil penalties provided by the District rules.
 - i. Wherever special provisions in a permit are inconsistent with other provisions or District rules, the special provisions prevail.
 - j. Changes in the amount of water exported or the water wells associated with the transportation facility may not be made without the prior approval of a permit amendment issued by the District.
- F. All transportation facilities subject to registration or permitting shall be equipped with flow monitoring devices approved by the District and shall be available at all reasonable times for inspection by District personnel. The operator of a transportation facility shall be required to keep records and make reports to the District as to the operation of the transportation facility.
 - 1. Permittees shall submit reports to the District on a monthly basis, beginning at the time a permit is issued to operate. Monthly reports are due in the District office by the 30th day of the following month.
 - 2. Such reports shall include the volume of water exported during the preceding month and the production for each water well associated with the transportation facility.
 - 3. Permittees shall pay a fee to the District equal to 2.5 cents per one thousand gallons for the water exported from the District in the preceding month. Monthly fees are due in the District office by the 30th day of the following month. If the amount of groundwater produced and exported is not metered during the month reported, or if any meter fails during that month, the fee shall be based on 1/12 of the annual authorized export permit amount.
- G. The owner of a transportation facility shall be responsible for the prevention of pollution and waste, and with guarding the public's health in relation to water produced from such facility as required by these rules, and by reason of operations of said facility.
- H. All transportation facilities, unless exempted by these rules, shall reimburse the District for expenses incurred by the District for administration in connection with the facility as outlined in Chapter 36, Texas Water Code.
- I. Permit Term. The term for an export permit shall be three years if construction of a conveyance system has not been initiated prior to permit issuance. If construction of a conveyance system is begun before the expiration of the permit, the term will be extended to a 30 year term from initial permit issuance. If construction of a conveyance system has been initiated prior to permit issuance, the term of the export permit shall be 30 years. Construction is initiated when any portion of the conveyance system or pipeline excavations begin and the permittee provides the district with a construction plan, including a scheduled completion date.
- J. The District may, every five years, review the amount of water that may be transferred out of the District under a permit and may limit the amount of water which may be transferred, after a consideration of the factors set forth in Rule 15.D. and all relevant and current data for conservation of groundwater resources in the District. At any time during the term of an export permit, the

District may revise or amend the permit if the use of water unreasonably affects existing groundwater and surface water resources or existing Permit Holders.

- K. A permittee holding an export permit shall submit an application to renew the permit to the General Manager no later than thirty (30) days prior to the expiration of the permit. The permit shall remain effective until final Board action on renewal of the permit. In its determination whether to renew the export permit, the Board shall consider relevant and current data for the conservation of groundwater. Requests to renew a permit shall be subject to the notice and hearing requirements applicable to permit applications.
- L. An application for an export permit may be considered by the Board contemporaneously and in conjunction with Board consideration of related water well drilling and operating permit applications.
- M. It shall be considered to be a fraud upon the District and on the adjacent landowners and or owners of water rights for any person to willfully give erroneous information on an export permit application.
- N. An application for an export permit shall be accompanied by a certified check or postal money order in an amount, set by the Board, per acre/foot requested to be exported in a year and payable to the District for a permit application processing fee.
- O. Any provision of an export permit, other than the permit term, may be amended by filing an application and following the same process used to consider permit amendments.

RULE 16 – REQUIREMENTS FOR DRILLING, COMPLETING, EQUIPPING AND REWORKING WELLS

- A. No person may drill, complete, equip or rework a well or borehole without having a current Texas Water Well Driller's license or Texas Pump Installer's license. Any person who drills, completes, equips or reworks a well or borehole shall comply with the Rules and Regulations of the District, State or Federal agencies or political subdivisions having jurisdiction, including but not limited to the statutes and rules of the Texas Water Well Driller's Board and the Texas Commission on Environmental Quality.
- B. Artesian/Confined Aquifer Wells

All water wells that are to be completed in the artesian or confined portion of an aquifer shall be completed so that water from other strata or zones is not allowed to come through the casing and the annulus space. The annular space between the borehole and casing shall be pressure grouted with cement or a bentonite slurry from the top of the water bearing surface to ground surface.
- C. Outcrop Wells

All water wells that are to be completed in the outcrop portion of an aquifer shall be completed so that surface pollution is not allowed to enter the borehole-casing annulus. The annular space between the borehole and casing shall be pressure grouted with cement or bentonite slurry from five (5) to ten (10) feet above the top of the screen to ground surface.

- D. Complete records shall be kept and reports thereof made to the District concerning the drilling, equipping and completion of all water wells drilled or reworked. Such records shall include an accurate Driller's log, any electric log that has been made and such additional data concerning the description and completion of the water well, its pumping capacity, and its equipment as may be required by the Board. Such records shall be filed with the District, within ninety (90) days after completion of the water well.
- E. No person may produce water from any water well hereafter drilled and equipped within the District, except an amount necessary for the testing and equipping of such well and equipment, unless or until the District has been furnished the information required by the Board on the form furnished by the District.
- F. If a conflict between the requirements of this Rule and the requirements of the Texas Commission on Environmental Quality (TCEQ) Rules occur, the requirements of the District shall prevail.

RULE 17 – REQUIRED EQUIPMENT ON WATER WELLS FOR PROTECTION OF GROUNDWATER

The following equipment must be installed when a pump is installed or repaired on existing wells or when a new well is drilled, and on all wells having a chemical injection, chemigation or foreign substance unit in the water delivery system

- A. An in-line, automatic quick-closing check valve capable of preventing pollution or harmful alteration of the groundwater. The type of check valve installed shall meet the following specifications:
 - 1. The body of the check valve shall be constructed of cast iron, stainless steel, cast aluminum, cast steel, steel or of a material and design that provides a sturdy integrity to the unit and is resistant to the foreign substance being injected. All materials shall be corrosion resistant or coated to prevent corrosion. The valve working pressure rating shall exceed the highest pressure to which the valve will be subjected.
 - 2. The check valve shall contain a suitable automatic, quick-closing and tight-sealing mechanism designed to close at the moment water ceases to flow in the downstream direction. The device shall, by a mechanical force greater than the weight of the closing device, or hydraulic backpressure from the system and provide drip-tight closure against reverse flow.
 - 3. The check valve construction should allow for easy access for internal and external inspection and maintenance. All internal parts shall be corrosion resistant. All moving parts shall be designed to operate without binding, distortion, or misalignment.
 - 4. The check valve shall be installed in accordance with the manufacturer's specifications and maintained in a working condition during all times in which any fertilizer, pesticide, chemical, animal or human waste or other foreign substance is injected into the water system. The check valve shall be installed between the pump discharge and the point of chemical or foreign substance injection.

