

TEXANA GROUNDWATER CONSERVATION DISTRICT RULES

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DIRECTORS' POLICY POSITION

Board of Directors of the Texana Groundwater Conservation District (TGCD) believes that the citizens of Jackson County should be provided clear communication regarding major policy issues related to groundwater conservation, preservation, and protection within the County.

The following are policies that the current TGCD Board of Directors desire to use as the basis for developing District Groundwater Rules and Regulations:

1. **Elimination of Eminent Domain Powers:** The District should not engage in the use of eminent domain powers and will pursue appropriate legislative changes to the District's enabling legislation to remove the eminent domain power granted to the District; and
2. **Locally-Elected Board of Directors:** The District should manage the groundwater resources of Jackson County, should be governed by a locally-elected board of directors, and will pursue appropriate legislative changes to the District's enabling legislation to remove any language that would allow the District to be governed by an entity other than a locally-elected board of directors; and
3. **District Funding:** The District will pursue the necessary voter approval to enable the assessment and collection of an ad valorem tax not to exceed \$0.01 per \$100 valuation (1 cent per \$100); and
4. **Grandfathered Wells:** Water wells that existed prior to the adoption of the current 2010 District Management Plan and District Rules associated with the 2010 TCEQ Compliance Agreement will be considered grandfathered from spacing and production limitations established by the District; and
5. **Non-Grandfathered Wells:** Water wells that were completed after the adoption of the current 2010 District Management Plan and District Rules associated with the 2010 TCEQ Compliance Agreement will be subject to the district rules including spacing and production limitations established by the District; and
6. **Exempt-Use Wells:** Wells operated to produce groundwater used solely for domestic, livestock, or personal recreation will be exempt from application fees, production fees, registration fees, production permits and production reporting requirements. Wells operated to produce groundwater that are incapable of producing more than 35,000 gallons per day will be exempt from application fees, production fees, registration fees, and production permits; and

7. **Non-Exempt-Use Wells:** Wells not classified as an “Exempt-Use Well” in Item 6 or otherwise exempted from District regulation by state law will be subject to district rules; and
8. **Voluntary Registration of Grandfathered, Exempt-Use Wells:** Wells classified as “Grandfathered Wells” in Item 4 and classified as “Exempt-Use Wells” in Item 6 may be voluntarily registered; and
9. **Mandatory Registration of Non-Grandfathered Wells:** Wells classified as “Non-Grandfathered Wells” in Item 5 will be registered with the District; and
10. **Mandatory Registration of Non-Exempt-Use Wells:** Wells classified as “Non-Exempt-Use Wells” in Item 7 will be registered with the District; and
11. **Historic-Use Protection of Grandfathered, Non-Exempt-Use Wells:** Grandfathered Wells used prior to the adoption of the current 2010 District Management Plan and District Rules associated with the 2010 TCEQ Compliance Agreement to produce groundwater for nonexempt uses will be eligible for validation of past production without any application fees or production fees for the purpose of authorizing the continued operation of grandfathered wells in the same manner and purpose prior to the establishment of the District; and
12. **Exemption from Metering:** Wells classified as “Exempt-Use Wells” in Item 6 or otherwise exempted from district regulation by state law will be exempt from groundwater production metering by the District; and
13. **Reporting of Groundwater Production:** Operators of wells classified as “Non-Exempt-Use Wells” in Item 7 will report groundwater production to the District based on the well owners choice of either reasonable estimation or metering; and
14. **Replacement Wells:** Wells properly located and completed to replace an existing well will assume the status of the existing well after being plugged including status related to grandfathering, use exemption, and permitting; and
15. **Permits for Replacement Wells:** Wells being drilled or repaired for the purposes of replacing an existing well may be drilled, completed, and operated in a manner consistent with operation of the well being replaced without obtaining additional permits or authorizations; and
16. **Consideration of Permit Requests:** The District will evaluate the potential impacts on the groundwater resources (aquifers) within Jackson County when considering permit requests including transport permit

requests for the purpose of setting appropriate permit conditions which protect the groundwater resources within Jackson County as well as the historic use of groundwater within Jackson County; and

17. Primary Guiding Principle: The primary guiding principle of the Board of Directors of TGCD will be to assure the sustainability and long-term availability of groundwater resources within Jackson County.

Pursuant to Chapter 36 of the Texas Water Code, this District will enforce the rules of the District to meet the goals of regulating the production of groundwater within the District. These rules will govern the permitting of wells to be drilled and the production of water from permitted wells. The rules shall be adhered to and shall be based on the best technical evidence available. The seventeen policy positions are the basis for the rules and will serve as a foundation for future rule modifications or development.

SECTION 1 - DEFINITIONS AND CONCEPTS

RULE 1.1 - DEFINITIONS OF TERMS:

In the administration of its duties, the Texana Groundwater Conservation District follows the definitions of terms set forth in The District Act, Chapter 36 of the Texas Water Code, and other definitions as follow:

Abandoned Well - means a well or borehole the condition of which is causing, or is likely to cause, pollution of groundwater in the District. The following are not considered abandoned wells or deteriorated wells under this definition:

1. A non-deteriorated well which contains the casing in good condition; or
2. A non-deteriorated well which has been capped; or
3. A non-deteriorated free-flowing artesian well used for a beneficial purpose.

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

Aquifer - means the portions of the Gulf Coast, Chicot, Evangeline, or Jasper Aquifer located in the District or any other water bearing geologic formation.

Authorized Groundwater Production Amount – means the quantity of groundwater that the District has authorized to be produced from a non-exempt-use well.

Board - means the Board of Directors of the Texana Groundwater Conservation District.

District - means the Texana Groundwater Conservation District.

District Act - means H.B. 3798 of the 77th Legislature and the non-conflicting provisions of Chapter 36, Water Code.

Domestic Use - means the use of groundwater 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. 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. Domestic use does not include use by or for a public water system.

Drilling Permit - means an authorization issued by the District for a well to be drilled.

Exempt-Use Well – means

1. A well used solely for domestic use, livestock use, personal recreational use; or
2. A well that is operated to produce groundwater not in excess of 35,000 gallons per day; or
3. A well otherwise exempted from District regulation by state law.

Grandfathered Well – means a well that existed prior to the adoption of the current 2010 District Management Plan and District Rules associated with the 2010 TCEQ Compliance Agreement.

Grandfather - means to:

1. Exclude all wells drilled before adoption of the current 2010 District Management Plan and District Rules associated with the 2010 TCEQ Compliance Agreement from well spacing requirements;
2. Exclude all wells drilled before the adoption of the current 2010 District Management Plan and District Rules associated with the 2010 TCEQ Compliance Agreement from district fees;
3. Allow all non-exempt-use wells operated before the adoption of the current 2010 District Management Plan and District Rules associated with the 2010 TCEQ Compliance Agreement to obtain a validation permit authorizing the production of groundwater in an amount equal to the maximum annual past production; and
4. Allow all non-exempt-use wells operated before the adoption of the current 2010 District Management Plan and District Rules associated with the 2010 TCEQ Compliance Agreement to operate under validation permits without requiring a periodic renewal of these permits.

Groundwater - means water percolating below the surface of the earth within the District.

Non-Grandfathered Well - means a water well that did not exist prior to the adoption of the current 2010 District Management Plan and District Rules associated with the 2010 TCEQ Compliance Agreement.

