

**RULES OF THE KENEDY COUNTY  
GROUNDWATER CONSERVATION DISTRICT**

**Effective August 16, 2024**

KENEDY COUNTY GROUNDWATER CONSERVATION DISTRICT

RULES 8/16/24

**RULE REVISION RECORD**

The history of each specific Rule is noted following that Rule.

<b>Date Adopted</b>	<b>Effective Date</b>	<b>Affected Rules</b>
October 8, 2008	October 8, 2008	Original Rules
January 14, 2009	January 14, 2009	Amendment Rules 3.8, 8.3, 8.4, and 11.3
July 25, 2012	July 25, 2012	Amendments, including Repeals and New Provisions
January 20, 2016	January 20, 2016	Amendment Rules 1.3, 1.5, 2, 3.1, 3.8, 7.5, 8.3, 8.4, 8.6, 8.8
March 21, 2018	March 21, 2018	Amendment Rules 2, 3.5, 3.6, 3.7, 3.8, 8.8, 11
June 16, 2021	June 16, 2021	Amendments, Including New Rules 4.7 and 14
November 15, 2023	November 15, 2023	New Rule 1.10
August 16, 2024	August 16, 2024	Amendments to majority of rules

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## **Rule 1: GENERAL PROVISIONS**

### **1.1 Authority to Promulgate Rules**

**A.** The Kenedy County Groundwater Conservation District is a political subdivision of the State of Texas. The District was created by the 78th Legislature (2003) by House Bill 3374, subject to voter approval. House Bill 3374 gives the District all of the rights, powers, privileges, authority, functions and duties provided under the general law of this state, including Texas Water Code Chapter 36, applicable to Groundwater Conservation Districts created under Section 59, Article XVI, of the Texas Constitution. Senate Bill 2570, enacted by the 81st Legislature (2009), amended House Bill 337.

**B.** In a confirmation election held on November 2, 2004, District voters confirmed the creation of the District and elected five Directors to the Board of Directors. As a duly created and confirmed Groundwater Conservation District, the District may exercise any and all statutory authority or power conferred under its Enabling Legislation and under Chapter 36 of the Texas Water Code, including the adoption and enforcement of Rules under Section 36.101 Rule Making Power. All references to statutory provisions in these Rules are to those provisions as may be amended from time to time.

**C.** The District is located within Groundwater Management Area 16. Most of the District is in the Coastal Bend Regional Water Planning Area (N). District territory in Hidalgo and Willacy counties is in the Region M Regional Water Planning Area.

*Adopted October 8, 2008, by Board Order; effective October 8, 2008. Amended July 25, 2012, by Board Order; effective July 25, 2012. Amended August 16, 2024, by Board Order; effective August 16, 2024.*

### **1.2 District Boundaries**

The District includes all territory located within Kenedy County, and parts of Brooks, Hidalgo, Jim Wells, Kleberg, Nueces, and Willacy counties. Territory has been annexed from time to time in response to landowner petitions. A current description and map of the District is available at the District Office and on the District website.

*Adopted October 8, 2008, by Board Order; effective October 8, 2008. Amended July 25, 2012, by Board Order; effective July 25, 2012.*

### **1.3 Purpose of the Rules**

**A.** The District Rules are promulgated under its Enabling Legislation and the Texas Water Code Chapter 36 authority to make and enforce Rules to provide for the Conservation, preservation, protection, and Recharge of Groundwater and aquifers within the District, in order to control subsidence, prevent degradation of water quality, and to prevent Waste, while recognizing the ownership and rights of the owners of the land and their lessees and assigns in Groundwater. Consistent with Texas Water Code section 36.0015, the District through these Rules will manage Groundwater in a manner

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that protects property rights, balances the Conservation and development of Groundwater to meet the needs of this state, and uses the Best Available Science in the Conservation and development of Groundwater.

**B.** The District recognizes that a landowner owns the Groundwater below the surface of his land as real property and has any other right recognized under common law. This entitles the landowner, his lessees, heirs, or assigns, to drill for and produce the Groundwater without causing Waste or malicious drainage of other property or negligently causing subsidence, but it does not give them the right to capture a specific amount of Groundwater and does not affect any defenses to liability under the rule of capture.

**C.** While the District does not have the authority to deprive or divest a landowner, his lessees, heirs, or assigns of the Groundwater ownership and rights described in Rule 1.3.B, the District does have the authority to adopt and enforce Rules:

- (1)** to limit or prohibit the drilling of a Water Well if the location does not comply with minimum spacing or tract size requirements adopted by the District;
- (2)** to regulate Groundwater Production as authorized under Texas Water Code Chapter 36 or a special law governing the District; and
- (3)** to allocate to each landowner a proportionate share of available Groundwater for Production from an aquifer based on the number of acres owned.

**D.** These Rules, and any orders, requirements, resolutions, policies, directives, standards, guidelines, Groundwater Management Plan, or other regulatory measures implemented by the Board, have been promulgated to fulfill these objectives. These Rules may not be construed to limit, restrict, or deprive the District or Board of any exercise of any power, duty, or jurisdiction conferred by the District's Enabling Legislation, Texas Water Code Chapter 36, or any other applicable law or statute.

*Adopted October 8, 2008, by Board Order; effective October 8, 2008. Amended July 25, 2012, by Board Order; effective July 25, 2012. Amended January 20, 2016, by Board Order; effective January 20, 2016.*

### **1.4 Effective Date**

These Rules and any amendments are effective on the effective dates indicated following each subsection.

*Adopted October 8, 2008, by Board Order; effective October 8, 2008. Amended August 16, 2024, by Board Order; effective August 16, 2024.*



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**1.5 Action on Rules**

- A.** The Board may from time to time, following notice and Public Hearing, amend or revoke these Rules or adopt new Rules following the procedures of Rule 8.1.
- B.** The Board may adopt an Emergency Rule without prior notice or hearing, or with an abbreviated notice and hearing, according to Rule 8.2.
- C.** In adopting, amending, or revoking a Rule, the District must:
  - (1)** consider all Groundwater needs and uses;
  - (2)** develop Rules that are fair and impartial;
  - (3)** consider the Groundwater ownership rights described in Texas Water Code 36.002 and District Rule 1.3.B;
  - (4)** consistent with the objectives of Section 59, Article XVI of the Texas Constitution, consider the public interest in Conservation, preservation, protection, Recharge and prevention of Waste of Groundwater; and controlling subsidence;
  - (5)** consider the goals of the District's Management Plan;
  - (6)** not discriminate between land that is irrigated for production and land that was irrigated for production and enrolled or participating in a federal conservation program; and
  - (7)** protect property rights, balance the Conservation and development of Groundwater to meet the needs of this state, and use the Best Available Science in the Conservation and development of Groundwater.

*Adopted October 8, 2008, by Board Order; effective October 8, 2008. Amended July 25, 2012, by Board Order; effective July 25, 2012. Amended January 20, 2016 by Board Order; effective January 20, 2016. Amended August 16, 2024, by Board Order; effective August 16, 2024.*

**1.6 Regulatory Compliance**

All Water Wells located within the District, Water Well Owners and Water Well Operators of those Water Wells, and others under the jurisdiction of the District, shall be in compliance with all applicable Rules, orders, regulations, requirements, resolutions, policies, directives, standards, guidelines, or any other regulatory measures implemented by the District.

*Adopted October 8, 2008, by Board Order; effective October 8, 2008. Amended July 25, 2012, by Board Order; effective July 25, 2012. Amended August 16, 2024, by Board Order; effective August 16, 2024.*

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### **1.7 Variance**

Any exception or Variance to the requirements imposed by District Rules shall be considered on a case-by-case basis. A request for Variance shall be submitted in writing and include the reasons for the request. This Rule 1.7 is not applicable to a request for a Variance from an Operating Permit requirement. A Variance from any requirements contained in an Operating Permit requires an Application for a Permit Amendment pursuant to Rule 3.8.E. Rule 14.13 controls Variances to the requirements of Rule 14.

*Adopted October 8, 2008, by Board Order; effective October 8, 2008. Amended June 16, 2021, by Board Order; effective June 16, 2021. Amended August 16, 2024, by Board Order; effective August 16, 2024.*

### **1.8 Administrative Fees**

**A.** Texas Water Code Section 36.205 authorizes the District to assess Fees for administrative acts of the District. Such Fees shall not unreasonably exceed the cost to the District of providing the administrative function for which the Fee is charged. Fees shall be assessed in accordance with the Fee schedule set by the Board. If the Board adopts a Fee Schedule, a copy will be available at the District Office and on the District website.

#### **B. Class D Production Well Permit Application Fee**

- (1)** A deposit of \$10,000.00 is due and payable at the time an Application for an Operating Permit for a Class D Production Well is filed with the District.
- (2)** A Fee for an Application for Operating Permit for a Class D Production Well shall be set by the District on a case-by-case basis when such an Application is deemed Administratively Complete, or for an Application for a Class D Municipal/Electric Zone Production Permit, when it is deemed Administratively Complete and Technically Complete. The Fee shall recover the District's costs associated with technical review of the Application by the District's outside consultant.
- (3)** The deposit required under subsection B(1) of this Rule shall be applied to payment of the Fee assessed under subsection B(2) of this Rule. The unused portion of the deposit, if any, shall be refunded to the Applicant. If the deposit does not fully cover the Fee, the balance shall be due and payable within 10 days of receipt of the invoice from the District.

*Adopted October 8, 2008, by Board Order; effective October 8, 2008. Amended July 25, 2012, by Board Order; effective July 25, 2012. Amended June 16, 2021, by Board Order; effective June 16, 2021. Amended August 16, 2024, by Board Order; effective August 16, 2024.*

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#### **1.9 Annexation**

**A.** Unless this restriction is waived by the Board, petitions for annexation of territory into the District shall only be considered by the Board each October.

**B.** A petition by an owner of land not already in the District and filed under Texas Water Code Sections 36.321 – 36.324 shall comply with those sections and must include the following information:

- (1) An executed and notarized annexation Application on a form obtained from the District;
- (2) A description of the annexed property by metes and bounds;
- (3) A plat or map identifying and designating the property to be considered for annexation;
- (4) A copy of the landowner's most recent property tax statement;
- (5) Population and census data; and
- (6) Other information requested by the District.

**C.** A petition of a defined area of territory, whether or not contiguous, filed under Texas Water Code Sections 36.325 – 36.331 shall comply with those sections. The petitioner must have a pre-petition meeting with the General Manager during which the petition process will be detailed.

*Adopted October 8, 2008, by Board Order; effective October 8, 2008. Amended January 20, 2016, by Board Order; effective January 20, 2016.*

#### **1.10 Petition to Change 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 must be submitted in writing to the District office and must comply with the following requirements:

- (1) each petition must be signed and state the name and address of each person signing the petition;
- (2) each petition must include:
  - (a) a brief description of the petitioner's real property interest in groundwater in the District;

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- (b) the text of the proposed rule prepared in a manner to show the words to be added or deleted from the text of a current rule, if any; and
- (c) explanation of the purpose and necessity of the proposed rule or modification to the current rule.

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. Within 90 days after submission of a petition that complies with this rule, the Board shall either deny the petition and provide a written explanation for the denial, or initiate rulemaking proceedings related to the petition as provided by Section 36.101, Water Code.

*Adopted November 15, 2023, by Board Order; effective November 15, 2023.*

## **Rule 2: DEFINITIONS**

In the administration of its duties, the District follows the definitions of terms set forth in Chapter 36, Texas Water Code, and other definitions as follows:

The following words and terms, when used in these Rules, shall have the following meaning:

**Abandoned Oil or Gas Well** – an artificial penetration into or through water-bearing strata for the purpose of exploring for or producing oil or gas, which the Railroad Commission and/or the property or well owner deems as being abandoned.

**Abandoned Water Well** – a Water Well that has not been used for six consecutive months. A Water Well is considered to be in use in the following cases:

- (1) a non-Deteriorated Water Well containing the casing, pump, and pump column in good condition; or
- (2) a non-Deteriorated Water Well that has been Capped.

**Administratively Complete** – the status of an Application for an Operating Permit received by the District that includes all documentation and Fees required by Texas Water Code Sections 36.113 and 36.1131 and District Rules. In order for an Application to be deemed Administratively Complete, it must include all administrative and technical information required by the District and there must be no unresolved District Enforcement Actions against the Applicant or involving the Water Well.

**Agent** – one who is authorized to act for or in place of another; a representative. For purposes of these Rules, this includes a Person who reasonably appears to have authority to act for another, regardless of whether actual authority has been conferred.

**Aggrieved Party** – for purposes of District Rule 7.1 and Texas Water Code Section 36.119, a landowner or other Person who has a right to produce Groundwater from land that is adjacent to the land on which the Water Well subject to a complaint is located, or who owns or otherwise has a right to produce Groundwater from land that lies within one-half mile of the subject Water Well.

**Agricultural Use or Purpose** – the use of Groundwater for:

- (1) cultivating the soil to produce crops for human food, animal feed, or planting seed or for the production of fibers;
- (2) practicing floriculture, viticulture, silviculture, and horticulture, including the cultivation of plants in containers or non-soil media, by a nursery grower;

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- (3) 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;
- (4) 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;
- (5) engaging in wildlife management as defined in Texas Tax Code Section 23.51(7);
- (6) raising or keeping equine animals; and
- (7) operating a confined animal feeding operation under a permit issued by the Texas Commission on Environmental Quality.

**Annual Water Production Report for Exempt Oil and Gas Water Supply Wells** - a District form required to be completed and submitted under Rule 5.4.

**Applicant** – a Person who signs an Application submitted to the District.

**Application** – a written submission to the District requesting authorization from the District for certain actions set out in District Rules.

**Aquifer Exemption** – approval by the U.S. Environmental Protection Agency required in conjunction with approving a Class III Underground Injection Control (UIC) permit under the Safe Drinking Water Act and Texas Water Code Chapter 27, finding under 40 Code of Federal Regulations Section 144.7(b) and 30 Texas Administrative Code Section 331.13 that an underground aquifer is not suitable for or used for drinking water purposes.

**Area of Review or AoR** – a geographic area, the boundaries of which are determined in accordance with Rule 4.2.E.

**Area of Review Mitigation Plan** – a plan for avoiding any natural conduits and the proper Plugging of any artificial penetrations identified when evaluating an AoR under Rules 4.2.E and 14.3.C.

**Area Permit** – a permit for a Class III Injection Well issued pursuant to Texas Water Code Section 27.011 and 30 Texas Administrative Code Chapter 331 for In Situ Mining of Uranium that authorizes the construction and operation of Production and Monitoring Wells used in operations and restoration associated with In Situ Mining of Uranium. It may authorize two or more similar Class III Injection Wells within a specified area for In Situ Mining of Uranium.

**Area Permit Applicant** – a Person applying for an Area Permit.

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**Area Permit Application** – an application submitted to the Texas Commission on Environmental Quality to obtain an Area Permit for In Situ Mining of Uranium under Texas Water Code Chapter 27 and 30 Texas Administrative Code Chapter 331.

**Area Permit Registered Well** – a Water Well that is used during the development of an Area Permit Application to obtain required pre-Mining geologic, hydrologic, and Groundwater quality information. The Water Well must be registered with the Texas Commission on Environmental Quality under Texas Water Code Section 27.023(b) and 30 Texas Administrative Code 331.221.

**Area Permit Registered Well Production Report** – a report required under Texas Water Code 27.024(a)(4), 30 Texas Administrative Code 331.223, and District Rule 9.2.B.

**Artesian Pressure** – where Groundwater is confined in an aquifer under pressure so that the Groundwater will rise in the Well casing or drilled hole above the bottom of the confining bed overlying the aquifer.

**Back-Up Well** – a Replacement Well intended to be used on a temporary basis to replace Production from a Water Well that is not functioning at its Production Capacity due to aquifer conditions or the need for repair or maintenance.

**Beneficial Use or Purpose** – the use of Groundwater for:

- (1) Agricultural Use, Domestic Use, Livestock Use, municipal use, mining , Industrial Use, Commercial Use, recreational use, or pleasure purposes;
- (2) exploring for, producing, handling, or treating oil, gas, sulphur, or other minerals; or
- (3) any other purpose that is useful and beneficial to the user.

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

**Board** – the Board of Directors of the Kenedy County Groundwater Conservation District.

**Buffer Area** – an area determined using the method described in Rule 14.3.B(1) for the distance required by any relevant District Rule.

**Cap, Capped or Capping** – In reference to a Water Well, placing on a Water Well a covering that is capable of preventing surface pollutants from entering the Water Well and sustaining a weight of at least 400 pounds per square inch and constructed in such a way that the covering cannot be easily removed by hand.

**Cased Exploration Completion Report** – Railroad Commission Form SMRD-8U.

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**Cased Uranium Exploration Well** – a cased Well subject to a Uranium Exploration Permit.

**Cased Well Production Report** – a monthly report required under District Rule 9.1.B, which includes the total amount of Groundwater produced by each Cased Uranium Exploration Well used for Monitoring Purposes or for Rig Supply Purposes and that is located in the area subject to the Uranium Exploration Permit.

**Certificate of Production-Limit-Acreage** – documentation reflecting the Production Limit under an Operating Permit including the acreage upon which the Production Limit is based.

**Citizen Suit Complaint** – a written complaint filed pursuant to Rule 7.1 by an Aggrieved Party citing to Texas Water Code Section 36.119 alleging drilling or operating a Water Well without the required District authorization or producing Groundwater in violation of a District Rule adopted under Texas Water Code Section 36.116(a)(2).

**Class III Injection Well** – an injection well used for the extraction of minerals, including In Situ Mining of Uranium.

**Class A Production Well** – Non-Exempt Well or Wells operated under a single Operating Permit collectively capable of producing Groundwater at an annualized rate of not more than 45 gallons per minute and completed in any aquifer or geologic unit, including within a Zone.

**Class B Production Well** – Non-Exempt Well or Wells operated under a single Operating Permit collectively capable of producing Groundwater at an annualized rate of over 45 and not more than 80 gallons per minute and completed in any aquifer or geologic unit, including within a Zone.

**Class C Production Well** – Non-Exempt Well or Wells operated under a single Operating Permit collectively capable of producing Groundwater at an annualized rate of more than 80 gallons per minute, but does not include Non-Exempt Well or Wells producing from a Zone or those classified as Class D Non-Zone Production Wells.

**Class D Municipal/Electric Zone Production Well** – a Class D Production Well screened to produce Groundwater from a Zone, if the Groundwater produced by the Water Well will be for Municipal/Electric Use.

**Class D Municipal/Electric Zone Production Permit** – a Production Permit covering Class D Production Wells producing Groundwater from a Zone, if the Groundwater produced under the permit will be for Municipal/Electric Use.

**Class D Non-Zone Production Well** – Class D Production Well outside a Zone that is screened to produce Groundwater from the Evangeline Aquifer in a depth below



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2,500 feet, the Burkeville Confining Unit, the Jasper Aquifer, or any other aquifer or formation deeper/below the Jasper Aquifer.

**Class D Production Permit Application Fee** – as established by Rule 1.8.B, an amount of money assessed to an Applicant for a Class D Production Well designed to cover the cost to the District of hiring an outside consultant to perform a technical review of the Application.

**Class D Production Well** – Non-Exempt Well or Wells operated under a single Operating Permit producing Groundwater at an annualized rate of more than 80 gallons per minute and from a Zone, the Evangeline Aquifer in a depth below 2,500 feet, the Burkeville Confining Unit, the Jasper Aquifer, or any other aquifer or formation deeper/below the Jasper Aquifer.

**Class D Zone Production Well** – Class D Production Well screened to produce Groundwater from the GCML1 Zone or the GCUL1 Zone other than for Municipal/Electric Use.

**Commercial Use or Purpose** – the use of Groundwater to supply water to properties or establishments that are in business to build, supply or sell products, or provide goods, services or repairs and that use Groundwater in those processes, or to supply Groundwater to the business establishment primarily for employee and customer conveniences (i.e., flushing of toilets, sanitary purposes, or limited landscape watering). Does not include Agricultural Use, Livestock Use, Industrial Use, Oil and Gas Use, Temporary Rig Supply, Oil or Gas Secondary Recovery Supply, or Irrigation Use.

**Completion of a Well or Completed Well** – when construction of a Water Well is finished, excluding setting the pump. Includes drilling, setting casing, cementing, and constructing the surface pad.

**Confidential Information** – in the context of District Rules 9.1.C(4) and 9.2.A(4) information submitted to the Texas Railroad Commission that has been deemed not essential for public review as determined by the Texas Railroad Commission under Natural Resources Code section 131.048 and 16 Texas Administrative Code section 11.74.

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

**Contested Case Hearing** – an Operating Permit hearing requested as authorized by Rule 8.5.A, which is noticed and conducted according to the procedures of Rule 8.5 and as applicable, Rule 8.6.

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**Contested Case Hearing Fee Deposit** – Under Texas Water Code Section 36.416(c) and District Rule 8.6.C, the amount required to be provided to the District by a Person who submits a Contested Case Hearing Request, including a request for the Contested Case Hearing to be conducted by SOAH.

**Contested Case Hearing Request** – A written request asking that the District convene a Contested Case Hearing, made within 20 days of issuance of an order or resolution under Rule 8.4.I ruling on an Application for an Operating Permit.