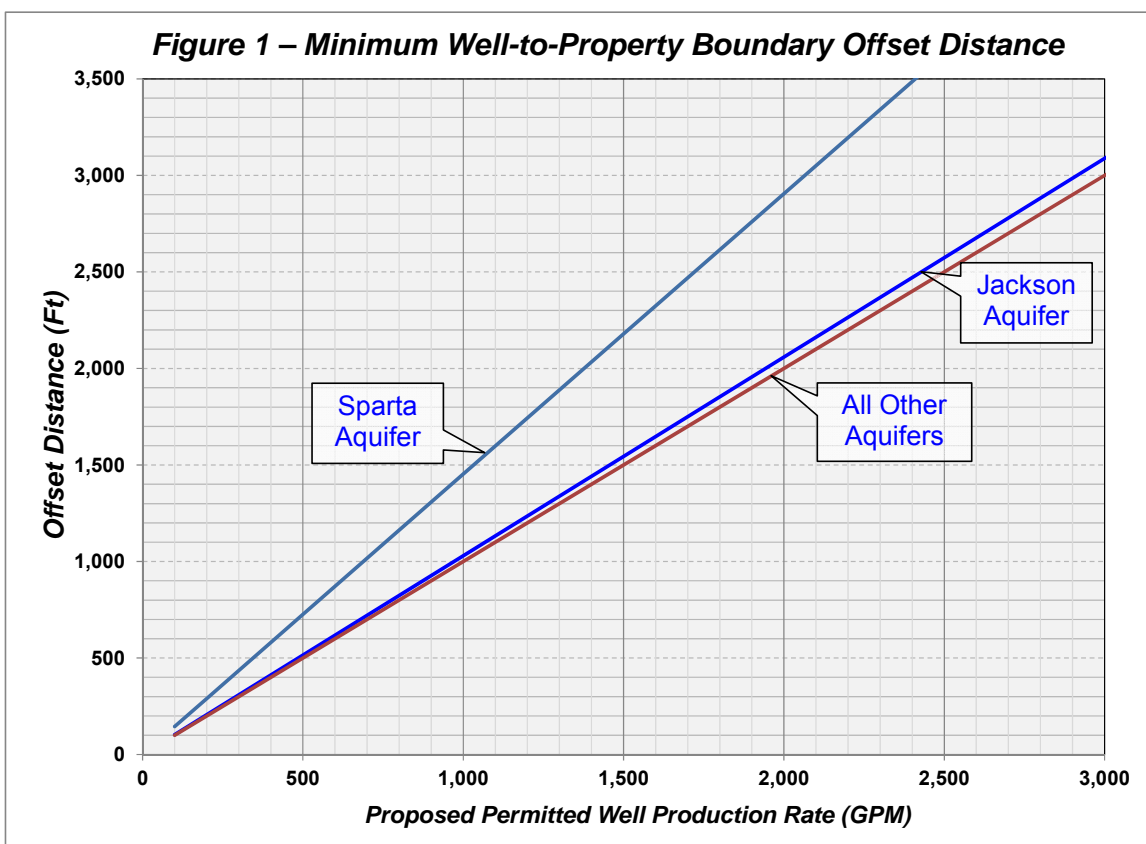
- B. A vacuum-relief device shall be installed between the pump discharge and the check valve in such a position and in such a manner that insects, animals, floodwater, or other pollutants cannot enter the well through the vacuum-relief device. The vacuum-relief device may be mounted on the inspection port as long as it does not interfere with the inspection of other anti-pollution devices.
- C. An automatic low pressure drain shall also be installed between the pump discharge and the check valve in such a position and in such a manner that any fluid which may seep toward the water well around the flapper will automatically drain out of the pipe. The drain must discharge away from rather than flow toward the water supply. The drain must not collect on the ground surface or seep into the soil around the well casing.
 - 1. The drain shall be at least three-quarter inch in diameter and shall be located on the bottom of the horizontal pipe between the pump discharge and the check valve.
 - 2. The drain must not extend beyond the inside surface of the bottom of the pipe unless special provisions, such as a dam made upstream of the drain, forces seepage to flow into the drain.
 - 3. The outside opening of the drain shall be at least two inches above the grade.
- D. An easily accessible inspection port shall be located between the pump discharge and the check valve, and situated so the automatic low-pressure drain can be observed through the port and the flapper can be physically manipulated.
 - 1. The port shall allow for visual inspection to determine if leakage occurs past the flapper, seal, seat, or any other components of the checking device.
 - 2. The port shall have a minimum four-inch diameter orifice or viewing area. For irrigation distribution systems with pipe lines too small to install a four-inch diameter inspection port, the check valve and other anti-pollution devices shall be mounted with quick disconnects, flange fittings, dresser couplings, or other fittings that allow for easy removal of these devices.
- E. Water Wells under artesian pressure (flowing wells) shall be equipped with a valve in good working order capable of stopping the flow of said well.

RULE 18 – CLASSIFICATION, SPACING AND PRODUCTION PROVISIONS

The following rule establishes production and spacing requirements in order to minimize, as far as practicable, the drawdown of the water table or reduction of artesian pressure, to prevent interference between water wells, to prevent degradation of water quality, to encourage conservation and to prevent waste in accordance with Chapter 36.116 of the Texas Water Code.

- A. Classification and Spacing Provisions
 - 1. Minimum well-to-property boundary spacing is required between each proposed new well and the property line of the nearest tract of land that is not included in the Applicant's Property. The spacing is based on the proposed permitted production rate of the proposed well, the target aquifer, and the minimum distance to the property line of the nearest tract of land that is not included in the Applicant's Property.

2. The minimum spacing between a proposed new well and the property line of the nearest tract of land that is not included in the Applicant's Property is shown in Figure 1 below.
3. This requirement may be waived or reduced with the written consent of the adjacent property owner or if, after notice to adjacent property owners and a hearing, the Board determines that the offset distance is inappropriate in a given circumstance.
4. Observation wells and monitoring wells are not subject to spacing provisions.
5. The well-to-property line spacings shown in Figure 1 are based on the average hydraulic characteristics of the aquifers in the District. The Board may, if good cause is shown, enter special orders or add special permit conditions increasing or decreasing the well-to-property line spacing requirements.
6. Exempt wells are not required to conform to property boundary offset and well-to-property line spacing rules.



B. Production Allocations

To minimize as far as practicable the drawdown of the water table and the reduction of artesian pressure, to control subsidence, to prevent interference between wells, to prevent degradation of water quality, and to address the potential loss of opportunity to drill a new well because of spacing requirements, and to prevent waste, the District establishes the following groundwater production

limitations.

1. Maximum Permitted Production

- a. The maximum permitted production for a tract of land may not exceed a total of one (1) acre/foot of water per surface acre of land owned per year from the Carrizo aquifer or combination of the allowable production from the Queen City and Sparta and Carrizo aquifers. Production from the Queen City Aquifer shall be one (1) acre/foot per surface acre per year and shall be considered part of the one (1) acre/foot per surface acre total production allowed on any tract of land. Production from the Sparta aquifer shall be one half (1/2) acre/foot per surface acre per year and shall be considered part of the one (1) acre/foot per surface acre total production allowed on any tract of land. Production from the Yegua-Jackson aquifer shall be one half (1/2) acre/foot per surface acre per year and shall be considered part of the one (1) acre/foot per surface acre total production allowed on any tract of land. Production from the Wilcox aquifer shall be one (1) acre/foot per surface acre per year and may be in addition to any other production permitted for any tract of land. Water wells previously permitted to produce at a higher rate per surface acre shall be reduced to the rate stated per surface acre in this rule beginning with permits scheduled to be renewed in 2012 and all permits thereafter shall be renewed at the rate then in effect.
- b. A permit for agricultural use shall state the maximum amount of groundwater authorized to be withdrawn during the entire permit term calculated at one (1) acre/foot per surface acre per year times the number of years during the permit term.

2. Groundwater Ownership/Contractual Rights

The determination for the approval of a well drilling and operating permit application will be contingent on the ability of the well owner to demonstrate that they have legal ownership or contractual rights on each individual tract of land as recorded in the Gonzales County Deed Records. A public water utility may claim acreage within their Certificate of Convenience and Necessity or their service area if:

- a. The well is located or to be located within their Certificate of Convenience and Necessity or their service area;
- b. There are no other wells within the claimed acreage and none of the water rights within the claimed acreage is leased to another permittee, or any property with wells within the Certificate of Convenience and Necessity or their service area plus all the leased water rights within the claimed acreage are deducted from the claimed acreage. The total annual production and leased water rights from all wells within the Certificate of Convenience and Necessity or their service area shall be recalculated at the time the permit is considered for renewal, and the permit amount shall be adjusted accordingly.

3. Aquifer Management Units

The determination for the approval of drilling and operating permit applications will be contingent on legal ownership or contractual rights within the appropriate management unit of an aquifer. Management units for each aquifer will be divided into Eastern and Western Zones as designated by the San Marcos River from the point the river crosses the Caldwell County line to the City of Gonzales, and the point where the San Marcos river converges with the Guadalupe River, and then along the Guadalupe River from the City of Gonzales to the point where the Guadalupe River

crosses the Dewitt County Line. Landowners with acreage that straddles the designated line between aquifer management units will qualify for ownership rights on either side of the line.

4. Maintenance of Ownership Rights

A person's right to continue to produce water from a well or wells under this rule is dependent upon maintaining the ownership of water rights sufficient to produce the volume of groundwater specified in the permit or permits and other Rules of the District. A conveyance of any portion of the water rights could result in non-compliance with Rules of the District. Any change to a groundwater right lease or conveyance must be reported to the District, and will take effect thirty (30) days after the new lease or conveyance document is provided to the District.

5. Operating permits from Multiple Aquifers

On tracts of land that have leased or sold the maximum permitted production amount, no other production, with the exception of an exempt well under Rule 5.A, shall be allowed.

The District's Rules related to spacing and production do not apply to any water well listed as exempt under Rule 5. Permits previously issued to produce water at higher amounts than allowed by Rule 18.B of these rules shall continue until such time as that production ceases or permitted production is modified by Rule 18 or 19.