Non-Exempt-Use Well - means a well that does not satisfy the definition of Exempt- Use Well.

Operating Permit – means the authorization issued by the District under which a specific amount of groundwater may be withdrawn from a specific non-exempt use well for a designated period of time as conditioned by the Board.

Personal Recreational Use - means the use of groundwater for water recreation, aquatic and wildlife enjoyment, golf course or similar activity.

Replacement Well - means a new well drilled within 2500 feet of an existing well for the purposes of replacing an abandoned or deteriorated well which is properly plugged. The well will be used to produce the same amount of groundwater and for the same purpose or use as the original well.

Rules - means the rules of the District compiled in this document and as may be supplemented or amended from time to time.

Transport of Groundwater - means pumping, transferring, or moving groundwater out of the District.

Transport Permit - means an authorization issued by the District allowing the transfer or transporting of a specific amount of groundwater out of the District for a designated period of time.

Validation Permit - means the authorization issued by the District under which groundwater may be withdrawn from a specific grandfathered, non-exempt-use well in an amount not to exceed the amount validated to have been produced in the past during any single year for specific purposes.

Waste - means:

1. The withdrawal of groundwater from a groundwater reservoir at a rate and in an amount that causes or threatens to cause intrusion into the reservoir of water unsuitable for agricultural, gardening, domestic, or stock raising purposes.
2. The flowing or producing of wells from a groundwater reservoir if the water produced is not used for a beneficial purpose.
3. The escape of groundwater from one groundwater reservoir to any other reservoir or geologic strata that does not contain groundwater.
4. The pollution or harmful alteration of groundwater in a groundwater reservoir by saltwater or by other deleterious matter admitted from another stratum or from the surface of the ground.
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 "Water Quality Control".
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.
7. For water produced from an artesian well, "waste" has the meaning assigned by Section 11.205

Well Registration - the creation of a record of the well by use and a well identification number for purposes of registering the well as to its geographic location and for notification to the well owner in cases of spills or accidents, data collection, record keeping, or future planning purposes.

RULE 1.2 - PURPOSE OF RULES:

These rules are adopted pursuant to the authority of Section 36.101, Texas Water Code, for the purpose of conserving, preserving, protecting, and recharging groundwater in the district, and these rules are adopted under the district's statutory authority to prevent waste and to protect the rights of owners of interests in groundwater. In fulfilling the stated purpose of these rules, the board will endeavor to maintain the aquifers in the district on a sustainable basis. For the purposes of these rules, "sustainability" is defined as development and use of groundwater in a manner that can be maintained in perpetuity.

RULE 1.3 - USE AND EFFECT OF RULES:

The District uses these rules as guides in the exercise of the powers conferred by law and in the accomplishment of the purposes of the District Act. They may not be construed as a limitation or restriction on the exercise of any discretion nor be construed to deprive the District or Board of the exercise of any powers, duties or jurisdiction conferred by law, nor be construed to limit or restrict the amount and character of data or information that may be required to be collected for the proper administration of the District Act. A permit from the District does not allow the drilling of water wells within the incorporated limits of an incorporated municipality in violation of the ordinances of that municipality.

RULE 1.4 - AMENDING OF RULES:

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

RULE 1.5 - HEADINGS AND CAPTIONS:

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

RULE 1.6 - CONSTRUCTION:

A reference to a title, chapter or section without further identification is a reference to a title, chapter or section of the Water Code or these rules.

Construction of words and phrases are governed by the Code Construction Act, Subchapter B, Chapter 311, Government Code.

RULE 1.7 - METHODS OF SERVICE UNDER THE RULES:

Except as otherwise expressly provided in these rules, any notice or documents required by these rules to be served or delivered may be delivered to the recipient, or the recipient's authorized representative, in person, by agent, by courier receipted delivery, by certified mail sent to the recipient's last known address, or by telephonic document transfer to the recipient's current telecopier number. Service by mail is complete upon deposit in a post office or other official depository of the United States Postal Service. Service by telephonic document transfer is complete upon transfer, except that any transfer occurring after 5:00 p.m. will be deemed complete on the following business day. If service or delivery is by mail, and the recipient has the right, or is required, to do some act within a prescribed time after service, three days will be added to the prescribed period. Where service by one of more methods has been attempted and failed, the service is complete upon notice publication in a general circulated newspaper in Jackson County.

RULE 1.8 - SEVERABILITY:

If any one or more of the provisions contained in these rules are for any reason held to be invalid, illegal, or unenforceable in any respect, the invalidity, illegality, or unenforceability may not affect any other rules or provisions of these rules, and these rules must be construed as if such invalid, illegal or unenforceable rules or provision had never been contained in these rules.

SECTION 2 - WELL REGISTRATION, WELL GRANDFATHERING, PROTECTION OF HISTORIC USE, EXEMPTION OF WELLS FROM CERTAIN REQUIREMENTS

RULE 2.1 – REGISTRATION OF WELLS:

All grandfathered, exempt-use wells may be registered with the District by submitting a completed registration application to the District.

All grandfathered, non-exempt-use wells shall be registered with the District by submitting a completed registration application to the District prior to well operation.

All non-grandfathered wells shall be registered with the District by submitting a completed registration application to the District prior to well operation.

Registration applications shall be submitted on forms provided by the District with the information requested on the form.

RULE 2.2 – GRANDFATHERING OF WELLS:

Any well that is not an abandoned well and was in existence prior to adoption of these rules shall be considered grandfathered.

Any replacement well of a grandfathered well shall be considered grandfathered.

Grandfathered wells shall be exempt from spacing and production limitations established by these rules for non-grandfathered wells.

Grandfathered wells shall be exempt from all district fees.

Non-grandfathered wells shall be required to comply with the spacing and production limitations established by these rules unless otherwise exempted by state law.

RULE 2.3 – PROTECTION OF HISTORIC USE OF GRANDFATHERED WELLS:

Any grandfathered, non-exempt-use well that is not an abandoned well shall be eligible of obtaining a validation permit upon completion of the

historic use validation procedure as provided in these rules without application fees.

The groundwater production authorized for a grandfathered, non-exempt-use well under a validation permit shall be limited to past production of the well as determined under these rules.

Grandfathered, non-exempt-use wells may be operated under a validation permit issued by the District for that well without obtaining an operating permit from the District.

RULE 2.4 – HISTORIC USE VALIDATION PROCEDURE:

Validation permit applications shall be submitted to the District on the form provided by the District.

To the extent available, the well owner shall provide all of the information required in these rules and as may otherwise be requested by the District.

Evidence of past production shall be submitted by sworn application or affidavit.

Groundwater production authorized for a grandfathered, non-exempt-use well under a validation permit shall not exceed the annual past production of the well validated by the Board.

Groundwater production authorized for a grandfathered, non-exempt-use well under a validation permit shall be put to the same use as the historic use validated under this procedure.

RULE 2.5 – EXEMPTION OF WELLS FROM CERTAIN REQUIREMENTS:

All exempt-use wells shall be exempt from district fees.

All exempt-use wells shall be exempt from obtaining production permits.

All exempt-use wells shall be exempt from production reporting requirements and metering.