**DFC Hearing Summary Report** – the report required by Texas Water Code Section 36.108(d-2) that includes a summary of relevant comments received on the GMA-16 Joint Planning Committee's proposed DFCs, any suggested revisions to the proposed DFCs, and the basis for the revisions.

**DFC Explanatory Report** – the report prepared by the GCDs in the GMA-16 Joint Planning Committee after final adoption of the DFCs, as required by Texas Water Code 36.108(d-4).

**Depth to the Bottom of the Screen** – the distance from the surface of the ground to the deepest point at which Groundwater can enter the Water Well, expressed in feet.

**Designated Brackish Groundwater Production Zone** – a three-dimensional area of an aquifer or geologic unit identified and designated by the Texas Water Development Board implementing House Bill 30, R.S. 84<sup>th</sup> Sess. (2015) as an area for brackish Groundwater development, which is located within the District. Also referred to as a Zone or a Designated Brackish Groundwater Production Zone.

**Desired Future Conditions or DFCs** – a quantitative description, adopted in accordance with Texas Water Code section 36.108, of the desired condition of the Groundwater resources in a Groundwater Management Area at one or more specified future times.

**Deteriorated Water Well** – a Water Well that, because of its condition, will cause or is likely to cause Pollution of any water in the State, including Groundwater.

**Dewatering Well** – an artificial excavation that is constructed to produce Groundwater to lower the Water Table or potentiometric surface and that is not used to produce or to facilitate the production of minerals under a state regulatory program.

**Director** – an elected or appointed member of the Board.

**District** – the Kenedy County Groundwater Conservation District (KCGCD) or one of its authorized representatives.

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**District Investigation Report** – a report prepared by the District summarizing its investigation of a possible violation of law within the District's jurisdiction and making a recommendation to the Board regarding any further action.

**District Office** – the main office of the District at such location as may be established by the Board.

**District Well Number** – a four-digit number assigned to each Water Well at the time it is Registered with the District. The District Well Number is reflected in the Well Registration Certificate.

**Domestic Use or Purpose** – the use of Groundwater by an individual or household to support domestic activity. Such use may include water for drinking, washing, or culinary purposes; for irrigation of lawns, or of a family garden and orchard; for watering domestic animals; and for water recreation including aquatic and wildlife enjoyment. This includes non-commercial temporary lodging for purposes of recreational enjoyment. Domestic Use does not include Groundwater used to support activities for which a Person is being paid or for which the product of the activity is sold.

**Driller's Log** – see definition of State of Texas Well Report.

**Drought Contingency Plan** – a written plan reflecting a Water Well Owner's temporary supply management and demand management response to temporary and potentially recurring water supply shortages and other water supply emergencies.

**Electric Log** – a record of certain electrical characteristics (such as resistivity and conductivity) of formations traversed by the borehole. It is made to identify the formations, determine the nature and amount of fluids they contain, and estimate their depth. It is a type of Geophysical Log.

**Emergency Rule** – a Rule adopted under Rule 8.2.

**Emergency Temporary Order** – an order issued under Rule 12.5 when the District finds that an imminent peril to public health, safety, or welfare requires the immediate entry of an order to prohibit Waste or Pollution.

**Enabling Legislation** – special law enactments that created the District, as summarized in Rule 1.1.A and as may be amended or codified.

**Enforcement Action** – an action taken by the District to enforce District Rules, orders, or permits, or any other law within its enforcement authority.

**Enforcement Hearing** – a hearing held under Rule 8.7.

**Environmental Soil Borings** – an artificial excavation constructed to measure or monitor the quality and quantity or movement of substances, elements, chemicals or fluids

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beneath the surface of the ground. The term does not include any Well that is used in conjunction with the Production of oil, gas, or any other minerals.

**Exempt Oil and Gas Water Supply Use or Purpose** – the use of Groundwater to supply an Exempt Oil and Gas Water Supply Well.

**Exempt Oil and Gas Water Supply Well** – a Temporary Rig Supply Well or a Secondary Recovery Supply Well.

**Exempt Well** – a Water Well that is not required to obtain an Operating Permit, as described in Rule 3.1.A.

**Existing Non-Exempt Well** – an Existing Well that requires an Operating Permit under Rule 3.1.B.

**Existing Well** – a Water Well drilled prior to or on October 8, 2008.

**Existing Well Control Data** – existing publicly available data regarding Wells within a 3-mile Buffer Area determined as described in Rule 14.3.B(1). The data includes the information listed in Rule 14.3.B(2)

**Exploration Groundwater Quality Information** – Groundwater quality information collected or obtained by a Uranium Exploration Permittee pursuant to Texas Natural Resources Code Section 131.357 and 16 Texas Administrative Code Section 11.141. This information must be provided to the District under Rule 9.1.C.

**Fees** – charges imposed by the District pursuant to Texas Water Code Chapter 36.

**GCML1 Zone** – one of the Zones defined as GCML1 in the Zone Designation Memo that is partially within District boundaries.

**GCUL1 Zone** – one of the Zones defined as GCUL1 in the Zone Designation Memo that is partially within District boundaries.

**GMA-16 Joint Planning** – the process required under Texas Water Code Section 36.108 during which Groundwater Conservation Districts wholly or partially within Groundwater Management Area-16 conduct Groundwater resource planning, including adopting DFCs.

**GMA-16 Joint Planning Committee** – the group comprised of all GCDs in Groundwater Management Area-16 organized for the purposes required under Texas Water Code section 36.108, including adoption of a DFC.

**General Manager** – the general manager of the Kenedy County Groundwater Conservation District.

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**Geophysical Log** – physical measurements of various geophysical properties of subsurface rock formations. The Log is made by instruments lowered into the borehole and can be open borehole. An Electric Log is one category of Geophysical Log.

**Groundwater** – water percolating beneath the earth's surface, except the underflow of rivers, streams and lakes, which is considered State water under Texas Water Code Section 11.021(a).

**Groundwater Conservation District (GCD)** – a governmental entity formed by special legislation or through a petition to the Texas Commission on Environmental Quality with the power and duties to manage Groundwater resources within its boundaries.

**Hearings Examiner** – a Person, other than a District Director, appointed by the Board to conduct a hearing on an Operating Permit, or District Enforcement Action.

**Inactive Well** – a Water Well that not equipped to produce Groundwater.

**Industrial Use or Purpose** – Groundwater used in processes designed to convert materials of a lower order of value into forms having greater usability and commercial value, including commercial fish and shellfish production, aquaculture, and the development of power by means other than hydroelectric, but does not include Agricultural Use or Purpose. Water used for Oil and Gas Purposes, Uranium Exploration Activities, hydrogen production, direct air capture, or carbon sequestration is considered Industrial Use or Purpose.

**Injection Water Source Well** – A Well associated with oil or gas activities that penetrates the base of usable quality and that is permitted by the Railroad Commission of Texas under Chapter 91 of the Texas Natural Resources Code.

**In Situ Mining of Uranium** – the use of an injection Well for recovery of uranium.

**Involuntary Amendment** – a Permit Amendment of an Operating Permit initiated by the District under Rule 3.8.F.

**Irrigation Use or Purpose** – the use of Groundwater for watering crops, trees, and pasture land and golf courses and parks that do not receive water through a municipal distribution system. Watering crops or pasture for Livestock Use is considered an Irrigation Use, except to the extent it falls within the definition of Domestic Use.

**Lift Method** – methods of developing Injection or Recovery Wells associated with In Situ Uranium Mining, which must be appropriate for local conditions. Well development removes remaining drilling mud, cuttings, and fine particles (i.e., silt and clay) from inside the Well, the screen, and the surrounding gravel/sand pack.

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**Lithological Log** – a graphic representation of geological formations being drilled through and drawn on a log called a mud log. As cuttings are circulated out of the borehole, they are sampled and examined to create the mud log or Lithological Log.

**Livestock Use or Purpose** – the use of water for the watering of livestock, poultry, or wildlife, including exotic livestock, game animals, fur-bearing animals, birds, or waterfowl and for maintaining aquatic life. Aquaculture is not Livestock Use but is Industrial Use. Livestock Use includes watering livestock that are kept for pleasure, recreational use, or Commercial Use, but does not include the use of water at confined animal feeding operations permitted by the Texas Commission on Environmental Quality.

**Major Amendment** – a change made to an Operating Permit reflecting an increase in the Production of Groundwater or in the Production Capability of a Water Well to produce Groundwater, or other change in a Permitted Well as described in Rule 3.8.E(3).

**Management Plan or Groundwater Management Plan** – a plan developed by the District pursuant to Texas Water Code Section 36.1071.

**Minor Amendment** – a change made to an Operating Permit reflecting a change in the type of use of a Water Well; the Well size or Well Depth, including Depth to the Bottom of the Screen, the Well pump, or its pumping volume that does not increase the Production Capability or amount; or a change to the approved water Conservation plan or Drought Contingency Plan, or other change in a Permitted Well as described in Rule 3.8.E(4).

**Modeled Available Groundwater** – the amount of water calculated by the Texas Water Development Board under Texas Water Code 36.1084(b) based upon the Desired Future Condition(s) adopted by the Groundwater Conservation Districts in a Groundwater Management Area and is one of the elements to be considered by a district when making permitting decisions. Also referred to as MAG.

**Monitoring Use or Purpose** – to measure the level, quality, quantity, or movement of subsurface water.

**Monitoring Well** – a Well used solely to measure one or more properties of Groundwater or the aquifer or geologic unit that the Well penetrates.

**Municipal/Electric Use or Purpose** – the use and treatment of Groundwater for a municipal project designed to treat brackish Groundwater to drinking water standards for the purpose of providing a public source of drinking water or for use in an electric generation project to treat brackish Groundwater to water quality

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standards sufficient for the project needs, as described in Texas Water Code section 36.1015(d).

**New Non-Exempt Well** – A New Well that requires an Operating Permit under Rule 3.1.B.

**New Well** – a Water Well drilled after October 8, 2008 or an Existing Water Well that has been changed after October 8, 2008 in such a manner that the Well requires an Operating Permit or a Major Amendment.

**Non-Zone Underground Strata** – in the context of an Application for an Operating Permit for a Class D Non-Zone Production Well, the aquifer in which the Class D Non-Zone Production Wells are screened, all adjacent aquifers, subdivision of aquifers, and geologic strata.

**Non-Exempt Well** – a Water Well that requires an Operating Permit under Rule 3.1.B.

**Notice of Application** – notification that an Applicant for an Operating Permit for a Class D Production Well shall provide under Rule 14.5 when the Application is filed with the District.

**Notice of Violation (NOV)** – written correspondence from the District notifying a Person that they are in violation of District Rules, orders, or Operating Permit, or other law within the District's enforcement authority.

**Oil and Gas Use or Purpose** – a type of Industrial Use, which includes the use of Groundwater for cooling water or boiler water at gas plants; use as solution of underground salt in mining brine or hydrocarbon storage cavern creation; hydrostatic test water for pipelines and tanks; rig wash water; coolant for internal combustion engines for rigs, compressors, and other equipment; for sanitary purposes; for laboratory purposes; or any other use by an oil or gas company in conducting oil and gas operations, excluding Commercial Use or Purpose or use for Exempt Oil and Gas Water Supply Purposes.

**Open Meetings Act** – Texas Government Code, chapter 551.

**Open or Uncovered** – when referring to a Water Well, a non-Deteriorated Water Well that is open at the surface. This includes a Water Well that is left unattended without a pump installed or with the pump removed.

**Operating Permit or Production Permit** – an authorization issued by the District under Rule 3, which allows a Non-Exempt Well to be drilled and operated, producing Groundwater.

**P-13** – Railroad Commission form, "Application of Landowner to Condition an Abandoned Well for Fresh Water Production," used to comply with Railroad Commission rule 3.14.

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**Party** – In the context of a Contested Case Hearing, the Applicant and any other Person designated as a party by the Presiding Officer under Rule 8.5.B.

**Permit Amendment** – approval required for a change to the operation, use, or condition of a Water Well with an Operating Permit. Permit Amendments are either Minor Amendments or Major Amendments, as described in Rule 3.8.E.

**Permitted Well** – A Water Well for which an Operating Permit has been issued and remains in effect.

**Permittee or Permit Holder** – a Person who holds an Operating Permit issued by the District.

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

**Piezometer Well** – a Well of a temporary nature constructed to Monitoring Well standards used to measure water levels or used to install a piezometer to determine the appropriate location and Well Depth of permanent Monitoring Well.

**Plug, Plugged or Plugging** – With reference to a Well, an absolute Sealing of the Well bore, resulting in the permanent closure of a Well in accordance with approved State and District standards.

**Pollution** – the alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water that renders the water harmful, detrimental, or injurious to humans, animals, vegetation, or property, or to public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any reasonable purpose.

**Pre-Application Meeting** – a conference required under Rule 14.2 prior to submittal of an Application for an Operating Permit for a Class D Production Well.

**Pre-Application Monitoring Well** – a Monitoring Well required under Rule 14.3.D to be constructed prior to submitting an Application for an Operating Permit for a Class D Production Well.

**Pre-Application Test Well** – a Water Well constructed to obtain information about Groundwater quality and aquifer conditions to support an Application for an Operating Permit for a Class D Production Well, as required by Rule 14.3.D.

**Pre-Application Well Control Data** – in the permitting process for a Class D Production Well, data developed as required under Rule 14.3.D(2).



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**Pre-Mining Water Quality Information** – water quality information collected or obtained by an Area Permit Applicant under Texas Water Code Section 27.024(a), and 30 Texas Administrative Code Chapter 331 and to be reported to the District under 30 Texas Administrative Code 331.223(a)(3) and District Rule 9.2.A(3).

**Preliminary Hearing** – the hearing held under Rules 8.5.C through 8.5.F to consider issues relevant to a Contested Case Hearing Request. It is considered to be the beginning of a Contested Case Hearing unless it results in a finding that no Person requesting a Contested Case Hearing has standing or that no justiciable issue related to the Application has been raised.

**President** – the President of the Board.

**Presiding Officer** – either the President of the Board, a Director, or the Hearings Examiner designated under Rule 8.5.H to conduct a Contested Case Hearing. Also refers to the Person under Rule 8.7.F who is designated to conduct an Enforcement Hearing.

**Production or Groundwater Production** – withdrawal of Groundwater from a Well.

**Production Capability or Capacity** – the volume of Groundwater a Water Well can produce as determined by either the rated pumping capability of the installed pump or as reasonably determined by the District.

**Production Limit** – a numerical limitation on the annual amount of Groundwater authorized to be produced under an Operating Permit. The Production Limit is generally expressed in acre-feet per year or gallons per year and is calculated as provided in Rule 11.

**Production-Limit-Acreage** – contiguous acreage owned by the Applicant or for which the Applicant has Groundwater Production rights and upon which the Production Limit in an Operating Permit is based.

**Production Monitoring Well** – a Monitoring Well designed to measure Groundwater quantity and quality in water produced from a Water Well.

**Production Monitoring Well Plan** – a plan containing all requirements of Rule 14.4.H designed to measure Groundwater quantity and quality under an Operating Permit for a Class D Production Well.

**Production Permit** – see definition of Operating Permit.

**Public Hearing** – a District Board meeting that, at a minimum, has been noticed under the Open Meetings Act, at which the District Board considers a matter and provides an opportunity for the public to comment on that matter.

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**Public Water Supply Well** – a Water Well used as the source of water for a public water system as defined in 30 Texas Administrative Code Section 290.38(47).

**Recharge** – the amount of water that infiltrates to the Water Table of an aquifer.

**Recovery Well** – a Well constructed for the purpose of recovering undesirable Groundwater for treatment or removal of contamination.

**Regional Water Planning Group** – the planning groups established by the Texas Water Development Board under Texas Water Code Section 16.053. that generate Regional Water Plans every five years as required by Texas Water Code Section 16.053.

**Registration, Register, Registered, or Registering** – In the context of a Water Well, the process required for all Water Wells in the District under Rule 3.2 whereby the District maintains an inventory of Water Wells and determines if a Water Well requires an Operating Permit.

**Replacement Well** – a Water Well designed to replace a Registered or Permitted Well that fulfills the requirements of Rule 3.8.G.

**Respondent** – a Person who receives a Notice of Violation or other correspondence from the District regarding the Person's non-compliance with District Rules or other law within the District's enforcement authority.

**Rig Supply Use or Purpose** – supplying Groundwater to a rig actively engaged in drilling or exploration operations for minerals or oil or gas.

**Rig Supply Well** – a Water Well used as a water supply for a Rig Supply Use or Purpose.

**Rules or District Rules** – standards and regulations promulgated by the District.

**Secondary Recovery Supply Well** – a Water Well supplying Groundwater for secondary recovery of oil or gas. A Water Well is considered to be a Secondary Recovery Supply Well during any period that Groundwater from the Water Well is used solely or partially for this purpose. A type of Exempt Oil and Gas Water Supply Well. Does not include uses that qualify as Oil and Gas Uses.

**SOAH Contested Case Hearing** – a Contested Case Hearing administered by the State Office of Administrative Hearings because of a request made under Texas Water Code 36.416(b).

**Special Permit Conditions** – requirements in an Operating Permit determined on a case-by-case basis based on the data provided during the Application process or as otherwise authorized by District Rule.

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**State Office of Administrative Hearings (SOAH)** – the executive branch State agency with jurisdiction to hold Contested Case Hearings for administrative agencies and for Groundwater Conservation Districts as provided in Texas Water Code Chapter 36 and District Rule 8.6.

**State of Texas Plugging Report** – the report that a Person who Plugs a Water Well is required to complete under 16 Texas Administrative Code Section 76.700(2).

**State of Texas Well Report** – the report that every Water Well driller who drills, completes, deepens, or alters a Water Well is required to complete under the Texas Department of Licensing and Regulation rules, as defined in 16 Texas Administrative Code Sections 76.10(45) and 76.700(1). Also commonly referred to as the Driller's Log or Well Log.

**Subsidence Minimization Plan** – a document describing measures to halt or minimize subsidence as required by Rule 14.12.B.

**Subsidence Monitoring Plan** – a document describing measures to monitor subsidence during the duration of an Operating Permit for a Class D Production Well under Rule 14.4.I.

**Tag, Tagged, or Tagging** – In the context of Water Wells, placing an official seal, tag, or label on a Water Well or its equipment, to indicate that further pumping of Groundwater, or operation of the Water Well is unauthorized and will be in violation of District Rules.

**TDS** – total dissolved solids or an estimate based on specific conductance.

**Technically Complete** – the status of an Application for a Class D Municipal/Electric Zone Production Permit containing all technical information and data in compliance with the Rules and the TWDB Technical Report.

**Temporary Rig Supply Well** – a Water Well supplying water to a rig that is actively engaged in drilling or exploration operations for an oil or gas Well permitted by the Railroad Commission of Texas located on the same lease or field on which the drilling rig is located or is in close proximity to the drilling rig, including drilling or workover rigs. Exploration operations include Well Completion and workover, including hydraulic fracturing operations. A Water Well is considered to be a Temporary Rig Supply Well during any period that Groundwater from the Water Well is used solely or partially for this purpose. If the source of water for this use is a stock tank and the source of water for the stock tank is a Water Well, during the period of such use, the Water Well supplying the stock tank is considered to be a Temporary Rig Supply Well. A type of Exempt Oil and Gas Water Supply Well. Does not include uses that qualify as Oil and Gas Uses.

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**Test Well** – A Water Well used to assess and/or test the geologic and hydraulic properties of an aquifer or geologic unit. A series of Test Wells may be drilled to determine the most effective location for a Water Well.

**TWDB** –Texas Water Development Board.

**TWDB Technical Report** – a document and associated digital information prepared by the staff of the Texas Water Development Board as required by Texas Water Code section 36.1015(h) containing the review of an Application for a Class D Municipal/Electric Zone Production Permit that includes:

- (1) findings regarding the compatibility of the proposed Well Field design with the Designated Brackish Groundwater Production Zone; and
- (2) recommendations for the Production Monitoring Well Plan described by Texas Water Code section 36.1015 (e)(4) and District Rule 14.4.H.

**Uranium Exploration Activities** – the disturbance of the surface or subsurface for the purpose of or related to determining the location, quantity, or quality of a uranium deposit.

**Uranium Exploration Permit** – a permit issued by the Railroad Commission of Texas pursuant to Texas Natural Resources Code, Chapter 131, Subchapter I, as amended, and 16 Texas Administrative Code, Chapter 11, Subchapter C, as amended, authorizing the exploration for uranium.

**Uranium Exploration Permittee** – a Person who holds a Uranium Exploration Permit.

**Uranium Exploration Permit Year** – the initial year during which a Uranium Exploration Permit is in effect and every additional year it remains in effect under a renewal.

**Variance** – an authorized exception to requirements or provisions of the Rules granted by the District in accordance with Rules 1.7, 10.5, or 14.13.

**Waste** –

- (1) The withdrawal of Groundwater from a Groundwater reservoir at a rate and in an amount that causes or threatens to cause intrusion into the reservoir of water unsuitable for Agricultural Purposes, Domestic Purposes, or Livestock Purposes. The flowing or producing of Wells from a Groundwater reservoir if the Groundwater produced is not used for a Beneficial Purpose.
- (2) The escape of Groundwater from one Groundwater reservoir or aquifer to any other reservoir or geologic strata that does not contain Groundwater.