6. Production Rates

- a. The rate of production from a well or well field may vary throughout the year; however, the total production in a calendar year beginning on January 1st and ending on December 31st shall not exceed the permitted production for that year.
- b. Individual well production rates are allowed to increase up to 150% of the permitted production rate during peak demand periods.

RULE 19 – MONITORING AND REGULATION UNDER DESIRED FUTURE CONDITIONS

The District's goal is to achieve the Desired Future Conditions (DFCs) for each aquifer. The District intends to accomplish this through use of both the Modeled Available Groundwater (MAG) estimates provided by the TWDB, by monitoring average water pressure levels in each of the aquifers, and by monitoring water table levels in the outcrop.

A. Monitoring Average Water Pressure Declines

The current DFCs are based on average water level drawdowns relative to 1999, the final year of the calibration period in the scenario 4 model results and cover a 61-year simulation period extending from 1999 to 2060. For each aquifer, the DFC average drawdowns encompass the full extent of the aquifers within the District, from the outcrop to the down dip limit of the aquifer within the District boundary.

**Desired Future Conditions
Average Water Pressure Decline
Gonzales County Underground Water Conservation District**

Aquifer	Average Drawdown (feet)
Wilcox (overall)	91
Carrizo	97
Queen City	30
Sparta	21
Yegua Jackson	1

The District shall monitor water levels in selected observation wells and evaluate whether the average change in water levels is in conformance with the DFCs adopted by the District for each aquifer. The observation wells for each aquifer were selected based on an evenly spaced distribution of wells in both the outcrop and downdip sections of the aquifers.

The starting water level date for the district’s DFCs is January 2000. The District shall measure water levels in each designated observation well in each aquifer during the winter months (November through February). Water level measurements will be obtained by automatic or manual water level monitoring equipment. For newly added observation wells or wells where groundwater levels were not measured from 2000 forward the District will calculate the missing data using average drawdown levels from neighboring observation wells. The annual recorded water levels for each observation well will be averaged together to calculate the yearly average drawdown for each aquifer. Average water level declines over time will also be calculated and compared to production amounts to assist in predicting future water level declines.

B. Monitoring Water Table Declines

Drawdown maps from scenario 4 model results estimated the average water table declines in the Aquifer outcrop area for this same period as indicated in the table below.

**Desired Future Conditions
Water Table Decline
Gonzales County Underground Water Conservation District**

Aquifer	Average Drawdown (feet)
Wilcox (overall)	53
Carrizo	37
Queen City	2
Sparta	2
Yegua Jackson	TBD

The District shall monitor water table levels in selected observation wells along the outcrop and evaluate whether the average change in water table levels is in conformance with the average water table drawdown as depicted on the drawdown maps from the scenario 4 model run for each aquifer. The observation wells for each aquifer were selected based on an evenly spaced distribution of wells along the outcrop of the aquifers.

The starting water level date for the district’s DFCs is January 2000. The District shall measure water table levels in each designated observation well in each aquifer during the winter months

(November through February). Water table level measurements will be obtained by automatic or manual water level monitoring equipment. For newly added observation wells or wells where groundwater levels were not measured from 2000 forward the District will calculate the missing data using average drawdown levels from neighboring observation wells. The annual recorded water table levels for each observation well will be averaged together to calculate the yearly average drawdown for each aquifer. Average water table level declines over time will also be calculated and compared to production amounts to assist in predicting future water level declines.

C. Modeled Available Groundwater

Modeled Available Groundwater (MAG) is defined in the Texas Water Code, Section 36.001, Subsection (25) as “the amount of water that the executive administrator determines may be produced on an average annual basis to achieve a desired future condition established under Section 36.108.” MAG estimates for the Wilcox, Carrizo, Queen City, and Sparta Aquifers were received from the TWDB in August 2012 and for the Yegua Jackson Aquifer in December 2011.

**Modeled Available Groundwater Estimates
Gonzales County Underground Water Conservation District**

Aquifer	Year					
	2010 (ac-ft/yr)	2020 (ac-ft/yr)	2030 (ac-ft/yr)	2040 (ac-ft/yr)	2050 (ac-ft/yr)	2060 (ac-ft/yr)
Upper Wilcox	0	0	0	0	0	0
Middle Wilcox	12,159	12,159	12,159	12,159	12,159	12,159
Lower Wilcox	19,902	19,902	19,902	19,902	19,902	19,902
Carrizo	45,884	55,717	63,718	69,192	69,371	69,371
Queen City	5,349	5,349	5,349	5,349	5,349	5,349
Sparta	3,552	3,552	3,552	3,552	3,552	3,552
Yegua Jackson	865	865	865	865	865	865

The GAM run used to determine the MAG included all groundwater from the outcrop to the downdip extent within the GCUWCD for all of the aquifers. The quality of the water was not taken into account so the MAG volumes include water with total dissolved solids concentrations (TDS) up to and possibly exceeding 10,000 ppm.

The District shall estimate total annual groundwater production for each aquifer based on water use reports, estimated exempt use, and other relevant information and compare these production estimates to the MAGs. The District will base future permitting decisions on the amount of existing water permitted, amount of existing water being produced, and the condition of the aquifer (average water pressure decline/water table decline) at the time the permit application is filed in order to achieve the DFC.

D. Exceedance of Drawdown Limits

1. In order to minimize, as far as practicable, the drawdown of the water table or reduction of artesian pressure, to prevent interference between wells, to prevent degradation of water quality, to encourage conservation and to prevent waste in accordance with Chapter 36.116 of the Texas Water Code, the District shall apply a reduction in the allowable permitted production if the Board determines that a well or well field has caused or significantly contributed declines below the Desired Future Condition. The District will take into consideration both the average water

- pressure declines as well as the average water table declines in making a determination of exceedance of the aquifer drawdown level in an area or areas. The average annual water pressure and water table declines identified by the District through its groundwater monitoring program will inform permitted groundwater users of potential restrictions far in advance of the need to impose these restrictions. Permitted groundwater users can use this information to voluntarily implement gradual reductions in production prior to exceedance of the drawdown limits.
2. The Board shall hold a public hearing to receive comment concerning the intent of the Board to designate specific depletion zone(s) and limit production in the affected depletion zone (s). The Board shall publish a notice not less than twenty (20) days before the actual date of the public hearing to take public comment on the proposed rules and designate the depletion zone(s). The District shall notify all permit holders in the proposed depletion zone(s) in writing of the hearing to adjust current operating permit limits.
 3. After the public hearing the Board may, within thirty (30) days, take action on a resolution designating the specific depletion zone(s) and adjusting production limits. The Board may impose reductions if water pressure or water table declines continue to exceed rates consistent with the drawdown limits. In the specified depletion zone(s), the Board shall limit groundwater production from non-exempt authorized or permitted well or well field based on the following criteria:
 - a. Current water usage, as evidenced by the prior 12 months of actual withdrawals, of each non-exempt authorized or permitted well or well field.
 - b. Availability of other existing water sources for each non-exempt authorized or permitted well or well field.
 - c. Special or unusual needs of each non-exempt authorized/permited well or well field.
 - d. Historic use status wells, up to the maximum amount of water certified shall be exempt from reductions in production rates; however such wells will be required to implement water conservation measures.
 4. When the Board delineates a management area or areas to have limited production it may require:
 - a. All wells located within the designated management area or areas capable of producing 25,000 gallons or more per day, to be equipped with a District approved meter or measuring device.
 - b. Increased water level monitoring in the affected area(s).
 5. On a semi-annual basis (or more frequently), the Board will evaluate the average water pressure and water table decline rates and will determine whether any previously imposed reductions continue to be appropriate. If not, the Board will take action to reduce or eliminate the reductions.

RULE 20 – PROTECTION OF GROUNDWATER QUALITY

The following rules establish procedures for groundwater monitoring, assessment, and actions to prevent degradation of water quality in accordance with Chapter 36.101 of the Texas Water Code. The goal

of the water quality protection program is to establish a baseline of water quality information to reveal trends over time in the District's aquifers. Once this is established the priority objective of the monitoring program is to continue to monitor the aquifers to reveal any deviations from the water quality baseline that may warrant further investigation or testing.

