

**Uvalde County Underground
Water Conservation District**

DISTRICT RULES

"Conserve, Protect & Preserve"

RULES OF THE
UVALDE COUNTY UNDERGROUND WATER CONSERVATION DISTRICT

Adopted November 28, 1994
Amended July 23, 1998
Amended April 27, 2000
Amended December 7, 2002
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RULES OF THE UVALDE COUNTY
UNDERGROUND WATER CONSERVATION DISTRICT

In accordance with Section 59, Article 16 of the Constitution of the State of Texas, and in accordance with Acts of the 73rd Legislature (1993), S.B. 1477, Article 2, the following were originally ratified and adopted as the rules of the Uvalde County Underground Water Conservatiou District by its Board of Directors on November 28, 1994, and amended on July 23, 1998, April 27, 2000, December 7, 2002, March 17, 2009, October 19, 2010, and September 13, 2016. All rules or parts of rules in conflict with these rules are repealed.

The rules, regulations, and modes of procedure are adopted for the purposes of simplifying procedure, avoiding delays, saving expense, and facilitating the administration of this District. To the end that these objectives be attained, these rules shall be so construed.

These rules may be used as guides in the exercise of discretion, where discretion is vested. However, under no circumstances, and in no particular case shall they, or any of them, be construed as a limitation or restriction upon the exercise of any discretion, where such exists, nor shall they in any event be construed to deprive the Board of an exercise of powers, duties and jurisdiction conferred by law, nor to limit or restrict the amount and character of data or information that may be required for the proper administration of the law.

RULE 1 - DEFINITIONS

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

- 1.1 Abandoned Well.** A well that has not been used for six consecutive months; provided, however, that a well is considered to be in use in the following cases:
- (a) if the well is a non-deteriorated well that contains the casing, pump, and pump column in good condition; or
 - (b) the well is a non-deteriorated well that has been capped.
- 1.2 Acre Foot.** The amount of water necessary to cover one acre of land to the depth of one (1) foot, or 325,851 U.S. gallons of water.
- 1.3 Affected Person.** For any matter before the District, a person who has a justiciable interest related to a legal right, duty, privilege, power, or economic interest that is within the District's regulatory authority and who is affected by the matter before the District, not including a person who only has an interest common to members of the public.
- 1.4 Agriculntural Use.** Any of the following activities:
- (a) cultivating the soil to produce crops for human food, animal feed, or planting seed or for the production of fibers;
 - (b) the practice of floriculture, viticulture, silviculture, and horticulture, including the

cultivation of plants in containers or nonsoil media, by a nursery grower;

- (c) raising, feeding, or keeping animals for breeding purposes or for the production of food or fiber, leather, pelts or other tangible products having a commercial value;
 - (d) planting cover crops, including cover crops cultivated for transplantation, or leaving land idle for the purpose of participating in any governmental program or normal crop or livestock rotation procedure;
 - (e) wildlife management; or
 - (f) raising or keeping equine animals.
- 1.5 **Applicant.** A person who files an application seeking a permit from the District who has the right to produce water from the land or well associated with the application by ownership of the land.
- 1.6 **Appropriated Waters.** A right to use state water, or surface water, under a permit or certified filing pursuant to Chapter 11, Texas Water Code.
- 1.7 **Aquifer.** A geologic formation, group of formations, or part of a formation that is capable of yielding water to a well or spring, and also includes subdivision(s) of an aquifer.
- 1.8 **Artesian Well.** A well completed in the confined portion of an aquifer such that, when properly cased, water will rise in the well, by natural pressure, above an overlying impermeable stratum.
- 1.9 **Aquifer Storage and Retrieval Project ("ASR").** A project with two phases that proposes the use of a Class V aquifer storage well for injection of appropriated surface water or groundwater withdrawn from a point of withdrawal different from the point of injection into a geologic formation, group of formations, or part of a formation that is capable of underground storage of water for subsequent retrieval and beneficial use.
- 1.10 **ASR Injection Well.** A Class V injection well as defined in 30 Texas Administrative Code, Section 331.11, designed and used expressly for the injection of water into a geologic formation, group of formations, or part of a formation that is capable of underground storage of water for later retrieval and beneficial use.
- 1.11 **ASR Project Operator.** A person holding an authorization under Texas Water Code, Chapter 27, Subchapter G, Aquifer Storage and Retrieval Projects to undertake an aquifer storage and recovery project.
- 1.12 **ASR Recovery Well.** A well that is used for the recovery of water from a geologic formation as part of an aquifer storage and recovery project.
- 1.13 **Authorized Well Site.** The location of a proposed non-exempt well as identified on a valid well construction permit, the location of a proposed exempt well as identified on a

certificate of registration, or the location of an ASR Injection Well or ASR Recovery Well as identified on a certificate of registration.

1.14 **Beneficial Use or Beneficial Purpose.** Use for:

- (a) agricultural, gardening, domestic, stock raising, municipal, municipal, manufacturing, industrial, commercial, recreational, or pleasure purposes;
- (b) exploring for, producing, handling, or treating oil, gas, sulfur, or other minerals; or
- (c) any other purpose that is useful and beneficial to the users that does not commit waste as defined in Rule 1.60.

1.15 **Board.** The Board of Directors of the Uvalde County Underground Water Conservation District.

1.16 **Casing.** A tubular watertight structure installed in the excavated or drilled hole to maintain the well opening and, along with cementing, to confine the ground waters to their zones of origin and prevent the entrance of surface pollutants.

1.17 **Cement.** A neat Portland or construction cement mixture of not more than seven gallons of water per ninety-four (94) pound sack of dry cement, or a cement slurry that contains cement along with the bentonite, gypsum, or other additives, that is prepared in accordance with the manufacturer's recommendations regarding water content for the mix.

1.18 **Commercial Use.** Use for the purpose of engaging in a for-profit business.

1.19 **Commission.** Texas Commission on Environmental Quality.

1.20 **Conservation.**

- (a) The development of water resources; or
- (b) Those practices, techniques, and technologies that will reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water, or increase the recycling and reuse of water so that a water supply is made available for the future or alternative uses.

1.21 **Contested Case Hearing or Contested Case.** A proceeding in which the legal rights, duties, or privileges of a party are to be determined after an opportunity for an adjudicative hearing.

1.22 **Contiguously-owned Acreage.** Adjoining land owned by the same person or persons, that is, land owned by the same person or persons which touches at a point or along a boundary or is separated only by a road or highway or similar right of way.

- 1.23 **Desired Future Conditions.** The desired, quantified condition of groundwater resources (such as water levels, water quality, spring flows, or volumes) at a specified time or times in the future or in perpetuity, as defined by participating groundwater conservation districts within a groundwater management area as part of the joint planning process. Desired future conditions have to be physically possible, individually and collectively, if different desired future conditions are stated for different geographic areas overlying an aquifer or subdivision of an aquifer.
- 1.24 **Deteriorated Well.** A well, the condition of which will cause, or is likely to cause, pollution or waste of any water in the District.
- 1.25 **District.** The Uvalde County Underground Water Conservation District ("UCUWCD" or "District"), which includes all of Uvalde County. When applications, reports and other papers are required to be filed with, or sent to "the District," this means the District's office.
- 1.26 **District Management Plan or Plan.** The comprehensive water management plan adopted by the District, pursuant to Section 36.1071 of the Texas Water Code.
- 1.27 **District Act.** The Uvalde County Underground Water Conservation District Act, Acts 1993, 73rd Legislature, R.S., Chapter 626, SB 1477, Article 2, as amended from time to time.
- 1.28 **Domestic or Livestock Use.** The use of groundwater by an individual or a household for drinking, washing, or culinary purposes; irrigation of a family garden or orchard, the produce of which is for household consumption only; or watering of livestock, poultry or game animals maintained on the property for hunting or breeding purposes or for the production of food or fiber, leather, pelts or other tangible products having a commercial value.
- 1.29 **Driller's Log.** A record, made at the time of drilling, showing the depth, thickness, character of the different strata penetrated, and location of water-bearing strata, as well as the depth, size, and character of casing installed, and that complies with the Texas Department of Licensing and Regulation rules.
- 1.30 **Exempt Well.** A test well, or a well for the production of groundwater for which the owner/operator is exempt from permitting requirements, but is not exempt from the registration/validation or reporting requirements of these Rules.
- 1.31 **Exploratory Hole.** Any hole drilled to a depth below the top of any stratum containing groundwater for the purpose of investigating the location of a productive aquifer.
- 1.32 **Fresh Water.** Water whose bacteriological, physical, and chemical properties are such that it is suitable and feasible for beneficial use.
- 1.33 **Groundwater.** Water percolating below the surface of the earth.
- 1.34 **Groundwater Reservoir.** A specific subsurface water-bearing reservoir having

ascertainable boundaries containing groundwater.

- 1.35 **Hearings Body.** The Board, any committee of the Board, a Presiding Officer, or a Hearings Officer at any public or contested case hearing held by the District.
- 1.36 **Hearings Officer.** A person appointed by the Board to conduct a public hearing or contested case hearing or other proceeding on behalf of the Board. The Board may also elect to conduct the hearing itself, in this case the Board acts as the Hearings Officer.
- 1.37 **Industrial Use.** Use for the business of manufacturing products.
- 1.38 **Intervenol** A person or entity, other than the Applicant or the General Manager, who is admitted as a party to a contested case hearing conducted by the District.
- 1.39 **Irrigation.** To supply water by artificial means to facilitate the production of crops.
- 1.40 **Licensed Water Well Driller.** Any person who holds a license issued by the State of Texas pursuant to the provisions of the Texas Water Well Drillers Act, as amended, and the substantive rules of the Texas Department of Licensing and Regulation, or its successors.
- 1.41 **Managed Available Groundwater.** The amount of water that may be permitted by the District for beneficial use in accordance with the desired future condition of the aquifer as determined under Texas Water Code Section 36.108 and as consistent with the District's Water Management Plan.
- 1.42 **Manager or General Manager.** The chief administrator employed by the Board.
- 1.43 **Mud.** A relatively homogeneous, relatively viscous fluid produced by the suspension of clay-size particles in water. Specifically, it shall be a nine and two-tenths (9.2) pounds per gallon mud or heavier, with a marsh funnel viscosity of fifty (50) seconds or equivalent.
- 1.44 **Municipal or Public Water Supply Use.** The use of groundwater through public water systems authorized by the State of Texas.
- 1.45 **Native Groundwater.** The groundwater naturally occurring in a geologic formation.
- 1.46 **Non-exempt Well.** A well for which a permit must be obtained from the District before it is constructed and before water is produced from it.
- 1.47 **Open or Uncovered Well.** Any well not capped, covered, or plugged as required by these rules.
- 1.48 **Operating Permit.** A permit that authorizes the operation of and the production of water from a well.
- 1.49 **Owner.** When used in connection with possession or control of real property or a well,

means any person having the right to produce water from the land or well either by ownership of the land or well, contract, lease, easement, or any other estate in the land or well.

- 1.50 **Party.** Any person or entity named or admitted as a party to a contested case hearing conducted by the District.
- 1.51 **Person.** Any individual, partnership, firm, corporation, organization, entity, municipal corporation, unincorporated area, government, or governmental subdivision or agency, business trust, estate, trust, or any other legal entity or association.
- 1.52 **Plugging.** An absolute sealing of the well bore.
- 1.53 **Pollution.** The alteration of the physical, thermal, chemical, or biological quality, or the contamination of, any water in the District, that adversely affects the water quality or 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 public enjoyment of the water for any lawful or reasonable purpose.
- 1.54 **Presiding Officer.** The Chair, Vice-Chair, Secretary, or other Board member presiding at any hearing, meeting or other proceeding of the Board who has been designated to preside over a public hearing or contested case hearing or other proceeding of the Board.
- 1.55 **Protestant.** Any person or entity that files a protest or opposition to a permit application or other request for relief from the District.
- 1.56 **Public Hearing.** An informal hearing before the Board on an application or other matter that is subject to notice and a public hearing at which a member of the public and/or a protestant may provide comment or protest the application or other matter. A public hearing is not an evidentiary hearing and may be held in conjunction with a regularly scheduled board meeting.
- 1.57 **Quorum.** A majority of the members of the Board of Directors.
- 1.58 **Recharge.** The amount of water that infiltrates into the water table of an aquifer.
- 1.59 **Recharge Facility.** Any system for recharge, injection, storage, pressure maintenance, cycling or recycling of water, which includes spreading dams, percolation basins, or any other surface or subsurface system engineered and designed for the purpose of recharging water into a groundwater reservoir.
- 1.60 **Registration.** The act of registering a well that is exempt from permitting under the District's rules and includes the issuance and recordation of a certificate issued by the District.
- 1.61 **Re-work.** To alter a well either by mechanical or chemical means.
- 1.62 **Test well.** A well drilled for the purpose of assessing water availability and/or quality.

- 1.63 **Total Aquifer Storage.** The total calculated volume of groundwater that an aquifer is capable of producing.
- 1.64 **Transportation Facility.** A facility that serves to transport groundwater, which may include a pipeline, channel, ditch, watercourse, or other natural or artificial facilities, pump stations, pipelines, storage tanks, water tanks, water trucks, containers, bottles, or other water transportation systems used to transport water produced from a well or wells located or to be located within the District to a point of use outside the boundaries of the District. Any facility in the District that sells or distributes groundwater in a bottle or any other container shall be presumed to be a Transportation Facility, and the facility shall bear the burden of demonstrating that it is not a Transportation Facility.
- 1.65 **Transportation of Groundwater.** Pumping, transferring, or moving groundwater out of the District by pipeline, container, bottle, or any other means from a withdrawal point of origin within the District.
- 1.66 **Transportation Permit.** A permit issued by the District authorizing the transfer or transporting of a specific amount of groundwater out of the District for a designated period of time and for a designated beneficial use without waste.
- 1.67 **Undesirable Water.** Water that is injurious to vegetation, land, or fresh water, or water that can cause pollution.
- 1.68 **Waste.** Any one or more of the following:
- (a) the withdrawal of groundwater from a groundwater reservoir at a rate and in an amount that causes or threatens to cause intrusion into the reservoir of water unsuitable for agricultural, gardening, domestic, or stock raising purposes;
 - (b) the flowing or production of wells from a groundwater reservoir if the water produced is not used for a beneficial purpose;
 - (c) the escape of groundwater from a groundwater reservoir to any other reservoir or geologic strata that does not contain groundwater;
 - (d) the pollution or harmful alteration of groundwater in a groundwater reservoir by salt water, other deleterious matter admitted from another stratum, or from the surface of the ground;
 - (e) willfully or negligently causing, suffering, or permitting 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;
 - (f) 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;

- (g) groundwater that is discharged into a watercourse for transit to another location when the losses in transit exceed twenty percent (20%);
 - (h) operating a deteriorated well;
 - (i) groundwater produced from a well that exceeds the production limits set forth in RULE 12; or
 - (j) in addition to the above, for an artesian well, waste also has the meaning assigned by Section 11.205, Texas Water Code.
- 1.69 **Water.** Groundwater.
- 1.70 **Water Meter or Water Monitoring Device.** A water flow measuring device that measures the amount of groundwater produced during a measured time within +/- 10% accuracy.
- 1.71 **Well or Waste1· Well.** Any artificial excavation or borehole constructed for the purpose of exploring for or producing groundwater, or for injection, monitoring, or dewatering purposes.
- 1.72 **Well Location.** The location of a proposed well on an application duly filed until such application is granted or denied, or the location of a well on a valid permit.
- 1.73 **Well Construction Permit.** A permit that authorizes the drilling and construction of a new non-exempt well, or an existing exempt or non-exempt well that is to be re-worked, re-drilled, or re-equipped in such a manner that a construction permit is required under these Rules.
- 1.74 **Withdraw.** To extract or produce groundwater by pumping or some other method.

RULE 2 • PROHIBITIONS

- 2.1 **Waste.** No groundwater produced within the District shall be produced or used within or without the District in a manner that constitutes waste as that term is defined in Rule 1.67. No person shall commit waste as that term is defined by Rule 1.67. Any person producing or using groundwater shall use every possible precaution, in accordance with the latest approved methods, to stop and prevent waste of such water.
- 2.2 **Pollution.** No person shall operate a well within the District in a manner that causes pollution, as that term is defined in Rule 1.53. No person shall pollute or harmfully alter the character of the groundwater reservoirs of the District by means of salt water or other deleterious matter admitted from some other stratum or strata or from the surface of the ground.
- 2.3 **Hazards to Health.** Sanitary landfills, dumps, private garbage disposal sites, and other similar hazards to health shall not be permitted over the Edwards Aquifer recharge zone

or in any area in Uvalde County that is north of the recharge zone to the Uvalde-Real County Line. Landfills and other such facilities shall comply with the Texas Commission on Environmental Quality standards and federal environmental protection standards. In addition, during the planning phase prior to establishing a sanitary landfill or similar disposal facility, the party or parties responsible for establishing the facility shall coordinate construction plans with the District's General Manager, prior to beginning construction.

- 2.4 **Septic Tank Installations.** Septic tank installations shall comply with Uvalde County rules.

RULE 3 -DEPOSITS

3.1 Deposit Procedures for Non-Exempt Wells.

- (a) Each application for a well construction permit or well construction permit amendment for a non-exempt well or former exempt well shall be accompanied by a one hundred dollar (\$100) deposit, along with the application fee as provided for in Rule 4.2(a).
- (b) The deposit, but not the application fee, shall be returned to the Applicant by the General Manager:
 - (1) upon the denial of the application;
 - (2) upon the receipt of a timely and complete and accurate drillers log and well reports in accordance with Rule 3.3; or
 - (3) if the permit location is abandoned without having been drilled, upon return and surrender of the construction permit marked "abandoned" by the Applicant.

3.2 Deposit Procedures for Exempt Wells.

- (a) Any person who drills or plugs an exempt well under Rule 5.2 shall file a deposit of one hundred dollars (\$100) with the District before commencing the work.
- (b) A person who seeks to drill an exempt well shall file an exempt well registration form with the District accompanied by a registration fee of ten dollars (\$10).
- (c) The deposit, but not the application fee, shall be returned to the registrant of the exempt well by the General Manager:
 - (1) if the registration is deemed invalid or the well does not qualify for exempt well status;
 - (2) upon the receipt of a timely and complete and accurate drillers log and well reports in accordance with Rule 3.3; or

- (3) if the drilling of the exempt well is abandoned, upon the return and surrender of the registration marked "abandoned" by the exempt well registrant.

3.3 **Requirements of Driller's Log, Casing, and Pump Date.** Complete records shall be kept by the driller and a report made to the District concerning the drilling, maximum production potential, equipping and completion of all wells drilled. Such well records and well reports shall include a complete and accurate driller's log, any mechanical log that may have been made, and registration of the well correctly furnishing all available information required on the forms furnished by the District, including specifications of the pump, if so equipped. The well reports shall be filed with the District at its office in Uvalde within sixty (60) days after completion of the well.

3.4 **Pump Installer's Statement.** Within sixty (60) days after installation of a well pump, the pump installer shall file a signed statement with the District at its office in Uvalde. The statement shall be made on a form provided by the District, and shall contain the following information:

- (a) the well registration number;
- (b) the well owner;
- (c) the identity of the pump installer;
- (d) the pump installer's license number;
- (e) the pump type;
- (f) the size (in horsepower) of the pump;
- (g) the yield (in gallons per minute) of the pump;
- (h) the distance below the surface at which the bowls were set;
- (i) the date the pump was installed; and
- (j) whether or not a meter was installed.