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- (3) The Pollution or harmful alteration of Groundwater in a Groundwater reservoir or aquifer by saltwater or by other deleterious matter admitted from another stratum or from the surface of the ground.
- (4) Willfully or negligently causing, suffering, or allowing Groundwater to escape into any river, creek, natural watercourse, depression, lake, reservoir, drain, sewer, street, highway, road, or road ditch, or onto any land other than that of the owner of the Water Well unless such discharge is authorized by permit, Rule, or order issued by the Texas Commission on Environmental Quality under Texas Water Code Chapter 26 "Water Quality Control."
- (5) Groundwater pumped for Irrigation that escapes as irrigation tailwater onto land other than that of the owner of the Water Well unless permission has been granted by the occupant of the land receiving the discharge.
- (6) With regard to Groundwater from an artesian Water Well, the following also is considered Waste. Unless the Groundwater from an artesian Water Well is used for a purpose and in a manner in which it may be lawfully used on the owner's land, it is Waste and unlawful to willfully cause or knowingly permit the Groundwater to run off the owner's land or to percolate through the stratum above which the Groundwater is found.
- (7) Operating a deteriorated well.
- (8) Drilling or operating a Water Well or Water Wells without a required Operating Permit or producing Groundwater in violation of a District Rule adopted under Texas Water Code Section 36.116(a)(2).

**Water Pollution Event** – a spill or release of contaminants into the environment that is required by State law to be reported to the Texas Commission on Environmental Quality or the Railroad Commission of Texas because of its potential or actual Pollution of surface water or Groundwater.

**Water Table** – the surface between the vadose zone and the saturated zone. That surface of unconfined Groundwater at which the pressure is equal to that of the atmosphere.

**Water Well** – an artificial excavation constructed to explore for or produce Groundwater or test or monitor Groundwater quality. The term does not include a test or blast hole in a quarry or mine or a Well or excavation constructed to explore for or produce oil, gas, or other minerals or an Injection Water Source Well associated with oil or gas activities that penetrates the base of usable quality water. The term does include an Abandoned Oil or Gas Well that can be conditioned for usable quality Groundwater Production.

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**Water Well Operator** – a Person who has the right to produce or use Groundwater, but who does not own the Water Well.

**Water Well Owner** – a Person who has the right to drill a Water Well and to produce or use Groundwater and who owns the Water Well once drilled.

**Water Wells Associated with Uranium Exploration and Mining** - Water Wells subject to District Rule 9.

**Well** – an artificial excavation to explore for or produce water or minerals or to inject water or other substances into the subsurface.

**Well Depth** – distance from the surface to the bottom of the borehole, expressed in feet.

**Well Field** – a group of Water Wells producing Groundwater under one Operating Permit.

**Well Log** – see definition of State of Texas Well Report.

**Well Registration Certificate** – a document issued to the Water Well Owner when a Water Well is Registered with the District. The Well Registration Certificate includes the District Well Number, the WGS 84 Decimal Degrees GPS co-ordinates of the Well, and Water Well Owner's name, and the Water Well Owner's name for the Well.

**WGS 84 Coordinates** – The most common geodetic system upon which latitude and longitude values can be based. This is the most common global coordinate system used by, and often the default system on, all GPS equipment. Same as WGS 84 Decimal Degrees.

**WGS 84 Decimal Degrees** – See WGS 84 Coordinates.

**Zone** – see definition of Designated Brackish Groundwater Production Zone.

**Zone Designation Memo** – Texas Water Development Board October 6, 2016 intraoffice correspondence designating, among other Zones, the GCUL1 and the GCML1 located, at least partially, in the District. (A copy of the Zone Designation Memo is found in Appendix A of these Rules and can also be obtained from the District Office.)

**Zone Underground Strata** – in the context of an Application for an Operating Permit for a Class D Production Well screened in a Zone, the same or an adjacent aquifer, subdivision of an aquifer, or geologic stratum in which the Zone is located.

*Adopted October 8, 2008, by Board Order; effective October 8, 2008. Amended July 25, 2012, by Board Order; effective July 25, 2012. Amended January 20, 2016, by Board Order; effective January 20, 2016. Amended March 21, 2018, by Board Order; effective March 21, 2018. Amended*

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*June 16, 2021, by Board Order; effective June 16, 2021. Adopted August 16, 2024, by Board Order; effective August 16, 2024.*

**Rule 3: REGISTRATION AND PERMITTING**

**3.1 Wells Subject to Operating Permits and Exemptions**

**A. Wells Exempt From Obtaining an Operating Permit (Exempt Wells)**

- (1) A Water Well used solely for Domestic Use or Livestock Use unless the Well will be used to supply water for a subdivision of land for which a plat approval is required by Chapter 232, Local Government Code.
- (2) A Temporary Rig Supply Well which is a type of Exempt Oil and Gas Water Supply Well.
- (3) A Secondary Recovery Supply Well, which is a type of Exempt Oil and Gas Water Supply Well.
- (4) A Water Well authorized under a permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code (Texas Surface Coal Mining and Restoration Act), or for Production from such a Well to the extent the withdrawals are required for mining purposes regardless of any subsequent use of the water.
- (5) A Water Well Exempt under Rule 9: Water Wells Associated With Uranium Exploration and Mining.
- (6) A Monitoring Well drilled and Completed solely for purposes of aquifer testing, including a Test Well.
- (7) An otherwise Exempt Well remains exempt during the temporary use or sale of Groundwater for construction purposes during the duration of a specific project.
- (8) An otherwise Exempt Well remains exempt during the temporary use or sale of Groundwater for Exempt Oil and Gas Water Supply Purposes, but water produced for that purpose must be metered, and reported, as required by Rule 5.4.

**B. Wells Requiring an Operating Permit (Non-Exempt Wells)**

- (1) A Water Well that requires an Operating Permit under this Rule 3.1.B is referred to as a Non-Exempt Well.
- (2) An Operating Permit must be obtained under Rule 3.4 for a Water Well that does not qualify for an exemption under Rule 3.1.A or a Water Well that was exempt under Rule 3.1.A(1) if the Groundwater withdrawal is no longer used solely for Domestic Use or Livestock Use.



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*Adopted October 8, 2008, by Board Order; effective October 8, 2008. Amended July 25, 2012, by Board Order; effective July 25, 2012. Amended January 20, 2016, by Board Order; effective January 20, 2016. Amended June 16, 2021, by Board Order; effective June 16, 2021. Amended August 16, 2024, by Board Order; effective August 16, 2024.*

### **3.2 Required Registration of Water Wells**

- A.** All Water Wells must be Registered with the District.
- B.** All Existing Wells that were drilled prior to or on October 8, 2008 must be Registered with the District.
- C.** Beginning on October 9, 2008, no Water Well shall be drilled or operated without first Registering the proposed Water Well with the District. Such Water Wells are referred to as New Wells.
- D.** As part of the District's continuing effort to ensure the quality of its Groundwater by including in its database as much information as possible related to artificial penetrations into or through water-bearing strata, the District requires Registration of Abandoned Oil or Gas Wells as set out in this Rule 3.2.D. Ownership of these Abandoned Oil or Gas Wells generally has been transferred to the landowner. This transfer may or may not be evidenced by submittal of a P-13 to the Railroad Commission.
  - (1)** When the owner of an Abandoned Oil or Gas Well that was abandoned prior to or on October 8, 2008, becomes aware of its existence and locates the Abandoned Oil or Gas Well, the owner must Register it with the District within six months after locating the Abandoned Oil or Gas Well. It will be considered an Existing Well and if it is not being used for Production, it must be Capped or Plugged as required in Rule 6.
  - (2)** After July 25, 2012, if an Abandoned Oil or Gas Well will be conditioned for Production, the owner must Register the Well with the District prior to submitting to the Railroad Commission, Form P-13. It will be considered to be a New Well.
  - (3)** A Water Well that is the subject of a P-13 that was filed with the Railroad Commission prior to July 25, 2012 but has not been Registered with the District as of that date, must be Registered.
  - (4)** If a Water Well classified as a P-13I is not equipped to produce Groundwater, it must be Registered as an Inactive Well and must be Plugged or Capped under the requirements of District Rule 6.2 until such time as it becomes operational. The District must be notified when it becomes operational, as required by Rule 3.8.A(2).
- E.** At the time of Registration, the District will determine whether the Water Well is a Non-Exempt Well. An Operating Permit must be obtained for a Non-Exempt Well. A Non-

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Exempt Well shall not be drilled or operated prior to District approval of an Operating Permit, except as stated in Rule 3.4.D.

*Adopted October 8, 2008, by Board Order; effective October 8, 2008. Amended July 25, 2012, by Board Order; effective July 25, 2012. Amended August 16, 2024, by Board Order; effective August 16, 2024.*

**3.3 Information Required for Registration**

**A.** Registration forms are available at the District Office and on the District website. If multiple Water Wells are being Registered at the same time by the same Water Well Owner, the District may establish an alternative method of Registration, for example, submittal of the Water Well Owner's existing Well database.

**B.** The following information is required to Register a New or proposed Water Well. For Registration of an Existing Well, the Water Well Owner shall provide as much of the following information as is reasonably available:

- (1) Name, address, phone number, facsimile number, and e-mail address of the Water Well Owner.
- (2) Name, address, phone number, facsimile number, and e-mail address of the Person submitting the Registration, if different from the Water Well Owner. This Person will be considered to be the Water Well Owner's Agent.
- (3) The Water Well location in WGS 84 Decimal Degrees co-ordinate system and a signed statement by the Registration Applicant that the location complies with the spacing requirements of District Rules 10.3 and 10.4, or that the Applicant has been granted a Variance under Rule 10.5. No statement is required for Existing Wells.
- (4) Casing size, estimated Well Depth, Depth to the Bottom of the Screen, pump size, and Production Capability.
- (5) The type of use for Groundwater from the Water Well based on the definitions in Rule 2.
- (6) For New Wells, as defined in Rule 2, the Fee for Registration if one has been established under Rule 1.8.

**C.** The District shall issue a District Well Number.

**D.** For New Wells, if the District determines that the information is complete; that the Applicant for Registration has stated that the location of the proposed Water Well complies with Rule 10.3 and 10.4 spacing requirements, or that the Applicant has been granted a Variance under Rule 10.5; that no Operating Permit is required; and that there are no unresolved District Enforcement Actions against the Applicant or involving the Water Well, the District shall approve Registration of the Water Well. If the Registration is

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for a New Well, the Registration will serve as authorization to drill and operate the Water Well as described in the Registration. The District will issue a Well Registration Certificate to the Water Well Owner.

**E.** For Existing Wells, if the District determines that the essential information is complete, that no Operating Permit is required, and that there are no unresolved District Enforcement Actions against the Applicant, the District shall approve Registration of the Water Well. Existing Wells are not required to comply with Rule 10 spacing requirements. The District will issue a Well Registration Certificate to the Water Well Owner.

**F.** If no Operating Permit is required, upon approval of the Registration the Water Well Owner may drill the Water Well. A copy of the approved Application for Well Registration and Well Registration Certificate must be on-site while the Water Well is being drilled.

**G.** If the Water Well has not been drilled within 180 days of approval of the Registration and issuance of the Well Registration Certificate, the Registration and Well Registration Certificate will be voided by the District.

**H.** If the District determines that the Water Well is a Non-Exempt Well, the Water Well Owner shall obtain an Operating Permit under Rule 3.4 prior to drilling or operating the Well.

**I.** For proposed Class D Production Wells, the timing of submittal of the Application for Registration of the proposed Water Wells will be determined at the Pre-Application Meeting required by Rule 14.2.

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### **3.4 Required Operating Permit for Non-Exempt Wells**

**A.** An Operating Permit is required for drilling and operating a Non-Exempt Well.

**B.** Operating Permits generally are issued without a termination date. However, all Operating Permits are subject to District Rules as they may be amended from time to time, which may include changes to the perpetual term of Operating Permits based on factors including but not limited to changing Groundwater conditions in the District, changes in demand for Groundwater in the District, or changes in Desired Future Conditions for the District.

**C.** An Existing Non-Exempt Well must apply for an Operating Permit within 60 days of the date the Water Well is Registered with the District under Rule 3.2.B.

**D.** Beginning on October 9, 2008, a Non-Exempt Well shall not be drilled, be operated, or produce Groundwater unless an Operating Permit has been obtained from the District. An Existing Non-Exempt Well shall not be operated or produce water after

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the deadline established in Rule 3.4.C unless the Existing Non-Exempt Well is covered by an Operating Permit, or an Application for an Operating Permit has been filed and approval is diligently being pursued.

*Adopted October 8, 2008, by Board Order; effective October 8, 2008. Amended July 25, 2012, by Board Order; effective July 25, 2012. Amended June 16, 2021, by Board Order; effective June 16, 2021. Amended August 16, 2024, by Board Order; effective August 16, 2024.*

**3.5 Information Required in an Operating Permit Application**

**A.** An Application for an Operating Permit shall be submitted on a form obtained from the District and shall be signed and sworn to by the Water Well Owner as required by Texas Water Code Section 36.113(b). Generally, a separate Application is required for each Water Well, unless more than one Water Well will be covered by the same Production Limit. In that case, each Water Well must be Registered separately but an Operating Permit authorizing the collective operation of the Water Wells shall require a single Application.

**B.** An Application for an Operating Permit for a New Well shall include the information listed in this Rule 3.5. An Application for an Operating Permit for an Existing Well shall include as much of the information as possible. The information required by this Rule 3.5 has been deemed necessary by the District to comply with the requirements of Texas Water Code Chapter 36, its Enabling Legislation, and general law, and is reasonably related to issues that the District is authorized to consider.

**C.** The proposed Production Capacity and source aquifer determine what information is required for an Application for an Operating Permit to be deemed Administratively Complete, as set out in subsections D – G of this Rule 3.5.

**D. Class A Production Wells.** The following information is required in an Application for an Operating Permit for a Class A Production Well:.

- (1) Name, mailing address, phone number, facsimile number, and e-mail address of the Water Well Owner.
- (2) Name, mailing address, phone number, facsimile number, and e-mail of the Person submitting the Application, if different from the Water Well Owner. This Person will be considered to be the Water Well Owner's Agent and the Applicant.
- (3) Name, mailing address, phone number, facsimile number, and e-mail address of the owner of the land on which the Water Well will be located, if different from the Water Well Owner.
- (4) Location and property description of the proposed Water Well, including a location map or property plat. The map or plat must include the name of

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the county, must have a direction indicator, and must identify the scale of the map. The map or plat must be drawn on a scale that adequately details the Water Well site to show compliance with Rule 10 spacing requirements. The map shall include: the property lines; the location of other Water Wells; any existing or proposed wastewater systems; and other potential sources of contamination, including septic systems, within 500 feet of the Water Well. The location map or property plat must include the location of each Water Well to be permitted and provide the GPS coordinate location of each Water Well using WGS 84 Coordinates.

- (5)** If the Production Limit is based on Rule 11.2, the legal description of the Production-Limit-Acreage, and documentation that the Applicant has the authority to tie the land to the Operating Permit when issued. If the Applicant is other than the owner of the property on which the Water Well will be located, documentation is required establishing the authority to construct and operate the Water Well for the proposed use.
- (6)** A copy of the Well Registration Certificate and approved Application for Registration for each Water Well to be covered by the Operating Permit. If the Water Well or Wells to be covered by the Operating Permit were Registered as part of a multi-Well Registration, the Application must include a completed Application for Registration for each covered Water Well.
- (7)** A statement of the nature and purpose of the proposed use.
- (8)** The annual maximum Production Limit requested (in gallons per year or acre-feet per year). For an Existing Well, include documentation showing the annual Production from the Water Well during each of the previous five years. See Rule 11.1. For a New Well, provide documentation relating to the requested Production Limit to the Production-Limit-Acreage. Include the annual amount of Groundwater for each of the proposed uses.
- (9)** The proposed Well Depth, proposed screening interval(s), and the aquifer(s) in which each screened interval is to be located. Initial determination can be made using information from the State-approved GAM model.
- (10)** The location of other Water Wells located on the Production-Limit-Acreage property.
- (11)** The size of the pump to be installed at the Water Well, indicating whether submersible or above ground; the maximum Production Capacity of the pump being installed; and the estimated annualized rate of withdrawal for

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each Water Well to be permitted, including the instantaneous Production rate in gallons per minute.

- (12) Declaration that the Applicant will adhere to the District Management Plan.
- (13) A water Conservation plan showing what water conservation measures the Permittee has adopted, what water conservation goals the Permittee has established, and what measures and time frames are necessary to achieve the Permittee's established water conservation goals.
- (14) A Drought Contingency Plan. A Drought Contingency Plan that has been approved under the requirements of other local, state, or federal law, for example, a Drought Contingency Plan approved under 30 Texas Administrative Code chapter 288, is presumed adequate for purposes of this requirements.
- (15) A statement of the anticipated time period within which the proposed construction or alteration is to begin.
- (16) A statement of the anticipated duration of time required for the proposed use of the water.
- (17) For New Wells, as defined in Rule 2, the Operating Permit Application Fee established under Rule 1.8, if any.
- (18) A sworn statement that the Production-Limit-Acreage property is not subject to Permit for Uranium Mining or an Aquifer Exemption (see Rule 11.2.C) and that the Water Well Owner agrees to notify the District 60 days prior to any changes that would require a change in this sworn statement.
- (19) A sworn statement that the Water Well Owner agrees to notify the District of any changes in Well condition or operations as required by Rule 3.8, to Cap or Plug the Well according to Rules 6.1 and 6.2 if the operation or condition of the Well so warrants, and to report Plugging of the Well to the Texas Department of Licensing and Regulation and to the District as required by Rule 6.1.A.

**E. Class B Production Wells.** The following information is required in an Application for an Operating Permit for a Class B Production Well:

- (1) All information necessary for Class A Production Wells.

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- (2) A Driller's Log for the closest Water Well if data can be obtained from publicly available sources.
- (3) The Location and Production Limits of other Water Wells within a 1-mile Buffer Area of all proposed Water Wells, including those outside the Production-Limit-Acreage property boundaries, if any.
- (4) A Preliminary determination of potential drawdown at the closest Production-Limit-Acreage property boundary due to Production from the Water Well after 1, 5, 10, and 25 years of operation (other times may be used with prior approval of the District if the Water Well is to be used for a shorter period). Analytical solutions (e.g., Theis solution) can be used for this purpose.
- (5) **An** adjacent landowner waiver of Water Well spacing if the potential drawdown estimated at the Production-Limit-Acreage property boundary, calculated under Rule 3.5.E(4), exceeds 5 feet in 1 year or 10 feet in 5 years.

**F. Class C Production Wells.** The following information is required in an Application for an Operating Permit for a Class C Production Well:

- (1) All information necessary for Class A Production Wells.
- (2) Driller's Log for the closest Water Well if data can be obtained from publicly available sources.
- (3) Location and Production Limits of other Water Wells within 3-mile Buffer Area of all proposed Water Wells, including those outside the Production-Limit-Acreage property boundaries, if any.
- (4) Proximity to surface water bodies including but not limited to springs, intermittent creeks, and perennial streams.
- (5) Preliminary determination of potential drawdown at the closest Production-Limit-Acreage property boundary due to Production from the Water Well after 1, 5, 10, and 25 years of operation (other time intervals can be used with prior approval of the District if the Water Well is to be used for a shorter period). Analytical solutions (e.g., Theis solution) can be used for this purpose.
- (6) Site-specific lithological information obtained from test borehole or an existing well on the contiguous parcel of the property where the Water Well is proposed to be drilled.
- (7) Available Groundwater level data describing the historical response of the aquifer or geologic unit within a 3-mile Buffer Area of all proposed Wells.

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Data from TWDB Groundwater Database, data collected by private third-party consultants, and other information collected by the district can be used for this purpose.

- (8) Available groundwater quality data describing the historical response of the aquifer within a 3-mile Buffer Area of all proposed Water Wells. Data from a TWDB Groundwater Database, data collected by private third-party consultants, and other information collected by the District can be used for this purpose.
- (9) **The District may require a pre-application meeting as set forth in Rule 14.2, a monitoring plan as set forth in Rule 14.4H and/or Rule 14.4.I, and any other information related to the considerations for issuing an Operating Permit in Rule 3.7.**

**G. Class D Production Wells.** An Operating Permit for a Class D Production Well requires the Application set forth in Rule 14.4.

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### **3.6 Processing an Operating Permit Application and Issuance of Permit**

#### **A. Administrative Completeness of Application**

- (1) An Application for an Operating Permit will not be deemed Administratively Complete until it includes all information required in Rules 3.5 and 14.4, as applicable. In order to adequately address the purposes and requirements of Texas Water Code Chapter 36, the District's Enabling Legislation, general law, and District Rules, after an Application for an Operating Permit is submitted the District may require further clarification or additional documentation from the Applicant, so long as the clarification or documentation falls within the requirements listed in Rule 3.5 or 14.4, as applicable.
- (2) No Application shall be deemed Administratively Complete if there are unresolved District Enforcement Actions against the Applicant or involving the Water Well.
- (3) If an Application remains administratively incomplete for more than 180 days following either the original Application submission date or the date that the District notified the Applicant of the need to submit additional clarification or documentation, the Application will automatically expire.