- A. In order to preserve and protect the aquifer(s) of the District, water wells connected or to be connected to a common gathering/transportation piping system capable of producing greater than or equal to 3,000 acre-feet of groundwater from permitted wells per calendar year, shall be required to assess the effects of the project on the aquifer(s). Water quality sampling and analysis shall be conducted by the well field owner/operator annually in at least two production wells to assess any changes in water quality that may be attributed to the large-scale pumping project. Samples shall be collected and analyzed by a laboratory, acceptable to the District, for major cations (sodium, potassium, calcium, magnesium) and anions (chloride, sulfate, carbonate, bicarbonate) and total dissolved solids. In addition, specific conductance, pH, and temperature measurements shall be made in the field during each annual sampling event. The sampling results shall be submitted to the District annually.
- B. Production from an individual water well or combination of wells in a well field may be restricted if the District determines, that a water well or combination of wells in a well field is responsible for degrading the water quality of an aquifer.
- C. If the Board determines that degradation of the water quality in a water well or well field has occurred it shall notify the permit holders of record with water wells in the affected aquifer that are located in the affected area or areas in writing.
- D. If the cause of the water quality degradation is determined to be a deteriorated well or a well not in compliance with the well completion standards of the District, the Board shall require that the well be permanently plugged and abandoned.
- E. If the cause of the water quality degradation is determined to be caused by the effects of drawdown the Board shall hold a public hearing to receive comment concerning the intent of the Board to designate specific management area(s) or limit production in the affected management area(s). The Board shall publish a notice not less than twenty (20) days before the actual date of the public hearing to consider the proposed rules and designate the management area(s). The District shall notify all permit holders in the proposed management area(s) in writing of the hearing to designate specific management area(s) or change current operating permits.
- F. After the public hearing the Board may within thirty (30) days take action on a resolution designating the specific management area(s) or limiting production. Historic use status wells up to the maximum amount of water certified shall be exempt from reductions in production rates; however such wells will be required to implement water conservation measures. In limiting production the Board shall apply 10% reductions, based on pro rata share of actual production amounts, on an annual basis until the increase in water quality degradation has ceased. The Board may impose additional, subsequent reductions if the water quality continues to degrade.
- G. When the Board delineates a management area or areas or limits production it may require:
 - 1. All water wells located within the designated management area or areas capable of producing 25,000 gallons or more per day, to be equipped with a District approved meter or measuring device.

2. Increased water quality monitoring in the affected area(s).
- H. On a semi-annual basis (or more frequently), the Board will evaluate the water quality and will determine whether any previously imposed reductions continue to be appropriate. If not, the Board will take action to reduce or eliminate the reductions.
- I. No person may operate a well that allows cross-contamination to occur between aquifers.
- J. Any person filing a water quality complaint with the District against another party must show that the current construction of the affected well is sound and provide sufficient evidence of a change of water quality by supplying the District with:
1. Water well completion records.
 2. Laboratory analytical data.
 3. Any other data the General Manager deems necessary, including but not limited to a camera survey.

RULE 21 – PLUGGING AND CAPPING OF WATER WELLS

Every owner or lessee of land within the District, upon which is located an open, uncovered, abandoned or deteriorated water well must plug or cap the water well permanently or temporarily as set forth below and in accordance with standards set forth in the Texas Water Well Drillers and Pump Installers Administrative Rules, Title 16, Chapter 76, Texas Administrative Code. A well cap must be capable of sustaining a weight of at least 400 pounds.

- A. The District may require the owner or lessee of land on which an open, uncovered, or abandoned water well is located to plug the water well permanently in accordance with these rules.
- B. The District may require the owner or lessee of land on which a deteriorated water well is located to bring the well into compliance with the District's water well completion standards or plug the water well permanently.
1. Test Borings – Any boring drilled for exploration or testing shall be plugged by pressure grouting with cement or bentonite from the bottom of the boring to one (1) foot below ground surface. If the test boring is completed at a depth of less than fifty (50) feet, pressure grout or cement can be used to plug the boring from the bottom of the boring to ground surface.
 2. Water Wells
 - a. PVC Cased Wells – All PVC casing and screen must be removed and the boring plugged by pressure grouting with cement or bentonite from the bottom of the boring to two (2) feet below ground surface.
 - b. Steel Cased Wells – Remove all removable steel casing and the boring plugged by pressure grouting with cement or bentonite from the bottom of the boring to two (2) feet below ground surface.

- c. Large Hand Dug Water Wells – Remove all debris from the water well. If the water well contains standing water, it must be chlorinated by adding chlorine bleach at a rate of one (1) gallon of bleach for every five hundred (500) gallons of water. The well must be plugged by placing cement in the bottom five feet of the water well and backfill to the surface with compacted clay to the surface, and fill mounded to compensate for settling.
- C. If the owner or lessee of the land fails or refuses to plug or cap the water well within ten (10) days after being requested to do so in writing by the District, an Enforcement Action will be taken in accordance with Rule 27. The Board shall at a regular or special called meeting take action on the Enforcement of this Rule. The Board shall upon finding that a well is in violation of this Rule instruct District personnel to employ any person, firm, or corporation to enter the land and plug or cap the water well.
- D. Reasonable expenses incurred by the District in plugging or capping a water well constitute a lien on the land on which the water well is located. The Board shall consider the availability of state funds to assist in plugging or capping any water well and may on its own motion bear some or all of the expense of the plugging or capping of any water well.
- E. The lien is perfected by filing in the deed records of the county where the water well is located an affidavit, executed by any person conversant with the facts, stating the following:
 - 1. The existence of the water well.
 - 2. The legal description of the property on which the water well is located.
 - 3. The approximate location of the water well on the property.
 - 4. The failure or refusal of the owner or lessee, after notification, to plug or cap the water well within 10 days after the notification.
 - 5. The plugging or capping of the water well by the District, or by an authorized agent, representative, or employee of the District.
 - 6. The expense incurred by the District in closing the water well.

Nothing in this Rule affects the enforcement of Subchapter A, Chapter 756, Health and Safety Code.

RULE 22 – RIGHT TO INSPECT AND TEST

- A. Any authorized officer, employee, agent or representative of the District shall have the right at all reasonable times and after twenty-four (24) hours of advance verbal or written notice to enter lands upon which a water well or wells, transportation facilities or recharge facility may be located within the District for the purpose of:

1. Inspecting a water well or wells or transportation facility, or a recharge facility.
 2. Determining the pumping capacity of water well or wells or transportation facility or a recharge facility.
 3. Reading or interpreting any meter, weir bow or other instrument for the purpose of measuring production of water from water well or wells.
 4. Collecting samples to be used in regard to groundwater quality programs.
 5. Testing the pump and the power unit of the water well or wells.
 6. Measure the level of groundwater in the water well or wells.
 7. Making any other reasonable and necessary inspections or tests that may be required for the formulation of groundwater information or the enforcement of the District Rules.
- B. If any officer, employee, agent or representative is refused the right to enter lands under this authority, the District may invoke the remedies authorized by Section 36.102 of the TEXAS WATER CODE.

RULE 23 – EXCEPTION TO DISTRICT RULES

- A. In order to accomplish the purposes set forth in the Management Plan, the Board may grant exceptions to Rules of the District. This Rule, and all other Rules of the District, may not be construed so as to limit the power of the Board, and the powers stated are cumulative of all other powers possessed by the Board.
- B. Procedure:
1. Any person, firm, corporation, association of persons or other entity desiring an exception to any Rule shall file a written, sworn application with the District stating:
 - a. The nature of the exception requested.
 - b. The justification for granting the exception.
 - c. Any information that the applicant deems appropriate in support of the exception.
 2. One copy of any application for an exception shall be submitted to the District at its office:

GONZALES COUNTY UNDERGROUND WATER CONSERVATION DISTRICT
920 Saint Joseph
P. O. Box 1919
Gonzales, Texas 78629
Phone: 830-672-1047
 3. All applications for exceptions shall be heard and considered by the Board meeting in regular or special session, within ninety (90) days after submittal. At least thirty (30) days notice of the hearing shall be given to the applicant, to known interested parties, including all governmental agencies having potential concurrent jurisdiction, and notice shall also be published in a

- newspaper in general circulation in Gonzales and Caldwell County at least thirty(30) days before the date of the hearing.
4. At the hearing the applicant and other interested persons will be given the opportunity to present evidence.
 5. The decision of the Board shall be based upon the evidence submitted at the hearing, facts of which the Board may take judicial notice, statements and arguments.
 6. The Board shall enter an order granting or denying an application for exception, with such conditions as it shall deem proper, within sixty (60) days after such hearing.