3.5 **Deposit Forfeiture.** In the event that neither the well report nor permit or registration marked "abandoned" is returned to the District office within three (3) months after approval date of the well construction permit, registration, or the extension date, the entire deposit shall become the property of the District.

RULE4 -FEES

4.1 **Applicability.** The Board hereby establishes a schedule of fees for administrative acts of the District, including but not limited to the cost of reviewing and processing well

construction and operating permit applications, renewal applications, transportation applications, and the cost of permit hearings. Such administrative fees shall not unreasonably exceed the cost to the District for performing such administrative acts. Applications shall not be accepted for filing or processing, nor shall hearings be scheduled, until receipt by the District of all applicable fees.

4.2 Fee for Permit Application.

- (a) An applicant for a permit under Rule 5.1(b), Rule 6, Rule 7.2, Rule 9, or Rule 10, or an applicant for an exception to the well spacing and production criteria under Rule 13, shall submit, along with the application, a fee to cover the administrative and technical review of the application in the following amounts:
 - (1) for an application filed under Rule 5.1(b), Rule 6, or Rule 7.2: \$ 50
 - (2) for an application filed under Rule 9 or Rule 10: \$ 500
 - (3) for an application filed under Rule 13: \$ 250
 - (4) for an exempt well registration: \$ 10
- (b) Such application fee and the deposit required by Rule 3, shall accompany the application on the date it is filed with the District. If the fee and deposit are not submitted at that time, the application shall be deemed incomplete and returned to the applicant without prejudice to the Applicant's ability to re-file the application.

4.3 Groundwater Export Fees. The District shall assess a reasonable fee or surcharge for the export of groundwater out of the District. That fee shall be negotiated between the District and the exporter, but in no event will it be less than two and one-half cents (2 ½ cents) per thousand (1,000) gallons expmied.

4.4 Other Fees.

- (a) Charge for Certified Copies Fifty cents per certification
- (b) Copying Charge per Page Ten cents per page

RULE 5 - EXEMPT WELLS AND REGISTRATION REQUIREMENTS

5.1 Exempt Wells.

- (a) Exempt wells must (i) be constructed by a licensed water well driller, in good standing with the Texas Department of Licensing and Regulation, (ii) comply with all applicable State and County regulations, and (iii) comply with the spacing requirements set forth in these Rules.
- (b) A permit from the District is not required for:

- (1) a well used solely for domestic or livestock use, as defined in Rule 1.28, that is either drilled, completed, or equipped so that it is incapable of producing more than twenty-five thousand (25,000) gallons of groundwater a day;
 - (2) the drilling of 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, provided that the person holding the permit is responsible for drilling and operating the water well and the well is located on the same lease or field associated with the drilling rig;
 - (3) the drilling of a water well authorized under a permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code or for production from such a well to the extent the withdrawals are required for mining activities regardless of any subsequent use of the water; or
 - (4) the drilling of a test well; provided, however, that every effort must be made to use any water produced during testing for a beneficial purpose.
- (c) Notwithstanding Subsection (b), a well that previously qualified for an exemption must be permitted by the District and comply with all District rules if:
- (1) the purpose of a well exempted under Subsection (b)(1) is no longer solely to supply water for domestic use, or for providing water for livestock or poultry, or it is modified so that it is capable of producing more than twenty-five thousand (25,000) gallons of groundwater a day;
 - (2) the purpose of a well exempted under Subsection (b)(2) is no longer 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; or
 - (3) the withdrawals from a well exempted under Subsection (b)(3) are no longer necessary for mining activities or are greater than the amount necessary for mining activities specified in the permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code.
- (d) Once the owner has completed testing of water availability and/or quality by a test well drilled under Subsection (b)(4), sixty days after the driller has filed the driller's log for the well under Rule 3.3 the owner must either:
- (1) convert the well to a domestic or livestock well by re-registering the well as a domestic or livestock well;
 - (2) convert the well to a non-exempt well by filing an application under

Rule 6; or

- (3) plug and abandon the well in place in accordance with Rule 16.
- (e) This rule applies to test wells and to wells used to produce groundwater, including wells used to supply groundwater for activities related to the exploration or production of hydrocarbons or minerals. This rule does not apply to production or injection wells drilled for oil, gas, sulfur, uranium, or brine, or for core tests, or for injection of gas, saltwater, or other fluids, under permits issued by the Railroad Commission of Texas.

5.2 **Registration Requirements for Exempt Wells.**

- (a) No person shall construct, drill, complete, change type of use, plug, abandon, or alter the size of an exempt well in the District without registering the exempt well.
- (b) Prior to constructing, drilling, completing, changing type of use, plugging or abandoning or altering the size of an exempt well in the District, the owner or owner's representative must complete and submit to the District a well registration form, along with the one hundred dollars (\$100) deposit provided for in Rule 3.2. Information on this form will include the owner's name, mailing address, well location, well size, use, and any other information the Board may determine to be of need.
- (c) After the General Manager has reviewed the registration form and related information, the General Manager shall issue the certificate of registration and the well may be drilled. A well registration number will be issued to each well.
- (d) A registration to drill an exempt well is valid for a term of four (4) months. If the registrant fails to drill and complete the exempt well four (4) months after the date the registration is filed with the District, the registration is considered null and void and the registrant must file a new registration form.

5.3 **Well Registration Certificate.** The water well driller shall have a copy of the well registration certificate on hand during all drilling activities for the exempt well.

5.4 **Reporting Requirements for Wells authorized by Railroad Commission of Texas.** An entity holding a permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code, that authorized the drilling of a water well shall report monthly to the district:

- (a) the total amount of water withdrawn during the month;
- (b) the quantity of water necessary for mining activities; and
- (c) the quantity of water withdrawn for other purposes.

- 5.5 **Wells Supplying Water to a Subdivision.** A well to supply water for a subdivision of land for which a plat approval is required by Chapter 232, Local Government Code, is not exempt under Rule 5.I.
- 5.6 **Conversion of Exempt Wells to Transportation Well.** Groundwater withdrawn from a well exempt from permitting under these Rules and subsequently transported outside the boundaries of the District is subject to any applicable permitting requirements and all applicable fees, including export fees.

RULE 6 - PERMIT AND APPLICATION REQUIREMENTS
FOR NON-EXEMPT WELLS

6.1 **Permit Requirements.**

- (a) **Well Permits.** A well permit shall consist of two parts:
- (1) **Well Construction Permit.** No person shall begin to drill or construct a new non-exempt well in the District without first applying for and obtaining a construction permit from the District.
 - (2) **Operating Permit.** No person shall begin to operate or produce groundwater from a new non-exempt well in the District without first applying for and obtaining an operating permit from the District.
- (b) **Former Exempt Well.**
- (1) No person shall modify an exempt well in a manner so that it no longer qualifies as an exempt well without first applying for and obtaining a well construction permit from the District.
 - (2) No person shall operate an exempt well in a manner so that it no longer qualifies as an exempt well or change the use of groundwater produced from the well so that it is no longer for an exempt purpose without first applying for and obtaining an operating permit from the District.
 - (3) No person shall take any step to convert or operate a test well for a non-exempt purpose until he has filed an application and the District has granted an application for a non-exempt well.
- (c) **Transportation Permit.** A person who proposes to transport groundwater outside the District must obtain a transportation permit from the District pursuant to Rule 9 of these rules, in addition to requisite well construction and operating permits, prior to the drilling, constructing or operating any such well or transportation facility.
- (d) **Recharge Permit.** A person who proposes to construct a recharge facility must obtain a recharge facility permit from the District pursuant to Rule IO of these rules, in addition to any requisite well construction and operating permits, prior to

drilling, constructing or operating any such facility.

6.2 **Permit Amendments.**

- (a) No person shall re-work, re-drill, or re-equip a well in a manner that would increase the well's maximum rate of production of groundwater above the well's previous authorized annual groundwater production level or the well's previous authorized rate of withdrawal without first applying for and obtaining a well construction permit and an operating permit, or amendments thereto, from the District.
- (b) No person shall change the purpose or place of use of groundwater without first applying for and obtaining an operating permit or operating permit amendment from the District.
- (c) If the well proposed to be altered is sufficiently spaced to comply with the existing spacing and production rules for new wells of the desired capacity or use, the District may proceed to issue the permit application without notice or an opportunity for a public or contested case hearing.

6.3 **Replacement Well.**

- (a) A well owner shall apply to re-equip, re-drill, or replace a currently permitted or registered well by filing an application to amend such permit and/or registration, and by providing such information as may be required by the General Manager to demonstrate the following conditions:
 - (1) the replacement well must be drilled within five-hundred (500) feet of the location of the well being replaced;
 - (2) the replacement well shall not be located any closer to any other permitted well or authorized well site than the well being replaced, unless the new location complies with the minimum spacing and location requirements of these Rules;
 - (3) the replacement well or pump shall not be larger in size or capacity than the well or pump being replaced so as to substantially alter the size or capacity of the well; and
 - (4) if a replacement well is drilled, the well owner must cease production from the well being replaced and must begin pursuit of compliance with the well closure requirements of the District.
- (b) Applications submitted under subsection (a) of this section may be granted without notice or a public or contested case hearing. Applications not meeting the criteria of subsection (a) are subject to notice and an opportunity for a public or contested case hearing.

- 6.4 **Where to Apply for Permit.** An application for a well construction permit or operating permit may be obtained at the office of the District or on the District's website. Completed original applications, with the application fee, shall be filed with the office of the District and may be submitted in person or by mail.
- 6.5 **Notice and Hearing.** Except as otherwise provided in this Rule 6, an application for a permit under Rule 6.1 or permit amendment under Rule 6.2 is subject to public notice and an opportunity for a public or contested case hearing.
- 6.6 **Impact of Well's Operations.** In making permitting decisions, the District shall consider the extent to which the use in question may impact neighboring wells or the aquifer from which water is proposed to be drawn.
- 6.7 **Designated Representative for Filing of Permit Application.**
- (a) If the Applicant is an individual, the application shall be signed by the Applicant or his duly appointed agent. The agent may be requested to present satisfactory evidence of his authority to represent the Applicant.
 - (b) If the application is by a partnership, the Applicant shall be designated by the firm name followed by the words "a Partnership," and the application shall be signed by at least one of the general partners who is authorized to bind all of the partners. The application shall identify all general partners.
 - (c) In the case of a corporation, public district, county or municipal corporation, unincorporated area, or governmental or proprietary body, the application shall be signed by a duly authorized official. A copy of the resolution or other authorization to make the application may be required by the General Manager.
 - (d) In the case of an estate or guardianship, the application shall be signed by the duly appointed guardian or representative of the estate.
- 6.8 **Well Permit Applications - Two Parts.**
- (a) A well permit application shall consist of two parts: Part A is a well construction permit application, which authorizes the construction of a new well or modification of an existing well; Part B is an operating permit application, which, among other things, authorizes the production of water from that well for a stated purpose and location and up to a stated production limit.
 - (b) An owner of a proposed new non-exempt well shall file both Part A and Part B of the well application form prior to commencing construction or operation of the new well. Both Parts shall be filed at the same time and both Parts will be subject to public notice and a public or contested case hearing at the same time.
 - (c) If an owner of an existing non-exempt or exempt well seeks to modify that well so that a permit is required under Rule 6.1(b) or a permit amendment is required under Rule 6.2, then that owner shall file either Part A or Part B of the well

application form, or both, as applicable. In this case, the part of the application that is filed will be subject to notice and public or contested case hearing as provided in this Rule 6.

- (d) If Part A and Part B of the application meet the requirements of all applicable District Rules and there has been no protest which would be heard at a public hearing or request for contested case hearing, the General Manager shall issue the construction permit, which authorizes the construction of the well. Upon filing of a complete and accurate well log evidencing the construction of the well in accordance with the terms and conditions of the construction permit, the General Manager will issue the operating permit which will authorize the production of groundwater for a stated purpose and location and up to a stated production limit. In the event of a protest which would be heard at a public hearing or a contested case hearing on the application, the well construction permit will issue upon the rendering of a final Board decision and the operating permit will issue upon the filing of a complete and accurate well log evidencing the construction of the well in accordance with the terms and conditions of the construction permit.

6.9 **Application for a Well Construction Permit and Operating Permit.**

- (a) The owner of a proposed new non-exempt well or the owner of an existing non-exempt or exempt well that is proposed to be modified such that a permit or a permit amendment is required under this Rule 6, shall file an application for a well construction permit and an operating permit, as applicable, before any work has commenced on the construction or operation of the well. The application shall be in writing, sworn to by the applicant and be on a form approved by the Board. The application shall be in two parts and shall contain the following information:
 - (b) **Part A: Application for a Well Construction Permit.** The filing of Part A supports the issuance of a well construction permit and shall contain the following information:
 - (1) the name and mailing address, place of residence or principal office of the applicant and the owner of the land on which the well will be or is located;
 - (2) if the applicant is other than the owner of the land, documentation establishing the applicable authority to construct and operate a well for the proposed use;
 - (3) the county in which the proposed well is to be located, the latitude and longitude of the proposed well, and the approximate number of feet to the two nearest non-parallel property lines;
 - (4) the depths of the water-bearing formation, which the applicant proposes to drill, complete, and produce groundwater from the well;
 - (5) the actual or anticipated location, pump size, and production capacity of

- the well from which the water is to be produced;
- (6) the nature and purpose of the proposed use and the anticipated rate of production expressed in terms of gallons per minute (gpm) and amount of water to be used on an annual basis;
 - (7) the anticipated time within which the proposed construction or alteration is to begin;
 - (8) the presently anticipated duration required for the proposed use of the water;
 - (9) information demonstrating compliance with the District's well spacing rules and production limit requirements;
 - (10) a map or plat drawn on a scale that adequately details the proposed well project, showing:
 - (i) the location of the existing or proposed well(s);
 - (ii) the location of the existing or proposed production monitoring or meter device(s);
 - (iii) the location of the existing or proposed water use facilities;
 - (iv) the location of the proposed or increased use or uses; and
 - (v) the location of any other water sources currently in use.
 - (11) an agreement that the District will be furnished a complete well registration, on forms furnished by the Texas Department of Licensing and Regulation, and any mechanical log which may have been made, by the applicant within sixty (60) days of completion of this well; and
 - (12) any other information the General Manager or the Board deems necessary.
- (c) **Part B: Application for an Operating Permit.** The filing of Part B supports the issuance of an operating permit and shall contain the following information:
- (1) information showing the anticipated effect of the proposed production on the quantity and quality of water available for future use both inside and outside the District;
 - (2) identification of any other presently owned sources of water, the availability of which is both technically feasible and economically reasonable for the applicant, that could be reasonably used for the stated purpose(s), including quality and quantity of such alternate sources;

- (3) identification of any other liquids, the availability of which is both technically and economically reasonable for the applicant, that could be reasonably substituted for the fresh groundwater and possible sources of such liquid including quantity and quality;
- (4) a water conservation plan developed or adopted by the applicant, any established water conservation goals, and what measures and time frames are necessary to achieve the applicant's established water conservation goals;
- (5) if the applicant proposes to use the water for irrigation, the applicant must state total number of contiguous acres the applicant owns where the well is to be located, the location and size of the field to be irrigated, and a map showing the location of the field to be irrigated by the well;
- (6) if the applicant proposes to use the groundwater for agricultural use, other than irrigation, the applicant must state the total number of contiguous acres the applicant owns where the well is to be located, the proposed use and where location of use of groundwater is to occur, and the reasons why the amount of water applied for is economically reasonable, when reasonable intelligence and reasonable diligence are used to apply the groundwater to that purpose;
- (7) if the applicant proposes to use the groundwater for a commercial or industrial use, the applicant must describe that use, identify the place of use and state the reasons why the amount of water applied for is economically reasonable, when reasonable intelligence and reasonable diligence are used to apply the groundwater to that purpose;
- (8) if the applicant is a public utility and the groundwater is to be distributed and sold to wholesale or retail customers, the applicant shall provide a description of the applicant's service area, the applicant's metering and leak detection repair program, its water storage, delivery and distribution system, the applicant's drought or emergency water management plan, information concerning the population served and customer data, water use data, water supply system data, wastewater data, water conservation measures and goals, and the applicant's means for implementation and enforcement of the conservation measure and goals;
- (9) if the applicant proposes to transport the water outside the boundaries of the District, the applicant must provide information demonstrating compliance with Rule 9;
- (10) any other information the General Manager or the Board deems necessary.

6.10 **Water Well Driller.** The water well driller shall have a copy of the well construction permit on hand during all drilling activities for the permitted well(s). The water well driller shall file a copy of the permitted well's complete and accurate drilling log with the

District within sixty (60) days after the well is drilled.

- 6.11 **Well Owner.** The well owner or operator shall have a copy of the operating permit readily available while operating the well. The well owner or operator shall also comply with all reporting requirements of the District.
- 6.12 **Standard Well Permit Conditions.** In addition to any special provisions or other requirements incorporated into the well permit, each well permit issued shall contain the following standard permit provisions:
- (a) This permit is granted in accordance with the provisions of the District Act, Chapter 36, Texas Water Code, and the rules and orders of the District, and acceptance of this permit constitutes an acknowledgment and agreement that the permittee will comply with the Texas Water Code, the District Act, the District Rules, orders of the District Board, and all the terms, provisions, conditions, requirements, limitations and restrictions embodied in this permit.
 - (b) This 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 Act, after notice to the permittee and an opportunity for a public or contested case hearing.
 - (c) The owner or operator of the well shall not operate the well or use the groundwater withdrawn from the well in any manner that constitutes waste. In the event that groundwater is to be transported a distance greater than one-half (1/2) mile from the well, it must be transported by a pipeline or other closed container to prevent waste caused by evaporation and/or seepage or percolation into soils.
 - (d) The permittee must keep records of the amount of groundwater produced and the use of the groundwater, and such records shall be available for inspection by District representatives upon request. The permittee must provide immediate written notice to the District in the event production exceeds the quantity authorized by this permit, or the groundwater produced from the well becomes polluted or contaminated or causes pollution of the aquifer from which it was produced or another aquifer.
 - (e) The well site must be accessible to District representatives for inspection, and the permittee agrees to cooperate fully in any reasonable inspection of the well and well site by District representatives.
 - (f) The representations and information provided in the application pursuant to which this permit has been issued are incorporated in this permit, and this permit is granted on the basis of and contingent upon the accuracy of the information supplied in that application and in any amendments to the application. A finding that false information has been supplied is grounds for immediate revocation of the permit, after noticed and an opportunity for a public or contested case hearing has been provided the permittee. In the event of a conflict between the provisions

of this permit and the contents of the application, the provisions of this permit shall control.

- (g) A violation of this permit's terms, conditions, requirements, or special provisions, is punishable by the District through the exercise of its enforcement authority pursuant to Rule 22.
- (h) Wherever special provisions are inconsistent with the standard or other provisions of this permit or District Rules, the special provisions shall prevail.

6.13 **Groundwater Allocation.** An operating permit may be issued to authorize the production of groundwater in the amount of water deemed beneficial and without waste for the proposed use and shall not exceed the production limits as established in Rule 12.2 for such proposed use, unless an exception is granted under Rule 13.

6.14 **Well Spacing.** All wells subject to the requirement to obtain a well construction permit, shall meet the well spacing requirements of Rule 12.1, unless an exception to the spacing requirements is granted under Rule 13.