#### **B. Completeness of an Operating Permit Application**



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- (1) The District will notify the Applicant in writing when the Application is deemed Administratively Complete. For an Application for a Class D Municipal/Electric Zone Production Permit, the District will notify the Applicant in writing when the Application is deemed Administratively Complete and Technically Complete according to Rule 14.6.
- (2) Within 60 days of the issuance of written notice under Rule 3.6.B(1), the District will act on the Application according to Rule 8.3.
- (3) The decision whether to approve the Operating Permit as requested in the Application, approve the Operating Permit with terms other than those requested in the Application, or deny the Application shall be made using the process described in Rule 8.3. The Board or its designee shall make this decision based on the considerations in Rule 3.7. For Applications for Class D Production Permit, the decision shall be made based on the applicable Rule 3.7 and Rule 14.8 considerations.

#### **C. Contents of an Operating Permit**

An Operating Permit shall include the following, in addition to any other conditions set by the District:

- (1) A requirement that a totalizing flow meter or other reliable water measuring device as required by Rule 5.2, be installed when the pump is set and that the District be notified within 30 days of installation.
- (2) The authorized annual maximum Production Limit for the Water Well as provided by Rule 11. For New Wells, the Operating Permit will include a Certificate of Production-Limit- Acreage, which will reflect the annual maximum Production Limit.
- (3) An approved map or drawing showing the Water Well site and the following features, if any, within 500 feet of the Water Well site: the property lines, the boundaries of the Production-Limit-Acreage property, the location of other Water Wells, existing or proposed wastewater systems, and other potential sources of contamination.
- (4) An approved water Conservation Plan.
- (5) An approved Drought Contingency Plan.
- (6) Special Permit Conditions.
- (7) An Operating Permit for a Class D Production Well shall include the requirements set out in Rule 14.7 in addition to the requirements set out in this Rule 3.6.C, if applicable.

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### **3.7 Considerations for Issuing an Operating Permit**

**A.** The District shall be guided by these Rules and Chapter 36, Texas Water Code when considering each Application for an Operating Permit.

**B.** In issuing all classes of Operating Permits, except Class D Municipal/Electric Zone Production Permits and Permits for Class D Zone Production Wells, the District will manage total Groundwater Production on a long-term basis to achieve the adopted applicable Desired Future Condition for the Water Well location and depth of screened interval(s).

**C.** In issuing Class D Municipal/Electric Zone Production Permits and Operating Permits for Class D Zone Production Wells, the District will manage total Groundwater Production on a long-term basis to ensure that Production of Groundwater is in addition to the amount of the most recent Modeled Available Groundwater established by the GMA-16 Joint Planning Committee, including addressing any double counting as between the most recent MAG and designation of the Zones.

**D.** The District shall consider the following, which include the considerations required by Texas Water Code Section 36.113(d) and 36.1132(b), regarding whether:

- (1)** The Application conform to the requirements of Texas Water Code Chapter 36 and these Rules?
- (2)** The use of Groundwater unreasonably affect existing Groundwater and surface water resources or existing Permit Holders. For Existing Wells, an Operating Permit establishing the Production Limits required under Rule 11.1 will fulfill this requirement.
- (3)** The use of water considered Beneficial Use, as defined by Texas Water Code Section 36.001(9) and District Rule 2.
- (4)** The use of water consistent with the District's approved Management Plan.
- (5)** The Applicant agreed to avoid Waste and achieve Water Conservation.
- (6)** The conditions and limitations in the Permit prevent Waste, achieve water Conservation, minimize as far as practicable the drawdown of the water table or the reduction of Artesian Pressure, or lessen interference between Water Wells.
- (7)** The Application include an acceptable water Conservation plan.

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- (8)** If applicable, the Application include an acceptable Drought Contingency Plan.
- (9)** The Applicant has agreed to use reasonable diligence to protect Groundwater quality. For a proposed Water Well other than a Class D Production Well, if the location complies with spacing Rule 10.3 and the Water Well will be constructed according to the construction standards of Rule 4, this requirement is fulfilled. For an Existing Well, the District will evaluate the location based on Rule 10.3, evaluate the Water Well construction based on Rule 4 and may impose Special Permit Conditions designed to protect Groundwater quality.
- (10)** The Applicant agreed to follow the District's Rules on Well Plugging at the time of Water Well closure.
- (11)** The Application provide sufficient documentation to support the requested Production Limit, including required information about In Situ Uranium Mining, if applicable.
- (12)** There are any unresolved District Enforcement Actions against the Applicant or involving the Water Well.
- (13)** For all Applications for Operating Permits, except for Applications for an Operating Permit for a Class D Zone Production Well, the requested Production Limit, when considered in conjunction with the most recent Modeled Available Groundwater, consistent with achieving the Desired Future Condition applicable to the Water Well location and Production zone.
- (14)** For all Applications for Operating Permits, except for Applications for and Operating Permit for a Class D Zone Production Well, is the requested Production Limit, when considered in conjunction with the TWDB estimate of current and projected amount of Groundwater produced under exemptions granted by District Rules and Texas Water Code section 36.117, consistent with achieving the Desired Future Condition applicable to the Water Well location and depth of screened interval(s).
- (15)** For all Applications for an Operating Permit, except for Applications for an Operating Permit for a Class D Zone Production Well, the requested Production Limit, when considered in conjunction with the amount of Groundwater authorized under Operating Permits previously issued by the District, consistent with achieving the Desired Future Condition applicable to the Water Well location and depth of screened interval(s).
- (16)** For all Applications for an Operating Permit, except for Applications for an Operating Permit for a Class D Zone Production Well, the requested

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Production Limit, when considered in conjunction with the amount of Groundwater actually being produced under Operating Permits previously issued by the District, consistent with achieving the Desired Future Condition applicable to the Water Well location and depth of screened interval(s).

- (17) For all Applications for an Operating Permit, except for Applications for an Operating Permit for a Class D Zone Production Well, the requested Production Limit, when considered in conjunction with yearly precipitation and Production patterns, consistent with achieving the Desired Future Condition applicable to the Water Well location and depth of screened interval(s).

F. For Applications for an Operating Permit for a Class D Production Well the District shall also consider the factors in Rule 14.8.

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**3.8 Change in Water Well Conditions or Operations, Permit Amendment and Revocation, Replacing a Water Well**

**A. Change in Water Well Conditions or Operations**

- (1) No Person may take any of the following actions related to a Water Well located in the District without notifying the District in writing 14 days prior to making the change. The Change in Well Conditions or Operations form is available at the District Office and on the District website.
- (a) Change the type of use of a Water Well from an exempt use to a non-exempt use. This change requires District authorization prior to making the change under Rule 3.8.B.
  - (b) For all Water Wells, a change in the Production Capacity that would change the spacing from property lines authorized under Rule 10.4. This change requires District authorization prior to making the change.
  - (c) Plugging a Water Well. This change does not require District authorization; however, prior notification is required. A State of Texas Plugging Report must be submitted as required by Rules 5.3 and 6.1.A.
  - (d) Change or add Exempt Oil and Gas Water Supply Use to a Water Well Registered with the District for other use. This change does not require District authorization; however, prior notification is required.

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The notification must include the date of the expected change and the estimated duration of the change. For purposes of this Rule 3.8.A(1)(d), the well operator is responsible for notifying the District. For purposes of this requirement, the well operator is the Person holding the Railroad Commission oil or gas permit as described in Texas Water Code Section 36.117(b)(2). The water produced for this purpose must be metered, recorded, and reported as required by Rule 5.4. The District will not issue an amended Well Registration Certificate for such changed use unless the changed use is expected to be permanent and is the sole use of the Water Well.

- (2) Other than changes under Rule 3.8.A(1)(b), which require prior notification, a Person shall not alter the Water Well size or Well Depth, Depth to the Bottom of the Screen, the Water Well pump, or its Production Capacity without submitting a Change in Well Conditions or Operations form within 30 business days after the change is made.
- (3) Because Production Limits are based on contiguous acreage under Rule 11.2, any change in the status of the contiguous acreage upon which the Production Limit in an Operating Permit is based, including a change in conditions related to In Situ Uranium Mining described in Rule 11.2.C, requires prior notification to the District and a Permit Amendment or issuance of an updated Certificate of Production-Limit- Acreage.
- (4) The Person who submits the Change in Well Conditions or Operations form will be notified by the District within 5 business days whether the change will be processed administratively; will require an Amendment to an existing Operating Permit; will make an Exempt Well be required to obtain an Operating Permit; or will make a Water Well subject to the Production Limits of Rule 11.
- (5) Changes that affect compliance with spacing requirements of Rule 10.4 will be denied unless a Variance is obtained under Rule 10.5.

#### **B. Change in Use That Requires a Water Well to Have an Operating Permit**

An Exempt Well will lose its exemption and will require an Operating Permit if its use or conditions change in such a way that it no longer falls into an Exempt Well category under Rule 3.1.A. It is the responsibility of the Water Well Owner of such a Water Well to apply for an Operating Permit no later than 90 days prior to making the changes that render the Water Well subject to this Rule.

#### **C. Change in Water Well Ownership**

Any change in ownership of a Water Well shall be reported by submitting a Change in Ownership form to the District within 60 days after the change. The form is available at

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the District Office and on the District website. The form must be signed by the original Water Well Owner and the new Water Well Owner and must be submitted by the new Water Well Owner. For a Water Well with an Operating Permit, failure to timely notify the District may result in the Operating Permit being revoked.

#### **D. Operating Permit Term**

- (1)** Operating Permits are perpetual unless as otherwise provided in this Rule or an expiration date is otherwise specified by the District as a Special Permit Condition. Such a Special Permit Condition may include the need for additional data regarding the impact of the Water Well on the aquifer or surrounding Water Wells. The term for a Class D Municipal/Electric Zone Production Permit shall be no less than thirty (30) years.
- (2)** If an Operating Permit has been issued with an expiration date as authorized under this rule, renewal of the Operating Permit is required as follows:
  - (a)** The District shall renew or approve an Application to renew if the Application is submitted at least 90 days prior to the expiration date and the Permittee is not requesting a change that would require a Permit Amendment under Rule 3.8.E, however,
  - (b)** The District is not required to renew an Operating Permit under this Rule 3.8.D(2) if:
    - (i)** the Applicant is delinquent paying a Fee required by the District;
    - (ii)** is subject to a pending District Enforcement Action for a substantive violation of an Operating Permit, District Order or Rule; or
    - (iii)** has not paid a civil penalty or otherwise failed to comply with an order resulting from a final adjudication of a violation of an Operating Permit, District Order or Rule.
  - (c)** If the District is not required to renew an Operating Permit under Rule 3.8.D(2)(b)(ii), the Operating Permit remains in effect until the final settlement or adjudication on the matter of the substantive violation.

#### **E. Well Changes That Require an Amendment to an Operating Permit**

- (1)** A Permit Amendment to an Operating Permit is required for any change to the operation, use, or condition of a Non-Exempt Well, including changing the Production Limit, the type of use of the Water Well, the Well size or Well Depth, Depth to the Bottom of the Screen, a Well pump, or its pumping

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volume, and any change in the status of the contiguous acreage upon which the Production Limit is based, including a change in conditions related to In Situ Uranium Mining described in Rule 11.2.C.

- (2)** Amendments are characterized as Major or Minor according to the requirements of this Rule 3.8.E. Such characterization will determine the process involved for consideration and approval of an Amendment.
- (3)** Major Amendment
  - (a)** A Major Amendment to an Operating Permit for a Non-Exempt Well is required to increase the Production of Groundwater or to increase the Production Capability of a Well to produce Groundwater.
  - (b)** A Major Amendment is also required when a change in the status of the contiguous acreage upon which the Production Limit is based, including a change in conditions related to In Situ Uranium Mining described in Rule 11.2.C requires a change in Production Limit.
  - (c)** An Application for a Major Amendment, on a form obtained from the District, must be submitted at least 90 days prior to the date the change is to take place. A Fee for an Application for a Major Amendment must also be submitted if one has been established under Rule 1.8.
  - (d)** The Application for Major Amendment will be processed according to Rule 3.6.
  - (e)** No pump installer or Water Well driller shall make changes to a Water Well if the Water Well Owner has not applied for and obtained the appropriate authorization under this Rule.
- (4)** Minor Amendment
  - (a)** A Minor Amendment to an Operating Permit for a Non-Exempt Well is required to change the type of use of a Water Well; to alter the Well size or Well Depth or Depth to the Bottom of the Screen, the Well pump, or its pumping volume that does not increase the Production Capability or Production amount; or a change in the approved water Conservation plan.
  - (b)** An Application for a Minor Amendment, on a form obtained from the District, must be submitted at least 10 days prior to the date the change is to take place. A Fee for an Application for a Minor Amendment must also be submitted if one has been established under Rule 1.8.

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- (c) The General Manager may process and approve a Minor Amendment.
- (d) No pump installer or Water Well driller shall make changes to a Water Well if the Water Well Owner has not applied for and obtained the appropriate authorization under this Rule.

#### (5) Current Operating Permit to Remain in Effect

If an Application for a Permit Amendment is timely filed, the Operating Permit as it exists at the time the Application is filed, remains in effect until the conclusion of the Permit Amendment process or final settlement or adjudication on the matter of whether the change to the Operating Permit requires a Permit Amendment, whichever is later.

### **F. Involuntary Amendment or Revocation of an Operating Permit**

- (1) An Operating Permit is subject to Involuntary Amendment or revocation for violation of District Rules; violation of the Operating Permit, including Special Permit Conditions; violation of the provisions of Texas Water Code Chapter 36; Waste of Groundwater; a negative finding in a TWDB Investigation Report under Texas Water Code Section 36.1015(j); or other actions that the District determines to be detrimental to the Groundwater resources within the District. An Involuntary Amendment or revocation under this provision shall be approved by the District only after notice and hearing as provided in Rules 7.2 and 8.7.
- (2) An Operating Permit is subject to Involuntary Amendment if the Board finds that changes in the law or in the Groundwater resources within the District necessitate such an Amendment. An Involuntary Amendment under this provision shall be approved by the District only after the procedure provided in Rules 8.3 and 8.4.
- (3) If the District initiates an Involuntary Amendment to an Operating Permit, the Operating Permit as it existed before the Involuntary Amendment process remains in effect until the conclusion of the process under Rule 8.4.

### **G. Replacing a Water Well**

- (1) In order to qualify as a Replacement Well, the Water Well that is being replaced must be properly Registered or have an Operating Permit and be in compliance with District Rules.
- (2) The Replacement Well must be no nearer to adjoining property lines than the Water Well it is replacing unless the Replacement Well is an Exempt Well and the owner of the Replacement Well complies with Rule 10.5.



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- (3)** The Replacement Well may not have a greater Production Capability than the Water Well it is replacing unless the Replacement Well is an Exempt Well and the Owner of the Replacement Well complies with Rule 10.5.
- (4)** Prior to drilling a Replacement Well, the Water Well Owner must submit an Application for a Replacement Well to the District. The Application for a Replacement Well form is available at the District Office and on the District website. If the General Manager determines that the Water Well is a Replacement Well as described in this Rule 3.8.G, the District will make changes in the approved Registration and Operating Permit, as applicable, authorizing drilling and operation of the Replacement Well.
- (5)** In case of emergency with the potential to affect human or livestock health or safety, a Replacement Well may be drilled and the required Application for a Replacement Well must be submitted within 2 business days.
- (6)** A Water Well that has been replaced under this Rule 3.8.G must be Plugged within 30 days and the State of Texas Plugging Report must be submitted to the District as required under Rules 5.3 and 6.1.A.
- (7)** If a Back-Up Well is in operation, the Water Well Owner or Water Well Operator shall notify the District in writing within 2 business days of beginning Production from the Back-Up Well.

*Adopted October 8, 2008, by Board Order; effective October 8, 2008. Amended January 14, 2009, by Board Order; effective January 14, 2009. Amended July 25, 2012 by Board Order; effective July 25, 2012. Amended January 20, 2016, by Board Order; effective January 20, 2016. Amended March 21, 2018 by Board Order; effective March 21, 2018. Amended June 16, 2021, by Board Order; effective June 16, 2021. Amended August 16, 2024, by Board Order; effective August 16, 2024.*

## **Rule 4: WATER WELL CONSTRUCTION STANDARDS AND INTEGRITY TESTING**

### **4.1 State Standards Applicable**

All new construction of Water Wells and installation of pumps, including Completion of a Well, shall be in accordance with the Texas Occupations Code Chapter 1901, "Water Well Drillers" and Chapter 1902, "Water Well Pump Installers," as amended and the Rules of the Texas Department of Licensing and Regulation, 16 Texas Administrative Code, Chapter 76, as amended, and additional standards as required in this Rule. In this Rule 4, except where specifically excluded, Wells include Monitoring Wells.

*Adopted October 8, 2008, by Board Order; effective October 8, 2008; amended June 16, 2021 by Board Order, effective June 16, 2021. Amended August 16, 2024, by Board Order; effective August 16, 2024.*

### **4.2 Additional Water Well Construction Standards**

**A.** All Public Water Supply Wells must be completed using the engineer-designed criteria approved by the Texas Commission on Environmental Quality under 30 Texas Administrative Code Chapter 290.

**B.** All Non-Exempt Wells that are not Public Water Supply Wells must be pressure cemented or grouted from the top of the uppermost screen back to the surface. A Geophysical Log or Lithological Log must be run during Well Completion.

**C.** All Class D Production Wells must be completed according to the requirements of Texas Licensing and Regulation Commission Rule 16 Texas Administrative Code Section 76.101. These Water Wells are also subject to the integrity testing requirements of Rule 4.7.

**D.** All Class D Production Wells are prohibited from being screened in more than one geologic unit.

**E.** Before Production from any Class D Production Well, the Permit Holder shall determine an Area of Review (AoR) based on the projected cone of depression or extending within at least ¼ mile radius of the Water Well (whichever is greater). The AoR shall be evaluated to identify any natural conduits or artificial penetrations that could cause upward movement of Groundwater from the screened interval(s) to an upper geologic unit. If any artificial penetrations or natural conduits are identified, an Area of Review Mitigation Plan for avoiding such conduits and for Plugging such artificial penetrations shall be submitted to the District. Once approved by the District, the plan shall be implemented prior to construction of the Water Well.

*Adopted October 8, 2008, by Board Order; effective October 8, 2008; amended June 16, 2021, by Board Order, effective June 16, 2021. Amended August 16, 2024, by Board Order; effective August 16, 2024.*

### **4.3 Watertight Sanitary Seal**

To prevent pollutants from entering the wellhead, all Water Wells shall be Completed with a watertight sanitary seal. Any Water Well not meeting this requirement is required to comply with this Rule at the time the wellhead is next removed. Water Wells with odd-sized casing or those having wellheads for which there is no factory made watertight sanitary seal available shall be Completed or modified in such a manner that shall meet the intent of this Rule.

*Adopted October 8, 2008, by Board Order; effective October 8, 2008. Amended August 16, 2024, by Board Order; effective August 16, 2024.*

### **4.4 Access for Testing**

All Water Wells must allow access to the Water Table for the purposes of measuring Groundwater levels or disinfecting the Water Well. All New Wells shall be equipped with a faucet or hose bib at the wellhead.

*Adopted October 8, 2008, by Board Order; effective October 8, 2008. Amended July 25, 2012, by Board Order; effective July 25, 2012. Amended August 16, 2024, by Board Order; effective August 16, 2024.*

### **4.5 Well Depth**

A Water Well Owner who drills a Water Well after July 25, 2012 and does not ensure that it is completed to a minimum Well Depth of 500 feet, cannot rely on that Water Well as the basis for seeking Party status to request a Contested Case Hearing on an Operating Permit. This minimum depth is based on the Desired Future Condition adopted by the District under Texas Water Code 36.108 et seq. This Rule 4.5 does not apply to Class D Production Wells.

*Adopted July 25, 2012, by Board Order; effective July 25, 2012. Amended June 16, 2021, by Board Order; effective June 16, 2021.*

### **4.6 Responsibility for Compliance**

The Person who performs work on the Water Well or pump is responsible for compliance with Rules 4.1 through 4.6. The Permit Holder is responsible for ensuring compliance with the integrity testing requirements of Rule 4.7.

*Adopted October 8, 2008, by Board Order; effective October 8, 2008. Renumbered July 25, 2012, by Board Order, effective July 25, 2012; amended June 16, 2021 by Board Order, effective June 16, 2021. Amended August 16, 2024, by Board Order; effective August 16, 2024.*

### **4.7 Integrity Testing of Class D Production Wells**

**A.** For each Class D Production Well, the Water Well Owner, or Permittee if different from the Water Well Owner, shall conduct the following procedures every five (5) years beginning five (5) years after Production from the Well begins:

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- (1)** a mechanical integrity test (MIT) such as the Standard Annular Pressure Test (SAPT) or the ADA Pressure Test (ADAPT) outlined in 40 CFR §146.8(b)(1) Monitoring of Annulus Pressure MIT to evaluate the integrity of the tubing and casing materials used to pump Groundwater from deeper zones containing lower quality Groundwater.
  - (2)** a water injection slug test with high resolution monitoring of water level rise and fall of injected water in the Water Well, which must be evaluated to detect any changes in connection between the casing and the screen with the surrounding formation or aquifer.