RULE 24 – PERMIT NOTICE AND PUBLIC HEARING PROCEDURES

A. Notice of Permit Application

Upon a determination of administrative completeness of an application for a permit or permit amendment required to be approved by the Board, the General Manager will provide applicant a Notice of Permit Application. The notice will include (1) the name of the applicant; (2) the address or approximate location of the well, proposed well, or other regulated activity; (3) a brief explanation of the proposed permit or permit amendment, including any requested amount of groundwater, the purpose of the proposed use, and any change in use; and (4) any other information the General Manager considers relevant and appropriate. The notice shall reference the District Rules applicable to permit hearing procedures and provide for a thirty (30) day period for interested persons to submit comments to the District and/or to request a contested case hearing, if applicable.

The applicant must, upon receipt of the Notice of Permit Application, publish the Notice of Permit Application in the newspaper of largest circulation within Gonzales County and Caldwell County at the earliest available publication date after receipt of the Notice from the General Manager. The applicant must also mail the Notice of Permit Application to landowners and well owners designated in Rule 10.D.10 within seven (7) days of receipt of the notice from the General Manager. The applicant must provide evidence of newspaper publication and mailed notice to the General Manager within twenty-one (21) days of applicant's receipt of the Notice from the General Manager.

The General Manager shall mail the Notice of Permit Application to persons who have requested notice under Rule 24.B.

B. Request for Notice of District Hearings

A person may request notice from the District of a hearing on a permit or a permit amendment application. The request must be in writing and is effective for the remainder of the calendar year in which the request is received by the District. To receive notice of a hearing in a later year, a person must submit a new request. An affidavit of an officer or employee of the District establishing attempted service by first class mail, facsimile, or electronic mail to the person in accordance with the information provided by the person is proof that notice was provided by the District.

C. Processing Applications; Determination of Administrative Completeness

1. Completeness of an Application. An application shall be considered administratively complete if it includes all required information; is signed; 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 Rules, Board or staff. A determination of administrative completeness will be made by the General Manager.

2. Action on Incomplete Applications. The District will not take action on an application that is not administratively complete or 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. Incomplete applications will be returned to the applicant with a list of deficiencies and may be reconsidered once the deficiencies are corrected.
3. Action on Administratively Complete Applications. The General Manager will schedule administratively complete applications for a public hearing, and shall mail and publish notice of the proposed action on the application and notice of a public hearing on the application in accordance with these rules.
4. Deadline for Determination. The General Manager shall determine if an application is administrative complete or issue a notice of deficiency within ninety (90) days after receipt of the application, unless the General Manager notifies the applicant, in writing, that the deadline is extended an additional ninety (90) days. If after the expiration of the deadline the General Manager does not issue a notice of deficiency the application shall be deemed to be administratively complete.

D. Public Hearing

1. Copies of the permit application shall be available for review at the District office and on the District website prior to the public hearing.
2. Anyone interested in the permit application may submit written comments about the application to the District. All comments shall be forwarded to the Board and the applicant.
3. Anyone interested in the application may attend the public hearing and make oral comments at the time designated for comments.
4. The applicant shall have an opportunity to address the Board on the application and respond to comments.
5. If no contested case hearing requests have been received or if all contested case hearing requests have been withdrawn prior to the close of the public hearing, the Board shall proceed with action on the permit application.
6. Except as otherwise provided in Rule 24.D.8, if contested case hearing requests have been received and are not withdrawn prior to the close of the public hearing, the application shall be considered contested and the Board shall close the public hearing and follow the provisions in Rule 25.C pertaining to scheduling a preliminary hearing on the hearing requests.
7. If the general manager files a request for a contested case hearing and no other affected person requests a contested case hearing, the applicant may offer to settle the matter. If the matter is settled, the application may be taken directly to the Board for final action. If the matter is unable to be settled, the application will be referred to a contested case hearing. The Board is not bound by an agreed settlement.

8. If there are no requests for a contested case hearing or protests file on the application, the Board may take final action at a meeting following public hearing. The Board may:
 - a. Grant the application;
 - b. Grant the application with conditions; or
 - c. Deny the application.
9. If the Board grants the application with conditions, grants the application for a groundwater withdrawal amount less than the amount requested, or denies the application, the applicant shall have twenty (20) days to file a request for contested case hearing. If the applicant timely files a request for contested case hearing the application shall be declared contested.

RULE 25 – CONTESTED PERMIT HEARING PROCEDURES

A. Applicability

1. Contested case hearings may be requested in connection with the following applications:
 - a. Drilling and operating permits;
 - b. Export permits;
 - c. Aquifer storage and recovery permits;
 - d. Recharge facility permits;
 - e. Special groundwater production unit permits;
 - f. A major amendment to any existing permit; and
 - g. Appeals of proposed Desired Future Conditions.
2. The following types of applications are exempt from a contested case hearing:
 - a. An application for a new well permit or an amendment to an existing well permit, not part of a well field, requesting less than 500 acre feet per year, if the General Manager determines that the application is in compliance with the rules of the District.
 - b. An application for renewal of a permit if the application does not also request a major amendment.
 - (1) The District is not required to renew a permit under this section if the applicant:
 - (a) is delinquent in paying a fee required by the district;
 - (b) is subject to a pending enforcement action for a substantive violation of a district permit, order, or rule that has not been settled by agreement with the district or a

final adjudication; or

(c) has not paid a civil penalty or has otherwise failed to comply with an order resulting from a final adjudication of a violation of a district permit, order, or rule.

(2) If the permit amendment process results in the denial of an amendment, the permit as it existed before the permit amendment process shall be renewed without penalty, unless Subsection (b)(1) of this section applies to the applicant.

- c. An application for renewal of a permit if the only amendments to the permit are minor amendments, and if the application does not expand the boundaries of the surface acres associated with the permit.
- d. An application for a minor amendment.
- e. Applications for exceptions that do not relate to spacing or production limitations.
- f. Applications for transfer of ownership of a drilling or operating permit or export permit.
- g. Changes to production or drilling schedules that do not exceed the current permit term.
- h. Any other application that is expressly exempted from notice and hearing under these Rules.

B. Requests for Contested Case Hearing

1. Except as provided in Rule 24.D.9, a request for a contested case hearing or a protest against an application must be in writing and be filed before the end of the public hearing on that application.
2. A contested case hearing request must substantially comply with the following:
 - a. Give the name, address, daytime telephone number, and fax number, of the person filing the request. If the request is made by a corporation, partnership, or other business entity, the request must identify the entity and one person by name who shall be responsible for receiving all official communications and documents for the entity;
 - b. State the basis upon which the person is entitled to a contested case hearing;
 - c. State the issues the requestor or protestant wishes to contest;
 - d. State whether the person requesting the contested case hearing is the applicant for that permit or an applicant for or holder of another groundwater withdrawal permit.
 - e. Request a contested case hearing;
 - f. Provide any other information requested in the notice of proposed action and technical summary; and
 - g. Be verified by an affidavit.

3. Where a request for a contested case hearing is filed by a person other than the applicant, a copy of that request must be served on the applicant at or before the time the request is filed. The request shall include a certificate indicating the date and manner of service and the name and address of all persons served.
4. If a person is requesting a contested case hearing on more than one application, a separate request must be filed in connection with each application.

C. Processing of Hearing Requests

1. After a hearing request is timely filed the District staff will schedule a preliminary hearing to consider the request.
2. At least twenty (20) days prior to the preliminary hearing the District staff will provide notice to the applicant, general manager and any persons who timely filed a hearing request.
3. Affected persons may submit a written response to the hearing request no later than ten (10) days before a Board meeting at which the Board will evaluate that request. Responses must be filed with the District and served on the general manager, the applicant and any other persons who timely filed a hearing request in connection with that matter.
4. The person requesting a hearing may submit a written reply to a response no later than five (5) days before the scheduled Board meeting at which the Board will evaluate the hearing request. All replies shall be filed with the District and served on the same day on the general manager, the applicant, and any other person who timely filed a hearing request.
5. The Board may refer the hearing request to a hearing examiner instead of scheduling the preliminary hearing before the Board. Following the preliminary hearing, the hearing examiner will provide a proposal for decision to the Board of Directors for action by the Board.