SECTION 3 - PERMITS

RULE 3.1 - GENERAL PERMITTING POLICIES AND PROCEDURES:

A permit confers only the authority to use the well under the provisions of these rules and according to its terms. A permit's terms may be modified or amended pursuant to the provisions of these rules.

RULE 3.1.1 - DRILLING PERMIT REQUIREMENT:

The landowner or any other person legally authorized to act on behalf of the landowner must seek and receive a drilling permit from the District before a well may be drilled unless the new well is a replacement well or an exempt-use well.

The application for a drilling permit shall be administratively complete and comply with all the guidelines of these rules and include a location map or property plat drawn on a scale that adequately details the well site, the property lines, and the location of any potential source of contamination within 100 feet of the proposed well.

Applicants acting on behalf of a landowner must file with the application appropriate documentation demonstrating the authority to act on behalf of the landowner.

Once a drilling permit is issued, the applicant may thereupon proceed at his own risk to drill such well.

All drilling permits applications for a non-exempt-use well are subject to Board approval.

Additional requirements and conditions associated with drilling permits are as follows:

1. Unless specified otherwise by the Board or these rules, permits are effective for a term ending 180 calendar days after the date the permit was approved. Provided, however, that the Board, for good cause, may extend the time for drilling and completion.
2. Applicants for drilling permits for a non-exempt-use well shall apply for an operating permit at the time of applying for a drilling permit. The application requirements are identical to the requirement set out in RULE 3.1.2 with the exception that information that can only be determined by or after completing the well shall be estimated. The Board may grant a conditional approval to the operating permit application. Failure of the landowner or any other person legally

authorized to act on the behalf of the landowner to provide evidence of the satisfaction of the operating conditions will render the permit void and groundwater production is strictly prohibited.

3. In addition to the information required on the District's application form, applicants shall submit any other information deemed necessary by the Board in order to review and evaluate the application.
4. Providing the applicant can show good cause why a permit application requirement is unnecessary, the District may waive the application requirement.

RULE 3.1.2 - PRODUCTION PERMIT REQUIREMENT:

The landowner or any other person legally authorized to act on behalf of the landowner must seek and receive a validation permit or an operating permit from the District prior to operating a non-grandfathered, non-exempt-use well.

In addition to the information required on the District's operating permit application form, the applicant may be required to provide other information including, but not limited to, a water conservation plan, drought management plan, and determination of groundwater availability.

Additional requirements and conditions associated with operating permits are as follows:

1. Permit conditions related to groundwater availability and quality may be imposed by the District.
2. An operating permit shall specify and authorize the annual maximum groundwater production from the well (in gallons per year or acre feet per year), the date the operating permit is issued by the District, the term of the operating permit, the person or entity receiving the operating permit, permit and well number, the type of use permitted, the maximum rate of withdrawal in gallons per minute and any special operating conditions.
3. When two or more wells are owned and operated by the authorized producer or well owner as a multi-well system, the District may issue an operating permit for an aggregate withdrawal. The number, location and designation of the aggregate wells shall be listed on the permit. Wells associated with an operating permit for aggregated groundwater production may not produce more than 150% of that well's individual authorized groundwater production during any twelve (12) month period. Under no circumstances may the total production of groundwater from wells operating under an aggregated permit during any twelve (12) month period exceed the annual authorized groundwater production of the aggregate permit.
4. Operating permits issued by the District shall be valid for a term set by the District which shall not exceed five (5) years from the date of

issuance. Operating permit renewal applications, provided by the District upon request, shall be submitted to the District no later than sixty (60) days prior to the date of expiration of the operating permit.

5. The District will renew an operating permit provided:
 - A. the District has not determined that the quantity of available groundwater at renewal is less than the quantity at the time of the original operating permit approval; and
 - B. the well operator is not in violation of these rules; and
 - C. the District has not determined that the continued permitted production for the well would cause damage to the aquifer.
6. Providing the applicant can show good cause why a permit application requirement is unnecessary, the District can waive the application requirement.

RULE 3.1.3 - PERMIT APPLICATIONS:

Each request for a drilling permit, validation permit, operating permit, transport permit, operating permit renewal, transport permit renewal, or permit ownership transfer requires a separate application. Application forms will be provided by the District and furnished to the applicant upon request.

RULE 3.1.4 - NOTICE OF PERMIT HEARING:

Once the District has received a completed original application for a nonexempt well drilling permit, validation permit, operating permit, or transport permit the District will issue written notice indicating a date and time for a hearing on the application in accordance with these rules. The District may schedule a hearing and action on as many applications at one hearing as deemed necessary and appropriate.

RULE 3.1.5 - DECISION AND ISSUANCE OF PERMIT:

In deciding whether or not to issue a permit, and in setting the terms of the permit, the Board will consider the district management plan and rules, and all other relevant factors. The Board will also consider additional information and data provided by the applicant and other interested parties. The Board may issue the permit or refer the application to a hearing examiner for a hearing.

RULE 3.1.6 - AGGREGATION OF GROUNDWATER PRODUCTION:

In issuing a validation permit or operating permit, the authorized groundwater production for a given well may be aggregated with the

authorized groundwater production from other permitted wells designated by the District under an aggregate production permit.

District rules will be considered in determining whether or not to allow aggregation of groundwater production.

Wells associated with an operating permit for aggregated groundwater production may not produce more than 150% of that well's individual authorized groundwater production during any twelve (12) month period. Under no circumstances may the total production of groundwater from wells operating under an aggregated permit during any twelve (12) month period exceed the annual authorized groundwater production of the aggregate production permit.

RULE 3.1.7 - EFFECT OF ACCEPTANCE OF PERMIT:

Acceptance of the permit by the applicant constitutes acknowledgment of and agreement to comply with all of the terms, provisions, conditions, limitations, and restrictions in the permit. Failure to appeal the District's decision constitutes acceptance of the permit.

RULE 3.2 - PERMIT PROVISIONS:

All permits are granted subject to these rules, the district management plan, orders of the Board, and the laws of the State of Texas. In addition to any special provisions or other requirements incorporated into the permit, each permit issued must contain the following standard permit provisions:

1. Permits are granted in accordance with the provisions of these rules, and acceptance of a permit constitutes an acknowledgment and agreement that the permittee, applicant, land owner, and/or authorized operator will comply with these rules.
2. A drilling permit confers only the right to drill, construct, and complete a well to the specifications and provisions of the drilling permit.
3. An operating permit confers only the right to operate the well under the provisions of these rules. Within 30 calendar days after the date of transfer of ownership of a well or well system, the well owner must submit a completed application for transfer of ownership to the District specifying the name of the new owner. Any person who becomes the owner of a permitted well must, within 30 calendar days from the date of the change in ownership, file with the District an application for transfer of ownership.
4. The operation of the well for authorized groundwater production must be conducted in a non-wasteful manner.
5. Groundwater production from all non-exempt-use wells must be measured by the owner or operator using a device or method that is accurate within plus or minus 10%. Measured water use shall be

reported to the District on a quarterly basis using the District's quarterly groundwater production report form.