    - (a)** The water injection slug test shall be conducted using ASTM D4044 / D4044M – 15 Standard Test Method for (Field Procedure) for Instantaneous Change in Head (Slug) Tests for Determining Hydraulic Properties of Aquifers.
    - (b)** If the slug test shows a 25% change in the measured hydraulic conductivity in either direction from the previous year's data an MIT and borehole video inspection shall be conducted within 60 days.
- B.** Once every five (5) years, a video inspection to document Water Well annulus and screen performance shall be conducted on each Class D Production Well and on each Production Monitoring Well covered by an Operating Permit for a Class D Production Well.
- C.** Any change in operating conditions related to the integrity of any Class D Production Well shall be reported to the District within 10 business days of the date the Permit Holder becomes aware of the change in conditions. The Permit Holder shall initiate an investigation of the change by submitting to the District a monitoring and testing plan that shall include one or more methods in this Rule 4.7. Once approved by the District, the plan shall be implemented within 60 days.

*Adopted June 16, 2021 by Board Order, effective June 16, 2021. Amended August 16, 2024, by Board Order; effective August 16, 2024.*

## **Rule 5: REPORTING AND RECORDKEEPING**

### **5.1 Well Drilling, Completion, and Water Data Reporting**

- A.** Within 60 days from: (1) the cessation of drilling, for a Water Well that will not be Completed; (2) Well Completion; (3) deepening; or (4) otherwise altering a Water Well, a copy of the State of Texas Well Report shall be submitted to the District by the Water Well driller.
- B.** All Geophysical Logs or Lithological Logs required under District Rules or State law shall be submitted to the District within 60 days from the date the log is run.
- C.** All raw Groundwater quality data collected on water from a Non-Exempt Well shall be submitted to the District within 60 days from the date the data are collected.
- D.** If raw water quality data are collected during drilling an Exempt Well, such data shall be submitted to the District within 60 days from the date the data are collected or within 10 days from receiving the lab report.
- E.** A Railroad Commission Form P-13, "Application of Landowner to Condition an Abandoned Well for Fresh Water Production," shall be submitted to the District within 30 days of receipt of Railroad Commission approval of the application. This must be submitted by either the well owner or operator, whichever has received the Railroad Commission approval notice.
- F.** For Class D Production Wells and related activities, this Rule 5.1 applies unless it conflicts with Rule 14, in which case, the requirements of Rule 14 apply.

*Adopted October 8, 2008, by Board Order; effective October 8, 2008. Amended July 25, 2012, by Board Order; effective July 25, 2012. Amended June 16, 2021, by Board Order; effective June 16, 2021. Amended August 16, 2024, by Board Order; effective August 16, 2024.*

### **5.2 Annual Groundwater Production Report for Non-Exempt Wells**

- A.** The Production from all Non-Exempt Water Wells required under Rule 3.1.B to obtain an Operating Permit shall be recorded using a totalizing flow meter or other reliable water measuring device, installed at the Water Well Owner's expense. The Water Well Owner shall keep a record of monthly Groundwater Production. The monthly Production records shall be submitted to the District on an annual basis on January 31st of each year for the previous 12 months unless the District imposes alternate recordkeeping and reporting requirements in the Operating Permit for the Water Well.
- B.** For Class D Production Wells and related activities, this Rule 5.2 applies unless it conflicts with Rule 14, in which case, the requirements of Rule 14 apply.

*Adopted October 8, 2008, by Board Order; effective October 8, 2008. Amended July 25, 2012, by Board Order; effective July 25, 2012. Amended June 16, 2021, by Board Order; effective June 16, 2021. Amended August 16, 2024, by Board Order; effective August 16, 2024.*

### **5.3 Plugging Report**

Within 30 days after Plugging a Water Well, the Person Plugging the Water Well shall submit to the District a copy of the State of Texas Plugging Report.

*Adopted October 8, 2008, by Board Order; effective October 8, 2008.*

### **5.4 Annual Groundwater Production Report for Exempt Oil and Gas Water Supply Wells**

**A.** The Production from all Exempt Oil and Gas Water Supply Wells shall be recorded using a meter or other reliable water measuring device. The meter or device shall be installed at the well operator's expense.

**B.** The well operator, as defined in Rule 5.4.C, shall keep a record of Groundwater Production being used for Exempt Oil and Gas Water Supply Purposes. On January 31st of each year, the well operator shall submit to the District an Annual Water Production Report for Exempt Oil and Gas Water Supply Wells reflecting Groundwater Production during the previous calendar year. The report must be submitted as long as the Water Well is reflected in District records as being used for Exempt Oil and Gas Water Supply purposes, even if no Production for this purpose has occurred during the previous year. In such a case the Annual Groundwater Production Report would show no Production for this purpose during that year. The reporting form is available at the District Office and on the District website.

**C.** For purposes of this Rule 5.4, the well operator is the Person holding the Railroad Commission oil or gas permit as described in Texas Water Code Section 36.117(b)(2).

*Adopted October 8, 2008, by Board Order; effective October 8, 2008. Amended July 25, 2012, by Board Order; effective July 25, 2012. Amended August 16, 2024, by Board Order; effective August 16, 2024.*

### **5.5 Water Wells Associated with Uranium Exploration and Mining**

**A.** A Person who applies for or obtains a Uranium Exploration Permit, or an authorization to conduct In Situ Uranium Mining, or related activities shall comply with the reporting and recordkeeping requirements of Rule 9.

**B.** The holder of an Aquifer Exemption shall submit to the District a map or legal description of any portion of the aquifer that becomes off limits for use as a drinking water source under the Safe Drinking Water Act, Texas Water Code Chapter 27, the Aquifer Exemption process of 40 Code of Federal Regulations Section 144.7(b), and 30 Texas Administrative Code Section 331.13. A submittal is due within 30 days of approval, amendment, or removal of the Aquifer Exemption by the U.S. Environmental Protection Agency. The holder of the Aquifer Exemption is responsible for submitting this documentation. Additionally, because under Rule 11.2.C(1) an Aquifer Exemption

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affects the landowner's Groundwater allocation, the landowner is also responsible for this submittal.

*Adopted October 8, 2008, by Board Order; effective October 8, 2008. Amended July 25, 2012, by Board Order; effective July 25, 2012. Amended August 16, 2024, by Board Order; effective August 16, 2024.*

**5.6 Texas Surface Coal Mining and Restoration Act and Water Wells**

**A.** An entity holding a permit issued by the Railroad Commission under Texas Natural Resources Code, Chapter 134 (Texas Surface Coal Mining and Restoration Act) shall report monthly to the District on or before the last day of each month:

- (1) The total amount of Production during the previous month;
- (2) The quantity of Production for mining activities during the same period; and
- (3) The quantity of Production for other purposes during the same period.

**B.** An entity holding a permit issued by the Railroad Commission under Texas Natural Resources Code, Chapter 134 (Texas Surface Coal Mining and Restoration Act) shall comply with Rules 5.1.A and B.

*Adopted October 8, 2008, by Board Order; effective October 8, 2008. Amended July 25, 2012, by Board Order; effective July 25, 2012. Amended August 16, 2024, by Board Order; effective August 16, 2024.*

**5.7 Water Pollution Event Reporting**

Any Person required under State law to report a Water Pollution Event to the Texas Commission on Environmental Quality or to the Railroad Commission of Texas shall send a copy of the initial written report regarding the event to the District and to the surface landowner at the same time that they send the report to the State agency.

*Adopted July 25, 2012, by Board Order; effective July 25, 2012.*

**5.8 Class D Production Well Reporting**

A Person who applies for or obtains an Operating Permit for a Class D Production Well shall comply with the reporting and recordkeeping requirements of Rule 14.

*Adopted June 16, 2021, by Board Order; effective June 16, 2021. Amended August 16, 2024, by Board Order; effective August 16, 2024.*

## **Rule 6: PLUGGING, CAPPING, AND TAGGING OF WELLS**

### **6.1 Plugging Water Wells**

**A.** Not later than the 180<sup>th</sup> day after the date a landowner learns of the condition and location of a Deteriorated Water Well or Abandoned Water Well located on his land, or a Water Well Owner learns that its Water Well is or has become a Deteriorated Water Well, the Water Well shall be Plugged. It is the responsibility of the landowner or the Water Well Owner to ensure that such a Well is Plugged to prevent Pollution of the Groundwater and to prevent injury to Persons. Not later than the 30<sup>th</sup> day after the date the Water Well is Plugged, a State of Texas Plugging Report shall be submitted to the District as required by Rule 5.3.

**B.** If the Water Well is not Plugged, the District may take action under Rule 7 as authorized by Texas Occupations Code, Section 1901.256, or otherwise enforce Texas Occupations Code Section 1901.255 related to a landowner or Water Well Owner possessing a Deteriorated Water Well or an Abandoned Water Well.

*Adopted October 8, 2008, by Board Order; effective October 8, 2008. Amended July 25, 2012, by Board Order; effective July 25, 2012. Amended August 16, 2024, by Board Order; effective August 16, 2024.*

### **6.2 Capping a Water Well**

A Water Well that is Open or Uncovered must be Capped to prevent Waste, Pollution, or prevent deterioration. The Water Well shall remain Capped until conditions that led to the Capping are eliminated. If the Water Well owner fails to Cap the Water Well in compliance with District Rules, the District may do so after first taking action under Rule 7. Reasonable expenses incurred by the District in Capping a Water Well constitute a lien on the land on which the Water Well is located pursuant to Texas Water Code Section 36.118.

*Adopted October 8, 2008, by Board Order; effective October 8, 2008. Amended August 16, 2024, by Board Order; effective August 16, 2024.*

### **6.3 Tagging Wells**

**A.** Following the procedure of Rule 7, (enforcement procedure) the District may require the Tagging of a Water Well that is in violation of District Rules or that the District has prohibited from producing Groundwater.

**B.** If the District believes that continued operation of a Water Well may cause a threat of imminent endangerment to human health, safety, or the environment, the District may require the Tagging of a Water Well on an emergency basis. In such a case, the District shall provide an opportunity for notice and hearing under Rule 8.7 no later than the next regularly scheduled Board meeting.



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**C.** If the District requires the Tagging of a Water Well and the Water Well Owner fails to Tag the Water Well, the District may Tag the Well by following the procedures of Texas Water Code Section 36.123 and Rule 7.4 (access to property).

**D.** A Water Well shall be sealed by physical means and Tagged to indicate that the Well has been sealed as required by the District. The seal is intended to preclude operation of the Well and identify unauthorized operation of the Well.

**E.** Tampering with, altering, damaging, removing, or violating the seal or Tag of a sealed Water Well in any way, or Production of Groundwater from a Well that has been sealed or Tagged constitutes a violation of District Rules and subjects the Person who performs that action, as well as the Water Well Owner to a District Enforcement Action under District Rules.

*Adopted October 8, 2008, by Board Order; effective October 8, 2008. Amended August 16, 2024, by Board Order; effective August 16, 2024.*

## **Rule 7: ENFORCEMENT**

### **7.1 Complaints and Investigations**

**A.** All complaints shall be reflected on a District complaint form. These forms are available at the District Office and on its website. If a complaint is made verbally, by telephone, or in person, District personnel will ensure that the information is memorialized on a District complaint form. The complainant must inform the District if they want to qualify as an Aggrieved Party under the citizen suit complaint provision of Texas Water Code Section 36.119. The District may initiate an investigation without receiving a complaint and shall follow the procedures of this Rule 7.

**B.** For purposes of this Rule 7.1 and Texas Water Code Section 36.119, an Aggrieved Party is a landowner or other Person who has a right to produce Groundwater from land that is adjacent to the land on which the Water Well subject to the complaint is located, or who owns or otherwise has a right to produce Groundwater from land that lies within one-half mile of the subject Water Well.

**C.** A complainant may ask to remain anonymous, unless they want to qualify as an Aggrieved Party under the Citizen Suit Complaint provision of Texas Water Code Section 36.119.

**D.** A District representative will investigate the complaint promptly and will memorialize his findings in a written District Investigation Report.

**E.** A copy of the District Investigation Report will be sent to the Person about whom the complaint was made. If the complainant has provided his name and address, a copy of the District Investigation Report will be sent to the complainant.

### **F. Board Consideration of District Investigation Reports**

- (1)** A District Investigation Report must be presented to the Board for consideration not later than 90 days from the date of receipt of the complaint.
- (2)** Notice of the date, time, and location of the Board meeting at which the District Investigation Report will be considered, and a copy of the District Investigation Report shall be mailed to the Person about whom the complaint was made and to the complainant by certified mail, return receipt requested, at least 20 days prior to the scheduled Board meeting.
- (3)** At the Board meeting, the Board may decide that there was no violation and close the complaint file. If the Board decides that there has been a violation, it may direct the District staff to issue a Notice of Violation under Rule 7.2 or initiate civil enforcement under Rule 7.5.

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Adopted October 8, 2008, by Board Order; effective October 8, 2008. Amended June 16, 2021, by Board Order; effective June 16, 2021. Amended August 16, 2024, by Board Order; effective August 16, 2024.

**7.2 Notice of Violation**

The District will send a Notice of Violation to a Person who is believed to be in violation of law, including violation of a District Rule, order, or an Operating Permit. The notice shall include a copy of the District Investigation Report. The Notice of Violation may require remedial action and may assess a penalty. The notice shall provide the opportunity for the Respondent to take remedial action and to meet with the District regarding the alleged violation. The Respondent will also be provided an opportunity for Public Hearing under Rule 8.7.

Adopted October 8, 2008, by Board Order; effective October 8, 2008. Amended June 16, 2021, by Board Order. Amended August 16, 2024, by Board Order; effective August 16, 2024.

**7.3 Penalty Schedule**

The District may assess penalties for non-compliance with District Rules including failure to comply with conditions of an Operating Permit issued by the District. Penalties will be assessed in accordance with the following schedule. Penalties may include actual reasonable expenses of a successful District Enforcement Action. Penalties shall not exceed \$10,000.00 per day per violation, and each day of a continuing violation constitutes a separate violation.

**Schedule of Penalties for Non-Compliance**

<b>Non-Compliant Action</b>	<b>Minimum Penalty</b>
Drilling a Water Well without District authorization	\$1,000.00
Producing Groundwater from a Non-Exempt Well without an Operating Permit	\$1,000.00
Violation of District Rule or Operating Permit requirement	\$250.00
Exceeding Production rate or volume specified in Operating Permit	\$1,000.00
Making changes to an Existing Well or its operation prior to obtaining pre-authorization required by Rule 3.8	\$500.00

Adopted October 8, 2008, by Board Order; effective October 8, 2008. Amended July 25, 2012, by Board Order; effective July 25, 2012. Amended August 16, 2024, by Board Order; effective August 16, 2024.

#### **7.4 Notice and Access to Property**

The District has authority under Texas Water Code Section 36.123 to enter any public or private property located within the District at any reasonable time for purposes of inspecting and investigating conditions relating to Groundwater quality, Water Wells, or compliance with District Rules, regulations, Operating Permits, or orders. The District respects individual property rights and shall endeavor to minimize any inconvenience to property owners while conducting District business. The District shall notify, coordinate, and schedule Water Well and property access in advance with the property owner, his Agent, tenant, or other local contact. Notice is not required if prior written permission to enter land or access Water Wells has been granted by the property owner, his Agent, tenant, or other local contact. District employees or Agents accessing public or private Water Wells or property shall exhibit proper credentials upon request. District employees or agents acting under the District's authority shall observe all applicable Rules and regulations concerning safety, internal security, and fire protection.

*Adopted October 8, 2008, by Board Order; effective October 8, 2008. Amended August 16, 2024, by Board Order; effective August 16, 2024.*

#### **7.5 Civil Enforcement**

- A.** As authorized by Texas Water Code Section 36.102, the violation of any District Rule may be subject to a civil penalty.
- B.** The Board may seek enforcement of such civil penalties by injunction, mandatory injunction, or other appropriate remedy through a suit filed in a court of competent jurisdiction.
- C.** If the District prevails in any suit to enforce its Rules, the District may seek, and the court shall grant, in the interests of justice and as provided in subsection E of this Rule, recovery of attorney's fees, costs for expert witnesses, and any other costs incurred by the District before the court.
- D.** In a District Enforcement Action by the District against any Person that is a governmental entity for a violation of District Rules, the limits on the amount of Fees, attorney's fees, costs, and penalties that a district may impose under Texas Water Code Sections 36.122, 36.205, or 36.102 or under a special law governing a GCD, constitute a limit of liability of the governmental entity for the violation. The District is not prohibited the recovery of Fees, attorney's fees, and costs under District Rule 7.5.C in an action against any Person that is a governmental entity.
- E.** If the District prevails on some, but not all, of the issues in a suit described in subsection C of this Rule, the court shall award attorney's fees and costs only for those issues on which the District prevails and the District has the burden of segregating the attorney's fees and costs so the court can make an award.

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*Adopted October 8, 2008, by Board Order; effective October 8, 2008. Amended July 25, 2012, by Board Order; effective July 25, 2012. Amended January 20, 2016, by Board Order; effective January 20, 2016. Amended August 16, 2024, by Board Order; effective August 16, 2024.*

### **Rule 8: PROCEDURAL RULES**

#### **8.1 Hearing on Rules Other Than Emergency Rules**

**A.** All proposed changes to District Rules must comply with District Rule 1.5. Once the District has developed a proposal involving its Rules, other than Emergency Rules, the District will decide at which Board meeting the proposed Rules will be considered for action. The Board meeting at which the proposed Rules are considered under this Rule shall be considered the Public Hearing on the proposed Rules and fulfills the requirement, if any, for a Public Hearing.

**B.** Notice required by the Open Meetings Act shall be provided for the hearing.

**C.** In addition to the notice required by the Open Meetings Act, not later than the 20<sup>th</sup> day before the date of the hearing, notice shall be provided as follows:

- (1)** Post notice in a place readily accessible to the public at the District Office;
- (2)** Provide notice to the county clerks of Brooks, Hidalgo, Jim Wells, Kenedy, Kleberg, Nueces, and Willacy counties;
- (3)** Publish notice in one or more newspapers of general circulation in the county or counties in which the District is located; and
- (4)** Provide notice by mail, facsimile, or electronic mail to any Person who has requested notice under Rule 8.1.F. Failure to provide notice under this Rule 8.1.C(4) does not invalidate an action taken by the District at a rulemaking hearing.

**D.** Notice of the Public Hearing on the proposed Rules required by Rule 8.1.C shall include:

- (1)** A brief explanation of the subject of the rulemaking hearing, including a statement that the Board will consider changes to the District's Rules, which will serve as the Public Hearing on the matter.
- (2)** The time, date, and location of the hearing.
- (3)** The agenda of the hearing.
- (4)** A statement that the proposed Rules are available to be reviewed or copied at the District Office prior to the hearing.

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- (5)** A statement that the District will accept written comments and give the deadline for submitting written comments.
- (6)** A statement that oral public comment will be taken at the hearing.
- E.** Copies of the proposed Rules shall be available at the District Office during normal business hours at least 20 days prior to the hearing.
- F.** A Person may submit to the District a written request for notice of a rulemaking hearing. A request is effective for the remainder of the calendar year in which the request is received by the District. To receive notice of a rulemaking hearing in a later year, a Person must submit a new request.
- G.** To ensure that written comments about the proposed Rules will be considered by the Board, such written comments should be submitted to the District at least 5 days prior to the scheduled hearing.
- H.** Anyone interested in the proposal may attend the hearing and comment on the proposed Rules.
- I.** The District shall make and keep in its files a court reporter transcription or an audio or video recording of the hearing.
- J.** The Board shall issue a written order or resolution reflecting its decision. The proposed Rules that the Board has approved shall be an attachment to that written order or resolution.
- K.** The effective date of the written order or resolution shall be the date on which the President of the District signs the order or resolution. The order or resolution shall include a statement that the proposed Rules become effective and final on that date. Any appeal authorized by Texas Water Code Chapter 36, Subchapter H shall run from the effective date, because it is the date on which all administrative appeals to the District are final.
- L.** If during the deliberation during the meeting, the Board decides it wants to substantially change the proposed Rules, the Board shall “continue” or postpone the matter until a future Board meeting. Prior to consideration of the substantially changed proposed Rules, the District shall provide notice and opportunity for comment and hold a hearing under this Rule on the substantially changed proposed Rules. It is solely within the discretion of the Board what constitutes a substantial change to the proposed Rules requiring further notice and hearing.

*Adopted October 8, 2008, by Board Order; effective October 8, 2008. Amended July 25, 2012, by Board Order; effective July 25, 2012. Amended August 16, 2024, by Board Order; effective August 16, 2024.*

## **8.2 Adoption of Emergency Rules**

- A.** The District may adopt an Emergency Rule, consistent with District Rule 1.5, without following the notice and hearing provisions of Rule 8.1, if the Board:
- (1)** Finds that a substantial likelihood of imminent peril to the public health, safety, or welfare, or a requirement of state or federal law, requires adoption of a Rule on less than 20 days' notice; and
  - (2)** Prepares a written statement of the reasons for its finding under Rule 8.2.A(1).
- B.** An Emergency Rule under this Rule 8.2 must be adopted at a meeting of the Board subject to the requirements of the Open Meetings Act. Notice required by the Open Meetings Act shall be provided.
- C.** Except as provided by Rule 8.2.D., a Rule adopted under this Rule may not be effective for longer than 90 days.
- D.** If notice of a hearing under Rule 8.1 is given before the Emergency Rule expires under Rule 8.2.C., the Emergency Rule is effective for an additional 90 days.