D. Action by Board

1. The determination of whether a hearing request should be granted is not a contested case hearing.
2. The Board will evaluate the hearing request at a scheduled Board meeting and may determine that the person requesting the hearing:
 - a. Does not have a personal justiciable interest related to the application and deny the hearing request; or
 - b. Has a personal justiciable interest relating to the application and schedule the application to a contested case hearing.
3. If the Board grants the request for a contested case hearing, the Board shall assign a Hearings examiner, delegate the matter to SOAH, or assign a Hearings examiner agreed to by the parties to the contested case hearing. All agreements between the parties must be in writing. The Hearings examiner shall:

- a. Schedule a preliminary hearing;
 - b. At least twenty-one (21) days after the preliminary hearing, schedule an evidentiary hearing;
 - c. Following the evidentiary hearing, prepare a proposal for decision including proposed findings of fact and conclusions of law, and transmit that proposal to the Board; and
 - d. Unless the parties have agreed, in writing, to apportion the costs, determine how to apportion among the parties the costs related to:
 - (1) a contract for the services of a presiding officer; and
 - (2) the preparation of the official hearing record.
4. The Board shall schedule a final hearing where it will consider the evidence and testimony presented during the evidentiary hearing and the hearings examiner's proposal for decision.
5. Following the final hearing, the Board may:
- a. Grant the application;
 - b. Grant the application with conditions; or
 - c. Deny the application.
6. In making a determination of whether a person has a personal justiciable interest, the General Manager, presiding officer, or Board shall consider, at a minimum, the following factors:
- a. Likely impact of the regulated activity on the health and safety of the person and on the use of property of the person;
 - b. The distance between the regulated activity and the person's property;
 - c. Whether a reasonable relationship exists between the interest claimed and the regulated activity; and
 - d. Likely impact of the regulated activity on the use of groundwater or other natural resources of the person.
- E. Delegation to SOAH
1. By order, the Board may delegate to SOAH the authority to conduct hearings designated by the Board.
 2. If the Board refers a contested case hearing to SOAH, then the applicable rules of practice and procedure of SOAH (1 TEX. ADMIN. CODE Ch. 155) govern any contested case hearing of the District, as supplemented by this subchapter.
 3. If the Board refers a contested case hearing to SOAH, the administrative law judge who conducts the contested case hearing shall serve as the hearings examiner and consider

applicable District rules and policies in conducting the hearing. However, the District may not supervise the administrative law judge.

4. If the Board refers a contested case hearing to SOAH, the District may not attempt to influence the findings of facts or the administrative law judge's application of the law in a contested case hearing except by proper evidence and legal argument.
5. If requested by the applicant or other party to a contested case, a district shall contract with the State Office of Administrative Hearings to conduct the hearing. The party must file such a request not later than the 14th day before the date the evidentiary hearing is scheduled to begin. The Board order granting the contested case hearing may designate a location for the hearing inside the boundaries of the District or in Travis County at a location designated by SOAH. The party requesting the hearing before the SOAH shall pay all costs associated with the contract for the hearing and shall, before the hearing begins, deposit with the district an amount sufficient to pay the contract amount. At the conclusion of the hearing, the district shall refund any excess money to the paying party.

F. Conducting a Contested Case Hearing by SOAH

1. When an application is referred to contested case hearing by the Board, the District will file all applicable documents to have the matter referred to SOAH.
2. In referring the case to contested case hearing, the District will:
 - a. Notify the administrative law judge of the applicable burden of proof for the applicant to establish all of the prima facie elements;
 - b. Identify for the administrative law judge any additional issues that have been raised in the request(s) for contested case hearing; and
 - c. Provide the administrative law judge with a written statement of applicable rules and policies of the District.

G. Service of Documents

1. For any document filed with the District or the hearings examiner in a contested case, the person filing that document must serve a copy on all parties at or before the time that the request is filed.
2. A document presented for filing must contain a certificate of service indicating the date and manner of service and the name and address of each person served. The District may authorize a document to be filed without a certificate of service but will require the certificate be served within three (3) days thereafter.

H. Continuances

1. The Board may continue a hearing related to a contested case under the jurisdiction of the Board from time to time and from place to place.
2. The notice of the hearing must indicate the times and places at which the hearing may be continued.

3. If a hearing is not concluded on the day it begins, the Board shall, to the extent possible, proceed with the hearing on each subsequent working day until the hearing is concluded.

I. Designation of Parties

The following are parties in all contested cases:

1. The general manager;
2. The applicant; and
3. A person who is granted a contested case hearing by Board action.

J. Discovery

Discovery in contested case proceedings will be governed by Chapter 2001, Subchapter D, TEX. GOV'T CODE and Title 1, Section 155.31, TEX. ADMIN. CODE, as supplemented by this subchapter. Depositions in a contested case shall be governed by TEX. GOV'T CODE §§ 2001.096-2001.102.

K. Expenses of Witness or Deponent

1. A witness or deponent in a contested case who is not a party and who is subpoenaed or otherwise compelled to attend a hearing or a proceeding to give a deposition or to produce books, records, papers, or other objects that may be necessary or proper for the purposes of the contested case, is entitled to receive compensation in accordance with the provisions of Sec. 2001.103, GOVERNMENT CODE.
2. Amounts required to be reimbursed or paid shall be reimbursed or paid by the party at whose request the witness appears or the deposition is taken.

L. Evidentiary Matters

1. Evidence that is irrelevant, immaterial, or unduly repetitious shall be excluded.
2. The rules of privilege recognized by law shall be given effect.
3. An objection to an evidentiary offer may be made and shall be noted in the record.
4. Evidence may be received in writing if:
 - a. It will expedite the hearing; and
 - b. The interests of the parties will not be substantially prejudiced.
5. A copy or excerpt of documentary evidence may be received if an original document is not readily available. On request, a party shall be given an opportunity to compare the copy or excerpt with the original document.
6. A party may conduct cross-examination required for a full and true disclosure of the facts.

7. Witnesses may be sworn and their testimony taken under oath.
8. Official notice may be taken of:
 - a. All facts that are judicially cognizable; and
 - b. Generally recognized facts within the area of the District's specialized knowledge. Each party shall be notified either before or during the hearing, or by reference in a preliminary report or otherwise, of the material officially noticed, including staff memoranda or information. Each party is entitled to an opportunity to contest material that is officially noticed. The special skills or knowledge of District staff may be used in evaluating the evidence.

M. Depositions and Subpoenas

1. On its own motion, or on the written request of a party, and on deposit of an amount that will reasonably ensure payment of the estimated total amount, the Board will issue a commission, addressed to the officers authorized by statute to take a deposition, requiring that the deposition of a witness be taken for a contested matter pending before it. Requests for issuance of commissions requiring deposition or subpoenas in a contested case will be in writing and directed to the Board.
2. A party requesting the issuance of a commission requiring deposition or a subpoena will file an original of the request with the District. District staff will arrange for the request to be presented to the Board at its next meeting.
3. In the case of a deposition, the Board will issue a commission addressed to the officer authorized by statute to take a deposition, requiring that the deposition of a witness be taken. The commission shall authorize the issuance of any subpoena necessary to require that the witness appear and produce, at the time the deposition is taken, books, records, papers or other objects that may be necessary and proper for the purpose of the proceeding. Additionally, the commission will require the officer to whom it is addressed to examine the witness before the officer on the date and at the place named in the commission; and take answers under oath to questions asked the witness by a party to the proceeding, the District, or an attorney for a party or the District. The commission will require the witness to remain in attendance from day to day until the deposition is begun and completed.
4. In the case of a hearing, if good cause is shown for the issuance of a subpoena, and if an amount is deposited that will reasonably ensure payment of the amounts estimated to accrue, the District will issue a subpoena addressed to the sheriff or to a constable to require the attendance of a witness or the production of books, records, papers or other objects that may be necessary or proper for the purpose of the proceeding.

N. Ex Parte Communications

1. For applications for which there is a right to a contested case hearing, a member of the Board may not, at any time after the application has been filed and before the Board has taken final action, communicate, directly or indirectly, about any issue of fact or law with any representative of the District or other designated party to the application, except on notice and opportunity for all parties to participate.

2. Subsection (1) does not apply if:
 - a. The Board member abstains from voting on a matter in which he or she engaged in ex parte communications;
 - b. The communications are by and between members of the Board consistent with the Texas Open Meetings Act;
 - c. The communications are with District staff who have not participated in any hearing in the contested case for the purpose of using the special skills or knowledge of the staff in evaluating the evidence; or
 - d. The communications are with legal counsel representing the Board of Directors.