6.15 **Elements of a Well Construction Permit.** All well construction permits shall be in writing and attested by the seal of the District or signed by the General Manager and shall contain substantially the following information:

- (a) the name and address of the person to whom the permit is issued;
- (b) the date the permit is issued;
- (c) the term for which the permit is issued;
- (d) the date the original application was filed;
- (e) the location of the well(s) to be drilled;
- (f) the approximate dates or timeframe the well(s) is to be drilled;
- (g) anticipated pump size and production capacity of the wells from which water is to be produced;
- (h) upon the completion of the well, the water well driller will submit a timely and complete and accurate water well driller log; and
- (i) any other information the District prescribes.

6.16 **Elements of an Operating Permit.** All operating permits shall be in writing and attested by the seal of the District or signed by the General Manager and shall contain substantially the following information:

- (a) the name and address of the person to whom the permit is issued;

- (b) the date the permit is issued;
- (c) the term for which the permit is issued;
- (d) the date the original application was filed;
- (e) the location of the well(s) from which the permit authorizes groundwater withdrawals;
- (f) the maximum quantity of groundwater authorized to be produced annually from such wells;
- (g) the actual location, pump size and production capacity of the wells from which water is to be produced;
- (h) a requirement that the water withdrawn under the permit be put to beneficial use at all times;
- (i) if the use is for irrigation, a map will be attached showing the location and total number of acres of land authorized to be irrigated by the well(s);
- (j) the destination and use or purpose for which the water is to be produced;
- (k) a water well closure plan or a declaration that the applicant will comply with well plugging guidelines and report closure to the Texas Commission on Environmental Quality, or its successor agency;
- (l) the conditions and restriction, if any, placed on the rate and amount of withdrawal;
- (m) any conservation-oriented methods of drilling and operating prescribed by the District;
- (n) a drought contingency plan, if prescribed by the District;
- (o) the permit is issued subject to the rules of the District and to the continuing right of the District to manage the depletion of the aquifer within the District's boundaries as authorized by Chapter 36, Texas Water Code, as amended; and
- (p) any other information the District prescribes.

RULE 7 - REGISTERING AND PERMITTING EXISTING WELLS

7.1 **Registration and Permitting.** Any well not exempted from permitting and existing on or before the earliest effective date of these rules is entitled to obtain a permit from the District in the manner provided by this rule. All wells exempt from permitting and existing on or before the effective date of these rules are required to be registered with the District.

- 7.2 **Registration and Permitting of Existing Wells.** In order to provide for the registration of exempt water wells and the permitting of non-exempt water wells that were drilled prior to the adoption of these rules and that are subject to the rules of the District, it shall be the policy of the Board that a registration number for an exempt well or a permit for a non-exempt well will be issued only after the location of the well and the wellhead equipment of the well have been determined by field survey by District personnel, and/or designated agents acting for the District.
- 7.3 **Board Authority in Permitting.** The Board may issue a registration number for exempt wells drilled and equipped within the District for which the landowner or his agent has not applied for a registration, and may issue a permit for non-exempt wells not otherwise properly permitted. A finding that pre-existing wells were drilled, equipped, or operated in such a manner as to limit the powers of this Board shall be grounds for denial of a registration or permit.
- 7.4 **General Manager to Administer.** The District's General Manager will administer the District's program for registering pre-existing exempt wells and permitting pre-existing non-exempt wells. Appeals of the General Manager's well registration and permitting decisions are to the Board.

RULE 8 - AQUIFER STORAGE AND RECOVERY ("ASR") PROJECTS

- 8.1 **Registration Requirements for Aquifer Storage and Recovery Wells.**
- (a) For an ASR Project that is permitted by the Commission under Section 11.153, Texas Water Code, an ASR Project Operator shall:
- (1) register such person's ASR injection and ASR recovery wells located within the District on a form prescribed by the District; and
 - (2) pay the registration and well deposit fee applicable to exempt wells under Rules 3.2 and 4.4.
- (b) A registration to drill an ASR injection or ASR recovery well is valid for a term of four (4) months, after which time the registration is null and void and the ASR Project Operator must submit a new registration to the District.
- 8.2 **Reporting Requirements for ASR Wells.** An ASR Project Operator shall:
- (a) each calendar month, on the deadline established by the Commission for filing such reports under Section 27.155, Texas Water Code, file with the District a copy of the written or electronic report filed with the Commission showing for the previous calendar month:
- (1) the amount of water injected for storage; and
 - (2) the amount of water recovered for beneficial use.

- (b) Separately report the volume of water recovered by the ASR project that exceeds the volume authorized by the Commission to be recovered for such project in addition to the report required by subsection (a); and
- (c) annually, on the deadline established by the Commission for filing such reports under Section 27.156, Texas Water Code, file with the District a copy of the written or electronic report filed with the Commission the results of water quality testing of water to be injected into the geologic formation and water recovered from a geologic formation as part of the ASR Project.

8.3 **Prohibitions.**

- (a) An ASR Project Operator may not recover groundwater by an ASR Project in an amount that exceeds the volume authorized by the Commission to be recovered under the project unless the ASR Project Operator complies with the applicable permitting, spacing, and production requirements of the District.
- (b) The District may not require a permit for the drilling, equipping, operation or completion of an ASR injection well or an ASR recovery well that is authorized by the Commission unless:
 - (1) the amount of groundwater recovered from the wells exceeds the volume authorized by the Commission to be recovered under the project;
 - (2) in which case, only the portion of the volume of groundwater recovered from the ASR recovery wells that exceeds the volume authorized by the Commission to be recovered are subject to the permitting, spacing, and production requirements of the District.

8.4 **Desired Future Conditions.** The District may consider hydrogeologic conditions related to the injection and recovery of groundwater as part of an ASR Project in the planning for and monitoring of the achievement of a desired future condition for the aquifer in which the wells associated with the project are located.

RULE 9 • TRANSPORTATION OF WATER OUT OF THE DISTRICT

9.1 **Transportation Permit.** For the purpose of conserving the groundwater in this District and to thereby insure the continuing health, welfare and safety of the citizens of this District, groundwater produced from a well within the District may not be transported outside the District's boundaries, except as provided in Rule 9.3, unless the Board has issued to the well owner or operator a transportation permit and all other permits required to drill and produce water from such well, as provided in these rules. An application for a transportation permit shall be on a form approved by the District and shall contain the information requested in the application, or any other information the General Manager or Board requests. Application filing requirements, application processing, contests to applications and public or contested case hearings to resolve any protest or contest shall be governed by this Rule and Rules 18, 19, 20 and 21.

9.2 **Applicability.** A person proposing to transport groundwater out of the District must obtain a transportation permit, in addition to any other permits required by these Rules, in advance of performing the following acts:

- (a) to increase, on or after March 2, 1997, the amount of groundwater to be transported under a continuing arrangement in effect before that date; or
- (b) to transport groundwater out of the District on or after March 2, 1997, under a new arrangement.

9.3 **Exemptions.**

- (a) A transportation permit shall not be required and the District shall not prohibit a water transportation project that began on or before June 1, 1997.
- (b) A transportation permit shall not be required for the transportation of groundwater that is part of a manufactured product. Water in containers or bottles shall not constitute a "manufactured product."
- (c) A transportation permit shall not be required where the well is located in Uvalde County and some or all of the water produced from that well is used for irrigation or agricultural purposes on land owned by the same person that straddles the Uvalde County line and a county contiguous to Uvalde County, so long as (i) the well and the location of the use of groundwater from that well are on the same contiguous tract of land and (ii) the well and the owner of the well are in compliance with applicable District Rules.

9.4 **Information to be Provided in Transportation Application.** The following information will be provided in or be submitted with the application:

- (a) the name and address of the Applicant and the name and address of the owner or operator of the well(s) if it is a person other than the applicant;
- (b) the legal description of the exact location of the well(s) from which water to be transported is to be produced;
- (c) the name and address of the fee owner(s) of the land on which the proposed well(s) is/are to be located;
- (d) the use of the water to be transported;
- (e) the volume of the water to be transported;
- (f) the time schedule for construction and/or operation of the well and the related transportation facilities that can be used to establish the term of the transportation under Section 36.122(j), Texas Water Code;
- (g) the complete construction and operating plan for the well(s) and related

transportation facilities that include, but are not limited to:

- (1) a technical description of the proposed well(s) and production facilities, including the depth of the well, the casing diameter, the casing type and setting, the perforated interval, the size of the pump, the capacity and rate of withdrawal; and
 - (2) a technical description of the transportation facilities, such as, the kinds of facilities that will be used for transportation, their location, plans and specs, and a demonstration that a closed system will be used, *e.g.*, no open ditches or water courses will be used in the transportation of groundwater;
- (h) the availability of water in the District and in the proposed receiving area during the period for which the transportation of the groundwater supply is requested, including the:
- (1) location of the proposed receiving area where the proposed groundwater will be transported and used;
 - (2) information describing alternative sources of water supply that might be utilized by the Applicant and the end-user of proposed groundwater supply, and the feasibility and practicability of utilizing such supplies; and
 - (3) a description of the proposed volume and use of groundwater in the proposed receiving area, including a demonstration that the proposed use of groundwater will be for a beneficial use without waste;
- (i) the projected effect of the proposed transported groundwater on aquifer conditions, depletion, or subsidence, and the effects on existing permit holders or other groundwater users within the District, including:
- (1) a hydrogeologic report by a registered professional in hydrogeology assessing the impact of the proposed transportation of water on existing wells and the aquifer from which withdrawals are proposed;
 - (2) information describing the projected effect of the proposed transporting of water on aquifer conditions, depletion, subsidence, or effects on existing permit holders or other groundwater users within the District;
 - (3) the names and addresses of the landowners, permit holders, well registration holders and the location of their water wells, that are located within ½ mile of the proposed well from which groundwater is proposed to be transported to the proposed receiving area; and
 - (4) any proposed plan of the applicant to mitigate adverse hydrogeologic impacts of the proposed transport of water from the District;
- (i) a description of how the proposed transportation of groundwater is addressed in

- any approved regional water plan(s) and the certified District Management Plan;
- (k) scientific evidence showing that the proposed operation will not cause pollution, as defined in Rule 1.53, or cause waste, as defined in Rule 1.67;
- (l) a water conservation and drought management plan;
- (m) additional information that may be required by the General Manager or the Board.

9.5 **Registration of Transportation Wells.** An owner of a well(s) that qualifies for the exception from the requirement to obtain a transportation permit under Rule 9.3 is required to register the well(s) by using a form approved by the District. The following information shall be submitted in the registration form:

- (a) the name and address of the owner and operator of the well(s);
- (b) the legal description of the exact location of the well(s) from which groundwater to be transported is to be produced;
- (c) the name and address of the fee owner(s) of the land on which the well(s) is located;
- (d) a technical description of the well(s) that is producing water for transportation including, but not limited to:
 - (1) a copy of the complete and accurate driller's log, or mechanical log;
 - (2) a completion record showing the depth of the well, the casing diameter, type and setting, and the perforated interval;
 - (3) the size of the pump(s) used to produce water to be transported;
 - (4) the capacity and rate of withdrawal of the well(s);
 - (5) the date the well was drilled;
 - (6) the use of the transported water and a demonstration that it is being used for a beneficial use without waste;
 - (7) the volume of water transported in each of the four (4) previous years, if any;
 - (8) the volume of water to be transported from the District annually in the future;
 - (9) a water conservation plan and a drought management plan;
 - (10) a technical description of the facilities used to transport water;

- (11) additional information that may be required by the General Manager or the Board.

9.6 **Notice and Hearing Provisions.** Applications for transportation permits are subject to the notice and public or contested case hearing procedures as provided for in Rules 18, 19, 20 and 21.

9.7 **Standards for Approval of Application.**

- (a) An application shall not be approved unless the Board finds and determines that granting the application is in the public welfare. In determining whether to issue a permit to transport groundwater out of the District, the Board shall be fair, impartial, and nondiscriminatory and shall consider the following factors when deciding whether to issue or impose conditions on a transportation permit:
 - (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, and effects on existing permit holders or other groundwater users within the District;
 - (3) the approved Region L Water Plan, certified District Management Plan, and desired future conditions;
 - (4) whether other feasible sources of water available to the person requesting a permit have been developed and used to the fullest;
 - (5) whether the proposed use, or any part of the proposed use will constitute waste as defined in Rule 1.67;
 - (6) whether the quantity of water proposed to be transported is reasonable;
 - (7) whether the ultimate destination of the water is within the recharge zone of the aquifer;
 - (8) whether the term for which the transporting is requested is reasonable;
 - (9) whether the proposed transportation facilities are safe with respect to the contamination of the aquifer;
 - (10) whether the proposed use is reasonable;
 - (11) whether the withdrawal of groundwater requested is reasonable;
 - (12) whether such withdrawal is contrary to the conservation and use of groundwater; and

- (13) whether the use in question may impact neighboring wells or the aquifer from which water is proposed to be drawn.
- (b) The District may not deny a transportation permit based merely on the fact that the Applicant seeks to transport groundwater outside of the District and may not impose more restrictive permit conditions on transporters than the District imposes on existing in-District users, unless:
 - (1) such limitations apply to all subsequent new permit applications and permit amendment applications seeking to increase the quantity of groundwater used, regardless of type or location of use;
 - (2) such limitations bear a reasonable relationship to the existing District Management Plan; and
 - (3) such limitations are reasonably necessary to protect existing uses and to sustain the water supply of the aquifers within the District.
- (c) In addition to conditions provided by Section 36.1131, Texas Water Code, the transportation permit shall specify:
 - (1) the amount of water that may be transported out of the District; and
 - (2) the period of time for which the water may be transported.
- (d) The Board reserves the right to approve an application for a transportation permit at a volume less than the volume applied for.

9.8 Term of Transportation Permit.

- (a) The term of a transportation permit shall be:
 - (1) at least three (3) years if construction of a conveyance system has not been initiated prior to the issuance of the permit, and shall be automatically extended to a term of thirty (30) years if construction of a conveyance system is begun before the expiration of the initial term; or
 - (2) at least thirty (30) years if construction of a conveyance system has been initiated prior to the issuance of the permit.
- (b) An Applicant for a transportation permit proceeds at his or her own risk if the construction of a transportation system or facility is commenced prior to the issuance of a transportation permit, and the Applicant bears full risk of loss of construction costs if the permit is never issued.

9.9 Responsibility.

- (a) The owner of a transportation facility shall be charged with strict liability for the

prevention of pollution and waste, as these terms are defined in Rules 1.53 and 1.67, by reason of the operation of said facility.

- (b) Wells used or to be used for the transportation of groundwater out of the District shall be subject to the well spacing and production requirements of Rule 12.

9.10 Monitoring and Reporting.

- (a) All wells permitted or registered for the transportation of groundwater shall be equipped with flow monitoring devices approved by the District and shall be available at all reasonable times for inspection by District personnel.
- (b) The person in whose name a transportation permit or registration certificate is issued shall keep records and make reports to the District as to the operation of the transportation operations as follows:
 - (1) Registered transportation wells shall submit reports to the District on a monthly basis or as dictated by the drought management plan, beginning at the time of registration. Such reports shall include, but are not limited to, the volume of water transported during the preceding month.
 - (2) Permitted transportation wells shall submit reports to the District on a monthly basis or as dictated by the drought management plan, beginning at the time a transportation permit is issued. Such reports shall include, but are not limited to, the volume of water transported during the preceding month.
 - (3) Monitor wells shall be placed at locations as directed by the General Manager in order to assess the impact of the transportation project.

9.11 Amendments and Transfers of Transportation Permit.

- (a) The holder of a transportation permit shall be subject to the same well amendment provisions as a holder of any other permit authorized by these Rules. At the same time a well construction permit or operating permit amendment is triggered, an amendment to the transportation permit shall be sought which shall consider such issues as a change in beneficial use without waste, a change in point of withdrawal, a change in the transportation facilities, or other similar changes. No amendment to, or transfer of, a transportation permit may be granted without notice and an opportunity for a public or contested case hearing.
- (b) A change in ownership of a well subject to a transportation permit shall be subject to the same rules and provisions as a change in ownership of an operating permit.

RULE 10 • RECHARGE FACILITIES

- 10.1 **Application and Permitting Requirements.** Applications shall be made to and permits must be obtained from the Board before installing and/or operating a recharge facility as defined in Rule 1.59. Application filing requirements, application processing, contests to applications and public or contested case hearings to resolve any contest shall be governed by this Rule and by Rules 18, 19, 20 and 21.
- 10.2 **Information to be Provided in Recharge Application.** The following information will be provided in or be submitted with the application:
- (a) the name and address of the Applicant.
 - (b) the name and address of the fee owner(s) of the land upon which the recharge facility will be located;
 - (c) the legal description of the exact proposed location of the recharge facility;
 - (d) the time schedule for construction and/or operation of the facility;
 - (e) the names and addresses of the property owners within one-half (1/2) mile of the proposed recharge facility location, and the location of any wells on those properties;
 - (f) a complete construction and operations plan that will include, but is not limited to, information as to:
 - (1) a technical description of the facility to be used for recharge;
 - (2) the source of the water to be recharged;
 - (3) the quality of the water to be recharged;
 - (4) the volume of water to be recharged;
 - (5) the rate at which the water will be recharged;
 - (6) the formation into which water will be recharged;
 - (g) scientific evidence showing that the proposed operation will not:
 - (1) endanger the structural characteristics of the formation receiving the recharged water;
 - (2) cause pollution, as defined in Rule 1.53;
 - (3) cause waste, as defined in Rule 1.67;

- (h) any additional information that may be required by the Board.
- 10.3 **Monitoring and Reporting.** The operator of a recharge facility shall be required to keep records and make reports to the District regarding the operation of the recharge facility. Reports to the District shall be made on a monthly basis, beginning at the time a permit to operate is issued. Such reports shall include, but are not limited to:
- (a) volumes of water recharged through the recharge facility;
 - (b) the source of the water recharged through the recharge facility;
 - (c) the quality of the water recharged through the recharge facility; and
 - (d) additional information as may be specifically required by a permit to operate a recharge facility.
- 10.4 **Responsibility.** The owner of a recharge facility shall assume and be charged with strict liability for the prevention of pollution and waste, as these terms are defined in Rules 1.53 and 1.67 respectively, from such facility, as well as damage to the recharged formation by reason of the operations of said facility.
- 10.5 **Exemptions.** Recharge facilities existing on or before the effective date of these rules are exempt from Rule IO requirements.

RULE 11 • LOCATION OF WELL

- 11.1 **Well Placement.** After an application for a well construction permit has been granted, the well, if drilled, must be within thirty (30) feet of the location specified in the permit, as measured with an accuracy of plus or minus one (1) foot per one hundred (100) feet.
- 11.2 **Well Separation from Sources of Potential Contamination.**
- (a) A well shall be located a minimum horizontal distance of fifty (50) feet from any water-tight sewage or liquid-waste collection facility.
 - (b) A well shall be located a minimum horizontal distance of one hundred and fifty (150) feet from any concentrated sources of contamination, such as, but not limited to existing or proposed livestock or poultry yards, cemeteries, pesticide mixing/loading facilities and privies.
 - (c) A well shall be located a minimum horizontal distance of one hundred (100) feet from an existing or proposed septic system absorption field, septic systems spray area, dry litter poultry facility and underground storage tank.
 - (d) A well shall be located a minimum horizontal distance of fifty (50) feet from any propeliy line provided the well is also located at the minimum horizontal distance from the sources of potential contamination. If, however, this distance cannot be accommodated within the limits of a person's propeliy, this distance may be

decreased provided the total depth of cement slurry is increased by twice the horizontal reduction. In no case shall a well be located fewer than fifty (50) feet from any concentrated sources of contamination.