6. The well site must be accessible to District representatives for inspection, and the permittee, authorized producer, landowner, and well owner agrees to cooperate fully in any reasonable inspection of the well and well site by the District representatives. Prior to entering upon property for the purpose of conducting an investigation, the District representative seeking access must give notice in writing or in person or by telephone to the landowner, lessee, or operator, agent, or employee of the well owner or operator, as determined by information contained in the application or other information on file with the District. Notice is not required if prior permission is granted to enter without notice. The district representative will cooperate with the landowner and adhere to applicable governmental safety protocols.
7. The application pursuant to which a permit has been issued is incorporated in the permit, and the permit is granted on the basis of and is contingent upon the accuracy of the information supplied in that application. A finding that false information has been supplied is grounds for immediate revocation of the permit.
8. Violation of the permit terms, conditions, requirements, or special provisions, including pumping amounts in excess of authorized groundwater production, is punishable by civil penalties as provided by these rules and the revocation of the permit.
9. Whenever special permit terms and conditions are inconsistent with other permit provisions or these rules, the special terms and conditions will prevail.

RULE 3.3 - OPERATING AND VALIDATION PERMIT LIMITATIONS AND VIOLATIONS:

Production permits issued by the District may be limited or be considered violated under the following circumstances:

1. It is a violation of these rules to pump any amount of groundwater over the amount authorized by the applicable operating permit or validation permit.
2. It is violation of these rules to pump a non-exempt-use well without a validation permit or an operating permit being issued by the District for the well.

SECTION 4 - GROUNDWATER PRODUCTION LIMITS AND WELL SPACING

RULE 4.1 - GROUNDWATER PRODUCTION LIMITS:

Operating permits for non-exempt-use wells may be limited by the following restrictions:

1. A well or well system may not be permitted to be drilled or equipped for the production of a cumulative total that exceeds 250 gallons per minute (gpm) per contiguous acre controlled by applicant. For the purposes of this rule and the consideration of the associated limitations or requirements, an incorporated municipality may consider all contiguous land within its corporate limits and any other public water supply entity may consider all contiguous land within the boundary of its certificate of convenience and necessity (CCN) that is located within the District to be under its control or as an aggregation area. The boundary of the contiguous land within the incorporated area or CCN inside the District's boundary may serve as the applicant's property line.
2. The amount of the annual maximum groundwater production specified in the operating permit for a non-exempt well or well field, issued under these rules, shall not exceed one half (0.5) acre-foot per contiguous surface acre owned or controlled by the applicant. For the purposes of this rule and the consideration of the associated limitations or requirements, an incorporated municipality may consider all contiguous land within its corporate limits and any other public water supply entity may consider all contiguous land within the boundary of its certificate of convenience and necessity (CCN) that is located within the District to be under its control or as an aggregation area. The boundary of the contiguous land within the incorporated area or CCN inside the District's boundary may serve as the applicant's property line. Applicants may request that greater amounts of groundwater production per surface acre per annum be authorized provided they submit information, and meet performance conditions specified in these rules, sufficient for the District to determine, and the District does determine, that local hydrogeologic conditions will allow the withdrawal of a greater amount of groundwater per annum without negatively affecting water levels and water quality at adjoining property lines or otherwise interfering with an adjacent landowner's ability to use groundwater.
3. A person's right to continue to produce groundwater from a well or wells under this rule is dependent upon maintaining the ownership or control of water rights sufficient to produce the volume of groundwater specified in the permit or permits and the rules of the District. A

conveyance of any portion of the water rights could result in non-compliance with these rules.

4. Operating permit applications for wells shall be accompanied by well registration application(s) for any unregistered well(s) that currently exist on the same tract of land or adjoining tracts of land owned by the applicant for the new permit(s).
5. The Board may, if good cause is shown, authorize increased groundwater production amounts. Operating permits authorizing amounts of production in excess of one half acre foot per year (0.5 ac-ft/yr) per surface acre per annum shall contain specific monitoring and performance criteria, and the operating permit, appropriate to demonstrating that such well or well field can be operated so as not to:
 - a. cause well interference on adjoining properties;
 - b. impact the usability of the groundwater; or
 - c. otherwise have a negative impact on groundwater availability and use outside the applicant's property.
6. Exceptions to Groundwater Production Limits:
 - a. If the applicant present waivers signed by the adjoining landowner(s) stating that they have no objection to the proposed drawdown at the adjoining landowner(s) well site or property line, the production requirements may be altered by the District.
 - b. Providing the application can show good cause why a new well should be allowed to cause greater drawdown, the issue of drawdown criteria will be considered during the permitting process. If the Board chooses to grant a drilling permit for a well in an area where aquifer conditions are not favorable, the Board may limit the groundwater production of the well to ensure no injury is done to adjoining landowners or the aquifer.

RULE 4.2 - WELL SPACING:

In order to minimize the drawdown of the water table or the reduction in artesian pressure, to prevent interference between wells, to prevent degradation of water quality, or to prevent waste, the District may regulate the spacing of water wells.

1. The minimum distance from the property line for placement of a new well shall be a minimum of 50 feet. For the purposes of this rule and the consideration of the associated limitations or requirements, an incorporated municipality may consider all contiguous land within its corporate limits and any other public water supply entity may consider all contiguous land within the boundary of its certificate of convenience and necessity (CCN) that is located within the District to be under its control or as an aggregation area. The boundary of the contiguous land within the incorporated area or CCN inside the District's boundary may serve as the applicant's property line.

2. Minimum distance from any existing or proposed septic system whether on owner's property or adjacent property, must meet county and state standards.
3. Spacing requirements for non-exempt-use wells is 1 foot for every gallon per minute (gpm) of the permitted groundwater production from nearest registered well or authorized drilling permit on property owned or controlled by an entity other than the applicant. For the purposes of this rule and the consideration of the associated limitations or requirements, an incorporated municipality may consider all contiguous land within its corporate limits and any other public water supply entity may consider all contiguous land within the boundary of its certificate of convenience and necessity (CCN) that is located within the District to be under its control or as an aggregation area. The boundary of the contiguous land within the incorporated area or CCN inside the District's boundary may serve as the applicant's property line.
4. Exception to spacing requirements:
 - A. If the applicant presents waivers signed by the adjoining landowner(s) stating that they have no objection to the proposed location of the well site, the spacing requirements may be altered by the District to suit the applicant's request.
 - B. Providing the applicant can show good cause why a non-exempt-use well should be allowed to be drilled closer than the minimum spacing requirements of these rules, the issue of spacing requirements will be considered during the permit process. If the Board chooses to grant a permit to drill a well that does not meet the spacing requirements, the Board may limit the production of the well to ensure no injury is done to adjoining landowners or the aquifer.
 - C. The Board may, if good cause is shown, enter special orders or add special permit conditions increasing or decreasing spacing requirements.

SECTION 5 - TRANSFER OF GROUNDWATER OUT OF THE DISTRICT:

RULE 5.1 – TRANSPORT PERMIT REQUIRED:

Groundwater produced from within the District may not be transported outside the District's boundaries unless the Board has issued the well owner or operator a transport permit.

RULE 5.2 - APPLICABILITY:

A transport permit is not required for:

1. transportation of less than 10 acre-feet per year,
2. transportation of groundwater that is part of a manufactured product manufactured within the District, or
3. if the groundwater is produced from and put to use on property or within a certificate of convenience and necessity (CCN) that straddles the District boundary line as of the date of these rules.