O. Remand to Board

1. A hearings examiner may remand an application to the Board as follows:
 - a. All timely hearing requests have been withdrawn;
 - b. All parties to a contested case reach a settlement so that no facts or issues remain controverted; or
 - c. The party or parties requesting the hearing fails to appear.
2. After remand, the application will be uncontested, and the applicant will either be deemed to have agreed to the action proposed by the general manager or, if the parties have reached a settlement agreement, the agreement will be presented to the Board for its consideration. District staff will set the application for consideration at a Board meeting.

P. Informal Dispositions and Alternative Dispute Resolution

1. An informal disposition of a contested case may be made by:
 - a. Stipulation;
 - b. Agreed settlement;
 - c. Consent order; or
 - d. Failure to appear.
2. The hearings examiner may require the parties enter into mediation or other alternative dispute resolution process. The hearings examiner may also determine how the costs of the alternative dispute procedure shall be apportioned among the parties, appoint an impartial third party as provided by Section 2009.053, GOVERNMENT CODE, to facilitate that procedure.

Q. Certified Questions

1. At any time during a contested case proceeding, on a motion by a party or on the hearings examiner's own motion, the hearings examiner may certify a question to the Board.
2. Issues regarding District policy, jurisdiction, or the imposition of any sanction by the hearings examiner that would substantially impair a party's ability to present its case are appropriate for certification. Policy questions for certification purposes include, but are not limited to:
 - a. The District's interpretation of its rules and applicable statutes;
 - b. The portion of the Act, the District rules, or other statutes that are applicable to a proceeding; and
 - c. Whether District policy should be established or clarified as to a substantive or procedural issue of significance to the proceeding.
3. If a question is certified, the hearings examiner shall submit the certified issue to the District. District staff will place the certified issue on the agenda of a meeting of the Board. The District will give the hearings examiner and parties 30 day notice of the meeting at which the certified question will be considered. Within ten (10) days after the certified question is filed with the District, parties to the proceeding may file briefs. Within ten days of the filing of such briefs, parties may file responses. Briefs and responses shall be filed with the District with copies served on the hearings examiner. The District will provide copies of the certified questions and any briefs and responses to the Board. The hearings examiner may abate the hearing until the District answers the certified question, or continue with the hearing if the hearings examiner determines that no party will be substantially harmed.
4. The Board will take action and issue a written decision on the certified issue and provide copies to the parties and the hearings examiner. A decision on a certified issue is not subject to a motion for rehearing, appeal or judicial review prior to the issuance of the District's final decision in the proceeding.

R. Scheduling of a Meeting of the Board

1. After receiving the proposal for decision or other disposition from the hearings examiner, District staff shall schedule the presentation of the proposal to the Board. The matter will be scheduled to be presented to the Board within sixty (60) days after the District staff receives the proposal for decision or other disposition, unless the applicant and other parties to the hearing agree to extend the time limit. The District shall provide ten (10) days notice to the parties of the date of the final hearing before the Board at which the proposal will be presented and considered. The Board may reschedule the presentation of the proposal, but the rescheduled presentation must be within sixty (60) days, unless the applicant and other parties agree to a longer extension. The District will send notice of the rescheduled meeting date to the parties no later than ten (10) days before the rescheduled meeting. The final hearing may be continued from day to day as ordered by the Board.
2. Any party to the contested case hearing may make an oral presentation at the Board meeting in which the proposal for decision in that case is presented to the Board.

3. On the written request of a party to a contested case, the oral proceedings before the Board at which the proposal for decision is presented and oral presentations are made, may be transcribed by a court reporter. A party that desires a transcript of the proceedings shall bear the cost, or the costs will be equally divided between all parties requesting a transcript. If the District desires a transcript it will bear the costs.

S. Reopening the Record

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

T. Decision

1. The decision, if adverse to any party or upon request from any party, must be in writing or stated in the record and will include findings of fact and conclusions of law separately stated.
2. Findings of fact may be based only on the evidence and on matters that are officially noticed. If set forth in statutory language, findings of fact must be accompanied by a concise and explicit statement of the underlying facts supporting the findings.
3. If a party submits proposed findings of fact, the decision will include a ruling on each proposed finding.
4. If a contested case is presided over by a majority of the Board, then the Board's decision shall be rendered not later than the 60th day after the date on which the hearing is finally closed. If the Board refers a contested case to SOAH, then the Board's decision will be rendered no more than one hundred twenty (120) days after the date that the proposal for decision is presented at a final hearing, unless the Board determines that there is good cause for extending the deadline.
5. In a proceeding for a permit application or amendment in which a district has contracted with the State Office of Administrative Hearings for a contested case hearing, the board has the authority to make a final decision on consideration of a proposal for decision issued by an administrative law judge consistent with Section 2001.058, GOVERNMENT CODE.

U. Notification of Decisions

1. District staff will notify all parties in a contested case of any decision or order.
2. District staff will send a copy of the decision in a contested case to attorneys of record, or the parties.
3. A party or attorney of record notified by mail is presumed to have been notified on the third day after the date on which the notice is mailed.

V. Motion for Rehearing

1. For any matter considered during a contested case hearing, only a party to the contested case proceeding may file a motion for rehearing. A person who withdraws as a party in a contested case proceeding no longer has the rights of a party after withdrawing and does not have the right to request a rehearing or to appeal the decision. The motion shall be filed with the District by no later than the 20th day after the date of the Board's decision. On or before the date of filing of a motion for rehearing, the party filing the motion shall mail or deliver a copy of the motion to all parties with certification of service furnished to the District. The motion shall contain:
 - a. The name and representative capacity of the person filing the motion;
 - b. The style and official docket number assigned by the hearings examiner;
 - c. The date of the decision or order; and
 - d. The grounds for the motion, including a concise statement of each allegation of error.
2. Only a party to the contested case proceeding may reply to a motion for rehearing. A reply must be filed with the District within twenty (20) days after the date the motion for rehearing is filed.
3. The motion for rehearing will be scheduled for consideration during a Board meeting. A motion for rehearing may be granted in whole or in part. When a motion for rehearing is granted, the decision or order is nullified. The Board may reopen the hearing to the extent it deems necessary. If the Board grants a motion for rehearing, District staff shall schedule the rehearing not later than the 45th day after the date the motion is granted. Thereafter, the Board shall render a decision or order.
4. The failure of the Board to grant or deny a motion for rehearing before the 91st day after the date the motion is submitted constitutes a denial of the motion by operation of law.

W. Agreement to Modify Time Limits

The parties to a contested case hearing, with the approval of the hearing examiner, may agree to modify any time limit prescribed by these rules related to conducting contested case hearings.

X. Decision Final and Appealable

In the absence of a timely motion for rehearing, a decision or order of the Board is final on the expiration of the period for filing a motion for rehearing. If a party files a timely motion for rehearing, a decision or order of the Board is final and appealable on the date:

1. The Board denies the motion for rehearing, including a denial by operation of law; or
2. The Board renders a written decision after rehearing.

Y. Appeal of Final Decision

1. Not later than the 60th day after the date on which the decision became final and appealable, parties affected by the final decision of the Board in a contested case may file suit under TEX. WATER CODE § 36.251, to appeal the decision. A party may not file suit if a motion for rehearing was not timely filed.
2. The record in a contested case hearing shall include the following:
 - a. All pleadings, motions and intermediate rulings;
 - b. Evidence received or considered;
 - c. A statement of matters officially noticed;
 - d. Questions and offers of proof, objections and rulings on them;
 - e. Summaries of the results of any conferences held before or during the hearing;
 - f. Proposed findings, exceptions and briefs;
 - g. Any decision, opinion or report issued by the hearings examiner;
 - h. Pre-filed testimony;
 - i. All memoranda or data submitted to or considered by the hearings examiner; and
 - j. The final order and all interlocutory orders.

Z. Costs of Record on Appeal

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

RULE 26 – CHANGED CONDITIONS

The decision of the Board on any matter contained herein may be reconsidered on its own motion or upon motion of any person alleging changed conditions, or upon the discovery of new or different conditions or facts after the hearing or decision on such matter. If the Board should decide to reconsider a matter after having announced a ruling or decision, or after having finally granted or denied the application it shall give notice to persons who were proper parties to the original action, and such persons shall be entitled to a hearing thereon if they file a request therefore within fifteen (15) days from the date of the mailing of such notice.

RULE 27 – ENFORCEMENT OF RULES

All Rules duly adopted, promulgated and published by this District shall be enforced as provided for under Chapter 36, Texas Water Code.