- (e) A well shall be located at a site not generally subject to flooding; provided, however, that if a well must be placed in a flood prone area, it shall be completed with a watertight sanitary well seal and steel casing extending a minimum of twenty-four (24) inches above known flood level. (The known flood level is defined as 100 year flood plain as identified in Federal Emergency Management Act flood plain maps).
- (f) No well shall be located within five hundred (500) feet of a sewage treatment plant, solid waste disposal site, or land irrigated by sewage plan effluent, or within three hundred (300) feet of a sewage wet well, sewage pumping station, or a drainage ditch that contains industrial waste discharges or wastes from sewage treatment systems.

11.3 **Exemption.** Wells existing on or before the earliest effective date of these rules are exempt from Rule 11 requirements.

RULE 12 - SPACING AND PRODUCTION REQUIREMENTS

12.1 **Spacing.**

- (a) New wells or re-equipped wells for which an application must be filed with the District on or after December 10, 2002 shall be spaced at a distance that is equivalent to one (I) foot per gallon per minute of the combined production rate of the proposed well and the nearest existing well, drilled into any formation, provided, however, that notwithstanding any other provision of this Rule 12, in no event shall a spacing distance of more than 1,500 feet be required. The well owner may modify the production rate of either the existing or the proposed new well, or both, to meet the well spacing requirements of this subsection.
 - (I) The production rate of the proposed well shall be determined based upon a twelve (12) hour pump test or a four (4) hour test with a static drawdown after the drilling of the well is completed. The production rate of the existing well shall be its existing maximum capacity as equipped.
 - (2) Applicants for a permit for a new or re-equipped well shall use the following formula for determining appropriate well spacing requirements.

$$\text{Spacing Distance} = (\text{Production Rate of Proposed Well} + \text{Production Rate of Nearest Existing Well}) \times \text{one (I) ft/gpm}$$

Example:

Production rate of proposed well = 600 gpm

Production rate of existing well = 400 gpm

Spacing distance= (600gpm + 400 gpm) x lft/gpm

Spacing distance= 1000 feet

- (3) The distance from the proposed well to the next nearest well shall be measured with an accuracy of plus or minus one (1) foot per one hundred (100) feet.
- (b) Unless a well is re-drilled or re-equipped in a manner that would require permitting under these rules, wells that already exist or for which an application has already been filed with the District on or before December 10, 2002, are not subject to and are exempt from the well spacing requirements of this subsection.
- (c) In the interest of protecting life and for the purpose of preventing waste and preventing confiscation of property, the Board reserves the right in particular subterranean water zones and/or reservoirs to enter special orders increasing or decreasing distances provided by this rule.
- (d) Subdivisions.
 - (1) In applying this rule and in applying every special rule with relation to spacing in all of the subterranean water zones and/or reservoirs underlying the confines of this District, no subdivision of property made subsequent to the adoption of the original spacing rule will be considered in determining whether or not any property is being confiscated within the terms of such spacing rule.
 - (2) Any subdivision of property creating a tract of such size and shape that it is necessary to obtain an exception to the spacing rule before a well can be drilled thereon is a voluntary subdivision and not entitled to a permit to prevent confiscation of property if it were either:
 - (i) segregated from a larger tract in contemplation of water resource development; or
 - (ii) segregated by fee title conveyance from a larger tract after the spacing rule became effective and the voluntary subdivision rule attached.
 - (3) The date of attachment of the voluntary subdivision rule is the date of discovery of groundwater production in a certain continuous reservoir regardless of the subsequent lateral extensions of such reservoir, provided that such rule does not attach in the case of a segregation of a small tract by fee title conveyance that is not located in a groundwater production area having a discovery date prior to the date of such segregation.

- (4) The date of attachment of the voluntary subdivision rule for a reservoir under any special circumstances that the Board deems sufficient to provide for any exception, may be established other than above so that innocent parties may have their rights protected.

12.2 **Production Limitations.**

- (a) **Agricultural Use.**
 - (1) A well or well system used for irrigation may be permitted to withdraw groundwater in an amount not to exceed a cumulative maximum production level of ten (10) gallons per minute per irrigated acre contiguously owned or operated by the same person, not to exceed two and one half (2 ½) acre feet per irrigated acre per year, unless an exception has been granted by the District. A tract of land otherwise contiguously owned and operated may be divided by a road or highway or similar right of way.
 - (2) A well or well system used for any other agricultural use, except for irrigation use, shall be permitted to withdraw groundwater in accordance with the provision in subsection (d) of this Rule.
- (b) A well or well system used to supply a surface reservoir, stock tank, lake, or other confinement used for agricultural or any other beneficial use may be permitted to withdraw groundwater in an amount that is economically necessary, when reasonable intelligence and reasonable diligence are used for that purpose, not to exceed two and one half (2 ½) acre feet per surface acre of the reservoir. For purposes of this subsection, measurement of the surface area of the reservoir shall be based on the maximum capacity of the confinement, as determined by the District based on the length or size of the dam, berm, or similar impoundment creating the reservoir.
- (c) For public water supply use, a well or a well system shall:
 - (1) be drilled or equipped to meet the Minimum Water System Capacity Requirements for public drinking water systems as set forth in the rules of the Texas Commission on Environmental Quality, 30 Texas Administrative Code Section 290.49; and
 - (2) be permitted to withdraw groundwater in an amount not to exceed the amount that the public water supply can demonstrate it needs to meet its current demands within its certificated service area or the municipal city limits served by that public water supply that are not already met by an alternate existing water supply and a reasonable amount for future growth.
 - (3) In considering whether to grant the application for an operating permit filed by a public water supply, the District shall review the public water supply's water conservation plan, drought management plan and any other

information that is required to be submitted by District rules and Chapter 36, Texas Water Code in support of an application for a permit. As a condition for issuance of the permit the District may require the public water supply to designate a well or wells as monitoring wells of the District and to periodically report aquifer levels to the District as required as a condition in the permit.

- (4) Unless demonstrated otherwise by the public water supply, the District shall allocate one hundred and fifty (150) gallons per capita per day for which the public water supply has demonstrated a need as provided for in subsection (c)(2) of this Rule, which allocation shall be applied to wells serving the public water supply in a manner that takes into account the proportion of the allocation served by each such well.
 - (5) Each December 31st following the issuance of a permit from the District, the public water supply shall file a report with the District regarding the population served during the preceding calendar year and the population it anticipates that it will serve in the next calendar year. If due to population growth the production allocation for the public water supply is not sufficient to serve the anticipated population in the next calendar year, the public water supply shall file an application for an amendment to its permit.
- (d) For commercial or industrial use, or any other use not otherwise described in this Rule, a well or well system may be permitted for an amount of groundwater not to exceed the amount of water that is economically necessary, when reasonable intelligence and reasonable diligence are used to apply the groundwater to a lawful purpose.
 - (e) Each well that is subject to this Rule shall be equipped with a meter.
 - (f) Production allocations made by the District shall be reduced to the extent that another permitting authority has granted, or in the future grants, groundwater or surface water withdrawal rights that are duplicative (in terms of location of use or nature of use) of the withdrawal rights granted or to be granted by the District. The District shall exercise continuing jurisdiction over existing production allocations and shall reduce such allocations under the procedures of Rule 14.3 when new circumstances, including new conveyances of groundwater or surface water withdrawal rights, require such reduction to be made.
 - (g) A person is entitled to a permit to produce groundwater in the amounts designated in this Rule so long as the person satisfies the requirements of conditions of this Rule and any other part of the rules of the District or Chapter 36, Texas Water Code, governing the issuance of operating permits by the District.

RULE 13 - EXCEPTIONS TO SPACING AND PRODUCTION RULES

- 13.1 **Board Authority.** In order to protect vested property rights, to prevent waste, to prevent confiscation of property, or to protect correlative rights, the Board may grant exceptions to the spacing and production rules. This rule shall not be construed so as to limit the power of the Board, and the powers stated herein are cumulative of all other powers possessed by the Board.
- 13.2 **Request for Exception.** If an exception to such spacing and production rules is desired, an application for the exception shall be submitted in writing by the applicant to the Board at its District office on forms furnished by the District. If the application for an exception is for a new well, or represents a modification to an existing well in manner that would trigger a permit amendment under Rule 6, then an application for a well construction and operating permit shall be submitted along with the application for the exception. The application for an exception to the spacing or production rules shall be accompanied by:
- (a) A plat or sketch, drawn to scale of one (1) inch equaling two thousand (2,000) feet. The plat or sketch shall show the property lines in the immediate area, the names of the owners of the adjoining tracts, and shall show accurately to scale the location of the wells within one half (1/2) mile of the location or proposed location of the well that is the subject of the exception.
 - (b) A list of the names and addresses of all owners of a well within a one-half (1/2) mile radius of the location or proposed location of the well that is the subject of the exception.
 - (c) A list of all landowners owning a tract of land adjoining the tract on which the well that is the subject of the exception is or will be located.
 - (d) If an applicant is requesting an exception to the spacing rules, he shall submit a statement demonstrating his inability to comply with the District's spacing rules, stating the reason why he is requesting an exception, and stating how compliance with the spacing rules would create a hardship.
 - (e) If an applicant is requesting an exception to the production rules, he shall submit a statement demonstrating that the amount of groundwater he requests does not constitute waste, demonstrating his inability to comply with the District's production limits, stating the reason why he is requesting a production limit exception, and stating whether compliance with the production limit rules would create a hardship on the applicant.
 - (f) A sworn statement, by a person actually acquainted with the facts, that all the facts stated in the application for an exception are true and correct.
- 13.3 **Granting of Exceptions.** An exception will only be considered ten (10) days after individual written notice has been given by the applicant to all adjoining landowners and the owners of the wells within one-half(1/2) mile of the location or proposed location of

the well that is the subject of the exception, after an opportunity for a public hearing at which all interested parties may appear and be heard. If all such owners and landowners execute a waiver in writing stating that they do not object to the granting of such exception, the Board may proceed to decide whether to grant or deny such application without notice of a public hearing except to the applicant. The waiver shall be signed on a form provided by the District, shall be notarized, and filed in the deed records of Uvalde County. The District may consider the application for an exception together with its consideration of the application for a well construction and operating permit.

RULE 14 • TERM, REVIEW AND RENEWAL OF PERMITS

14.1 Permit Terms and Limitations.

- (a) An operating permit shall be limited to the extent and for the purposes stated in the permit. An operating permit shall be valid for a period not to exceed 5 years, at which time the amount of groundwater authorized to be withdrawn from such well may be renewed or reduced subject to the review conducted by the District under Rule 14.3.
- (b) A well construction permit that authorizes the drilling of a well is valid for a term of four (4) months from the date of the permit's issuance. If the applicant fails to drill and complete the exempt well within four (4) months after the date of issuance, the permit is null and void and the well applicant may reapply for a well construction permit.

14.2 Review of Transportation Permit. Every five (5) years, the District shall review each transportation permit and reduce, limit and/or amend transportation permits, after notice and an opportunity for a public or contested case hearing, to the extent needed to ensure the protection of the District's water supply and to foster the conservation, preservation, protection, recharging, and prevention of waste of groundwater, and of groundwater reservoirs or their subdivisions, in the District. The District shall initiate this process by publishing thirty (30) day notice in a newspaper(s) of general circulation in Uvalde County and by mailing thirty (30) day notice to each person who holds a transportation permit that the District is initiating such a review.

14.3 Review and Renewal of Operating Permits for Non-Exempt Wells.

- (a) Unless the Board provides that an operating permit should be issued for a shorter period of time, operating permits for non-exempt wells are issued for a term of five (5) years, after which time the operating permit will be reviewed by the District and, based upon that review, be subject to limitation, reduction, or amendment by the District, after notice and opportunity for a public or contested case hearing. The District shall initiate this process by mailing, by first class and by certified mail, a thirty-day notice to each person who holds an operating permit for a well or owns a registered well that the District is initiating such a review.
- (b) As part of the review process, the District will send a form to the operating permit holders asking the permittee to provide information relevant to the District's

review, including whether the permittee seeks to renew the operating permit, whether any changes to the well, well operations, purpose of use, place of use or special conditions have occurred, and whether the permit holder is requesting a change that would require an operating permit amendment. This updated information from the permit holder will be considered an application for a renewal. Renewals may be accomplished without further notice or public or contested case hearing if there are no such changes and no complaints have been filed against the Applicant concerning such well.

- (c) The District is not required to renew an operating permit if the permit holder is delinquent in paying a fee to the District, is the subject of a pending enforcement action for a substantive violation of a District permit, order, or rule that has not been settled by agreement and or a final adjudication, or 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.
- (d) If the District does not renew a permit under subparagraph (c) above, the original operating permit remains in effect until the final settlement or adjudication of the matter.
- (e) If the operating permit holder initiates a permit amendment in connection with the renewal of the operating permit, the permit as it existed before the amendment process remains in effect until the later of the conclusion of the permit amendment or renewal process, as applicable, or final settlement or adjudication of the permit amendment.
- (f) If the permit amendment is ultimately denied, the operating permit as it existed before the permit amendment process shall be renewed without penalty, unless subsection (c) of this section applies.
- (g) The Board's decision on renewal shall be based on the following factors: (1) whether granting renewal would foster the conservation, preservation, protection, recharging, and prevention of waste of groundwater, and of groundwater reservoirs or their subdivisions, in the District; (2) whether granting renewal would be detrimental to the District's ability to achieve and maintain desired future conditions; (3) aquifer conditions and monitor well data; (4) compliance with the District's production rules; or (5) whether the permit holder has demonstrated prior compliance with all rules and requirements of the District. If the District initiates an amendment to an operating permit upon renewal, the permit as it existed before the permit amendment process shall remain in effect until the conclusion of the permit amendment or renewal process, as applicable.

14.4 **Implementation of Review Process.**

- (a) The review process described in Rules 14.2 and 14.3 will begin in September of 2010, and take place every five (5) years thereafter to coincide with the District's adoption of its desired future conditions and water management plans.

- (b) The District recognizes that a well permit issued prior to March 17, 2009 did not have a separate operating permit associated with it. The well permit was considered to have constituted the authorization to construct the well and the authorization to withdraw groundwater from the well. Accordingly, in order to transition the well permit holders who received permits from the District before March 17, 2009, upon completion of the first review process described in this rule to occur in September of 2010, the District will issue an operating permit conforming to the terms and conditions for those permits as provided for in these Rules and reflecting the well owner's current authorized withdrawals from the well.

RULE 15 • PERMIT CONDITIONS

- 15.1 **Requirements of Board and State.** All permits are granted subject to the rules, regulations, orders, special provisions, and other requirements of the Board, and the laws of the State of Texas. In addition, each permit shall be subject to the conditions under this Rule.
- 15.2 **No Vested Rights.** All permits issued by the District are subject to revocation, reduction, or other amendment. The issuance of a permit by the District creates no right of continued possession or enjoyment of either the permit itself or of the benefits conferred by the permit.
- 15.3 **Permittee Compliance.** A permit is granted in accordance with the provisions of Chapter 36, Texas Water Code, as amended, and by Article 2, Senate Bill 1477, 73rd Legislature, and the rules, regulations and orders of the District, and as may be in effect from time to time, and acceptance of a permit constitutes an acknowledgment and agreement that the permittee will comply with all the terms, provisions, conditions, requirements, limitations, and restrictions embodied in the permit and with the rules, regulations, and orders of the District.
- 15.4 **Construction Permit Non-transferable.** A permit confers no vested rights in the holder, and the construction permit is non-transferable. Written notice must be given to the District by the permittee within 30 days following any sale or lease of the well covered by the permit. The permit may be revoked or suspended for failure to comply with its terms, which terms may be modified or amended pursuant to the requirements of the Act and any applicable rules, regulations, and orders of the District.
- 15.5 **Transfer of Ownership of an Operating Permit.** An operating permit is transferrable. If a holder of an operating permit sells or transfers the well and associated operating permit to another person, notification of the change in ownership must be made within 30 calendar days of the change in ownership of the permit and the well. Upon such notification and demonstration of the change in ownership, the General Manager will cancel the original operating permit and re-issue the operating permit in the name of the new owner without notice, public or contested case hearing, or further action by the Board.

- 15.6 **Drilling and Operation to Avoid Pollution.** The drilling and operation of the well for the authorized use shall be conducted in such a manner as to avoid waste, pollution, or harm to the aquifers.
- 15.7 **Annual Record Keeping and Reporting.** The permittee shall measure the amount of groundwater withdrawn using a device or method that is within +/- 10% accuracy. Measured uses shall be reported to the District every January 31 of the year following the year being reported (for example, use for 2009 must be reported by January 31, 2010), and reports shall also be available for inspection at the permittee's principal place of business by District representatives. Failure to comply with this reporting requirement may result in a penalty to be imposed by the Board in an amount no greater than \$1,000 and may result in suspension of any or all of the delinquent party's permits until in compliance.
- 15.8 **Monthly Record Keeping and Reporting.** A permittee of the District who also holds a groundwater or surface water permit issued by another permitting authority whose jurisdiction includes Uvalde County shall file monthly reports of groundwater withdrawals with the District during the period of time in which the other permitting authority curtails or reduces the amount of water the permittee is entitled to withdraw or use under permits issued by the other permitting authority due to drought conditions, critical periods or any other reason. The reports are due at the District office on the 15th day of the month following the month of withdrawal or use. The report shall set out the volume of groundwater withdrawn pursuant to permits issued by the District during the preceding month. Once the water rights held by the other permitting authority are no longer subject to curtailment for any reason, the permittee may cease filing such monthly reports. In its final monthly report, the permittee shall state that it is the final report. The reports shall also be available for inspection by District representative at the permittee's principal place of business. Failure to comply with this reporting requirement may result in a penalty to be imposed by the Board in an amount no greater than \$1,000 per violation and may result in suspension of any or all of the delinquent party's permits until in compliance. Each missed monthly report is considered a separate violation.
- 15.9 **Well Inspection Rights.** The well site shall be accessible to District representatives for inspection during normal business hours and during emergencies. The permittee agrees to cooperate fully in any reasonable inspection of the well site and well monitoring or sampling by District representatives. The well owner shall provide a twenty-four (24) hour emergency contact to the District.
- 15.10 **Accurate Information.** The application pursuant to which a permit has been issued is incorporated into the permit, and a permit is granted on the basis of and contingent upon the accuracy of the information supplied in that application and in any amendments thereof. A finding that false information has been knowingly supplied shall be grounds for immediate revocation of a permit. In the event of conflict between the provisions of the permit and the contents of the application, the provisions of the permit shall control.
- 15.11 **Drillers Log Submitted.** A complete and accurate drilling log must be submitted within sixty (60) days of the drilling and surface completion of a well.

- 15.12 **Violations.** Violation of the permit's terms, conditions, requirements, or special provisions shall be punishable as provided by the Texas Water Code.
- 15.13 **Special Provisions.** Special provisions may be placed on permits by the District on a case by case basis, in the reasonable discretion of the Board, in order to address unique or extraordinary circumstances. If special provisions are inconsistent with other provisions or regulations of the District, the special provisions shall prevail.
- 15.14 **Permit Conditional.** A permit issued under these rules is conditional, and the Board may revoke it if the person to whom it was issued does not comply with the rules of the District or with the terms and conditions stated in the permit.