RULE 5.3 - APPLICATION:

An application for a transport permit must be filed in the District office and must include the following information:

1. The name and mailing address of the applicant;
2. A statement of the nature and purpose of the proposed use and the amount of water to be used for each purpose;
3. A statement describing the availability of water in the proposed receiving area;
4. A water-conservation plan for the receiving area;
5. Information on the proposed transportation project including:
 - A. A copy of any contracts with entities to whom the water is to be delivered as evidence of demand for the groundwater and beneficial use;
 - B. The availability of water in the proposed receiving area during the period for which the water supply is requested, including:
 - I. the amount of surface water available for any purpose;
 - II. the amount of groundwater available for any purpose and from any other groundwater source;
 - III. the conservation measures in place or to be implemented in the receiving area; and
 - IV. the projected water demand and proposed water sources for the receiving area as listed in the State and Regional Water Plans;

- C. The availability of water in the District, including the projected water demand and proposed water sources for the District as listed in the State and Regional Water Plans;
 - D. The projected effect of the proposed transfer on aquifer conditions, depletion, subsidence, existing permit holders or other groundwater users within the District;
 - E. A specific description of the proposed transportation facilities;
 - F. A statement giving the time within which the proposed construction is to begin;
 - G. A statement giving the length of time required for the proposed use of water, and the amount of water to be used;
 - H. Information on the method or methods of transportation; and
 - I. Identify any other liquids that could be substituted for the fresh groundwater and possible sources for such liquid including quantity and quality.
6. The location of the well(s) and rates of withdrawal;
 7. Any additional information that the Applicant feels is relevant to the District's decision related to the issuance of a transport permit; and
 8. Proof of notification by certified mail to all landowners within the District and all well owners within five (5) mile radius of any of the proposed production wells.

RULE 5.4 - EXPORT OR TRANSPORT FEE:

The District shall impose a reasonable fee or surcharge, established by Board resolution, for transportation of groundwater out of the District.

RULE 5.5 - HEARING AND PERMIT ISSUANCE:

Applications for transport permits are subject to the hearing procedures provided by these rules. In determining whether to issue a permit to transport groundwater out of the District, the Board shall consider:

1. 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 and state water plan, and the certified District Management Plan.

SECTION 6 - REWORKING AND REPLACING A WELL

RULE 6.1 – PROCEDURES FOR REWORKING A WELL:

An existing well may be reworked, re-drilled, or re-equipped without authorization from District if such work is done in a manner that will not change the well status including the authorized producing strata or authorized production conditions.

RULE 6.2 – PROCEDURES FOR REPLACING A WELL:

A replacement well, in order to be considered such, must be drilled within two thousand five hundred (2,500) feet of the existing well.

Provided the existing well is a grandfathered well, the replacement well shall not be drilled in a location that increases the degree to which the original well violated the spacing requirements for non-grandfathered wells.

Replacement wells located and completed in a manner consistent with the well being replaced shall assume the status of the well being replaced including status related to grandfathering, use exemption, and permitting after the original well is properly plugged and abandoned.

Wells being drilled for the purpose of replacing a properly authorized or exempt use well may be drilled, completed, and operated in a manner consistent with the operation of the original well without obtaining from the District additional authorizations or permits.

SECTION 7 - WELL LOCATION AND COMPLETION

RULE 7.1 - RESPONSIBILITY:

After a drilling permit has been issued by the District, the well, if drilled, must be drilled within the authorized drilling area specified in the drilling permit, and not elsewhere.

As described in the Texas Water Well Drillers' Rules, all well drillers and persons having a well drilled, deepened, or otherwise altered shall adhere to the provisions of the rule prescribing the location of wells and proper completion.

A well must also meet the following requirements:

1. Drilling and completion of wells must satisfy all applicable requirements of the Texas Commission on Environmental Quality and the Texas Department of Licensing and Regulation.
2. All wells must be completed in accordance with the well completion standards set forth under the requirements promulgated by the Texas Department of Licensing and Regulation set forth under Title 16, Texas Administrative Code, Chapter 76, Water Well Drillers and Pump Installers Rules.
3. Violations of the rules adopted by Texas Commission on Environmental Quality, the Texas Department of Licensing and Regulation or Jackson County also constitute a violation of these rules.

SECTION 8 - WASTE PROHIBITED

RULE 8.1 - WASTE PREVENTION:

Groundwater shall not be produced within, or used within or used outside the District, in such a manner as to constitute waste as defined in these rules.

No person shall pollute or harmfully alter the character of the underground water reservoir of the District by means of salt water or other deleterious matter admitted from some other stratum or strata from the surface of the ground.

No person shall commit waste as that term is defined in these rules.

SECTION 9 - HEARINGS

RULE 9.1 - TYPES OF HEARINGS:

The District conducts two general types of hearings: hearings involving permit matters, in which the rights, duties, or privileges of a party are determined after an opportunity for an adjudicative hearing, and rulemaking hearings involving matters of general applicability that implement, interpret, or prescribe the law or District policy, or that describe the procedure or practice requirements of the District. Any matter designated for hearing before the District may be referred by the Board for hearing before a hearing examiner.

1. Permit Hearings:
 - A. **Permit Applications, Amendments, and Revocations:** The District will hold hearings on drilling permits, operating permits, transport permit, permit renewals, permit amendments, permit revocations, and permit suspensions. Hearings involving permit matters may be scheduled before a hearing examiner.
 - B. **Hearings on Motions for Rehearing:** Motions for Rehearing will be heard by the Board pursuant to these rules.
2. Rule-making Hearings:
 - A. **Rules:** As provided by Section 36.101, Texas Water Code, the Board shall provide notice and conduct a hearing to consider adoption of district rules.
 - B. District Management Plan as provided by Section 36.1071, Texas Water Code; the Board shall provide notice and conduct a hearing to consider adoption of a district management plan.
 - C. **Other Matters:** A public hearing may be held on any matter within the jurisdiction of the District, if the Board deems a hearing to be in the public interest, or necessary to effectively carry out the duties and responsibilities of the District.

RULE 9.2 - NOTICE AND SCHEDULING OF PERMIT HEARINGS:

The District shall for giving notice of all permit hearings in the following manner:

1. Notice will be given to each person who requests copies of hearing notices pursuant to the procedures set forth in these rules, and any other person the Board of Directors deem appropriate. The date of delivery or mailing of notice may not be less than ten calendar days before the date set for the hearing.
2. Notice of hearing will be published at least once in a newspaper of general circulation in the District. The date of publication may not be less than ten calendar days before the date set for the hearing.

3. A copy of the notice will be posted at the county courthouse in the place where notices are usually posted. The date of posting may not be less than ten calendar days before the date of the hearing.
4. In addition to the notices required above, when a hearing involves a permit matter, notice of the date, time, and location of the hearing will be given to the applicant at least ten calendar days before the day of the hearing.
5. In addition to the notice required above, when a hearing involves designation of a Production Limitation Management Area, as provided for in Section 36.116(d) of the Texas Water Code, a copy of the notice must be provided to each landowner, well owner, well operator and known groundwater permit holder in the proposed management area.
6. Any person having an interest in the subject matter of a hearing or hearings may receive written notice of such hearing or hearings by submitting a request in writing to the District. The request must identify with as much specificity as possible the hearing or hearings for which written notice is requested. The request remains valid for a period of one year from the date of the request, after which time a new request must be submitted. Failure to provide written notice under this section does not invalidate any action taken by the District.
7. Hearings may be scheduled, Monday through Friday -, except District holidays. Permit hearings will normally be held at the District Office. However, the Board may from time to time change or schedule additional dates, times, and places for permit hearings by resolution adopted at a regular Board meeting. The General Manager is instructed by the Board to schedule hearings involving permit matters at such dates, times, and places set forth above for permit hearings. Other hearings will be scheduled at the dates, times and locations set at a regular Board meeting.