*Adopted October 8, 2008, by Board Order; effective October 8, 2008. Amended July 25, 2012, by Board Order; effective July 25, 2012.*

## **8.3 Actions on Operating Permit Applications**

- A.** Within 60 days after the date it is deemed Administratively Complete by the District under Rule 3.6.A, an Application for an Operating Permit shall be acted on by the District's General Manager or set on a specific date for action at a meeting of the District Board, which is considered a Public Hearing under Texas Water Code sections 36.402 and 36.403. For an Application for a Class D Municipal/Electric Zone Production Permit, the 60 days shall run from the date the Application is deemed Administratively Complete and Technically Complete by the District under Rules 3.6.A and 14.6.E.
- B.** An Application for an Operating Permit for a Non-Exempt Well requesting Production of less than 500 acre-feet per year may be approved by the District's General Manager without further Board action. Denial of such an Application shall be referred to the Board for action under Rule 8.4. An Application for an Operating Permit for a Non-Exempt Well requesting Production of 500 acre-feet per year or more, shall be referred to the Board for action under Rule 8.4. All Applications for an Operating Permit for a Class D Production Well shall be referred to the Board for action under Rule 8.4, regardless of the amount of Production requested.
- C.** An Application for a Minor Amendment to an Operating Permit under Rule 3.8.E(4) may be approved by the District's General Manager without further Board action. Denial of a Minor Amendment shall be referred to the Board for action under Rule 8.4.

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**D.** An Application for a Major Amendment to an Operating Permit under Rule 3.8.E(3) or an Involuntary Amendment proposed by the General Manager under Rule 3.8.F(2) shall be referred to the Board for action under Rule 8.4.

**E.** An Application to renew an Operating Permit issued with a Special Permit Condition setting a permit term or permit expiration date under Rule 3.8.D may be approved by the District's General Manager without further Board action. Denial of a renewal shall be referred to the Board for action under Rule 8.4.

*Adopted October 8, 2008, by Board Order; effective October 8, 2008. Amended January 14, 2009, by Board Order; effective January 14, 2009. Amended July 25, 2012 by Board Order; effective July 25, 2012. Amended January 20, 2016 by Board Order; effective January 20, 2016. Amended June 16, 2021, by Board Order; effective June 16, 2021. Amended August 16, 2024, by Board Order; effective August 16, 2024.*

**8.4 Public Hearing on Operating Permit Applications**

**A.** In this Rule, "Applications" refers to Applications referred to the Board for action under the requirements of Rule 8.3

**B.** Within 60 days of the date on which the District determines that an Application is Administratively Complete, it shall be set on the agenda for a Public Hearing at a Board meeting. For an Application for a Class D Municipal/Electric Zone Production Permit, the 60 days shall run from the date it is deemed Administratively Complete and Technically Complete by the District under Rules 3.6.A and 14.6.E. This setting serves to fulfill the requirement of Texas Water Code 36.114(e). Such setting shall be no later than the next regularly scheduled Board meeting that would allow sufficient time for the notice required by Rule 8.4.C. This Public Hearing must be held within 35 days after the setting of the date.

**C.** Notice of the Public Hearing on the Application shall be provided by the District and shall include the following:

- (1)** The name of the Applicant;
- (2)** The address or approximate location of the Water Well or proposed Water Well;
- (3)** A brief explanation of the proposed Operating Permit or Permit Amendment, including any requested amount of Groundwater, the purpose of the proposed use, and any change in use;
- (4)** The time, date and location of the Public Hearing; and
- (5)** Any other information the District considers relevant and appropriate.

**D.** In addition to the notice required by the Open Meetings Act, not later than the 10th day before the date of the Public Hearing, the District shall provide notice as follows:



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- (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) Mail notice to the Applicant by regular mail;
- (4) Provide notice by mail, facsimile, or electronic mail to any Person who has requested notice under Rule 8.4.F. Failure to provide notice under this Rule 8.4.D(4) does not invalidate an action taken by the District at the Public Hearing.

**E.** Once the District has approved the wording of the notice, the Applicant shall provide notice for a Public Hearing on an Application for a Class D Production Well as follows:

- (1) Publish notice in a newspaper regularly published and distributed throughout the District and the county where the proposed Water Well or Well Field will be located. It must be published for once a week for two consecutive weeks with the second publication being at least 10 days prior to the Public Hearing.
- (2) Mail notice to all Water Well Owners of Registered Water Wells within the 3-mile Buffer Area for the Class D Production Well project and to any Applicants who have scheduled a Pre-Application Meeting regarding a Water Well to be located within the 3-mile Buffer Area for the Class D Production Well project.
- (3) Mail notice to all Groundwater Conservation Districts adjacent to the District.

**F.** A Person may submit to the District a written request for notice of a Public Hearing on an Operating Permit or Permit Amendment. A request is effective for the remainder of the calendar year in which the request is received by the District. To receive notice of a Public Hearing in a later year, a Person must submit a new request.

**G.** Anyone interested in the Application may attend the Public Hearing and make oral comments at the time designated for comments.

**H.** The Board, at its sole discretion, may administer an oath to the staff, the Applicant, and anyone who makes oral comments on the Application.

**I.** The Board shall issue a written order or resolution reflecting its decision on the Application. It may grant the Application, grant the Application with Special Permit Conditions, or deny the Application. If the Board approves the Operating Permit or Permit Amendment, the Operating Permit shall be an attachment to that written order or resolution. The Board's decision shall be made within 60 days after the Board meeting at which the Application was considered.

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**J.** Unless a Contested Case Hearing is requested, the effective date of the Board's written order or resolution reflecting its decision on the Application under Rule 8.4.I shall be 21 days after the date on which the President of the District signs the order or resolution. This effective date shall be written in the order or resolution. Any appeal authorized by Texas Water Code Chapter 36, Subchapter H shall run from the effective date, because it is the date on which all administrative appeals to the District are final, unless there is a Contested Case Hearing Request.

**K.** If a Contested Case Hearing Request is timely submitted to the District, the Board or its designee shall hold a Preliminary Hearing on the request according to Rule 8.5.C through F.

**L.** If after a Preliminary Hearing the Board determines that there will be no Contested Case Hearing, the effective date of the Board's written order or resolution reflecting its decision on the Application under Rule 8.4.I shall be the date on which the Board signs a written order or resolution under 8.5.F denying the Contested Case Hearing Request. Any appeal authorized by Texas Water Code Chapter 36, Subchapter H shall run from the effective date, because it is the date on which all administrative appeals to the District are final.

*Adopted October 8, 2008, by Board Order; effective October 8, 2008. Amended January 14, 2009, by Board Order; effective January 14, 2009. Amended July 25, 2012 by Board Order; effective July 25, 2012. Amended January 20, 2016, by Board Order; effective January 20, 2016. Amended June 16, 2021, by Board Order; effective June 16, 2021. Amended August 16, 2024, by Board Order; effective August 16, 2024.*

### **8.5 Contested Case Hearings on Permitting Actions**

**A.** A Contested Case Hearing Request on the Board's decision on an Application under Rule 8.4.I must be in writing and must be received by the District not later than 20 days after the date on which the President of the District signs the order or resolution under Rule 8.4.I. If a Contested Case Hearing requester intends to request that the Contested Case Hearing be sent to the State Office of Administrative Hearings, as authorized by Texas Water Code Section 36.416(b) and District Rule 8.6, the request must be included in the Contested Case Hearing Request, or it is waived.

**B.** The following individuals who submit a Contested Case Hearing Request may be named Parties at the Preliminary Hearing:

- (1)** The Applicant; and
- (2)** A Person who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest that is within the District's regulatory authority that is not merely an interest common to members of the public; and is affected by the Board's action on the Application under Rule 8.4.I.

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- C.** If the District receives a written Contested Case Hearing Request during the period required under District Rule 8.5.A the District shall schedule a Preliminary Hearing no later than the next regularly scheduled Board meeting that would allow sufficient time for the notice required by this Rule 8.5.
- D.** If the Preliminary Hearing is conducted by a quorum of the Board, notice required by the Open Meetings Act shall be provided. Additionally, at least 10 days prior to the Preliminary Hearing, the District shall mail notice to the Applicant and to all Persons requesting a Contested Case Hearing.
- E.** The Preliminary Hearing may be conducted by a quorum of the Board; an individual to whom the Board has delegated in writing the responsibility to preside as a Hearing Examiner over the hearing or matters related to the hearing; or an administrative law judge at the State Office of Administrative Hearings under Texas Water Code § 36.416 and District Rule 8.6. In any event, the Board shall make the final determination as to whether any Person requesting the Contested Case Hearing has standing to make that request and whether a justiciable issue related to the Application has been raised.
- F.** At the Preliminary Hearing any matter that may expedite the hearing or otherwise facilitate the hearing process may be considered, including,
- (1)** whether a valid Contested Case Hearing Request has been submitted and if so, the designation of Parties. If the District's decision on an Application is opposed by one or more Persons requesting a Contested Case Hearing, the General Manager is automatically a Party.
  - (2)** if a request under District Rule 8.5.A has been made to send the Contested Case Hearing to the State Office of Administrative Hearings, the amount of the Contested Case Hearing Fee Deposit under Texas Water Code Section 36.416(c).
  - (3)** if a request under District Rule 8.5.A has been made to send the Contested Case Hearing to the State Office of Administrative Hearings, the location of the hearing either in Travis County, Texas, or as described in Texas Water Code Section 36.403(c).
  - (4)** formulation and simplification of issues.
  - (5)** the hearing schedule, including any necessary discovery.
- G.** The Board's decisions made during the Preliminary Hearing will be in the form of a written order. If the Board determines that there will be a Contested Case Hearing, the written order shall also specify, if applicable, a ten (10) day deadline to submit to the District the required Contested Case Hearing Fee Deposit under Texas Water Code Section 36.416(c). The ten day deadline shall run from the date of the written order. If the Contested Case Hearing Fee Deposit is not submitted to the District by the deadline,

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the Contested Case Hearing Request is considered withdrawn and the Board's decision on the Application under Rule 8.4.I becomes final under the terms of Rule 8.4.J.

**H.** The Contested Case Hearing shall be conducted by a quorum of the Board, or the Board, at its sole discretion, may appoint a Hearings Examiner to preside over and conduct the hearing on the Application. In the alternative, a Contested Case Hearing may be held by the State Office of Administrative Hearings under District Rule 8.6. The appointment of a hearing examiner shall be made in writing. If the hearing is conducted by a quorum of the Board, the President shall preside. If the President is not present, the Board shall select one of the Directors who are present to preside.

**I.** The Presiding Officer has the following authority and obligations:

- (1)** May convene the hearing at the time and place specified in the notice;
- (2)** May set any necessary additional hearing dates;
- (3)** May designate the Parties regarding a contested Application;
- (4)** May establish the order for presentation of evidence;
- (5)** May administer oaths to all Persons presenting testimony;
- (6)** May examine Persons presenting testimony;
- (7)** May ensure that information and testimony are introduced as conveniently and expeditiously as possible without prejudicing the rights of any Party;
- (8)** Shall admit relevant evidence and may exclude evidence that is irrelevant, immaterial, or unduly repetitious;
- (9)** May prescribe reasonable time limits for testimony and the presentation of evidence.
- (10)** 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 Presiding 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.
- (11)** May refer Parties to an alternative dispute resolution (ADR) procedure on any matter at issue in the hearing, apportion costs for ADR, and appoint an impartial third party as provided by Section 2009.053 of the Government Code to facilitate that procedure;
- (12)** May continue a hearing from time to time and from place to place. If the continuance is not announced on the record at the hearing, the Presiding Officer shall provide notice of the continued hearing by regular mail to the

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Parties. In any event, if the hearing is being conducted by a quorum of the Board, Open Meetings Act notice shall be provided.

- (13)** May exercise the procedural rules under District Rules 8.4 and 8.5;
- (14)** May apportion among the Parties the costs related to:
  - (a)** a contract for the services of a Presiding Officer; and
  - (b)** the preparation of the official hearing record.

**J.** The Presiding 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 the Contested Case Hearing and payment of an appropriate deposit, as set by the Presiding Officer, the hearing shall be transcribed by a court reporter. The costs of such court reporter may be assessed against the Party requesting it or among the parties to the hearing. The Presiding Officer may exclude a Party from further participation in the hearing for failure to pay in a timely manner costs assessed against that Party under this Rule 8.5.J.

**K.** If the Board has appointed a Hearings Examiner to be the Presiding Officer at the hearing, the Hearings Examiners shall submit a Proposal for Decision to the Board not later than the 30<sup>th</sup> day after the date the evidentiary hearing is concluded. A copy shall be provided to the Applicant and each Party to the hearing. The Applicant and other Parties to the hearing may submit to the Board written exceptions to the Proposal for Decision within 10 days of issuance of the Proposal for Decision. The Proposal for Decision shall include:

- (1)** A summary of the subject matter of the hearing;
- (2)** A summary of the evidence received; and
- (3)** The Hearings Examiner's recommendations for Board action on the subject matter of the hearing.

**L.** The Board shall consider the Proposal for Decision at a Board meeting held after the deadline for written exceptions to the Proposal for Decision has passed. This Board meeting shall be the final hearing as contemplated by Texas Water Code section 36.410(f). Additional evidence may not be presented during the final hearing. The Parties may present oral argument at the final hearing to summarize the evidence, present legal argument, or argue an exception to the Proposal for Decision. A final hearing may be continued as provided by Texas Water Code Section 36.409 and Rule 8.5.I(12).

**M.** The Board shall issue a written order or resolution reflecting its decision, which shall be made at the hearing or at a meeting subject to the requirements of the Open Meetings Act. A copy of the Operating Permit, if approved in whole or in part, shall be

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an attachment to that written order or resolution. The Board's decision shall be made within 60 days after the final hearing on the Application is concluded.

**N.** Request for rehearing or findings and conclusions shall be considered as follows:

- (1)** Not later than the 20th day after the date of the Board's decision, an Applicant or other Party to a Contested Hearing may administratively appeal a decision of the Board on an Application by requesting written findings and conclusions or a rehearing before the Board.
- (2)** On receipt of a timely written request, the Board shall make written findings and conclusions regarding a decision of the Board on an Application. The Board shall provide certified copies of the findings and conclusions to the Person who requested them, and to each designated Party, not later than the 35th day after the date the Board receives the request. The Applicant or a Party to the Contested Case Hearing may request a rehearing before the Board not later than the 20th day after the date the Board issues the findings and conclusions.
- (3)** A request for rehearing must be filed in the District Office and must state the grounds for the request. The Person requesting a rehearing must provide copies of the request to all Parties to the hearing.
- (4)** If the Board grants a request for rehearing, the Board shall schedule the rehearing not later than the 45th day after the date the request is granted. Any action by the Board on a request for rehearing shall be made at a Board meeting subject to the Open Meetings Act.
- (5)** The failure of the Board to grant or deny a request for rehearing before the 91st day after the date the request is submitted is a denial of the request.

**O.** A decision by the Board on an Application is final if:

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

**P.** An Applicant or other Party to a Contested Hearing may file a suit against the District under Texas Water Code Section 36.251 to appeal a decision on an Application not later than the 60th day after the date on which the decision becomes final. A timely filed request for rehearing is a prerequisite to any such suit.

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*Adopted October 8, 2008, by Board Order; effective October 8, 2008. Amended July 25, 2012, by Board Order; effective July 25, 2012. Amended January 20, 2016, by Board Order; effective January 20, 2016. Amended June 16, 2021, by Board Order; effective June 16, 2021. Amended August 16, 2024, by Board Order; effective August 16, 2024.*

**8.6 Contested Case Hearing Referred to SOAH**

**A.** If the Board determines that a Contested Case Hearing will be held, a Contested Case Hearing Request by the Applicant or other Party was timely filed under District Rule 8.5.A and included a request that the Contested Case Hearing be sent to the State Office of Administrative Hearings, and the Contested Case Hearing Fee Deposit was timely received by the District under District Rule 8.5.G, the District shall contract with the State Office of Administrative Hearings to conduct the hearing.

**B.** A Contested Case Hearing conducted by the State Office of Administrative Hearings shall be conducted in Travis County or at the District Office or regular meeting location of the Board unless the Board provides for hearings to be held at a different location.

**C.** The Party requesting the hearing before SOAH shall pay all costs associated with the contract for the hearing and shall deposit with the District an amount sufficient to pay the contract amount. This Contested Case Hearing Fee Deposit shall be received by the District within 10 days of issuance of the order or resolution under District Rule 8.5.G. At the conclusion of the SOAH Contested Case Hearing, the District shall refund any excess money to the paying Party. All other costs may be assessed as authorized by Texas Water Code Chapter 36 or District Rules.

**D.** The SOAH Contested Case Hearing shall be conducted as provided in District Rule 8.5, to the extent District Rule 8.5 does not conflict with subchapters C, D, and F of the Texas Government Code, Chapter 2011 and the procedural rules of the State Office of Administrative Hearings.

**E.** An administrative law judge who conducts a SOAH Contested Case Hearing shall consider applicable District Rules or policies in conducting the hearing, which shall be provided to the judge by the District.

**F.** The District order or resolution under District Rule 8.5.G shall control on the issues addressed in that order.

**G.** The Board has the authority to make a final decision on consideration of a Proposal for Decision issued by an administrative law judge from the State Office of Administrative Hearings. The Board may change a finding of fact or conclusion of law made by the administrative law judge, or may vacate or modify an order issued by the judge, only if the Board determines:

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- (1) that the judge did not properly apply or interpret applicable law, District Rules, written policies provided under Rule 8.6.E, or prior District administrative decisions;
- (2) that a prior District administrative decision on which the judge relied is incorrect or should be changed; or
- (3) that a technical error in a finding of fact should be changed.

*Adopted July 25, 2012, by Board Order; effective July 25, 2012. Amended January 20, 2016, by Board Order; effective January 20, 2016. Amended August 16, 2024, by Board Order; effective August 16, 2024.*

**8.7 Enforcement Hearing**

**A.** If the District receives a timely filed written request for hearing from a Respondent who has received a Notice of Violation from the District, the District shall decide at which Board meeting the District Enforcement Action will be considered. The Board meeting at which the District Enforcement Action is considered under this Rule shall constitute the Enforcement Hearing and shall be considered the Public Hearing on the matter and fulfills the requirement, if any, for a Public Hearing.

**B.** Notice required by the Open Meetings Act shall be provided for the Enforcement Hearing.

**C.** Notice of the Enforcement Hearing shall be mailed to the Respondent by certified mail, return receipt requested, at least ten days prior to the scheduled hearing date.

**D.** Anyone attending the Enforcement Hearing on the District Enforcement Action may make oral comments at the time designated for comments.

**E.** The Board, at its sole discretion, may administer an oath to the staff, the Respondent, and anyone who makes oral comments on the District Enforcement Action.

**F.** The Enforcement Hearing shall be conducted by a quorum of the Board, or the Board, at its sole discretion, may appoint a Hearings Examiner to preside over and conduct the Enforcement Hearing. Appointment of a Hearings Examiner shall be made in writing. If the Enforcement Hearing is conducted by a quorum of the Board, the President shall preside. If the President is not present, the Board shall select one of the Directors who are present to preside. If the matter is referred to a Hearings Examiner, upon completion of the Enforcement Hearing the Hearings Examiner shall submit a written recommendation to the Board.

**G.** At the close of the Enforcement Hearing, the Board shall make a decision on the issues before it. If that matter was referred for hearing, the Board is not required to approve the written recommendation submitted by the Hearings Examiner. The Board shall issue a written order or resolution reflecting its decision.



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**H.** The effective date of the written order shall be the date on which the President of the District signs the order or resolution. The order or resolution shall include a statement that the order or resolution becomes effective and final on that date. Any appeal authorized by Texas Water Code Chapter 36, Subchapter H shall run from the effective date, because it is the date on which all administrative appeals to the District are final.