**RULE 16 - MINIMUM STANDARDS OF WELL COMPLETION,
CAPPING, AND PLUGGING**

- 16.1 **Standards.** Wells shall be drilled, constructed, completed, capped, and plugged in accordance with all State requirements in place at the time, including the requirements set forth in Title 16, Part 4, Chapter 76 of the Texas Administrative Code.
- 16.2 **Authorization to Drill.** Only persons who are licensed water well drillers, in good standing with the Texas Department of Licensing and Regulation, may drill water wells within the District. No person may drill a water well, including an exempt well, within the District unless and until he has notified the District (a) that he intends to drill in the District and (b) that he meets the requirements of this Rule.
- 16.3 **Sealing, Capping, and Plugging of Wells.**
- (a) **Sealing Wells.** The District may seal wells that are prohibited from withdrawing groundwater within the District by these Rules, Chapter 36 of the Texas Water Code, or Board orders, or when the General Manager determines that sealing a well is reasonably necessary to ensure that the well is not operated in violation of these Rules, Chapter 36 of the Texas Water Code, or Board orders. A well may be sealed when: (1) the well has not been properly permitted; or (2) continued operation of the well will result in waste or pollution. The well may be sealed by physical means, and tagged to indicate that the well has been sealed by the District, and other appropriate action may be taken as necessary to preclude operation of the well or to identify unauthorized operation of the well. Tampering with, altering, damaging, or removing the seal of a sealed well, or in any other way violating the integrity of the seal, or pumping of groundwater from a sealed well constitutes a violation of these rules and will subject the person performing that action, as well as any well owner or primary operator who authorizes or allows that action, to such penalties as provided by these Rules or Chapter 36 of the Texas Water Code.
- (b) **Capping Wells.** The District may require a well to be capped to prevent waste, prevent pollution, or to ensure the safety of the public. The well must remain capped until such time as the conditions that led to the capping requirement are eliminated. If well pump equipment is removed from a well and the well will be

re-equipped at a later date, the well must be capped, provided however that the casing is not in a deteriorated condition that would permit commingling of water strata, in which case the well must be plugged.

- (c) **Plugging Wells.** It is the responsibility of the landowner or well owner to have plugged a well that is deteriorated or abandoned, such work to be performed by a licensed well driller or pump installer. A deteriorated or abandoned well must be plugged. A test well that is not converted to a domestic or livestock or a non-exempt well must also be plugged. If the well casing deteriorates to a point where commingling of water strata is either possible or occurring, within thirty (30) calendar days the well must either be re-worked or plugged to prevent the commingling.
- (d) Any person who plugs a well in the District must, within sixty (60) days after plugging is complete, submit a copy of the plugging report to the District. A copy of the plugging report furnished to the Texas Department of Licensing and Regulation will suffice as proper notice to the District.

16.4 Violations. Officers, agents and employees of the District are authorized to serve or cause to be served written notice upon any owner or operator of a well in violation of this rule, thereby requesting such owner and/or operator to cap or close such well with a covering in compliance with this rule. In the event any owner or operator fails to comply with such request within ten (10) days after written notice, any officer, agent, or employee of the District may go upon said land and cap or close the well in a manner complying with this rule, and all expenditures thereby incurred shall constitute a lien upon the land where such well is located, provided however, such lien shall not exceed the expense incurred by the District in closing or capping the well. Any officer, agent, or employee of the District is authorized to perfect such lien by filing, in the Uvalde County deed records, an affidavit stating the following:

- (a) the existence of the well;
- (b) the legal description of the property on which the well is located;
- (c) the fee owner's name and address;
- (d) the approximate location of the well on the property;
- (e) the failure or refusal of the owner or lessee, after notification, to cap the well within ten (10) days after the notification;
- (f) the capping of the well by the District, or by an authorized agent, representative, or employee of the District; and
- (g) the expense incurred by the District in capping the well.

16.5 Responsibility. It is the responsibility of the landowner to have plugged a well that is deteriorated or abandoned, such work to be done by a licensed well driller or pump

installer.

RULE 17 - LEASING PERMITTED GROUNDWATER WITHDRAWAL RIGHTS

17.1 Leases

- (a) When the total permitted withdrawals of groundwater in an aquifer under the jurisdiction of the District equal or exceed the managed available groundwater as established by the Regional Planning Group, a holder of an operating permit may enter into a lease of permitted groundwater rights with another person under the terms of this rule in order to protect private property rights and conserve groundwater resources in the District.
- (b) The District may authorize the holder of an operating permit to lease up to 50% of the groundwater permitted to be withdrawn from the identified well for a term of one year or less to another person as long as the withdrawal is made from a well located within the District and is from the same aquifer and within the same management zone.
- (c) Holders of operating permits seeking to lease groundwater subject to an operating permit must amend such permits pursuant to Rule 6 to reflect the proposed change in use of the permitted groundwater. Any lease entered into prior to the District's approval of such an amendment is void.
- (d) Lessors of groundwater subject to an operating permit may not withdraw or use the quantity of groundwater subject to the lease.
- (e) The lease of and use of leased groundwater is subject to the District's rules where applicable.

17.2 Notice.

- (a) Within 30 days after the lease of groundwater subject to an operating permit, the lessor shall file with the District a notice of the transaction on a form prescribed by the District. For leases, the general manager will update the District's permit records for the lessee and lessor of permitted groundwater to reflect the lease.
- (b) Within 30 days after the lease of groundwater subject to an operating permit, the lessee shall file with the District a statement that its intended use of the leased groundwater will be consistent and in accordance with its existing water conservation plan. If the lessee does not have an existing water conservation plan then the lessee shall develop and adopt a water conservation plan.
- (c) If a holder of an operating permit sells or transfers the well and associated operating permit to another person in accordance with Rule 15.5, and the permit is subject to a lease, within 30 days of the effective date of the transfer, the transferor shall give written notice to all lessees.

17.3 **Reporting Requirements.** The parties to a lease of groundwater subject to an operating permit shall report monthly to the District:

- (a) The lessor of groundwater subject to an operating permit shall report monthly to the District:
 - (1) the total amount of water withdrawn during the month from the subject well;
 - (2) the quantity of water withdrawn from the well that is used by lessor; and
 - (3) how the lessor used withdrawn water.
- (b) The lessee of groundwater subject to an operating permit shall report monthly to the District:
 - (1) the quantity of water withdrawn during the month from the subject well by the lessee;
 - (2) the place or location in which the leased groundwater was used, if readily identifiable; and
 - (3) how the leased groundwater was used.

**RULE 18 - NOTICE AND PROCESSING OF
APPLICATIONS FOR PERMITS**

18.1 **Notice of Application.**

- (a) An Applicant for a permit that is subject to notice and a public or contested case hearing under these Rules shall provide notice to the general public of the application by publishing notice in a newspaper of general circulation in Uvalde County, at Applicant's expense.
- (b) The notice shall contain the following information:
 - (1) the name and address of the Applicant;
 - (2) the date on which the application was filed with the District;
 - (3) the location of the well(s) to be drilled or altered, the well(s) from which water is to be transported, or the recharge facilities, as applicable;
 - (4) a statement that a person may contest the application by filing a notice of intent to protest and/or a request for a contested case hearing on the application with the District Office within ten (10) calendar days of the date of the notice;

- (5) a statement that the protest will be heard at a public hearing set at a properly scheduled and noticed Board Meeting, unless the person filing the protest specifically requests a contested case hearing;
 - (6) a statement that a notice of intent to protest should include the following information:
 - (i) the name and address of the protestant and approximate proximity of protestant's land or residence to applicant's proposed activities;
 - (ii) an allegation of injury to protestant that will result from the proposed action or matter to be considered by the Board;
 - (iii) if the protest is based upon claim of interference with some present right of protestant, it shall include a statement of the basis of protestant's claim of right;
 - (iv) any amendment of the application or adjustment which, if made, would result in withdrawal of the protest; and
 - (v) any request for relief sought by the protestant.
 - (7) a brief description of the well, transpotation facilities or recharge facilities, as applicable; the amount of groundwater sought to be produced on an annual basis, expressed in acre feet; the rate of withdrawal, expressed in gallons per minute; and the proposed place and purpose of **use**;
 - (8) a statement that the Board or the General Manager may proceed to decide the application if no contest is filed; and
 - (9) a description of the relief sought by the Applicant.
- (c) After publication of notice, the Applicant must file a newspaper tear sheet and publisher's affidavit with the General Manager as proof of publication. If newspaper notice is mailed to adjoining landowners, copies of the certified letters and returned green cards shall also be filed with the General Manager.

18.2 **Application Processing.**

- (a) A permit for a well to be drilled, completed, equipped or substantially altered may be issued upon approval of the Board after notice and an opportunity for a public and/or contested case hearing.
- (b) In deciding whether or not to issue a permit, the Board and the General Manager, where applicable, shall consider the purpose of the District Act, factors made relevant by other provisions of these Rules, and all other relevant factors, including, but not limited to:

- (1) the District Water Management Plan;
- (2) the quality, quantity, and availability of alternative water supplies;
- (3) whether the alternative supplies are presently owned by the Applicant and whether it is both technically feasible and economically reasonable to use such alternative supplies for the proposed use of fresh groundwater;
- (4) the impact on other landowners' or permitted rights in groundwater by the grant or denial of the application;
- (5) whether the proposed use of the groundwater constitutes beneficial use without waste or is otherwise inconsistent with the statutory purposes of the District;
- (6) the quantity of proposed groundwater production;
- (7) the term of production;
- (8) the impact on the water quality of the aquifer from the proposed groundwater production;
- (9) the actual or anticipated number, location, pump size and production capacity of the proposed wells;
- (10) the nature of the proposed use;
- (11) the effect of the proposed use of the water on municipal, agricultural, industrial, recreational and other categories of use;
- (12) whether the Applicant has agreed to avoid waste and achieve water conservation;
- (13) whether 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;
- (14) whether the application conforms to the requirements of Chapter 36 of the Texas Water Code and is accompanied by the prescribed fees;
- (15) whether the proposed use of water unreasonably affects existing groundwater and surface water resources; and
- (16) such other factors as are consistent with the District's purposes.

18.3 **General Manager's Determination of Completeness of Application.**

- (a) After an application is filed and during the timeframe in which the Applicant is providing notice of the application, the General Manager shall review the application to determine whether the application is complete, that is, whether the application contains all the information necessary to enable a determination on the application to be made.
- (b) If additional information is needed in order for the application to be complete, the General Manager will notify the Applicant of the additional information required and specify a reasonable period of time for the Applicant to furnish such information. Incomplete applications not timely supplemented in response to the General Manager's request will be returned to the Applicant.
- (c) Once the General Manager has satisfied himself that all information needed to review and make a decision on the application has been submitted, and after the Applicant has filed proof of notice of the application in accordance with Rule 18.1, the General Manager will mail a letter by certified mail, return receipt requested to the Applicant containing the following statements:
 - (1) a declaration that the application is administrative complete;
 - (2) information of any protests to be heard at a public hearing and/or requests for contested case hearing timely filed on the application by a protestant or an affected person; and
 - (3) a statement that within sixty (60) days of the date of the letter, the General Manager will either proceed to make a decision on the application if it is not contested or is no longer contested, or the General Manager will set the date for a public hearing or the preliminary hearing in a contested case, depending on the type of hearing requested by the protestant.
 - (4) If, within 60 days after the date an application is declared administratively complete, the application has not been acted on or set for a hearing on a specific date, the Applicant may petition the district court of Uvalde County for a writ of mandamus to compel the District to act on the application or set a date for hearing on the Application, as appropriate.

18.4 **General Manager's Technical Review of Application.**

After the application has been deemed complete under Rule 18.3, the General Manager shall undertake a technical review of the application, which is a review of the merits of the application. The General Manager may employ such persons as are necessary to assist him in performing his technical review. The General Manager shall complete his technical review of the application within sixty (60) days of the application having been declared complete.

- 18.5 **General Manager's Recommendation on the Application.** After the General Manager has completed his technical review of the application, he shall develop a recommendation on the application. If no request for a public or contested case hearing has been filed or if it has been withdrawn, the General Manager's recommendation may be either to grant or deny the application or to request a hearing on the application himself. If a hearing has been requested, the General Manager shall notify the Applicant of the date of the hearing by mailing a letter to the Applicant by certified mail return receipt requested. The General Manager will set the date for a hearing within thirty-five (35) days of the date of the letter noticing the hearing.
- 18.6 **Decision on Uncontested Application.** If no request for any type of hearing or protest has been filed on the application or have been withdrawn and the General Manager has not himself requested a hearing on the application, the application is uncontested and the General Manager may proceed with issuing the permit. At the discretion of the General Manager, he may elect to set the application for action at a meeting of the Board at which time the Board may issue or deny the permit, modify the proposed permit, or request a hearing on the application.

RULE 19 - RULES GOVERNING PROTESTS AND REQUESTS FOR HEARINGS

19.1 Filing of Protests.

- (a) A person desiring to protest an application for a permit subject to the notice provisions of Rule 18, may do so by filing a notice of intent to protest in accordance with Rule 18.1(b). The filing of a notice of intent to protest by itself does not allow the protestant to seek party status at any evidentiary or contested case hearing addressing the application in question, but allows the protestant to address the Board at its public hearing considering the application. The protestant is entitled to notice of the public hearing in accordance with Rule 20.3.
- (b) A person desiring to protest an application for a permit subject to the notice provisions of Rule 18 may also do so by filing a written notice of intent to protest with the District on or before the date on which such application has been set for consideration.
- (c) A person desiring to protest any other matter before the Board may do so by filing a written notice of intent to protest with the District on or before the date on which such matter has been set for consideration.
- (d) A notice of intent to protest shall contain the information set forth in Rule 19.3

19.2 Filing of Requests for Contested Case Hearing.

- (a) A person desiring to request a contested case hearing on an application for a permit subject to the notice provisions of Rule 18, must file a notice of intent to protest and, include in that protest, a request for a contested case hearing in accordance with Rule 18.1(b).

- (b) A person who timely files a request for a contested case hearing under Rules 18.1 and 19.4, and who demonstrates that he/she is an affected person at a preliminary hearing on the application, is entitled to party status in any evidentiary or contested case hearing addressing the application at issue.
- (c) The Board may consider a request for a contested case hearing at a public hearing before referring the application to a contested case hearing, if it appears that a public hearing would be useful in determining whether the action can be resolved informally without a referral to a contested case hearing, would allow the Board, the protestant(s) and/or the applicant to better understand the issues and concerns raised by the protestant(s), or for any other reason the Board or General Manager deem appropriate.

19.3 **Protest Requirements.** Protests including protests filed in conjunction with a request for a contested case hearing shall be submitted in writing with a copy mailed to the opposite party or parties. Each protest shall include:

- (a) The name and address of the protestant;
- (b) An allegation of injury to protestant that will result from the proposed action or matter to be considered by the Board;
- (c) If the protest is based upon claim of interference with some present right of protestant, it shall include a statement of the basis of protestant's claim of right;
- (d) Protestant should call attention to any amendment of the application or adjustment which, if made, would result in withdrawal of the protest; and
- (e) Protestant shall also state the relief he/she requests

19.4 **Right to Contested Case Hearing on Permit Applications.**

- (a) A contested case hearing may be requested by a Board Member, the General Manager, the Applicant, or any affected person.
- (b) Any contested case hearing requested by someone other than a Board Member or the General Manager must be submitted in writing to the General Manager within the time period set out in the notice provided pursuant to Rule 18.1. The hearing request shall be accompanied by a notice of intent to protest and shall include the information set forth in Rule 19.3. A determination as to whether the person requesting the hearing is an affected person with a justiciable interest that entitles him or her to party status in a contested case hearing shall be made at the preliminary hearing in the contested case proceeding on the application.
- (c) A Board Member or the General Manager may request a contested case hearing at any time before the Board makes a final decision on an Application.
- (d) An Applicant may request a contested case hearing at any time before the Board

makes a final decision on an application. In addition, an Applicant may, not later than the 20th day after the date the Board issues an order granting the application, demand a contested case hearing if the order:

- (i) includes special conditions that were not part of the application as finally submitted; or
- (ii) grants a maximum amount of groundwater production that is less than the amount requested in the application.

19.5 **Combined Hearings on Applications.**

- (a) If, within the notice period specified in Rule 21.4 of these rules, another application is filed, pursuant to Rule 6, for a permit within the minimum spacing distance for such a well (conflicting application), then the Board may conduct a public hearing or contested case hearing, as appropriate, upon due notice to both applicants, to determine which of the applications should be granted. The hearing shall be scheduled within thirty-five (35) days from the time it is determined that a conflicting application has been filed.
- (b) In the event that a request for contested case hearing is made or a conflicting application is filed pursuant to Rule 6, no action shall be taken by the Applicant or any construction or drilling commenced until the matter is ruled upon by a final order of the Board. A request for contested case hearing or a conflicting application shall be deemed filed when written notification is filed with the District at its offices and the General Manager or other authorized personnel shall receive the same

RULE 20 - PUBLIC HEARINGS

20.1 **Public Hearings.** A public hearing is an informal proceeding at which a notice of intent to protest filed by an interested person(s) or protestant(s) may be heard by the Board. Interested person(s) or protestant(s) may appear and present comments on pending applications that are the subject of a protest. Applicant(s) may respond to the comments made at the public hearing. The Board may ask questions of any persons. At the end of the Public Hearing, the Board may approve or deny the application, approve the application with modifications, or refer the application to a contested case hearing.

20.2 **Scheduling of Public Hearings.**

- (a) The General Manager may schedule a public hearing on permit or permit amendment applications received by the District, as necessary.
- (b) More than one application may be considered at a public hearing.
- (c) A public hearing will be held at the regular meeting location of the Board unless the Board provides for the hearing to be held at a different location.

- (d) A public hearing may be held in conjunction with a regularly scheduled Board Meeting.

20.3 **Notice of Public Hearing.**

- (a) Notice of a public hearing, as provided by the General Manager, must include:
 - (1) the name of the Applicant;
 - (2) the address or approximate location of the well or proposed well, transportation facility, or recharge structure, as applicable;
 - (3) a brief explanation of the proposed permit or permit amendment, including any requested amount of groundwater, the purpose of the proposed use, any change in use, and the place of use;
 - (4) the time, date, and location of the public hearing; and
 - (5) any other information the General Manager considers relevant and appropriate.
- (b) No later than the tenth day before the date of a public hearing, the General Manager shall:
 - (1) post notice in a place readily accessible to the public at the District office;
 - (2) provide notice to the county clerk for each county in the District; and
 - (3) provide notice by:
 - (i) regular mail to the Applicant;
 - (ii) regular mail to an protestant or person who requested a public hearing on the application or the matter;
 - (iii) regular mail, facsimile, or electronic mail to any person who has requested notice under subsection (d); and
 - (iv) regular mail to any other person entitled to receive notice under the rules of the District.
- (c) A person may request notice from the District of a public hearing on a permit or 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 public hearing in a later year, a person must submit a new request. An affidavit of an officer or employee of the District attesting that notice was sent to such persons by either first class mail, facsimile, or electronic mail in accordance with information provided by such persons is proof that notice was

provided by the District. Failure by the District to provide notice to such persons will not invalidate an action taken by the District at a public hearing.

20.4 **Registration of Commenters.** The District may require each person who participates in a public hearing to submit a hearing registration form stating:

- (a) The person's name;
- (b) The person's address; and
- (c) whom the person represents, if the person is not there in his or her own capacity.

RULE 21 - GENERAL RULES OF PROCEDURE OF CONTESTED CASE HEARINGS

21.1 **Scope.** The provisions of Rule 21 shall apply to all permitting activities of the District contemplated by these rules and by Chapter 36 of the Water Code and to all contested case hearings conducted by the Board or its designee. The provisions of Rule 21 shall also apply to District enforcement proceedings.