RULE 9.3 - GENERAL PROCEDURES:

1. Authority of Presiding Officer: The presiding officer may conduct the hearing or other proceeding in the manner the presiding officer deems most appropriate for the particular proceeding. The presiding officer has the authority to:
 - A. set hearing dates, other than the initial hearing date for permit matters set by the District in accordance with these rules;
 - B. convene the hearing at the time and place specified in the notice for public hearing;
 - C. establish the jurisdiction of the District concerning the subject matter under consideration;
 - D. rule on motions and on the admissibility of evidence and amendments to pleadings;
 - E. designate and align parties and establish the order for presentation of evidence;

- F. administer oaths to all persons presenting testimony;
 - G. examine witnesses;
 - H. issue subpoenas when required to compel the attendance of witnesses or the production of papers and documents;
 - I. require the taking of depositions and compel other forms of discovery under these rules;
 - J. ensure that information and testimony are introduced as conveniently and expeditiously as possible, without prejudicing the rights of any party to the proceeding;
 - K. conduct public hearings in an orderly manner in accordance with these rules;
 - L. recess any hearing from time to time and place to place;
 - M. reopen the record of a hearing for additional evidence when necessary to make the record more complete; and
 - N. exercise any other appropriate powers necessary or convenient to effectively carry out the responsibilities of presiding officer.
2. Hearing Registration Forms: Each individual attending a hearing or other proceeding of the District must submit a form providing the following information: name; address; whether the person plans to testify; and any other information relevant to the hearing or other proceeding.
 3. Appearance; Representative Capacity: Any interested person may appear in person or may be represented by counsel, engineer, or other representative provided the representative is fully authorized to speak and act for the principal. Such person or representative may present evidence, exhibits, or testimony, or make an oral presentation in accordance with the procedures applicable to the particular proceeding. Any partner may appear on behalf of the partnership. A duly authorized officer or agent of a public or private corporation, political subdivision, governmental agency, municipality, association, firm, or other entity may appear for the entity. A fiduciary may appear for a ward, trust, or estate. A person appearing in a representative capacity may be required to prove proper authority.
 4. Alignment of Parties; Number of representatives heard: Participants in a proceeding may be aligned according to the nature of the proceeding and their relationship to it. The presiding officer may require the participants of an aligned class to select one or more persons to represent them in the proceeding or on any particular matter or ruling and may limit the number of representatives heard, but must allow at least one representative of an aligned class to be heard in the proceeding or on any particular matter or ruling.
 5. Appearance by Applicant or Movant: The applicant, movant or party requesting the hearing or other proceeding or a representative should be present at the hearing or other proceeding. Failure to so appear may be grounds for withholding consideration of a matter and dismissal without prejudice or may require the rescheduling or

continuance of the hearing or other proceeding if the presiding officer deems it necessary in order to fully develop the record.

6. Reporting: Hearings and other proceedings will be recorded on audio cassette tape or, at the discretion of the presiding officer, may be recorded by a certified shorthand reporter. The District does not prepare transcripts of hearings or other proceedings recorded on audio cassette tape on District equipment for the public, but the District will arrange access to the recording. Subject to availability of space, any party may, at their own expense, arrange for a reporter to report the hearing or other proceeding or for recording of the hearing or other proceeding. The cost of reporting or transcribing a permit hearing may be assessed in accordance with these rules. If a proceeding other than a permit hearing is recorded by a reporter, and a copy of the transcript of testimony is ordered by any person, the testimony will be transcribed and the original transcript filed with the papers of the proceeding at the expense of the person requesting the transcript of testimony. Copies of the transcript of testimony of any hearing or other proceeding thus reported may be purchased from the reporter.
7. Continuance: The presiding officer may continue hearings or other proceedings from time to time and from place to place without the necessity of publishing, serving, mailing or otherwise issuing a new notice. If a hearing or other proceeding is continued and a time and place (other than the District Office) for the hearing or other proceeding to reconvene are not publicly announced at the hearing or other proceeding by the presiding officer before it is recessed, a notice of any further setting of the hearing or other proceeding will be delivered at a reasonable time to all parties, persons who have requested notice of the hearing pursuant to these rules, and any other person the presiding officer deems appropriate, but it is not necessary to post at the county courthouses or publish a newspaper notice of the new setting.
8. Filing of Documents; Time limit: Applications, motions, exceptions, communications, requests, briefs or other papers and documents required to be filed under these rules or by law must be received in hand at the District's office within the time limit, if any, set by these rules or by the presiding officer for filing. Mailing within the time period is insufficient if the submissions are not actually received by the District within the time limit.
9. Computing Time: In computing any period of time specified by these rules, by a presiding officer, by Board orders, or by law, the day of the act, event, or default after which the designated period of time begins to run is not included, but the last day of the period computed is included, unless the last day is a Saturday, Sunday or legal holiday as determined by the Board, in which case the period runs until the end of the next day which is neither a Saturday, Sunday nor a legal holiday.

10. Affidavit: Whenever the making of an affidavit by a party to a hearing or other
1. proceeding is necessary, it may be made by the party or the party's representative or counsel. This rule does not dispense with the necessity of an affidavit being made by a party when expressly required by statute.
11. Broadening the Issues: No person will be allowed to appear in any hearing or other proceeding that in the opinion of the presiding officer is for the sole purpose of unduly broadening the issues to be considered in the hearing or other proceeding.
12. Conduct and Decorum: Every person, party, representative, witness, and other participant in a proceeding must conform to ethical standards of conduct and must exhibit courtesy and respect for all other participants. No person may engage in any activity during a proceeding that interferes with the orderly conduct of District business. If in the judgment of the presiding officer, a person is acting in violation of this provision, the presiding officer will first warn the person to refrain from engaging in such conduct. Upon further violation by the same person, the presiding officer may exclude that person from the proceeding for such time and under such conditions as the presiding officer deems necessary.

RULE 9.4 - UNCONTESTED PERMIT HEARINGS PROCEDURES:

1. Written Notice of Intent to Contest: Any person who intends to contest a permit application must provide written notice of that intent to the District office at least five calendar days prior to the date of the hearing. If the General Manager or any other person intends to contest a permit application, the District must provide the applicant written notice of that intent at least five calendar days prior to the date of the hearing. If no notice of intent to contest is received five calendar days prior to the hearing, the District will cancel the hearing and the Board will consider the permit at the next regular board meeting.
2. Informal Hearings: Permit hearings may be conducted informally when, in the judgment of the hearing examiner, the conduct of a proceeding under informal procedures will save time or cost to the parties, lead to a negotiated or agreed settlement of facts or issues in controversy, and not prejudice the rights of any party.
3. Agreement of Parties: If, during an informal proceeding, all parties reach a negotiated or agreed settlement which, in the judgment of the hearing examiner, settles the facts or issues in controversy, the proceeding will be considered an uncontested case and the hearing examiner will summarize the evidence, make findings of fact and conclusions of law based on the existing record and any other evidence submitted by the parties at the hearing.