*Adopted October 8, 2008, by Board Order; effective October 8, 2008. Renumbered July 25, 2012, by Board Order; effective July 25, 2012. Amended August 16, 2024, by Board Order; effective August 16, 2024.*

**8.8 Procedures for GMA-16 Joint Planning**

**A. Notice and Public Hearing on Proposed Relevant DFCs**

- (1)** When the GMA-16 Joint Planning Committee mails a copy of the proposed Desired Future Conditions proposed under Texas Water Code Section 36.108(d), a 90-day comment period begins.
- (2)** During the public comment period, the District shall post notice and hold a Public Hearing on any proposed DFCs relevant to the District.
- (3)** During the public comment period, the District shall make available in the District Office a copy of the proposed DFC and any supporting materials, such as the documentation of factors considered under Texas Water Code Section 36.108(d) and Groundwater availability model run results.
- (4)** At least 10 days before a hearing on the proposed Desired Future Conditions proposed by the GMA-16 Joint Planning Committee under Texas Water Code Section 36.108(d), the District must post notice of Public Hearing on the proposed DFC that includes the following:
  - (a)** the proposed Desired Future Conditions and a list of any other agenda items;
  - (b)** the date, time, and location of the Public Hearing;
  - (c)** the name, telephone number, and address of the Person to whom questions or requests for additional information may be submitted;
  - (d)** the names of the other districts on the GMA-16 Joint Planning Committee; and
  - (e)** information on how the public may submit comments
- (5)** The notice must be:
  - (a)** posted in a place readily accessible to the public at the District Office;

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- (b) provided to the county clerk of each county in the District;
  - (c) published in one or more newspapers of general circulation in the counties in which the District is located;
  - (d) provided by mail, facsimile, or electronic mail to any Person who has requested notice under District Rule 8.1.F;
- (6) At least 10 days before a hearing on the proposed Desired Future Conditions proposed by the GMA-16 Joint Planning Committee under Texas Water Code Section 36.108(d), the District must make available a copy of the proposed Desired Future Conditions at a place accessible to the public during normal business hours and on the District website.
  - (7) Anyone interested in the proposal may submit written comments about the proposal to the District at least 5 days prior to the scheduled hearing at which the proposal will be considered by the Board.
  - (8) Anyone interested in the proposal may attend the hearing and make oral comments at the time designated for comments.
  - (9) The District shall make and keep in its files an audio recording of the hearing.
  - (10) The Board shall issue a written order or resolution reflecting its decision. The proposal that the Board has approved shall be an attachment to that written order or resolution.
  - (11) After the close of the public comment period, the District shall compile for consideration at the next GMA-16 Joint Planning meeting a summary of relevant comments received, any suggested revisions to the proposed Desired Future Conditions, and the basis for the revisions. This summary is the DFC Hearing Summary Report.

**B. District Adoption of the DFCs**

- (1) After the District receives notification from the TWDB that the DFC Explanatory Report is administratively complete, the District shall adopt the DFCs in the report that apply to the District.
- (2) The notice and hearing provisions of District Rule 8.8.A(2) - (9) apply to the District's adoption of the DFCs.

**C. Appeal of a DFC**

- (1) If the District receives, within 120 days from the District's adoption of a DFC under District Rule 8.8.B, a petition from an affected Person appealing the reasonableness of a DFC, the District shall take the following actions.

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- (a)** Submit a copy of the petition to the TWDB within 10 days of receipt.
  - (b)** Within 60 days of receipt, submit a copy of the petition to SOAH and contract with SOAH to conduct a contested case hearing on the petition, as provided by Texas Water Code section 36.1083.
- (2)** During the period between receipt of a petition described in subsection (1) of this Rule 8.8.C and receipt of the TWDB study required under Texas Water Code Section 36.1083(e), the District may enter into mediation with the petitioner to resolve the issues raised in the petition.
- (3)** If there is no resolution of the petition, the District shall provide at least 10 days prior to the SOAH hearing:
  - (a)** general notice of the SOAH hearing following the requirements of District Rule 8.8.A; and
  - (b)** notice of the SOAH hearing mailed to the petitioner; any Person who has requested notice; each non-party Groundwater Conservation District and Regional Water Planning Group located in the same Groundwater Management Area as the District; the TWDB; and the Texas Commission on Environmental Quality.
  - (c)** notice under District Rule 8.8(C)(3)(a) and (b) shall include the following information:
    - (i)** a statement of the time, place, and nature of the hearing;
    - (ii)** a statement of the legal authority and jurisdiction under which the SOAH hearing is to be held, citing specifically to 1 Texas Administrative Code Chapter 155;
    - (iii)** a reference to the particular sections of the statutes and Rules involved; and
    - (iv)** a short, plain statement of the matters asserted.
- (4)** The petitioner shall pay the costs associated with the SOAH contract and prior to the beginning of the SOAH hearing shall deposit with the District an amount sufficient to pay the contract amount, such amount to be set by the District on a case-by-case basis depending on the SOAH contract for each petition hearing.
- (5)** SOAH may apportion costs among the parties to the SOAH petition hearing and the District will implement such apportionment, including refund of any excess deposit money to the petitioner.

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- (6)** On receipt of SOAH's findings of fact and conclusions of law in a proposal for decision on the petition, the District shall issue a final order stating the District's decision on the petition, including findings of fact and conclusions of law. The District may change a finding of fact or conclusion of law made by SOAH or may vacate or modify an order issued by SOAH, as provided by District Rule 8.6.G.
- (7)** If the District vacates or modifies the proposal for decision, the District shall issue a report describing in detail the District's reasons for disagreement with SOAH's findings of fact and conclusions of law. The report shall provide the policy, scientific, and technical justifications for the District's decision.

*Adopted July 25, 2012, by Board Order; effective July 25, 2012. Amended January 20, 2016, by Board Order; effective January 20, 2016. Amended March 21, 2018, by Board Order; effective March 21, 2018. Amended June 16, 2021, by Board Order; effective June 16, 2021. Amended August 16, 2024, by Board Order; effective August 16, 2024.*

## **Rule 9: WATER WELLS ASSOCIATED WITH URANIUM EXPLORATION AND MINING**

### **9.1 Uranium Exploration Activities**

#### **A. GCD Jurisdiction:**

- (1)** Except as provided in Texas Natural Resources Code Section 131.354, 16 Texas Administrative Code Section 11.140, and these Rules, the Railroad Commission of Texas has exclusive jurisdiction and is solely responsible for regulation of all Uranium Exploration Activities.
- (2)** Cased Uranium Exploration Wells subject to a Uranium Exploration Permit used for exploration or for Rig Supply Purposes are exempt from District regulation except as described in Rule 9.1.A(3) and 9.1.B.
- (3)** If the cumulative amount of water produced from the Cased Uranium Exploration Wells located inside the area subject to the Uranium Exploration Permit and completed under the Uranium Exploration Permit exceeds 40 acre-feet in one year:
  - (a)** All Wells described in Rule 9.1.A(3) used for Monitoring Purposes are subject to District Rules regarding Registration of Wells.
  - (b)** All Wells described in Rule 9.1.A(3) used for Rig Supply Purposes are subject to District Rules regarding Production and reporting.

#### **(4) Production Limits**

With regard to a Cased Uranium Exploration Well used for Rig Supply Purposes subject to the District's Production Rules pursuant to Natural Resources Code 131.354(c), 16 TAC 11.140(d), and Rule 9.1.A(3)(b), the District shall use the number of acres described in the Uranium Exploration Permit in calculating Production Limits under District Rule 11.

#### **B. Cased Well Production Report**

A Uranium Exploration Permittee shall submit a monthly Cased Well Production Report to the District as described in this Rule 9.1.B. The report shall include the total amount of Groundwater produced by each Cased Uranium Exploration Well used for monitoring or for Rig Supply Use and that is located inside the area subject to the Uranium Exploration Permit. The report shall be submitted within 30 days from the end of each month showing Production during the previous month. The monthly reports are required until the end of the Uranium Exploration Permit Year, even if Production temporarily ceases. The Cased Well Production Report form is available at the District Office and on the District website. The following information must be provided:

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- (1) Well identification to correspond with information provided to the Railroad Commission on Form SMRD-8U (Cased Exploration Completion Report);
- (2) monthly Production data and cumulative data for the Uranium Exploration Permit Year.

**C. Groundwater Quality and Well Information**

- (1) At least 15 days prior to commencement of drilling, a Uranium Exploration Permittee shall obtain Groundwater samples for analysis in accordance with this subsection. Within 90 days of receiving the laboratory analysis data, the Uranium Exploration Permittee shall provide to the District Exploration Groundwater Quality Information as follows:
  - (a) from each Water Well located in the District that is tested by the Uranium Exploration Permittee before exploration; and
  - (b) from the following Water Wells, as applicable:
    - (i) if there are fewer than 10 Water Wells located inside the approved exploration area, from each Water Well located inside the approved exploration area; or
    - (ii) if there are at least 10 Water Wells located inside the approved exploration area, from 10 Water Wells that are distributed as evenly as possible throughout that area.
- (2) Within 90 days of receiving the laboratory analysis data, a Uranium Exploration Permittee shall provide to the District Exploration Groundwater Quality Information obtained during exploration within the District as follows:
  - (a) from each Water Well that the Uranium Exploration Permittee tests during exploration; and
  - (b) from each Cased Uranium Exploration Well completed under the Uranium Exploration Permit.
- (3) Each Uranium Exploration Permittee shall conform to the Exploration Groundwater Quality Information required under subsections (1) and (2) of this Rule 9.1.C to the requirements of 16 Texas Administrative Code section 11.142.
- (4) Each Uranium Exploration Permittee that installs Cased Uranium Exploration Wells shall provide to the District, within 60 days of the installation, the following information:

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- (a) the Uranium Exploration Permittee's name, address, and telephone number; and
- (b) the following information for each Cased Uranium Exploration Well in the District:
  - (i) Well Completion information;
  - (ii) the State of Texas Well Report, and all Geophysical Logs and Lithological Logs, except any Confidential Information as defined in these Rules;
  - (iii) the location of the Well in WGS 84 Coordinates, including a legal description and the acreage of the property where the Well is located;
  - (iv) verification that the Well will be used for a Uranium Exploration Activities; and
  - (v) the type of pump and Production Capacity used in the Well.

*Adopted October 8, 2008, by Board Order; effective October 8, 2008. Amended July 25, 2012, by Board Order; effective July 25, 2012. Amended August 16, 2024, by Board Order; effective August 16, 2024.*

### **9.2 Development of an Area Permit Application**

#### **A. Reporting Data to the District**

If in an Area Permit Application, the proposed Area Permit boundary is wholly or partially within the District, the Area Permit Applicant shall provide to the District the information required by this Rule 9.2.A. This information must be provided to the District no later than 90 days after the Area Permit Applicant receives the final information.

- (1) The Area Permit Applicant shall provide Information regarding Water Wells that are not recorded in the public record when such Water Wells are encountered during the development of the Area Permit Application, including:
  - (a) the location of each Water Well in WGS 84 Coordinates;
  - (b) the name, address, telephone number, and email address of the Water Well Owner; and
  - (c) all other available information for the Water Well, including Well Depth, Well Completion method, completion interval, water quality information, and Lift Method.

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- (2) A map showing the locations, including the WGS 84 Coordinates, of all Water Wells that are recorded in the public record and that are inside the proposed Permit Area Boundary and within one-quarter mile outside of the proposed Area Permit Boundary;
- (3) Pre-Mining Water Quality Information collected from Area Permit Registered Wells; and
- (4) a record of strata as described in 30 Texas Administrative Code Section 331.224 for each Area Permit Registered Well, except for Confidential Information, as defined in these Rules.

#### **B. Area Permit Registered Well Production Report**

An Area Permit Applicant shall submit a monthly Area Permit Registered Well Production Report to the District as follows. The report shall include the total amount of water produced by each Area Permit Registered Well. The report shall be submitted within 30 days of the end of each month showing Production during the previous month. The Area Permit Registered Well Production Report form is available at the District Office and on the District website.

#### **C. Reporting an Excursion in a Designated Monitoring Well**

A copy of the written notification of an excursion in a designated Monitoring Well, required under 30 Texas Administrative Code Section 331.106(1), shall be submitted to the District at the same time it is sent to the Texas Commission on Environmental Quality.

*Adopted October 8, 2008, by Board Order; effective October 8, 2008. Amended July 25, 2012, by Board Order; effective July 25, 2012. Amended August 16, 2024, by Board Order; effective August 16, 2024.*

#### **9.3 Activities Affecting Groundwater Allocation**

The holder of an Aquifer Exemption shall submit to the District a map or legal description of any portion of the aquifer that becomes off limits for use as a drinking water source under the Safe Drinking Water Act, Texas Water Code Chapter 27 Aquifer Exemption process of 40 Code of Federal Regulations Section 144.7(b) and 30 Texas Administrative Code Section 331.13. A submittal is due within 30 days of approval, amendment, or removal of the Aquifer Exemption by the U.S. Environmental Protection Agency. The holder of the Aquifer Exemption is responsible for submitting this documentation. Additionally, because under Rule 11.2.C(1) it affects the landowner's Groundwater allocation, the landowner is also responsible.

*Adopted October 8, 2008, by Board Order; effective October 8, 2008. Amended July 25, 2012, by Board Order; effective July 25, 2012. Amended August 16, 2024, by Board Order; effective August 16, 2024.*



## **Rule 10: WATER WELL SPACING**

### **10.1 Purpose**

The purpose of these Water Well spacing requirements is to promote Conservation of Groundwater, provide for long-term availability of Groundwater resources, reduce localized depletion of Groundwater, prevent interference between Water Wells, and prevent the degradation of Groundwater quality.

*Adopted October 8, 2008, by Board Order; effective October 8, 2008. Amended August 16, 2024, by Board Order; effective August 16, 2024.*

### **10.2 Applicability**

The requirements of this Rule 10 apply to all New Wells drilled within the District, except Water Wells subject to Rule 9 and 13.3.B or unless specifically noted in this Rule 10. As authorized by Texas Water Code Section 36.116, some of the required distances are more stringent than those required by 16 Texas Administrative Code Section 76.1000, as amended.

*Adopted October 8, 2008, by Board Order; effective October 8, 2008.*

### **10.3 Spacing from Potential Sources of Pollution**

**A.** All Water Wells must comply with the location standards of 16 Texas Administrative Code Section 76.1000 and with the minimum required separation distance for on-site sewage facilities of 30 Texas Administrative Code Section 285.91(10), which dictate horizontal distance from potential sources of Pollution. Section 76.1000 excludes Monitoring Wells, Environmental Soil Borings, Dewatering Wells, Piezometer Wells, and Recovery Wells from these requirements. Such Wells may be located where necessity dictates.

**B.** Public Water Supply Wells must comply with the 150-foot sanitary control easements as required by Title 30 Texas Administrative Code Chapter 290.

*Adopted October 8, 2008, by Board Order; effective October 8, 2008. Amended August 16, 2024, by Board Order; effective August 16, 2024.*

### **10.4 Spacing From Property Lines**

**A.** All New Wells shall be located a minimum horizontal distance from property lines as required by 16 Texas Administrative Code Section 76.1000, unless covered by the more stringent spacing requirements of this Rule 10.4. This requirement cannot be waived by the District.

**B.** All New Wells shall be located a minimum horizontal distance from property lines as specified in the following Table. Based on information obtained during Registration or

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permitting of a New Well regarding its location in reference to other Water Wells, the District may increase the required spacing.

<b>Water Wells – Production Capacity (gallons per minute)</b>	<b>Distance of New Well from Property Lines (in feet)</b>
Less than or equal to 20 gpm	100
20 to 250 gpm	5 feet per every gallon per minute
Greater than 250 gpm	10 feet per every gallon per minute

**C.** Any subdivision of existing tracts of land shall be done in such a fashion that new property lines shall be located no closer than the spacing requirements of this Rule from any Existing Well or proposed New Well.

**D.** Any increase in Production Capacity must be approved by the District under Rule 3.8. A request to increase Production Capacity will only be granted if the Water Well location will comply with the spacing requirements of this Rule 10.4 or if a spacing Variance is granted under Rule 10.5.

*Adopted October 8, 2008, by Board Order; effective October 8, 2008. Amended August 16, 2024, by Board Order; effective August 16, 2024.*

**10.5 Well Spacing Variance Procedure**

**A.** The owner of a proposed New Well or someone desiring to subdivide existing tracts of land may apply for a Variance to the spacing requirements of Rule 10.4.

**B.** An Application for a Variance shall be submitted to the District on a form obtained from the District. The Application shall explain the circumstances justifying the Variance. It shall be accompanied by a plat or sketch, drawn to scale on one inch equaling two hundred yards, which shows the property lines in the immediate area and all Water Wells within one-half mile of the proposed Water Well site. The Application shall also include the names and mailing addresses of all property owners adjoining the tract on which the Water Well is to be located.

**C.** Notice and an opportunity for a hearing before the Board for such a Variance shall be as follows:

- (1)** The District shall mail notice to the Applicant for the Variance and to all property owners adjoining the tract on which the Water Well is to be located at least 14 days prior to the Board meeting at which the Variance will be considered by the Board.

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- (2)** The notice shall provide the proposed location of the Water Well(s), the Applicant's name and address, and the date, time, and location of the Board meeting.
- (3)** The Board shall consider the Variance at a Board meeting, which shall serve as the hearing on the Variance. The requirements of Rule 8 do not apply to a hearing under this Rule 10.5.C.
- (4)** In making its decision on the Variance, the Board shall consider comments, if any, from adjoining, affected property owners; the peculiarities of the property shape; the local geology or hydrology; and any other information presented by the Applicant.

**D.** If the Water Well Owner obtains a waiver or easement of the property line distances from adjoining, affected property owners, no notice and opportunity for a hearing is required. The Water Well Owner shall prepare a plat and legal description of the affected property, and such plat shall be signed and sealed by a Registered Professional Land Surveyor. The legal description, plat, and waiver shall be notarized, filed with the County Clerk of the county in which the two properties are located, and copies shall be submitted with the Application for a Variance to the District office prior to drilling the proposed Water Well or subdividing the land. Such a waiver or easement will affect the property of the owner granting it by causing the distance requirements from property lines to be adjusted inward on the property for which the waiver is granted. The District shall not accept reciprocal waivers or easements from adjoining property owners if the waivers or easements would involve the same portion of the adjoining properties.

*Adopted October 8, 2008, by Board Order; effective October 8, 2008. Amended August 16, 2024, by Board Order; effective August 16, 2024.*

## **Rule 11: PRODUCTION LIMITS**

### **11.1 Existing Non-Exempt Wells**

**A.** An annual Production Limit will be included in the Operating Permit for an Existing Non-Exempt Well.

**B.** The annual Production Limit in the Operating Permit for an Existing Non-Exempt Well will be the highest annual Production from the Water Well during the five years prior to October 8, 2008, plus 25 %, or a reasonable amount for purpose of Beneficial Use of Groundwater without Waste based on information submitted with the Application plus 25 %.

*Adopted October 8, 2008, by Board Order; effective October 8, 2008. Amended July 25, 2012, by Board Order; effective July 25, 2012.*

### **11.2 New Non-Exempt Wells**

**A.** An annual Production Limit will be included in the Operating Permit for a New Non-Exempt Well.

**B.** The Production Limit in the Operating Permit for a New Non-Exempt Well will be based on the number of contiguous acres either owned by the Water Well Owner or for which the Water Well Owner has Groundwater Production rights within the District. This is referred to as the Production-Limit-Acreage.

**C.** In determining the Production- Limit-Acreage the District shall consider the extent to which the property is subject to In Situ Uranium Mining and shall calculate as follows:

- (1)** If any portion of the aquifer becomes off limits for use as a drinking water source under the Safe Drinking Water Act and Texas Water Code Chapter 27 Aquifer Exemption process of 40 Code of Federal Regulations Section 144.7(b) and 30 Texas Administrative Code Section 331.13, the Production-Limit-Acreage shall be reduced by the surface acreage deemed off limits.
- (2)** The total Production Limit in an Operating Permit shall be reduced by 80 acre-feet of Groundwater Production per uranium production area per year during any period of In Situ Uranium Mining on the Production-Limit-Acreage.

*Adopted October 8, 2008, by Board Order; effective October 8, 2008. Amended March 21, 2018, by Board Order; effective March 21, 2018. Amended August 16, 2024, by Board Order; effective August 16, 2024.*

**11.3 Calculation of Production Limit Based on Acreage**

**A.** The Production Limits in effect when an Application for an Operating Permit is deemed Administratively Complete under Rule 3.6.B or Technically Complete under Rule 14.6.E, whichever is applicable, are the Production Limits for the Operating Permit.

**B.** Except for a Class D Production Well, the Production Limit for an Operating Permit for a New Non-Exempt Well, the Application for which is deemed Administratively Complete on or after March 21, 2018, shall be 0.75 acre-inch/acre/year.

**C.** An Operating Permit issued with a Production Limit of 0.6 acre-inches/acre/year shall be amended to increase the Production Limit to 0.75 acre-inches/acre/year upon receipt by the District of an Administratively Complete Application for a Permit Amendment for the change.

**D.** The Production Limit for a Class D Zone Production Well screened to produce from the GCUL1 Zone shall be 14.87 acre-inches/acre/year.

$$\text{[PL (AFY/Ac) = Production (AFY) * (Acres within KCGCD) = 35700 (AFY)/96500 (Acres) *3.35 = 1.24 AFY/Ac. or 14.87 Acre-inches/Acre/Year]}$$

**E.** The Production Limit for a Class D Zone Production Well screened to produce from the GCML1 Zone shall be 0.75 acre-inches/acre/year.

$$\text{[PL (AFY/Ac) = Production(AFY) * (Acres within KCGCD) = 2079(AFY)/111449.6 (Acres) *3.35 = 0.0682 AFY/Ac. or 0.75 Acre-inches/Acre/Year]}$$

**F.** The Production Limit for a Class D Non-Zone Production Permit shall be 0.75 acre-inches/acre/year.

**G.** Within six months of receiving a MAG from the TWDB for the Burkeville Confining Unit and the Jasper Aquifer and any other applicable aquifer, the District shall re-evaluate, based on that MAG, the Production Limit set in Rule 11.3. for Class D Non-Zone Production Wells.