21.2 **Applicability.** Unless the District contracts with the State Office of Administrative Hearings ("SOAH") to conduct a contested case hearing on a permit or permit amendment, this Rule shall control the contested case hearing and notice of contested hearing process used by the District for permit and permit amendment applications. A contested case hearing conducted by SOAH shall be conducted as provided by subchapters C, D, and F, Chapter 2001, Texas Government Code and applicable provisions of Chapter 36, Texas Water Code.

21.3 **Statement of Policy Regarding Scheduling of Contested Case Hearings.**

- (a) It is the policy of the Board that permits shall be processed so as to protect the interests of the Applicant, affected parties and the public and that contested case hearings shall be conducted so as to obtain all the relevant information and testimony pertaining to the issue before it as conveniently, inexpensively, and expeditiously as possible, without prejudicing the rights of the parties or other persons. To further this policy, the Board or hearings officer may modify or suspend these rules for good cause shown. The deadlines in these rules (save for the deadlines for requesting a hearing) may be modified by agreement of the parties, subject to Board or hearings officer approval.
- (b) A contested case hearing may be held in conjunction with a regularly scheduled Board meeting.

21.4 **Notice of Hearing.**

- (a) The notice of a contested case hearing, as provided by the General Manager, must include:
 - (1) the name of the Applicant;

- (2) the address or approximate location of the well or proposed well, transportation facility, or recharge structure, as applicable;
 - (3) a brief explanation of the proposed permit or permit amendment, including any requested amount of groundwater, the purpose of the proposed use, any change in use, and the place of use;
 - (4) the time, date, and location of the preliminary hearing; and
 - (5) any other information the General Manager considers relevant and appropriate.
- (b) No later than the tenth day before the date of a hearing, the General Manager shall:
- (1) post notice in a place readily accessible to the public at the District office;
 - (2) provide notice to the county clerk for each county in the District; and
 - (3) provide notice by:
 - (i) regular mail to the Applicant;
 - (ii) regular to any person or protestant who requested the contested case hearing on the application or the matter;
 - (iii) regular mail, facsimile, or electronic mail to any person who has requested notice under subsection (d); and
 - (iv) regular mail to any other person entitled to receive notice under the rules of the District.
- (c) A person may request notice from the District of a contested case hearing on a permit or 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 public hearing in a later year, a person must submit a new request. An affidavit of an officer or employee of the District attesting that notice was sent to such persons by either first class mail, facsimile, or electronic mail in accordance with information provided by such persons is proof that notice was provided by the District. Failure by the District to provide notice to such persons will not invalidate an action taken by the District at a hearing.

21.5 **Hearings Officer.** The Board may conduct hearings and effectively act as the Hearings Officer, with the Board Chairperson, or another designated Board member, acting as Presiding Officer. At the Board's election, the General Manager will contract with the State Office of Administrative Hearings or with some other qualified and impartial individual to serve as Hearings Officer, to conduct the contested case proceeding, and to issue a proposal for decision.

21.6 Preliminary Hearing.

- (a) A preliminary hearing shall be held by the Hearings Officer to consider any request for a contested case hearing filed in accordance with Rule 18.1. The Hearings Officer shall determine whether any person requesting a contested case hearing is an affected person and whether a justiciable issue related to the application has been raised. If the Hearings Officer determines that the hearing requestor does not have standing the Hearings Officer will remand the application to the Board for final action as an uncontested application.
- (b) In addition, other matters that will be considered by the Hearings Officer at a preliminary hearing 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 pre-filed testimony;
 - (8) the procedure at the hearing; and
 - (9) any other matters that may expedite the contested case hearing or otherwise facilitate the hearing process.

21.7 Designation of Parties.

- (a) Parties to a contested case hearing will be designated at the preliminary hearing, or at such other times as the Hearings Officer determines. The General Manager and any person specifically named in a matter are automatically designated parties. A hearing requestor and any other person appearing on the first day of the hearing or such other time, as determined by the Hearings Officer, may be designated parties upon a demonstration that he/she is an affected person, as defined in Rule 1.3.
- (b) Subject to the discretion and orders of the Hearings Officer, parties have the right to conduct discovery, present a direct case, cross-examine witnesses, make oral and written arguments, obtain copies of all documents filed in the proceeding, receive copies of all notices issued by the District concerning the proceeding, and otherwise fully participate in the proceeding.

21.8 **Venue.** Contested case hearings will be held at the District office in Uvalde County or regular meeting location of the Board, unless all parties and the Hearings Officer agree on an alternative location.

21.9 **Contested Case Hearing Procedures.**

- (a) A contested case hearing must be conducted by a Hearings Officer who will either be:
 - (1) a quorum of the Board; or
 - (2) an individual to whom the Board has delegated in writing the responsibility to preside as a Hearings Officer over the hearing or matters related to the hearing.
 - (3) or the State Office of Administrative Hearings pursuant to Section 36.416, Texas Water Code.
- (b) The Hearings Officer may:
 - (1) convene the hearing at the time and place specified in the notice;
 - (2) set any necessary additional hearing dates;
 - (3) designate the parties;
 - (4) establish the order for presentation of evidence;
 - (5) administer oaths to all persons presenting testimony;
 - (6) examine persons presenting testimony;
 - (7) ensure that information and testimony are introduced as conveniently and expeditiously as possible without prejudicing the rights of any party;
 - (8) prescribe reasonable time limits for testimony and the presentation of evidence;
 - (9) exercise the procedural rules adopted herein; and
 - (10) determine how to apportion among the parties the costs related to a contract for the services of a Hearings Officer, if any, and the preparation of the official hearing record.
- (c) The Hearings Officer may allow testimony to be submitted in writing and may require that written testimony be sworn to. On the motion of a party to the hearing, the Hearings Officer may exclude written testimony if the person who submits the testimony is not available for cross-examination by phone, a

deposition before the hearing, or other reasonable means.

- (d) The Hearings Officer may allow a person who testifies at the hearing to supplement the testimony given at the hearing by filing additional written materials with the Hearings Officer no later than the tenth (10th) day after the date of the hearing. A person who files additional written materials with the Hearings Officer under this subsection must also provide the material, no later than the tenth (10th) day after the date of the hearing, to every person who provided comments on an application or every party to a contested hearing. A person who receives additional written material under this subsection may file a response to the material with the Hearings Officer no later than the tenth (10th) day after the date the material was received.
- (e) At any time before the Board takes final action on a permit application or pennit amendment application, the Hearings Officer, at the Hearings Officer's discretion, may issue an order:
 - (1) referring parties to a contested hearing to an alternative dispute resolution procedure on any matter at issue in the hearing;
 - (2) determining how the costs of the procedure should be apportioned among the parties; or
 - (3) appointing an impartial third party as provided by Section 2009.053, Government Code, to facilitate the alternative dispute resolution procedure.
- (t) Except as modified by these rules, the Texas Rules of Civil Procedure apply to hearings conducted under this Rule.

21.IO Evidence.

- (a) The Hearings Officer shall admit evidence that is relevant to an 1Ssue at the hearing.
- (b) The Hearings Officer may exclude evidence that is irrelevant, immaterial, or unduly repetitious.
- (c) Exhibits of a documentary character must be of a size that will 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.
- (d) Each exhibit offered shall be tendered for identification and placed in the record. Copies must be furnished to the Hearings Officer and to each of the parties, unless the Hearings Officer rules otherwise.
- (e) When documents are numerous, the Hearings Officer may receive in evidence only those that 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.

- (f) 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 shall be included in the record for the purpose of preserving the objection to excluding the exhibit.
- (g) The Hearings Officer 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.
- (h) Except as modified by these rules, the Texas Rules of Evidence govern the admissibility and introduction of evidence.

21.11 **Stipulations.** Evidence may be stipulated by agreement of the parties.

21.12 **Testimony.**

- (a) The Hearings Officer may compel any testimony that is necessary, helpful, or appropriate to the hearing. The Hearings Officer may issue subpoenas to compel the testimony of any person and the production of any tangible thing in the manner provided by the Texas Rules of Civil Procedure.
- (b) Testimony may be received in written form, so long as the interests of the parties will not be substantially prejudiced. The written testimony of a witness shall be in question and answer form, and may be submitted into evidence upon the witness being sworn in and identifying the testimony as being a true and accurate record of what their testimony would be if given orally. The witness will be subject to clarifying questions and cross-examination, and the prepared testimony will be subject to objection.

21.13 **Failure to Attend Hearing.** If, after receiving notice of a hearing, a party fails to appear in person or by representative on the day and time set for hearing, the Hearings Officer may proceed in that party's absence and take such action as is authorized by these rules, including issuing a proposal for decision under Rule 21.19 or order unfavorable to the party failing to appear.

21.14 **Hearing Officer Jurisdiction.** The Hearing Officer shall exercise reasonable control over the mode and order of presenting preliminary matters, pending motions, opening statements, witness testimony and other evidence, oral or written closing argument, and other processes in the hearing.

21.15 **Burden of Proof.** The burden of proof will be on the Applicant to present evidence showing that the requested permit should be issued under applicable legal principles.

21.16 **Record of Hearing.**

- (a) Except as provided by subsection (b), the Hearings Officer shall prepare and keep a record of each hearing in the form of an audio or video recording or a court reporter transcription. On the request of a party to a contested hearing, the Hearings Officer shall have the hearing transcribed by a court reporter. The Hearings Officer may assess any court reporter transcription costs against the party that requested the transcription or among the parties to the hearing. Except as provided by this subsection, the Hearings Officer may exclude a party from further participation in a hearing for failure to pay in a timely manner costs assessed against that party under this subsection. The Hearings Officer may not exclude a party from further participation in a hearing as provided by this subsection if the parties have agreed that the costs assessed against that party will be paid by another party.
- (b) If a hearing is informally resolved so that it is no longer contested, the Hearings Officer may substitute minutes or the proposal for decision required under Rule 21.19 in place of a record of the hearing.

21.17 **Ex Parte Communications.** Unless required for the disposition of an ex parte matter authorized by law, during the pendency of a contested hearing no party, person, or representative of a party or person shall communicate directly or indirectly with the hearings officer or any Board member concerning any issue of fact or law relative to the pending case, except on notice and opportunity for all parties to participate.

21.18 **Continuance.** The Hearings Officer may continue a hearing from time to time and from place to place without providing notice under Rule 21.4. If the Hearings Officer continues a hearing without announcing at the hearing the time, date, and location of the continued hearing, the Hearings Officer must provide notice of the continued hearing by regular mail to the parties.

21.19 **Proposal for Decision.**

- (a) The Hearings Officer shall submit a proposal for decision to the Board no later than the thirtieth (30th) day after the date the evidentiary hearing is concluded. The proposal for decision shall be similar in content and form to a proposal for decision under the Administrative Procedures Act, Chapter 2001, Texas Government Code.
- (b) The proposal for decision must include:
 - (1) a summary of the subject matter of the hearing;
 - (2) a summary of the evidence or public comments received;
 - (3) proposed Findings of Fact and Conclusions of Law; and
 - (4) the Hearings Officer's recommendations for Board action on the subject

matter of the hearing.

- (c) A party may submit to the Board written exceptions to the proposal for decision by the deadline established by the Hearings Officer.

21.20 Board Action.

- (a) The Board shall consider the proposal for decision and any exceptions at a final hearing.
- (b) The General Manager will schedule the Board's final hearing no earlier than 30 days after the after the deadline for the parties to file exceptions, or issuance of a proposal for decision if no deadline for exceptions is established. Any proposal for decision issued under Rule 21.19, exceptions, replies or proposed findings of fact may be considered at the final hearing.
- (c) The parties to the proceeding may answer questions from the Board, and if desired by the Board, present oral argument, but may not present additional evidence. The Hearing Officer shall also be present to summarize the proposal for decision and answer questions from the Board.
- (d) The Board may continue a final hearing under Rule 21.18, as it finds necessary.
- (e) The Board may take final action on the proposal for decision at its final hearing, or may postpone action to another date, but in no event shall the Board delay a final decision beyond the 60th day after the completion of the Board's final hearing. The Board may accept the proposal for decision, reject the proposal for decision and issue a different or modified decision, or remand the matter for an additional hearing on new issues. A decision by the Board may contain findings of fact and conclusions of law, separately stated, explaining its decision.

21.21 Request for Findings of Fact and Conclusions of Law. If the Board order does not already contain findings of fact and conclusions of law, on receipt of a timely written request by a party, the Board shall make written findings and conclusions regarding the decision of the Board on the application for a permit or permit amendment. The Board shall provide certified copies of the findings and conclusions to the party who requested them, and to each designated party, no later than the thirty-fifth (35') day after the date the Board receives the request.

21.22 Exhaustion of Remedies and Motions for Rehearing.

- (a) An Applicant in a contested or uncontested hearing on an application or a party to a contested hearing may seek judicial review of a decision of the Board on an application for a permit or permit amendment by first exhausting all administrative remedies by requesting written findings of fact and conclusions of law, if the Board order does not already contain such findings or conclusions, or a rehearing before the Board no later than the twentieth (20th) day after the date of notification of the Board's decision on the application. A party or a person is

presumed to be notified of the decision or order on the date that the decision is mailed by first-class mail.

- (b) A person who receives a certified copy of the findings and conclusions from the Board under Rule 21.21 may request a rehearing before the Board no later than the twentieth (20th) day after the date the person is notified of the Board's issuance of the findings and conclusions.
- (c) A request for rehearing must be filed in the District office and must state the grounds for the request. If the original hearing was a contested case hearing, the person requesting a rehearing must provide copies of the request to all parties to the contested case hearing. If the original hearing was not contested, the person requesting a rehearing must provide copies to the applicant, the general manager and all persons commenting on the application.
- (d) A reply to a motion for rehearing may be filed within thirty (30) days after the date the responding parties receives a copy of the motion for hearing.
- (e) The motion for rehearing shall be scheduled by the general manager 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 is deemed necessary.
- (f) If the Board grants a request for rehearing, the Board shall schedule the rehearing no later than the ninetieth (90th) day after the date the request is granted.
- (g) The failure of the Board to grant or deny a request for rehearing before the ninety-first (91st) day after the date the request is submitted is a denial of the request.

21.23 **Final Decision.**

A decision by the Board on a permit or permit amendment application is final:

- (a) if a timely request for rehearing is not filed, on the expiration of the period for filing a request for rehearing; or
- (b) if a timely request for rehearing is filed, on the date:
 - (1) the Board denies the request for rehearing; or
 - (2) the Board renders a written decision after rehearing.

21.24 **Reconsideration of Final Decision.** The Board may reconsider any matter within its authority, on its own motion or upon the motion of an affected party, if materially changed circumstances exist or upon 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 or after having announced a ruling or decision, or after having finally granted or denied an application, it shall give notice to the persons who were proper parties to the

original action, and such persons shall be entitled to a hearing therein if they file a request within fifteen days from the date of the mailing of such notice.

21.25 Suit for Judicial Review of Contested Case Decisions.

- (a) An Applicant or a party to a contested case hearing may file a suit against the District under Sections 36.251 and 36.413, Texas Water Code to seek judicial review of a decision on a permit or permit amendment application or other matter that was the subject of a contested case hearing no later than the sixtieth (60th) day after the date on which the decision becomes final.
- (b) Such an appeal may only be filed after the exhaustion of all administrative remedies before the District, including the filing of a timely request for rehearing. Only the district, the applicant and the parties to a contested case may participate in these types of suits.

21.26 Consolidated Hearing on Applications.

- (a) The District may process applications from a single Applicant under consolidated notice and hearing procedures where a separate permit or permit amendment is required for:
 - (1) drilling, equipping, operating, or completing a well or substantially altering the size of a well or well pump under Section 36.113 of the Texas Water Code;
 - (2) the spacing of water wells or the production of groundwater under Section 36.116 of the Texas Water Code; or
 - (3) transferring groundwater out of a District under Section 36.122 of the Texas Water Code.
- (b) The District is not required to use consolidated notice and hearing procedures to process separate permit or permit amendment applications from a single Applicant if the Board cannot adequately evaluate one application until it has acted on another application.

21.27 Alternative Dispute Resolution. The District may use alternative dispute resolution procedures in the manner provided for governmental bodies under Chapter 2009, Government Code.

RULE 22 - INSPECTION AND ENFORCEMENT PROVISIONS

22.1 Enforcement Authority. The District may assess an administrative penalty, as provided in Rule 22.3, for a violation of its rules, or may institute a civil action to enforce the provisions of Chapter 36, Texas Water Code and its rules. An order assessing an administrative penalty may also provide for such other relief that will bring the person charged with a violation of a District rule into compliance with all District rules.

22.2 **Civil Action.**

- (a) The District may enforce the provisions of Chapter 36, Texas Water Code and its rules by injunction, mandatory injunction, or other appropriate remedy in a court of competent jurisdiction.
- (b) If the District prevails in such a suit, it may, in the same action, recover a fine of up to five thousand dollars (\$5,000) for each violation of a District rule, reasonable fees for attorneys, expert witnesses, and other costs incurred by the District before the court.

22.3 **Administrative Penalty.**

- (a) After written notice to the person charged and opportunity for a hearing, the District may assess and collect an administrative penalty against a person who violates any rule of the District.
- (b) The amount of the penalty for a violation of any rule of the District may not exceed five thousand dollars (\$5,000).
- (c) The District may authorize an installment payment schedule for an administrative penalty assessed under this Rule.

22.4 **Notice of Violation.** The General Manager of the District shall notify the person charged with the violation by mailing a notice of violation by certified mail return receipt requested to the person's last known address. The notice of violation shall set forth facts sufficient to notify the person of the basis for the violation, set forth the rules that are allegedly violated, and describe the procedure for filing an answer to or requesting a hearing on the District's allegations.

22.5 **Answer.** The person charged with the violation must file an answer or response to the allegations with the District on or before the twentieth (20th) day after the date that person receives a notice of violation pursuant to Rule 22.4. If the person charged with the violation seeks a hearing on the allegations, the person must file a request for a hearing at that same time.

22.6 **Agreed Order.** If no request for hearing is filed or if a request for hearing is subsequently withdrawn, the General Manager may negotiate an Agreed Order with the person charged with the violation. That Agreed Order will be presented to the District Board at the next available Board meeting for final approval. The Agreed Order may assess an administrative penalty and provide for other relief that will bring such person into compliance with the District's rules.

22.7 **Default.** If the person charged with the violation fails to timely file an answer or response to the allegations, the General Manager may recommend a default order, including an administrative penalty, to the District Board at the next available Board meeting for approval. The District shall mail a copy of its default order to the person

charged by certified mail return receipt requested to the person's last known address.