4. **Decision to Proceed as Uncontested or Contested Case:** If the parties do not reach a negotiated or agreed settlement of the facts and issues in controversy or if any party contests a staff recommendation, and the hearing examiner determines these issues will require extensive discovery proceedings, the hearing examiner will declare the case to be contested and convene a prehearing conference as set forth in these rules. The hearing examiner may also recommend issuance of a temporary permit for a period not to exceed 4 months, with any special provisions the hearing examiner deems necessary, for the purpose of completing the contested case process. Any case not declared a contested case under this provision is an uncontested case and the hearing examiner will summarize the evidence, make findings of fact and conclusions of law, and make appropriate recommendations to the Board.

RULE 9.5 - CONTESTED PERMIT HEARINGS PROCEDURES:

1. **Prehearing Conference:** A prehearing conference may be held to consider any matter which may expedite the hearing or otherwise facilitate the hearing process.
 - A. **Matters Considered:** Matters which may be considered at a prehearing conference include, but are not limited to, (1) the designation of parties; (2) the formulation and simplification of issues; (3) the necessity or desirability of amending applications or other pleadings; (4) the possibility of making admissions or stipulations; (5) the scheduling of discovery; (6) the identification of and specification of the number of witnesses; (7) the filing and exchange of prepared testimony and exhibits; and (8) the procedure at the hearing.
 - B. **Notice:** A prehearing conference may be held at a date, time, and place stated in a separate notice given in accordance with these rules, or at the date, time, and place for hearing stated in the notice of public hearing, and may be continued from time to time and place to place, at the discretion of the hearing examiner.
 - C. **Conference Action:** Action taken at a prehearing conference may be reduced to writing and made a part of the record or may be stated on the record at the close of the conference.
2. **Assessing Reporting and Transcription Costs:** Upon the timely request of any party, or at the discretion of the hearing examiner, the hearing examiner may assess reporting and transcription costs to one or more of the parties. The hearing examiner must consider the following factors in assessing reporting and transcription costs:
 - A. the party in which requested the transcript;
 - B. the financial ability of the party to pay the costs;
 - C. the extent to which the party participated in the hearing;

- D. the relative benefits to the various parties of having a transcript;
 - E. the budgetary constraints of a governmental entity participating in the proceeding;
 - F. any other factor that is relevant to a just and reasonable assessment of costs.
 - G. In any proceeding where the assessment of reporting or transcription costs is an issue, the Hearing Examiner must provide the parties an opportunity to present evidence and argument on the issue. A recommendation regarding the assessment of costs must be included in the Hearing Examiner's report to the Board.
3. Designation of Parties: Parties to a hearing will be designated on the first day of hearing or at such other time as the Hearing Examiner determines. The General Manager and any person specifically named in a matter are automatically designated parties. Persons other than the automatic parties must, in order to be admitted as a party, appear at the proceeding in person or by representative and seek to be designated. After parties are designated, no other person may be admitted as a party unless, in the judgment of the hearing examiner, there exists good cause and the hearing will not be unreasonably delayed.
 4. Rights of Designated Parties: Subject to the direction and orders of the hearing examiner, parties have the right to conduct discovery, present a direct case, cross-examine witnesses, make oral and written arguments, obtain copies of all documents filed in the proceeding, receive copies of all notices issued by the District concerning the proceeding, and otherwise fully participate in the proceeding.
 5. Persons Not Designated Parties: At the discretion of the hearing examiner, persons not designated as parties to a proceeding may submit comments or statements, orally or in writing. Comments or statements submitted by non-parties may be included in the record, but may not be considered by the hearing examiner as evidence.
 6. Furnishing Copies of Pleadings: After parties have been designated, a copy of every pleading, request, motion, or reply filed in the proceeding must be provided by the author to every other party or the party's representative. A certification of this fact must accompany the original instrument when filed with the District. Failure to provide copies may be grounds for withholding consideration of the pleading or the matters set forth therein.
 7. Interpreters for Deaf Parties and Witnesses: If a party or subpoenaed witness in a contested case is deaf, the District must provide an interpreter whose qualifications are approved by the State Commission for the Deaf and Hearing Impaired to interpret the proceedings for that person. "Deaf person" means a person who has a hearing impairment, whether or not the person also has a speech impairment that inhibits

the person's comprehension of the proceedings or communication with others.

8. Agreements to be in Writing: No agreement between parties or their representatives affecting any pending matter will be considered by the hearing examiner unless it is in writing, signed, and filed as part of the record, or unless it is announced at the hearing and entered as record.
9. Discovery: Discovery will be conducted upon such terms and conditions, and at such times and places, as directed by the Hearing Examiner. Unless specifically modified by these rules or by order of the Hearing Examiner, discovery will be governed by, and subject to the limitations set forth in, the Texas Rules of Civil Procedure. In addition to the forms of discovery authorized under the Texas Rules of Civil Procedure, the parties may exchange informal requests for information, either by agreement or by order of the Hearing Examiner.
10. Discovery Sanctions: If the Hearing Examiner finds a party is abusing the discovery process in seeking, responding to, or resisting discovery, the Hearing Examiner may:
 - A. suspend processing of the application for a Permit if the applicant is the offending party;
 - B. disallow any further discovery of any kind or a particular kind by the offending party;
 - C. rule that particular facts be regarded as established against the offending party for the purposes of the proceeding, in accordance with the claim of the party obtaining the discovery ruling;
 - D. limit the offending party's participation in the proceeding;
 - E. disallow the offending party's presentation of evidence on issues that were the subject of the discovery request; and
 - F. recommend to the Board that the hearing be dismissed with or without prejudice.
11. Ex Parte Communications: The Hearing Examiner may not communicate, directly or indirectly, in connection with any issue of fact or law with any agency, person, party, or their representatives, except on notice and opportunity for all parties to participate. This provision does not prevent communications with staff of an agency other than the District not directly involved in the hearing to utilize the special skills and knowledge of the agency in evaluating the evidence.
12. Compelling Testimony; Swearing Witnesses and Subpoena Power: The Hearing Examiner may compel the testimony of any person which is necessary, helpful, or appropriate to the hearing. The Hearing Examiner will administer the oath in a manner calculated to impress the witness with the importance and solemnity of the promise to adhere to the truth. The Hearing Examiner may issue subpoenas to compel the testimony of any person and the production of books, papers, documents, or tangible things, in the manner provided in the Texas Rules of Civil Procedure.