- A. The District may enforce Chapter 36, Texas Water Code and its Rules by injunction, mandatory injunction, or other appropriate remedy in a court of competent jurisdiction.
- B. The Board by rule may set reasonable civil penalties for breach of any rule of the District not to exceed \$10,000 per day per violation, and each day of a continuing violation constitutes a separate violation in accordance with Chapter 36.102 of the Texas Water Code.
- C. A penalty under Chapter 36, Texas Water Code or the District's Rules is in addition to any other penalty provided by the law of this state and may be enforced by complaints filed in a court of competent jurisdiction in Gonzales County.
- D. If the District prevails in any suit to enforce its Rules, it may, in the same action, recover reasonable fees for attorneys, expert witnesses, and other costs incurred by the District before the court. The amount of the attorney's fees shall be fixed by the court.
- E. The Board shall notify the appropriate person or entity alleged to have committed a violation of the rules of the District by certified mail return receipt requested or by publication in a newspaper of general circulation in the District of the date of the public hearing to hear testimony about the circumstances regarding the enforcement action. Notice must be provided at least ten (10) days prior to the public hearing.
- F. Permitted transportation facilities which fail to comply with these rules may be subject to a civil penalty to be determined by the Board not to exceed \$10,000 per day of violation and each day of continued violation constitutes a separate violation.
- G. The Board, either on its own motion or upon receipt of sufficient written complaint, may at any time, after due notice to all interested parties, cite any person operating a well within the District to appear before it and require them to show cause why their operating authority or permit should not be suspended, canceled, revoked or otherwise restricted or limited for failure to comply with the Rules or Orders of the Board, any permit issued by the Board, or any relevant State statutes. A decision on suspending, cancelling or revoking permit authority may be contested under Rule 25.

RULE 28 – GRANDFATHERED OPERATING PERMITS

Any water well in existence prior to November 26, 1997 and is not currently permitted that does not meet the definition of an exempt use well under Rule 5 must be permitted in accordance with the following rules.

- A. The well owner must complete, sign, and submit an application to the General Manager according to the provisions of this rule. Failure to submit an administratively complete application, thirty (30) days after written notice by the General Manager listing the application's deficiencies, shall render the application void. A form for an application for a Grandfathered Operating permit is available at the District office. Each application for a permit shall include the following:

1. Name and mailing address of the applicant and the owner of land on which the water well is located.
 2. If the applicant is other than the owner of the property, documentation establishing the applicable authority to operate the water well for the proposed use.
 3. The location of the water well expressed in Latitude and Longitude in degrees of arc and minutes of arc and seconds of arc to the first decimal place.
 4. The current landowner as listed on the tax rolls with the Gonzales County Deed Records and the number of feet to the nearest public road, property line or other legal description and a survey in which the land is located.
 5. A statement of the nature and purpose of the current use and the amount of water that is currently being used for that purpose.
 6. The maximum pumping rate at which water can currently be withdrawn.
 7. The maximum pumping rate that the existing infrastructure (i.e. pivot irrigation system, treatment plant, etc.) can handle.
 8. For irrigation wells, the amount of water required for the acreage being irrigated and the crop being produced in a normal rainfall year.
 9. The number of surface acres owned by the applicant or the amount of surface acres for which the applicant has groundwater rights.
 10. The name and address of the driller or contractor, if known.
 11. The date the water well was completed and any well construction information available.
 12. A water conservation plan or a declaration that the applicant will comply with the District's management plan.
 13. A water well closure plan or a declaration that the applicant will comply with well plugging guidelines and report closure to the TCEQ and the District.
 14. A map of the property upon which the water well is located and an indication of all other water wells on the property or within the city limits which the owner owns or operates.
 15. Any other additional information deemed necessary by the General Manager.
- B. An application for a grandfathered well permit is not subject to spacing and production limitations relative to any approved or pending well permit or existing registered well.
- C. It shall be considered to be a fraud upon the District and on the adjacent landowners and or owners of water rights for any person to knowingly and willfully give erroneous information on a well permit application.
- D. Each application for a drilling and operating permit shall be accompanied by the appropriate fee payment in the amount of \$100.00 payable to the District for the permit application processing fee.

- E. The General Manager shall provide to the applicant mailed notice of the General Manager's determination of administrative completeness of the application.
- F. The Board shall act on a grandfathered permit application at a regularly scheduled board meeting not later than the sixtieth (60th) day after the date the General Manager has declared the permit application administratively complete.
- G. The District shall consider the following before granting or denying the permit:
 - 1. The application contains all the information required to be submitted to the District and is accompanied by the prescribed fees.
 - 2. The rate and amount of withdrawal stated on the original registration form if the applicant's well or wells were registered with the District before January 1, 2009.
 - 3. The current use of water unreasonably affects other existing groundwater or surface water resources or existing Permit Holders.
 - 4. The current use of water is dedicated to a beneficial use.
 - 5. The current use of water is consistent with District's approved water management plan.
 - 6. The applicant has agreed to avoid waste and achieve water conservation.
 - 7. The current use of the water will result in significant subsidence.
 - 8. The applicant has agreed that reasonable diligence will be used to protect groundwater quality and that the applicant will follow well plugging guidelines at the time of well closure.
 - 9. The maximum or average water usage, the capacity of the pump and the capacity of the existing infrastructure.
 - 10. The amount of existing water permitted, amount of existing water being produced, and the condition of the aquifer (average water pressure decline/water table decline) at the time the permit application is filed in order to achieve the DFC as indicated in Rules 21.A, B, and C.
- H. Permit Terms and Conditions
 - 1. A grandfathered operating permit may include:
 - a. The name and address of the person to whom the permit is issued.
 - b. The location of the water well.
 - c. The date the permit will expire.
 - d. A statement of the purpose for which the water well is to be used.
 - e. A requirement that the water withdrawn under the permit be put to beneficial use at all times.

- f. The location of the use of the water from the well.
 - g. A water well closure plan provision that the permittee will comply with the well plugging guidelines and report closure to the Texas Department of Licensing and Regulation.
 - h. The conditions and restrictions on the rate and amount of withdrawal.
 - i. Any conservation-oriented methods of drilling and operating prescribed by the District.
 - j. A drought contingency plan.
2. Acceptance of the permit by the person to whom it is issued constitutes acknowledgment of and agreement to comply with all of the terms, provisions, conditions, limitations, and restrictions of these rules including, but not limited to, the following:
- a. Permits are granted in accordance with the provisions of the Texas Water Code and the Rules, Management Plan and Orders of the District, and acceptance of the permit constitutes an acknowledgment and agreement that the permittee will comply with the Texas Water Code, the District Rules, Management Plan, Orders of the District Board, and all the terms, provisions, conditions, requirements, limitations and restrictions embodied in a permit.
 - b. A permit confers no vested rights in the holder, and it may be revoked or suspended, or its terms may be modified or amended pursuant to the provisions of the District's Rules.
 - c. The operation of a water well for the authorized withdrawal must be conducted in a non-wasteful manner. In the event the groundwater is to be transported a distance greater than one-half mile from the water well, it must be transported by pipeline to prevent waste caused by evaporation and percolation.
 - d. The permittee must keep records of the amount of groundwater produced and the purpose of the production and such records shall be annually to the District by January 31 of the following year. Immediate written notice must be given to the District in the event production exceeds the quantity authorized by a permit, or the water well is either polluted or causing pollution of the aquifer.
 - e. A water well site must be accessible to District representatives for inspection, and the permittee agrees to fully cooperate in any reasonable inspection of the water well and well site by District representatives.
 - f. Applications for which a permit is issued are incorporated in the permit and thus permits are granted on the basis of and contingent upon the accuracy of the information supplied in the application and any amendments to the application. A finding that false information has been supplied is grounds for immediate revocation of a permit. In the event of conflict between the provisions of a permit and the contents of the application, the provisions of the permit shall control.
 - g. Suspension or revocation of a permit may require immediate cessation of all activities granted by the permit.
 - h. Violation of a permit's terms, conditions, requirements or special provisions is punishable by civil penalties provided by the District's Rules.

- i. Where ever special provisions in a permit are inconsistent with other provisions or District Rules, the special provisions prevail.
- j. Changes in the withdrawal and use of groundwater during the term of a permit may not be made without the prior approval of a permit amendment authorizing the change issued by the District.
- k. On approval of an application, the District shall issue an operating permit to an applicant. The permittee's right to produce shall be limited to the extent and purposes stated in the permit. The permit shall remain valid for a period of five years, at which time a new permit may be issued.