- 22.8 **Hearing.** If the person charged with the violation timely requests a hearing, an informal hearing before the Board may be held in which the Rules of Evidence and Civil Procedure will not apply, or the District may schedule and hold a hearing in accordance with the District's hearing rules as set forth in Rule 21. In such a hearing, the General Manager shall be a party and shall bear the burden of proving the alleged violations.
- 22.9 **Payment of Penalty.** Within thirty (30) days after the date the District's order assessing an administrative penalty is final, the person charged with the penalty shall (a) pay the penalty in full or (b) pay the first installment penalty payment in full and thereafter pay installments in accordance with the installment schedule provided in the order.
- 22.10 **Remedies Cumulative.** The remedies under Rule 22 are cumulative of all other remedies. Nothing contained herein shall affect the right to pursue any available common law or statutory remedy to abate a condition of pollution or other nuisance, to recover damages to enforce a right, or to prevent or seek redress or compensation for the violation of a right or otherwise redress an injury.
- 22.11 **Suit to Enforce Penalty.** An administrative penalty assessed under Rule 22 is in addition to any other penalty provided by the laws of this state. An order assessing an administrative penalty, or any other relief to bring the person charged with the violation into compliance with District rules, may be enforced by the District by a complaint filed in the appropriate court of jurisdiction in Uvalde County in accordance with Section 36.102 of the Texas Water Code.
- 22.12 **Right of Ingress and Egress.**
- (a) Board Members, the General Manager, and District officers, employees, agents or representatives shall have the right at all reasonable times and after reasonable attempts to notify the landowner to enter upon land (1) on which a well or wells may be located or (2) upon which groundwater drawn pursuant to a District permit is being used, within the boundaries of the District, to carry out technical and other investigations necessary to the implementation of all applicable laws and regulations, and these Rules.
 - (b) Prior to entering upon property for the purpose of conducting an investigation, the person seeking access shall give notice in writing or in person or by telephone to the owner, lessee, or operator, agent, or employee of the well owner or lessee, as determined by information contained in the application or other information on file with the District. Notice is not required if prior permission has been granted to enter without notice.
- 22.13 **When access is refused.** Inhibiting or prohibiting access to any Board Member, the General Manager, or District agents or employees who are attempting to conduct an investigation under the District Act or these rules shall constitute a violation of these Rules and shall subject 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

Section 36.102 of the Texas Water Code. The operation of any well may be enjoined by the Board immediately upon the refusal to allow the gathering of information as above provided from such well.

- 22.14 **Limitations of District Employee Activities.** District employees may not gather information not specifically related to the purposes of the District, the District Act, these rules, or District policy.
- 22.15 **Conduct of Investigation.** Where investigations or inspections require entrance upon property, such investigations and such inspections will be conducted at reasonable times, and will be consistent with the establishment's rules and regulations concerning safety, internal security, and fire protection. The persons conducting such investigations must identify themselves and present credentials upon request of the owner, lessee, operator, or person in charge of the well.
- 22.16 **Request for Injunctive Relief and Assessment of Penalties.**
- (a) If it appears that a person has violated, is violating, or is threatening to violate any provision of the District Act or any Board order, rule or permit, the Board may authorize the General Manager to institute and conduct a suit in the name of the District for injunctive relief, or to recover a civil penalty of up to ten thousand dollars (\$10,000) per day per violation, and each day of a continuing violation constitutes a separate violation.
 - (b) A penalty under this Rule is in addition to any other penalty provided by the law of this state and may be enforced by complaints filed in the appropriate court of jurisdiction in the county in which the District's principal office or meeting place is located.
 - (c) If the District prevails in any suit to enforce its rules, the District may seek and the court shall grant, in the same action, recovery for attorney's fees, costs for 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.

RULE 23 - PROCEDURES FOR RULEMAKING

23.1 Procedure for Amending Rules.

- (a) Following the notice and hearing procedures set out in this Rule, the Board may amend the rules or adopt new rules from time to time. A majority vote is necessary to amend the rules or adopt new rules.
- (b) A copy of the rules will be posted on the District's website or for sale at the cost of producing the same.

23.2 Notice of Proposed Rules and Rulemaking Hearing.

- (a) No later than the twentieth (20th) day before the date of a rulemaking hearing, the

General Manager or Board shall:

- (1) post notice in a place readily accessible to the public at the District Office;
 - (2) provide notice to the county clerk of each county in the District;
 - (3) publish notice in a newspaper of general circulation in Uvalde County;
 - (4) provide notice by mail, facsimile, or electronic mail to any person who has requested notice under subsection (c) below; and
 - (5) make available a copy of all proposed rules at a place accessible to the public during normal business hours and, if the District has a website, post an electronic copy on a generally accessible Internet site.
- (b) The notice provided in subsection (a), above, must include:
- (1) the time, date, and location of the rulemaking hearing;
 - (2) a brief explanation of the subject of the rulemaking hearing; and
 - (3) the location or Internet site at which a copy of the proposed rules may be reviewed.
- (c) A person may submit a written request to the District for notice of a rulemaking hearing. A request shall be effective for the remainder of the calendar year in which the request is received. An affidavit of an officer or employee of the District attesting that notice was sent to such a person by either first class mail, facsimile, or electronic mail in accordance with information provided by such a person is proof that notice was provided by the District. Failure by the District to provide notice to such a person will not invalidate an action taken by the District at a rulemaking hearing.

23.3 Rulemaking Hearing Procedure.

- (a) The Presiding Officer or Hearings Officer shall conduct a rulemaking hearing in the manner the Presiding Officer or Hearings Officer determines to be most appropriate to obtain information and comments relating to the proposed rules as conveniently and expeditiously as possible. Comments may be submitted orally or in writing at the hearing. The Presiding Officer or Hearings Officer shall establish the order of speakers and may limit the number of times a person may speak, and the time period for oral comments. The Presiding Officer or Hearings Officer may hold the record open for a specified period of time after the conclusion of the hearing to receive additional written comments.
- (b) Any person desiring to testify on the subject of the hearing must so indicate on the registration form provided at the hearing. In addition the Presiding Officer or Hearings Officer may limit or exclude cumulative, irrelevant, or unduly

repetitious presentations.

- (c) Any interested person may submit written comments, affidavits, technical reports, or other documents relating to the subject of the hearing, in addition to or in lieu of oral testimony at the hearing. Such documents must be submitted no later than the last day of the hearing; provided, however, that the Presiding Officer or Hearings Officer may grant additional time for the submission of documents.
- (d) Each person who provides comments at a rulemaking hearing by submitting written documents or testifying at the hearing shall submit a hearing registration form stating:
 - (1) the person's name;
 - (2) the person's address; and
 - (3) whom the person represents, if the person is not at the hearing in the person's individual capacity.
- (e) The Presiding Officer or Hearings Officer shall prepare and keep a record of each rulemaking hearing in the form of either an audio recording, video recording, or court reporter transcription.
- (f) If the Presiding Officer or Hearings Officer is a hearing examiner, the hearing examiner must, after the record is closed, prepare and submit 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.
- (g) The Board may use an informal conference or advisory committee to obtain the opinions and advice of interested persons about contemplated rules. The Board President shall appoint the chair and members of advisory committees, which may consist of experts, interested persons, Board Members or other public representatives to advise the Board about contemplated rules.

23.4 **Close of Rulemaking Hearing and Consideration of Public Comment.** At the end of the rulemaking hearing the Presiding Officer or Hearings Officer shall close the record, and submit the matter to the Board for consideration. The Board may take the matter under advisement and continue it from day to day, reopen or rest the matter, refuse the action sought, grant the action sought in whole or in part, or take any other appropriate action. If the Board has not taken action within six (6) months after the Presiding Officer or Hearings Officer has presented the matter to the Board, the Board must provide notice of the proposed rules again under Rule 23.2 prior to taking any action on them.

23.5 **Appeal of District Rules.** A judicial review of any decision of the Board on a rulemaking matter may be sought in accordance with the provisions of Subchapter H, Judicial Review, Chapter 36, Texas Water Code.

23.6 **Emergency Rules.**

- (a) The Board may adopt an emergency rule without prior notice or hearing, or with an abbreviated notice and hearing, if the Board:
 - (1) finds that a substantial likelihood of imminent peril to the public health, safety, or welfare, or a requirement of state or federal law, requires adoption of a rule on less than twenty (20) days notice; and
 - (2) prepares a written statement outlining the reasons for its finding under subsection (a)(1) above.
- (b) Except as provided by subsection (c) below, a rule adopted under this Rule 23.6 may not be effective for longer than ninety (90) days.
- (c) If notice of a hearing on the final rule is given within ninety (90) days after the date the rule is adopted, the rule is effective for an additional ninety (90) day period.
- (d) A rule adopted under Rule 23 must be adopted at a meeting held as provided by Chapter 551, Government Code.

23.7 **Petition for Adoption or Modification of Rules**

- (a) A person with a real property interest in groundwater in the District may file a petition with the District to request the adoption or modification of a rule.
- (b) Petitions under this rule must be submitted in writing to the General Manager at District office and must comply with the following requirements:
 - (1) the petition must be signed and state the full name of each person signing the petition and the person's contact information, including phone number, physical address, mailing address, and email address (if any).
 - (2) the petition must include:
 - a. information showing that the person submitting the petition has a real property interest in groundwater in the District;
 - b. a written explanation of the intended purpose of the proposed rule or modification;
 - c. the text of the proposed rule or modification, prepared in a manner that shows the words to be added to or deleted from the text of the current rule; and
 - d. an allegation of injury or inequity that could result from the failure to adopt the proposed rule or modification.

- (c) The General Manager may reject any petition for failure to comply with the requirements of Subsection (b) of this Section and shall provide notice to the Petitioner of the reason for the rejection.
- (d) Not later than the 90th day after the date the District receives a petition that complies with this Section, the District shall consider the petition at a Board meeting and either (1) deny the petition in whole or in part, or (2) grant the petition in whole or in part and initiate rulemaking proceedings consistent with the granted petition, in accordance with the rulemaking procedures set forth in these rules and the Texas Water Code. The District shall provide an explanation for any denial or partial denial of a petition in the minutes of the Board meeting or in a separate written statement to be kept in the District's records.
- (e) Nothing in this Section may be construed to create a private cause of action for a decision to reject, grant, or deny a petition filed under this Section.

RULE 24 - GENERAL PROVISIONS

- 24.1 **Effect of Invalidity of Rule.** If any provision of any rule or its application to any person or circumstance is held invalid, it does not affect other provisions or applications of the rule that can be given effect without the invalid provision or application, and to this end the provisions of the rule are severable.
- 24.2 **Suspension of Rules.** The Board may suspend or waive a rule upon the showing of good cause, or when, in the discretion of the Board, the particular facts or circumstances render such waiver of the rule appropriate in a given instance.
- 24.3 **Procedures Not Otherwise Provided For.** If, in connection with any hearing, the Board determines that there are no statutes or other applicable rules resolving particular procedural questions before the Board, the Board will direct the parties to follow procedures consistent with the purpose of these rules.
- 24.4 **Computing Time.** In computing any period of time prescribed or allowed by these rules, by order of the Board, or by any applicable statutes, the day of the act, event, or default, after which the designated period of time begins to run, is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day that is neither a Saturday, a Sunday, nor a legal holiday.
- 24.5 **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 Board's office within the time limit, if any, for such filing. The date of receipt is determinative, not the

date of posting.

- 24.6 **Show Cause Orders and Complaints.** The Board, on its own motion or upon receipt or sufficient written protest or complaint, may at any time, after due notice to all interested parties, cite any person operating within the District to appear before the Board in a public hearing and may require him or her to show cause why his or her operating authority or permit should not be suspended, canceled, or otherwise restricted and limited, for failure to comply with the orders or rules of the Board or the relevant statutes of the State, or for failure to abide by the terms and provisions of the permit or operating authority itself. The matter of evidence and all other matters of procedure at any such hearing will be conducted in accordance with these rules.
- 24.7 **Ownership Rights.** The ownership and rights of the owner of the land and his lessees and assigns in groundwater are recognized, and these rules shall not be interpreted in any way to deprive or divest the owner or his assigns or lessees of that ownership or those rights, subject, however, to these rules adopted under Chapter 36 of the Texas Water Code and by the District.
- 24.8 **Suits Against District.** A person, firm, corporation, or association of persons affected by and dissatisfied with any rule or order made by the District in a matter that is not the subject of a contested case hearing is entitled to file suit in accordance with Section 36.251, Texas Water Code, against the District or its Directors to challenge the validity of the law, rule, or order. Suits for judicial review of District decisions following a contested case hearing are governed by Rule 21.25 and appeals of desired future conditions are governed by Rule 25.3.
- 24.9 **Word Usage.** Use of masculine pronouns for convenience purposes in these rules and bylaws shall include persons of feminine gender where applicable. Words of any gender used in these rules and bylaws shall be held and construed to include any other gender, the words in singular number shall be held to include the plural and vice versa, unless the context requires otherwise.

RULE 25 - DISTRICT PLANS

- 25.1 **Water Conservation Plans.** The District may require formulation and submission of a water conservation plan, a management plan, and adoption of reasonable water conservation measures by its water well permittees or water well applicants.
- 25.2 **District Management Plan.** The District shall develop a water management plan in accordance with Section 36.1071, Texas Water Code. Prior to the adoption or amendment of any such management plan the District shall provide public notice of twenty (20) days and hold a public hearing, during which members of the public will be afforded an opportunity to comment on the plan. The policies and provisions of the management plan are enforceable once adopted and the District rules serve as one method of enforcing and implementing the management plan. The Board may review the management plan annually and must review and readopt the management plan with or without revisions at least every five (5) years. The District shall submit, within sixty (60) days of adoption, the revised or readopted management plan to the Texas Water

Development Board for review and approval, in accordance with Section 36.1072, Texas Water Code. The management plan takes effect on the date approved by the Texas Water Development Board and remains in effect until the adoption of a new plan or the readoption of the existing plan, with or without revisions, in accordance with Section 36.1072(e)

25.3 **Appeals of Desired Future Conditions.** An affected person, as defined in Section 36.1082, Texas Water Code, may appeal a desired future condition adopted by the District on or after September 1, 2015 in a Management Plan in accordance with Section 36.1071, Texas Water Code. Such appeals shall be in accordance with Sections 36.1083 and 36.10835, Texas Water Code.

25.4 **Petitions for Inquiry.** An affected person, as defined in Section 36.3011, Texas Water Code, may file a petition for inquiry related to any of the following allegations and such petitions shall be governed by the procedures set out in Section 36.3011, Texas Water Code:

- (a) Failure by the District to submit a management plan to the Texas Water Development Board;
- (b) Failure by the District to participate in the joint planning process under Section 36.108, Texas Water Code;
- (c) Failure to by District to adopt rules;
- (d) Failure by the District to adopt the applicable desired future conditions adopted by the groundwater management area at a joint meeting;
- (e) Failure by the District to update the district's management plan before the second anniversary of the adoption of desired future conditions by the groundwater management area;
- (f) Failure by the District to update the District's rules to implement the applicable desired future conditions before the first anniversary of the date it updated its management plan with the adopted desired future conditions;
- (g) The rules adopted by the District are not designed to achieve the adopted desired future conditions;
- (h) Groundwater in the groundwater management area is not adequately protected by the District's rules; or
- (i) Groundwater in the groundwater management area is not adequately protected due to the failure of the District to enforce substantial compliance with its rules.

25.5 **Joint Planning.** The District will participate in joint planning with any other districts located in its groundwater management area and forward copies of its approved management plan to those districts, in accordance with Section 36.108, Texas Water

Code. The Chairman of the Board of the District, or his or her designee, shall meet at least annually to conduct joint planning with the other districts in the management area. Beginning in 2010 and every five (5) years thereafter, the districts shall establish desired future conditions for the relevant aquifers within the management area in accordance with Section 36.108, Texas Water Code.

**RULE 26 - BY-LAWS OF THE UVALDE COUNTY
UNDERGROUND WATER CONSERVATION DISTRICT**

Subchapter A. Policies, Procedures, and Essential Information.

26.1 **Adoption of By-Laws.** In accordance with the Acts of the 73rd Legislature (1993), Legislative Act. S.B. 1477, Article 2, of the Texas Constitution and Chapters 36 and 49 of the Texas Water Code, Vernon's Civil Statutes of Texas, the following By-Laws are adopted and ratified on the 17th day of March, 2009. These are bylaws contain guidelines to be used with discretion. They were adopted for the purpose of simplifying procedures and facilitating the administration of the District.

26.2 **Definitions.**

The BOARD shall mean the Board of Directors of the Uvalde County Underground Water Conservation District consisting of eight duly elected members.

The DISTRICT shall mean the Uvalde County Underground Water Conservation District, including all of Uvalde County, which maintains its office where registrations, reports, and other papers are required to be filed or sent. The area includes the county lines.

WATER shall mean groundwater.

OWNER shall mean and include any person, firm, partnership, or corporation that has the right to produce water from the land either by ownership, contract, lease, easement, or any other estate in the land.

PERSON shall mean any individual, partnership, firm, or corporation.

The word **WASTE** as used shall be the same meaning as defined in Rule 1.

26.3 **Requirements for the Board and Procedures for Meetings.**

(a) **Candidates.** To be qualified as a director, a person must be a registered voter in the precinct that the person represents. A candidate for the office of director or other elective office may file an application with the District to have the candidate's name placed on the ballot. The application must be signed by the applicant and must be filed in accordance with the Election Code.

(b) **Elections.**

- (1) An election in the District was held on November 8, 1994 with the candidates' names being placed on the General Election Ballot as authorized by Federal Court Order No. DR 94 CA 04. Eight directors, two from each Commissioners Precinct, were elected in the General Election in 1994 and one in each Commissioners Precinct at each subsequent General Election thereafter shall be elected to the Board. Each election shall be held in accordance with the Election Code and Federal Court Order DR 94 CA 04.
- (2) At times, the Uvalde County Commissioners Comi may be required to change the precinct boundaries in order to comply with federal requirements. When such changes are made and adopted by the Commissioners Court, the new boundaries automatically become the boundaries for the Uvalde County Underground Water Conservation District precincts.

(c) **Meetings.**

- (1) The Board shall hold quarterly meetings in January, April, July, and October, or it may hold other meetings at call of the chairman or at the request of at least two (2) of the directors.
 - (i) A quorum is a simple majority of the Directors.
 - (ii) The Board may elect its own officers yearly, but shall elect officers after each director's election.
 - (iii) The Board will follow the Roberts Rules of Parliamentary Procedures.
 - (iv) The Board may also act as a hearings Board concerning any disputes about the rules and operations of the District.
- (2) From time to time and as may be necessary, the Board may hold work sessions to discuss and evaluate issues in such detail as to require open and free discussion not normally possible in regular board meetings. During work sessions of the Board, no public comment will be heard, unless specifically requested by a Director and recognized by the Board Chair.

Public comment may be made at the time items(s) is/are up for discussion at a regular meeting.

- (d) **Public Comment.** During a Board meeting, other than a work session, public comment may be heard by the Board. Public comment during a Board meeting will be of two types:

- (1) Public comments of a general nature may be made under the public comment item on the agenda; or
 - (2) Specific comments on any posted agenda item may be made following recognition of the speaker by the Board Chair. Such comments may be made after the presentation of the item or during the Board discussion of the item, if the speaker is called upon.
 - (3) Public comments of either type will be accepted by the Board Chair only after the person wishing to speak has signed a Comments Sheet that will be available at the meeting. The speaker must fill in his name, address, and phone number, and must identify the item(s) that he wishes to comment on. A speaker may sign up to speak for three minutes or less on any posted item(s). A speaker will address only the item for which he signed up. No speaker will be allowed to pass his time to someone else, nor will he be permitted to repeat comments made by another, except to concur with those remarks.
- (e) **Cancellation of Posted Meetings.** All meetings requiring posting in accordance with the Texas Open Meetings Act will be held regardless of weather conditions when a quorum of the Board is present. Should weather conditions prohibit the regular meeting, the meeting will be rescheduled for a later date, not sooner than seventy-two (72) hours after the canceled meeting unless posted as an emergency in compliance with State Law.