13. Evidence: Except as modified by these rules, the Texas Rules of Civil Evidence govern the admissibility and introduction of evidence; however, evidence not admissible under the Texas Rules of Civil Evidence may be admitted if it is of the type commonly relied upon by reasonably prudent persons in the conduct of their affairs. In addition, evidence may be stipulated by agreement of all parties.
14. Written Testimony: When a proceeding will be expedited and the interest of the parties will not be prejudiced substantially, testimony may be received in written form. The written testimony of a witness, either in narrative or question and answer form, may be admitted into evidence upon the witness being sworn and identifying the testimony as a true and accurate record of what the testimony would be if given orally. The witness will be subject to clarifying questions and to cross-examination, and the prepared testimony will be subject to objection.
15. Requirements for Exhibits: Exhibits of a documentary character must be sized to not unduly encumber the files and records of the District. All exhibits must be numbered and, except for maps and drawings, may not exceed 8-1/2 by 11 inches in size.
16. Abstracts of Documents: When documents are numerous, the Hearing Examiner may receive in evidence only those which are representative and may require the abstracting of relevant data from the documents and the presentation of the abstracts in the form of an exhibit. Parties have the right to examine the documents from which the abstracts are made.
17. Introduction and Copies of Exhibits: Each exhibit offered must be tendered for identification and placed in the record. Copies must be furnished to the Hearing Examiner and to each of the parties, unless the Hearing Examiner rules otherwise.
18. Excluding Exhibits: In the event an exhibit has been identified, objected to, and excluded, it may be withdrawn by the offering party. If withdrawn, the exhibit will be returned and the offering party waives all objections to the exclusion of the exhibit. If not withdrawn, the exhibit will be included in the record for the purpose of preserving the objection to excluding the exhibit.
19. Official Notice: The Hearing Examiner may take official notice of all facts judicially cognizable. In addition, official notice may be taken of generally recognized facts within the area of the District's specialized knowledge.
20. Documents in District Files: Extrinsic evidence of authenticity is not required as a condition precedent to admissibility of documents maintained in the files and records of the District.
21. Oral Argument: At the discretion of the Hearing Examiner, oral arguments may be heard at the conclusion of the presentation of evidence. Reasonable time limits may be prescribed. The Hearing Examiner may require or accept written briefs in lieu of, or in addition

to, oral arguments. When the matter is presented to the Board for final decision, further oral arguments may be heard by the Board.

RULE 9.6 - CONCLUSION OF THE HEARING; REPORT:

1. Closing the Record; Final Report: At the conclusion of the presentation of evidence and any oral argument, the Hearing Examiner may either close the record or keep it open and allow the submission of additional evidence, exhibits, briefs, or proposed findings and conclusions from one or more of the parties. No additional evidence, exhibits, briefs, or proposed findings and conclusions may be filed unless permitted or requested by the Hearing Examiner. After the record is closed, the Hearing Examiner will prepare a report to the Board. The report must include a summary of the evidence, together with the Hearing Examiner's findings and conclusions and recommendations for action. Upon completion and issuance of the Hearing Examiner's report, a copy must be submitted to the District and delivered to each party to the proceeding. In a contested case, delivery to the parties must be by certified mail.
2. Exceptions to the Hearing Examiner's Report; Reopening the Record: Prior to Board action any party in a contested case may file written exceptions to the Hearing Examiner's report, and any party in an uncontested case may request an opportunity to make an oral presentation of exceptions to the Board. Upon review of the report and exceptions, the Hearing Examiner may reopen the record for the purpose of developing additional evidence, or may deny the exceptions and submit the report and exceptions to the Board. The Board may, at any time and in any case, remand the matter to the Hearing Examiner for further proceedings.
3. Time for Board Action on Certain Permit Matters: In the case of hearings involving new Permit applications, original applications for existing wells, or applications for Permit renewals or amendments, the Hearing Examiner's report should be submitted, and the Board should act, within 60 calendar days after the close of the hearing record.

RULE 9.7 - RULEMAKING HEARINGS PROCEDURES:

1. General Procedures: The presiding officer will conduct the rulemaking hearing in the manner the presiding officer deems most appropriate to obtain all relevant information pertaining to the subject of the hearing as conveniently, inexpensively, and expeditiously as possible. The presiding officer may follow the guidelines of "Parliamentary Procedure at a Glance," New Edition, O. Garfield Jones, 1971 revised edition, or as amended.
2. Submission of Documents: Any interested person may submit written statements, protests or comments, briefs, affidavits, exhibits, technical

reports, or other documents relating to the subject of the hearing. Such documents must be submitted no later than the time of the hearing, as stated in the notice of hearing given in accordance with these rules; provided, however, that the presiding officer may grant additional time for the submission of documents.

3. **Oral Presentations:** Any person desiring to testify on the subject of the hearing must so indicate on the registration form provided at the hearing. The presiding officer establishes the order of testimony and may limit the number of times a person may speak, the time period for oral presentations, and the time period for raising questions. In addition, the presiding officer may limit or exclude cumulative, irrelevant, or unduly repetitious presentations.
4. **Conclusion of the Hearing; Closing the Record; Hearing Examiner's Report:** At the conclusion of the testimony, and after the receipt of all documents, the presiding officer may either close the record, or keep it open to allow the submission of additional information. If the presiding officer is a Hearing Examiner, the Hearing Examiner must, after the record is closed, prepare a report to the Board. The report must include a summary of the subject of the hearing and the public comments received, together with the Hearing Examiner's recommendations for action. Upon completion and issuance of the Hearing Examiner's report, a copy must be submitted to the Board. Any interested person who so requests in writing will be notified when the report is completed, and furnished a copy of the report.
5. **Exceptions to the Hearing Examiner's Report; Reopening the Record:** Any interested person may make exceptions to the Hearing Examiner's report, and the Board may reopen the record, in the manner prescribed in Rule 14.6(b).

RULE 9.8 - FINAL DECISION; APPEAL:

1. **Board Action:** After the record is closed and the matter is submitted to the District, the Board may then take the matter under advisement, continue it from day to day, reopen or rest the matter, refuse the action sought or grant the same in whole or part, or take any other appropriate action. The Board action takes effect at the conclusion of the meeting and is not affected by a motion for rehearing.
2. **Requests for Rehearing:** Any decision of the Board on a matter may be appealed by requesting a rehearing before the Board within 20 calendar days of the Board's decision. Such a rehearing request must be filed at the District Office in writing and must state clear and concise grounds for the request. Such a rehearing request is mandatory with respect to any decision or action of the Board before any appeal may be brought. The Board's decision is final if no request for rehearing is made within the specified time, or upon the Board's denial of the request for rehearing, or upon rendering a decision after rehearing. If

the rehearing request is granted by the Board, the date of the rehearing will be within 45 calendar days thereafter, unless otherwise agreed to by the parties to the proceeding. The failure of the Board to grant or deny the request for rehearing within 90 calendar days of submission will be deemed to be a denial of the request.

SECTION 10 - INVESTIGATIONS AND ENFORCEMENT

RULE 10.1 - NOTICE AND ACCESS TO PROPERTY:

Board members and district agents and employees are entitled to access to all property within the District to carry out technical and other investigations necessary to the implementation of the these rules.

Prior to entering upon property for the purpose of conducting an investigation, the person seeking access must give notice in writing or in person or by telephone to the landowner, lessee, or operator, agent, or employee of the well owner or operator, as determined by information contained in the application or other information on file with the District. Notice is not required if prior permission is granted to enter without notice.

Inhibiting or prohibiting access to any board member or district agents or employees who are attempting to conduct an investigation under these rules constitutes a violation and subjects the person who is inhibiting or prohibiting access, as well as any other person who authorizes or allows such action, to the penalties set forth in the Texas Water Code Chapter 36.102.

RULE 10.3 - RULE ENFORCEMENT:

If it appears that a person has violated, is violating, or is threatening to violate any provision of these rules the Board may institute and conduct a suit in the name of the District for enforcement of rules through the provisions of Chapter 36.102 Texas Water Code.