26.4 **Power and Duties of the District.** The District has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapters 36 and 49, Texas Water Code, applicable to groundwater conservation districts created under Article XVI, Section 59, of the Texas Constitution. The Board's authority includes the authority to:

- (a) make and enforce rules to provide for conserving, preserving, protecting, recharging, and preventing waste of the water from the underground water reservoirs that may be enforced by injunction, mandatory injunction, or other appropriate remedies in a court of competent jurisdiction;
- (b) require permits for the drilling, equipping, and completion of wells in the underground water reservoirs and issue permits subject to terms and provisions regarding the drilling, equipping, and completion of the wells as may be necessary to prevent waste or conserve, preserve, and protect underground water;
- (c) provide the spacing of wells producing water from the underground water reservoirs and regulate the production from those wells to minimize, as far as practicable, the drawdown of the water table or the reduction of the artesian pressure, provided the owner of the land, his heirs, assigns, and lessees are not denied a permit to drill a well on their land and the right to produce underground water from the well subject to rules adopted by the Board;

- (d) implement a monitor well trigger level for any water producing strata at which permitting decisions can be made and existing and future withdrawal amounts can be set or changed.
- (e) require records to be kept and reports to be made of drilling, equipping, and completion of wells into any underground water reservoir, and the taking and use of underground water reservoir, and the taking and use of underground water from those reservoirs, and require complete and accurate drilling logs to be kept of those wells and a copy of those logs and any electric logs that may be made of the wells to be filed with the District;
- (f) acquire land to erect dams or to drain lakes, draws and depressions; construct dams; drain lakes, depressions, draws, and creeks; and, install pumps and other equipment necessary to recharge underground water reservoirs;
- (g) develop comprehensive plans for the most efficient use of the underground water of any underground water reservoir and for the control and prevention of waste of that underground water, with the plans to specify (in the amount of detail that may be practicable) the acts, procedures, performance, and avoidance that are or may be necessary to effect those plans, including specifications;
- (h) carry out research projects, develop information, and determine limitations, if any, that should be made on the withdrawal of underground water from any underground water reservoir;
- (i) collect and preserve information regarding the use of the underground water and practicability of recharge of any underground water reservoirs; and
- (j) publish plans and information for the users of the ground water within the District, and encourage their adoption and execution.

26.5 **Administrative Procedures.**

- (a) **Administrator and Employees.**
 - (1) The Board may employ a general manager and set his/her salary. The Board may delegate any of its powers and duties (except those of adopting rules, a dissolution resolution, a dissolution order, and those relating to hearings, taxation, and bond matters) to the manager, who may carry out the powers and duties delegated to him/her by the Board. Employment of personnel is subject to the general law of nepotism. The general manager, with the approval of the Board, may employ personnel and set their salaries and hire legal counsel for the Board.
 - (2) The general manager shall, with the approval of the Board, develop a plan for the District, act as official liaison for the Board between the public and governmental agencies, and prepare budgets.

- (3) The general manager is empowered to obtain official or legal status in matters of concern or interest to the District **in** the public hearings process, or in other proceedings when the opportunity to obtain such status presents itself, and Board action to establish an official Board or District position cannot be obtained in a timely manner. Such matters will be brought to the Board for action at the earliest possible convenience.
- (4) The general manager's position shall be reviewed yearly at the end of each fiscal year.

26.6 Advisory Committees.

- (a) **Appointments.** The Board President may establish advisory committees for formulation of policy recommendations to the Board or for such other purposes as the Board may designate. The Board President shall designate the members of the advisory committee and the advisory committee Chair and the Board shall ratify those appointments. All meetings of such advisory committees shall be open to the public.
- (b) **Committee Memberships.** Members of the various committees shall be appointed from residents of the District, provided that members may include individuals residing outside the District if the Board determines that such would be **in** the District's best interest. Membership is to be voluntary and without compensation.

26.7 Operational Procedures. The Board or the General Manager may approve operational procedures for the District and such other procedures mandated by state law.

26.8 Use of Consultants. The District may use a private consultant if a substantial need exists for the consulting services and the District cannot adequately perform the services with its own personnel. In selecting a private consultant, the District shall base its choice on demonstrated competence, knowledge, and qualifications, and on the reasonableness of the proposed fee for the services. Professional services contracts shall conform to provisions of the Texas Water Code and the Local Government Code applicable to groundwater conservation districts.

26.9 Annual Report. At the end of the fiscal year, the President and/or General Manager shall report to the Board on the status of the District and its program. The report shall include at least the following:

- (a) the status of the Aquifers and the District's programs to protect and conserve the Aquifers;
- (b) a financial report, including a report from the Board's audit committee, and a report on the performance and security of District investments;
- (c) a review and evaluation of professional services rendered to the District during

the year;

- (d) a report on the status of any capital projects of the District; and
- (e) an evaluation of the District's performance in light of long range plans developed pursuant to Section 36.1071, Texas Water Code. The report shall be available to the Board not later than one hundred twenty (120) days beyond fiscal year end for Board approval and submission to the Texas Commission on Environmental Quality not more than one hundred thirty-five (135) days after the fiscal year ends.

26.10 Financial.

- (a) **Contracts.** The Board may authorize the President or the General Manager to enter into any contract or to execute and deliver any instrument in the name of and on behalf of the District, and such authority may be general or confined to specific instances. All contracts shall be executed by either the President or the Manager, attested by the Board Secretary and approved by General Counsel. Any contract not so approved is void and of no effect to the District.
- (b) **Banking and Investments.**
 - (1) **Checks, Drafts, etc.** All checks, drafts, notes, or other orders for the payment of money issued in the name of the District shall be signed by such officers or employees of the District as shall, from time to time, be authorized by resolution of the Board.
 - (2) **Depositories.** All funds of the District, except petty cash, shall be deposited from time to time to the credit of the District in such banks or Texpool accounts as the Board may from time to time designate, and upon such terms and conditions as shall be fixed by the Board, unless otherwise required by orders or resolutions authorizing the issuance of the District's bonds or notes. The Board may from time to time authorize the opening and maintenance of general and special accounts within any such depository as it may designate, and may make such special rules and regulations with respect thereto as it may deem expedient. To the extent that funds in the depository bank or banks are not insured by the Federal Deposit Insurance Corporation, they shall be secured as provided by Texas Water Code, Section 36.155. The depository shall be located within the county unless the Board determines that a suitable depository cannot be found within the county.
 - (3) **Investments.** The Board, by resolution, may provide that an authorized representative of the District may invest and reinvest the funds of the District and provide for money to be withdrawn from the appropriate account of the District for such investments on terms that the Board considers advisable. Unless expressly authorized by the Board, such investments must be made in direct or indirect obligations of the United

States, the State, or any county, city, school district or other political subdivision of the State, or in certificates of deposit of state or national banks or saving and loans associations within the State of Texas, provided that such certificates are secured in the manner provided for in the security of the funds of counties of the State of Texas.

- (c) **Audit.** At the end of each fiscal year, the Board shall have prepared an audit of its affairs by an independent certified public accountant or a firm of independent certified public accountants, which audit shall be open to public inspection. Such auditors shall have no personal interest directly or indirectly in the fiscal affairs of the District and shall be experienced and qualified in the accounting and auditing of public bodies. The audit shall be performed in accordance with generally accepted auditing standards and shall satisfy all requirements imposed by Section 36.153, Texas Water Code. It is provided, however, that the District's auditors may undertake consulting services for the District in addition to their duties in connection with the annual audit.

- (d) **Budget.** Prior to the commencement of the fiscal year, the Board shall adopt an annual budget. The budget shall contain a complete financial statement, including a statement (or estimate, if appropriate) of:
 - (1) the outstanding obligations of the District;
 - (2) the amount of cash on hand to the credit of each fund of the District;
 - (3) the amount of money available to the District from all sources during the ensuing year;
 - (4) the amount of the balances expected at the end of the year in which the budget is being prepared;
 - (5) the estimated amounts of revenues and balances available to cover the proposed budget; and
 - (6) the estimated water use fee (or tax rate per one hundred dollars (\$100) assessed valuation) that will be required.

Before the Board adopts its annual operating budget, it shall conduct a public hearing and shall make a proposed budget available to the public at least ten days prior to the hearing. Any resident of the District shall be allowed to participate in the budget hearing, subject to reasonable time limitations. The District may not make expenditures in excess of the total budgeted expenditures for a fiscal year unless the Board amends the budget.

- (e) **Fiscal Year.** The District's fiscal year shall begin on October first.

(f) **Purchasing.**

- (1) Expenditures to acquire goods or services valued at greater than five hundred dollars (\$500) require approval by the Board in advance, unless an emergency acquisition requiring an expenditure greater than five hundred dollars (\$500) shall be presented to the Board for approval and validation at its next following meeting. Acquisitions valued at less than five hundred dollars (\$500) may be made by the General Manager without prior Board approval if within budget constraints.
- (2) No expenditures may be made that are not authorized by the budget. This requirement shall not, however, prevent the Board from amending the budget at the same time that it authorizes an expenditure, provided that funds are available in other budget categories or that reserve funds are available.
- (3) In the case of acquisitions of goods valued at one thousand dollars (\$1,000) or more, competitive quotations shall be obtained from three vendors, if possible, and documented for the District's records prior to making the purchase.
- (4) The Board may solicit proposals for professional services according to Chapter 2254 of the Texas Government Code. the Professional Services Procurement Act,
- (5) The Board authorizes purchasing through the State's cooperative local purchasing program, published under Texas Local Government Code, Sections 271.081 et seq.
- (6) Construction contracts and contracts for the acquisition of materials and machinery requiring the expenditure of fifteen thousand dollars (\$15,000) or more shall be competitively bid pursuant to the provisions of Texas Water Code, Chapter 49.

26.11 **Taxation and Bond.** The tax and bond provisions of Subchapters F and G of Chapter 36 of the Water Code apply to the District. The Board may levy and collect property taxes levied on the property in the District that are necessary to enable the Board to perform its designated powers and functions.

26.12 **Annexation.** Additional territory may be added to the District by petition of the landowners under Subchapter J of Chapter 36 of the Texas Water Code, as amended.

26.13 **Amendment to By-Laws.** The By-Laws may be altered or the same may be repealed by new By-Laws adopted at any regular or special meeting of the Board of Directors of the District, provided that no such action shall be taken at a regular or special meeting unless ten (10) days notice of the proposed alteration, amendment, or repeal and a copy of the proposed new Bylaws is submitted in writing to each member of the Board of the District

with the notice of such meeting. No such alterations, amendment, or repeal of the By-Laws or the adoption of new By-Laws shall be valid unless such alterations, amendments, or repeals, or adoption of new By-Laws are approved by a vote of at least a majority of all of the Directors of the District.

26.14 Dissolution of the District. Subchapter I of Chapter 36 of the Texas Water Code, as amended, applies to dissolution of the District.

Subchapter B. Code of Ethics

26.15 Statement of Policy

- (a) It is the policy of the District that all directors conduct themselves in a manner consistent with sound business and ethical practices; that the public interest always be considered in conducting District business; that the appearance of impropriety be avoided to ensure and maintain public confidence in the District; and that the Board control and manage the affairs of the District fairly, impartially, without discrimination, and in accordance with the stated purpose of the District.
- (b) The essence of this policy is that each director conduct the District's business with integrity, in compliance with applicable laws, and in a manner that excludes considerations of personal advantage. Strict adherence to this policy will protect the District from criticism, litigation or embarrassment that might result from alleged or real conflicts of interest or unethical practices.

26.16 Purpose. The purpose of this Code of Ethics ("Code") is:

- (a) to ensure a high level of public confidence;
- (b) to establish guidelines for ethical standards of conduct for all District directors as public servants;
- (c) to encourage high ethical standards in official conduct by the officials of the Authority;
- (d) to establish guidelines for such ethical standards of conduct; and
- (e) to satisfy the requirement of Texas Water Code, paragraph 36.061(a)(1), which states that the Board shall adopt in writing "a code of ethics for district directors, officers, employees, and persons who are engaged in handling investments for the district."

26.17 Qualification of Directors.

- (a) Each director shall comply with all state statutes, applicable to them as elected officials.

- (b) A person shall not serve as a director if he or she is not qualified to do so under the provisions of any applicable law.
- (c) Within 30 days after the Board determines that any director is not qualified to serve on the Board, the Board shall initiate action to replace such director with a person who is qualified.

26.18 Campaign Fund Reporting of Directors. Elected directors are required to file semi-annual Campaign/Officeholder Campaign Finance Report, Form C/OH, from the Texas Ethics Commission with the Secretary or Assistant to the Secretary of the Authority as required by the Texas Election Code. Such reports are to be filed by January 15 and July 15 of each year on forms prescribed by the Texas Ethics Commission as set forth in the Texas Administrative Code §§ 6.1 - 20.7 et seq.

26.19 Conflict Of Interest.

- (a) Directors shall comply with the conflict of interest and disclosure requirements set forth in Section 36.058 of the Texas Water Code which makes a District director subject to Chapter 171 and Chapter 176 of the Texas Local Government Code relating to the regulation of conflicts of interest of officers of local governments.
- (b) Directors of the District are prohibited by Chapter 171 of the Local Government Code from participating, directly or indirectly, in a vote or decision or from acting as a surety on any matter involving a business entity in which the director has substantial interest, if it is reasonably foreseeable that an action on the matter would confer an economic or any other benefit on the business entity, or involving real property in which the director has a substantial interest, if action on the matter will have a special economic effect on the value of the property, distinguishable from its effect on the public.
 - (1) In cases of conflicts of interest, a director must disclose such conflict(s) and file with the General Manager an affidavit stating the nature and extent of the conflict of interest. The director shall make such interest known to the General Manager and the Chairman of the Board of the Authority. Thereafter, that director must abstain from participation in the matter as provided by law.
 - (2) The District may not contract for the purchase of services or personal property directly with a District director, officer, or employee or with a business entity in which a director, officer, or employee has substantial interest except as permitted by law. The term "substantial interest" as used in this Code of Ethics is defined with reference to Section 171.002 of the Texas Local Government Code.
 - (3) The Board shall take a separate vote on any budget item specifically dedicated to a contract with a business entity in which a director, officer,

or employee has a substantial interest. A The director having the a substantial interest may not participate in that separate vote.

- (c) Directors of the District are directed under Chapter 176 of the Local Government Code to file a conflict disclosure statement with respect to a vendor who enters or seeks to enter into a contract with the District if:
 - (1) The District enters into, or is considering entering into, a contract with the vendor, and
 - (2) The vendor:
 - (i) Has an employment or other business relationship with the board member or his or her close family member (that is, within the first degree by consanguinity or affinity) that results in the board member or family member receiving taxable income, other than investment income, exceeding \$2,500 during the 12-month period preceding the date when the board member becomes aware that a contract between the District and the vendor has been executed, or becomes aware that the District is considering entering into a contract with the vendor; or
 - (ii) Has given to the board member or his or her close family member one or more gifts (other than political contributions or food accepted as a guest) having an aggregate value of more than \$100 in the 12-month period referred to above; or
 - (iii) Has a family relationship with the board member, with family relationship defined as a relationship within the third degree by consanguinity or second degree of affinity.
- (d) A board member must file his or her conflicts disclosure statement with the records administrator of the District no later than 5:00 p.m. on the seventh (7th) business day after the date on which he or she becomes aware of facts that require the filing of such a statement.

26.20 Nepotism. The Board may not appoint, confirm the appointment of, or vote for the appointment or confirmation of a person to any position, nor award a contract to a person, where such person is related to a member of the Board within the second degree by affinity (marriage) or within the third degree by consanguinity (ancestry), where the salary or other compensation of such person is paid, directly or indirectly, from District funds.

26.21 Acceptance of Gifts.

- (a) A director may not accept gifts, benefits, entertainment, or services from individuals or companies doing or seeking to do business with the District unless the transaction meets the requirements of Chapter 36 of the Texas Penal Code, related to bribery and corrupt influence.

- (b) A director may not provide gifts, entertainment, or services to others on behalf of the District that could not be accepted under this policy.
- (c) For purposes of this Code of Ethics, a gift includes any benefit that is reasonably regarded as pecuniary gain or pecuniary advantage.
- (d) A director may not solicit, agree to accept, or accept an honorarium in consideration for services the director would not have been asked to provide but for his or her official position. A director may, however, accept food, transportation and lodging in connection with such services.

26.22 Use of District Property. No director officer, or employee of the District shall permit any personal or unauthorized use of District-owned or District-controlled equipment, materials, supplies or property.

26.23 Contracts Supported by Federal Funds. A director engaged in the award or administration of contracts may not participate in the selection, award, or administration of a contract supported by federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when **1)** the director; **2)** any member of his or her immediate family; **3)** his or her business partner; or **4)** an organization which employs, or is about to employ, any of the foregoing, has a financial or other interest in the firm selected for the award.

26.24 Travel Expenditures Policy.

- (a) The Board hereby establishes the following policy for reimbursing directors for actual and necessary expenses incurred while conducting business or performing official duties or assignments.
- (b) Authorized expenses include cost of meals, lodging, commercial travel, personal automobile mileage, and other necessary and reasonable costs incurred while on official business away from designated headquarters.
- (c) Reimbursement for travel expenses shall be subject to approval by the Board. The reimbursement request shall include a statement of the business purpose of the travel, date, time and place, and shall be accompanied by supporting receipts and invoices as required by the Board.
- (d) Directors who use personal vehicles to travel while on District business may be reimbursed for actual miles driven at the current rate allowed by the Internal Revenue Service. Mileage will be computed by the most direct route, and the use of personal vehicles for Authority travel is subject to approval by the Board. Board approval is not required for mileage reimbursements associated with travel to and from official meetings of the Board or committees.
- (e) Directors traveling by commercial transportation are entitled to reimbursement of the actual cost of necessary transportation for performing official business, except the reimbursement for air transportation will not exceed the next lowest available airline fare below first class unless first class is the only available fare.

26.25 Communication of Code of Ethics.

- (a) All current directors and new directors shall be provided a copy of this Code of Ethics.
- (b) The Code of Ethics shall be included in either the bid packet or request for proposal (whichever is applicable) to District vendors, contractors, financial institutions, and professional consultants.

26.26 Alleged Violations of the Code of Ethics.

- (a) Any apparent violation by a director shall be reported to the Chairman of the Board unless the allegation is against the Chairman, in which case the report shall be made to another director.
- (b) When a report under subsection (a) has been made, the Board shall conduct a hearing as specified in this rule.
- (c) The Board may censure a director for violation of the Code of Ethics and violation is subject to penalties under the Texas Penal Code after the hearing process is complete.
- (d) Informal Hearing
 - (1) An informal hearing may be held to determine whether a violation has indeed occurred and if so, the severity of the violation.
 - (2) The director charged with the violation shall be heard in such proceeding.
 - (3) The informal hearing shall be held in closed session, subject to the right of the director charged with the violation to request that the hearing be conducted in public.
 - (4) There shall be no representation for the director at an informal hearing. Either the director in question or the Board may stop the informal hearing at any time and proceed to the formal hearing.
- (e) Formal Hearing
 - (1) Should it become necessary, a formal hearing will be held.
 - (2) The formal hearing shall be done in closed session, subject to the right of the director charged with the violation to request that the hearing be conducted in public.
 - (3) The director may have representation of his or her choosing at this hearing.

(f) Charges Filed

- (1) At any time, any director may file charges with the District Attorney if the director believes that the law has been broken.

26.27 Acknowledgment by All Directors. Each director shall review this Code of Ethics annually and will provide a signed and dated acknowledgment of having received and read it. New directors, upon taking office, will also provide a signed and dated acknowledgment of having received and read the Code of Ethics. This signed and dated acknowledgment shall be placed in the District's official files.