*Adopted October 8, 2008, by Board Order; effective October 8, 2008. Amended July 25, 2012, by Board Order; effective July 25, 2012. Amended March 21, 2018, by Board Order; effective March 21, 2018. Amended June 16, 2021, by Board Order; effective June 16, 2021. Amended August 16, 2024, by Board Order; effective August 16, 2024.*

## **Rule 12: PROHIBITION AGAINST WASTE AND POLLUTION**

### **12.1 General Prohibition**

No Person shall intentionally or negligently commit Waste or Pollution of the Groundwater resources with the District. Water Pollution Events must be reported to the District as required by Rule 5.7.

*Adopted October 8, 2008, by Board Order; effective October 8, 2008. Amended July 25, 2012, by Board Order; effective July 25, 2012.*

### **12.2 Wasteful Use**

Groundwater produced from within the District shall not be used in such a manner or under such conditions as to constitute Waste as defined by District Rules.

*Adopted October 8, 2008, by Board Order; effective October 8, 2008.*

### **12.3 Wasteful Production**

Any Person producing or using Groundwater shall exercise due care in accordance with acceptable and approved methods, to stop and prevent Waste of Groundwater.

*Adopted October 8, 2008, by Board Order; effective October 8, 2008.*

### **12.4 Groundwater Pollution**

No Person shall cause the Pollution or harmfully alter the character of the Groundwater within the District by causing or allowing the introduction of undesirable water, pollutants, or other deleterious matter from another stratum, from the surface of the ground, or from the operation of a Water Well. Injection activities that are in compliance with the Texas Commission on Environmental Quality regulatory requirements authorized by Texas Water Code Chapter 27, for which the U.S. Environmental Protection Agency and the Texas Commission on Environmental Quality have approved the Aquifer Exemption specified in the federal Safe Drinking Water Act and codified in 40 Code of Federal Regulations, Section 114.7(b) and 30 Texas Administrative Code, Section 331.13, shall not constitute Pollution under this Rule 12.4. The District may require any Person that impacts Groundwater quality to monitor and report as the Board deems necessary to ensure the protection of Groundwater quality, control subsidence and prevent Waste of Groundwater.

*Adopted October 8, 2008, by Board Order; effective October 8, 2008. Amended August 16, 2024, by Board Order; effective August 16, 2024.*

### **12.5 Orders to Prevent Waste or Pollution**

**A.** An order to prevent Waste or Pollution is generally processed as an Enforcement matter under Rule 7 and Rule 8.7 as applicable.

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**B.** If the District determines that an imminent peril to public health, safety, or welfare requires the immediate entry of an order to prohibit Waste or Pollution, the Board may issue an Emergency Temporary Order.

**C.** An Emergency Temporary Order may not be effective for longer than 90 days without further action of the Board.

**D.** If the District has identified a Person responsible for the Waste or Pollution of Groundwater and an emergency exists, initiation of a District Enforcement Action shall take place within 14 days of the effective date of the Emergency Temporary Order.

*Adopted October 8, 2008, by Board Order; effective October 8, 2008. Amended August 16, 2024, by Board Order; effective August 16, 2024.*

**RULE 13: WATER WELLS ASSOCIATED WITH OIL, GAS, AND MINING ACTIVITIES OTHER THAN IN SITU URANIUM MINING**

**13.1 District Jurisdiction over Water Wells Associated with Oil, Gas, and Mining Activities**

**A.** The District has authority over Water Wells used to supply Groundwater for activities related to the exploration or Production of hydrocarbons or minerals.

**B.** The District has authority over Abandoned Oil or Gas Wells conditioned for Groundwater Production.

*Adopted October 8, 2008, by Board Order; effective October 8, 2008. Amended July 25, 2012, by Board Order; effective July 25, 2012. Amended August 16, 2024, by Board Order; effective August 16, 2024.*

**13.2 Water Wells Associated with Mining Activities Authorized Under Texas Natural Resources Code, Chapter 134**

**A.** Water Wells authorized under a permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code (Texas Surface Coal Mining and Restoration Act) are Exempt Wells as provided in Rule 3.1.A(4). Such Wells must Register with the District as provided in Rule 3.2.A.

**B.** If the withdrawals from a Water Well exempted under this Rule and Rule 3.1.A(4) are no longer necessary for mining activities or are greater than the amount necessary for mining activities specified in the Railroad Commission permit, the Water Well becomes a Non-Exempt Well subject to the requirements of Rule 3.4 but is not subject to the spacing requirements of Rule 10.

**C.** An entity holding a permit issued by the Railroad Commission under Texas Natural Resources Code Chapter 134 that authorizes the drilling of a Water Well shall comply with the recordkeeping and reporting requirements of Rule 5.6.

*Adopted October 8, 2008, by Board Order; effective October 8, 2008. Amended July 25, 2012, by Board Order; effective July 25, 2012. Amended August 16, 2024, by Board Order; effective August 16, 2024.*

**13.3 Water Wells Associated with Oil and Gas Activities**

**A. Exempt Oil and Gas Water Supply Wells (Temporary Rig Supply Wells and Secondary Recovery Supply Wells)**

- (1) No Operating Permit is required for the drilling of a Temporary Rig Supply Well.



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- (2) No Operating Permit is required for the drilling of a Secondary Recovery Supply Well.
- (3) Under District Rule 3.1.A(2) and (3) and this Rule 13.3, a Water Well is considered to be an Exempt Oil and Gas Water Supply Well during any period that Groundwater from the Water Well is used solely or partially for Exempt Oil and Gas Water Supply Purposes.
- (4) For purposes of this Rule 13.3, the well operator is the Person holding the Railroad Commission oil or gas permit as described in Texas Water Code Section 36.117(b)(2).
- (5) The well operator must Register an Exempt Oil and Gas Water Supply Well with the District as provided in Rule 3.2. When Registering a Water Well that will be used solely as an Exempt Oil and Gas Water Supply Purposes, the use shall be indicated on the Application for Registration and the Well Registration Certificate shall reflect that use.
- (6) The well operator as defined in this Rule 13.3, must notify the District of changes in use to or from an Exempt Oil and Gas Water Supply Well, as provided in Rule 3.8.A(1)(d). If Groundwater from an Existing Well that was previously Registered for a different purpose will be used as an Exempt Oil and Gas Water Supply Purposes, prior to that change in use, the well operator shall submit written notification to the District as required by District Rule 3.8.A(1)(d). The well operator shall provide the anticipated beginning and ending dates of such Groundwater use.
- (7) An Exempt Oil and Gas Water Supply Well must comply with the Water Well construction standards as provided in Rule 4 and the Water Well spacing requirements of Rule 10.
- (8) The driller of an Exempt Oil and Gas Water Supply Well must submit to the District the Well Log as provided in Rule 5.1.A and the Geophysical Log, Electric Log, and Lithological Log as provided in Rule 5.1.B.
- (9) The Production from an Exempt Oil and Gas Water Supply Well shall be recorded and reported as required in Rule 5.4.
- (10) An Exempt Oil and Gas Water Supply Well shall be Plugged in accordance with Rule 6.1.

#### **B. Injection Water Source Well Permitted by Railroad Commission**

No District Operating Permit is required for an Injection Water Source Well.

#### **C. Other Water Wells Associated with Oil and Gas Activities, Including Injection Water Source Wells**

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- (1) An Exempt Oil and Gas Water Supply Well that no longer falls under the definition of a Temporary Rig Supply Well or Secondary Recovery Supply Well, must comply with all District Rules, which may include obtaining an Operating Permit under Rule 3.4.
- (2) Except as provided in Rules 13.3.A and 13.3.B, all other Water Wells associated with oil and gas activities, including an injection water source Water Well drilled for hydrocarbon activities associated with an oil or gas Well drilled after September 1, 1985 that does not penetrate the base of usable quality water, must comply with all District Rules, which may include obtaining an Operating Permit under Rule 3.4.

**D. Abandoned Oil or Gas Wells Conditioned for Usable Quality Groundwater Production**

- (1) When an Abandoned Oil or Gas Well will be conditioned for usable quality Groundwater Production, the well owner or operator must Register the Well with the District prior to submitting to the Railroad Commission, Form P-13, "Application of Landowner to Condition an Abandoned Well for Fresh Water Production," as required by District Rule 3.2.D.
- (2) If the Abandoned Oil or Gas Well is not equipped to produce Groundwater, it will be Registered as an Inactive Well and must be Capped as required by District Rule 6.2. When the Inactive Well that is Capped is then equipped to produce Groundwater, the Water Well Owner must notify the District of the change in status as required by District Rule 3.8.A(1)(d) and 3.8.A(2).
- (3) As required by 5.1.D, a Railroad Commission Form P-13, "Application of Landowner to Condition an Abandoned Well for Fresh Water Production," shall be submitted to the District within 30 days of receipt of Railroad Commission approval of the application. This must be submitted by either the Water Well Owner or Water Well Operator, whichever has received notice of approval from the Railroad Commission.

*Adopted October 8, 2008, by Board Order; effective October 8, 2008. Amended July 25, 2012, by Board Order; effective July 25, 2012. Amended August 16, 2024, by Board Order; effective August 16, 2024.*

## **RULE 14 CLASS D PRODUCTION PERMITS**

### **14.1 Applicability and General Requirements**

**A.** Rule 14 applies to the permitting and regulation of Class D Production Wells as defined in Rule 3.5.G. Class D Production Wells are further classified as follows:

- (1)** Class D Municipal/Electric Zone Production Wells screened to produce Groundwater from the GCML1 Zone or GCUL1 Zone;
- (2)** Class D Zone Production Wells screened to produce Groundwater from the GCML1 Zone or GCUL1 Zone; and
- (3)** Class D Non-Zone Production Wells.

**B.** The requirements in District Rules for obtaining an Operating Permit for and regulating Class D Production Wells screened to produce Groundwater in a Designated Brackish Groundwater Production Zone implement the requirements of Texas Water Code Section 36.1015.

- (1)** Overall Production from a Zone is limited to the amount specified in the Zone Designation Memo for the Zone. (A copy of the Zone Designation Memo is found in Appendix A of these Rules and can also be obtained from the District Office.)
- (2)** The Production Limit for a Water Well screened to produce Groundwater in a Zone is controlled by Rule 11.3.D and E.

**C.** The requirements for obtaining an Operating Permit for a Class D Non-Zone Production Permit and regulating Class D Non-Zone Production Wells are not controlled by Texas Water Code 36.1015.

The Production Limit for a Class D Non-Zone Production Well is controlled by Rule 11.3.F.

**D.** The primary steps in the permitting process for Class D Production Wells are generally as follows:

- (1)** Pre-Application Meeting pursuant to Rule 14.2.
- (2)** Pre-Application activities pursuant to Rule 14.3.
- (3)** Applicant submittal of an Application pursuant to Rule 14.4, payment of an Application Fee pursuant to Rule 1.8.B, and issuance of Notice of Application pursuant to Rule 14.5.
- (4)** Administrative and technical review.

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- (a)** For a Class D Municipal/Electric Zone Production Well, the Application review is as follows:
  - (i)** administrative review of the Application by the District to ensure that the Application contains all the information required in Rule 14.4 and the Applicant has no outstanding enforcement matters before the District;
  - (ii)** technical review by the District and the TWDB pursuant to Rule 14.6;
  - (iii)** receipt by the District of the TWDB Technical Report based on the TWDB review; and
  - (iv)** continued administrative and technical review by the District to ensure the Applicant has complied with all recommendations made in the TWDB Technical Report.
- (b)** For a Class D Zone Production Well or a Class D Non-Zone Production Well, the District review is to ensure that the Application contains all the information required in Rule 14.4 and the Applicant has no outstanding enforcement matters and includes a technical review of the data provided in the Application.
- (c)** The District written notice to the Applicant that the Application is Administratively Complete and Technically Complete pursuant to Rule 3.6.A and Rule 14.6.E, as applicable.
- (5)** District issuance of a draft Operating Permit based on its administrative and technical reviews and, for Class D Municipal/Electric Zone Production Permits, the TWDB Technical Report. No draft Operating Permit is issued if the General Manager is recommending denial of the Application.
- (6)** Notice and hearing on the Application.
- (7)** Board decision on the Application.

*Adopted June 16, 2021, by Board Order; effective June 16, 2021. Amended August 16, 2024, by Board Order; effective August 16, 2024.*

## **14.2 Pre-Application Meeting**

**A.** A Person desiring to obtain an Operating Permit for a Class D Production Well must make an appointment with the District General Manager prior to submitting an Application. This meeting will be considered the Pre-Application Meeting. In order to be able to comply with Rule 14.2.B, the potential Applicant must ensure that the appropriate members of its team attend.

**B.** The primary purpose of the Pre-Application Meeting is for the potential Applicant to provide sufficient information to the District to allow the General Manager to provide an overview of, and answer questions about, the regulatory requirements under District Rules. To that end, the potential Applicant should be prepared to provide information about the general scope of the Application including the expected general location of the Water Well or Well Field, the specific aquifer or geologic unit in which the Water Well(s) would be screened, the desired construction-to-Production timeline, the proposed use of the produced Groundwater, and other general information.

*Adopted June 16, 2021, by Board Order; effective June 16, 2021. Amended August 16, 2024, by Board Order; effective August 16, 2024.*

## **14.3 Pre-Application Activities**

**A.** An Applicant shall perform the following pre-Application activities to gather information required for an Application for an Operating Permit for a Class D Production Well. The Applicant should discuss with the District General Manager if any of the information is not available.

**B.** Obtain publicly available Existing Well Control Data for the area where the proposed Water Well or Well Field and Monitoring Well(s) will be located and within a 3-mile Buffer Area.

**(1)** A Buffer Area is determined by counting both Class D Production Wells and Monitoring Wells as follows:

**(a)** For projects involving more than two such Water Wells, draw a straight line between each outermost proposed Class D Production or Monitoring Well so that all Wells are on the line or inside the boundary circumscribed by the line. Measure distance outward from the line.

**(b)** For projects involving one or two Water Wells, draw a circle at the radius of the required distance from each Water Well.

**(2)** The publicly available Existing Well Control Data shall include:

**(a)** State of Texas Well Reports;

**(b)** Geophysical Logs;

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- (c) Groundwater quality data in all formations;
- (d) Groundwater levels in all formations;
- (e) descriptions of and data from aquifer tests;
- (f) lithology;
- (g) Well locations;
- (h) stratigraphic surfaces; and
- (i) GIS information – use the TWDB GAM map projection when possible.

**C.** Complete the AoR requirements of Rule 4.2.E in conjunction with obtaining the Existing Well Control Data required by Rule 14.3.B.

**D.** Prior to developing the Groundwater model and Application install Pre-Application Test Well(s) and Pre-Application Monitoring Well(s) to fully evaluate aquifer parameters; groundwater resources in the Zone or applicable aquifer or geologic unit.

- (1) Using Pre-Application Test Wells and Pre-Application Monitoring Wells, fully evaluate the targeted Well Field and the Zone Underground Strata or the Non-Zone Underground Strata, whichever is applicable. This shall include one or more Test Wells drilled to below the target Production zone to provide data on underlying Groundwater quality and quantity.
- (2) In order to develop the report and modeling required by Rule 14.4.G, develop sufficient data to understand the overlying and underlying geologic units to determine if there is hydrogeologic separation from water-bearing units; assess the water quality of the water-bearing units; and obtain the information listed in Rule 14.3.B.(2) for Pre-Application Test Wells and Pre-Application Monitoring Wells.

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#### **14.4 Content of an Application for a Class D Production Well Permit**

An Application for an Operating Permit for a Class D Production Well Permit Application shall include the following:

**A.** All information required for an Application for an Operating Permit for a Class A Production Well pursuant to Rule 3.5.D.

**B.** Existing Well Control Data and Pre-Application Well Control Data reflecting the required pre-application activities pursuant to Rule 14.3, including AoR data required by Rule 4.2.E, and if required under Rule 4.2.E, an Area of Review Mitigation Plan.

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- C.** Proposed Well Field design showing at least the following:
- (1)** Identification of the Zone Underground Strata or Non-Zone Underground Strata, as applicable, which must include the underlying and overlying aquifers;
    - (a)** For the GCUL1 Zone, the underlying aquifer is the Middle Lagarto and the overlying aquifer is the Lower Goliad.
    - (b)** For the GCML1 Zone, the underlying aquifer is the Lower Lagarto and the overlying aquifer is the Upper Lagarto.
    - (c)** For each Class D Non-Zone Production Well, identify the proposed screened intervals and the geologic unit from which Production is planned; the uppermost and lowermost Production aquifers; and the overlying aquifer.
  - (2)** Location of all proposed Water Wells on a map and their individual latitude and longitude and all relevant Buffer Areas;
  - (3)** Proposed Well Depth and Depth to the Bottom of the Screen for each proposed Class D Production Well;
  - (4)** Expected period of operation of the Class D Well or Well Field and cumulative proposed Production volume of the Class D Production Well(s) over the period;
  - (5)** Maximum proposed Production rate of each Water Well in gallons per minute;
  - (6)** Distance between the nearest Registered Water Well and any proposed Class D Production Well; and
  - (7)** Identification of any Water Wells within 2,640 feet of any proposed Class D Production Well and having a screened interval in an aquifer or geologic unit that is within or directly above the proposed screened interval.
- D.** Design of proposed Class D Production Well(s), including construction details showing compliance with Water Well construction standards of Rule 4.
- E.** For Water Wells producing from a Zone, consistency with the Zone Designation Memo and the applicable Modeled Available Groundwater for the District.
- (1)** Provide maximum Groundwater withdrawal amount and maximum withdrawal rate, to include cumulative and individual Water Wells and any proposed blending scheme.

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- (2)** Show that withdrawals and rates of withdrawal from a Zone will not exceed and will be consistent with the withdrawal amounts in the Zone Designation Memo.
  - (3)** Show that the requested Production from a Zone is in addition to the amount of the most recent Modeled Available Groundwater for the District established in the GMA-16 Joint Planning process, including addressing any double counting as between the most recent Modeled Available Groundwater and the Zone Designation Memo.
- F.** GIS file of all Well locations, including Pre-Application Test Wells and Pre-Application Monitoring Wells, and proposed Class D Production Wells and Production Monitoring Wells.
- (1)** Provide all GIS files with complete metadata.
  - (2)** Use TWDB GAM map projection, if possible.
- G.** Report on aquifer characterization of the Well Field and surrounding area of impact including modeling. The report must include:
- (1)** a modeling report showing the expected effect of withdrawal on Groundwater level and quality in the Zone Underground Strata or in the Non-Zone Underground Strata, whichever is applicable. The modeling report shall include:

    - (a)** all model computer files;
    - (b)** model documentation including a list of assumptions and information on the conceptualization, code used, calibration/verification carried out, if any, scenarios modeled, and a discussion of the results, following the recommended ASTM D5718-13 Standard Guide for Documenting a Groundwater Flow Model Application; and
    - (c)** 30- and 50-year drawdown projections, proposed rates of withdrawal, potential effects of Production on Groundwater levels and Groundwater quality in the same and adjacent aquifers as described in Rule 14.4.H, Groundwater salinity and potential salinity changes, and potential subsidence.
  - (2)** For Class D Zone Production Wells, findings regarding the compatibility of the proposed Well Field design with the Zone. For Class D Non-Zone Production Wells, findings regarding proposed Well Field design with applicable Production Limits and spacing requirements.
  - (3)** Calculation of aquifer hydraulic properties;



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- (4)** Predictions of maximum Groundwater levels and maximum TDS concentrations in each Class D Production Well and each Production Monitoring Well over the period of operation of the Wells;
- (5)** Methodology and assumptions used to calculate aquifer hydraulic properties;
- (6)** Contour plots of the predicted drawdown of 5 feet, 10 feet, 20 feet, 50 feet, and 100 feet in the formations that exist between the ground surface and the formation where the proposed Class D Production Wells will be screened;
- (7)** Contour plots of the predicted drawdown of 5 feet, 10 feet, 20 feet, 50 feet, and 100 feet for the formations that exist between the top of the Water Well and the ground surface over the period of operation of the Water Wells; and
- (8)** Documentation of the methodology for estimating drawdown in the Production formation based on the measured Production rates and the measured drawdown of the Production Wells and the Production Monitoring Wells.

**H.** Proposed Production Monitoring Well Plan including the number and location of Monitoring Wells needed to determine the effects of the proposed Water Wells on Groundwater levels and Groundwater quality in the Zone Underground Strata or in the Non-Zone Underground Strata, whichever is applicable.

- (1)** Groundwater monitoring should focus on the lateral and updip portions of the Zone or the applicable aquifer or geologic unit and on monitoring the overlying aquifer.
- (2)** Monitoring in permeable sands associated with confining units is recommended to determine the potential source of adjacent aquifer impact due to development in either the:
  - (a)** the Zone Underground Strata or
  - (b)** the Non-Zone Underground Strata, whichever is applicable.
- (3)** The proposed Production Monitoring Well Plan shall include the following:
  - (a)** At a minimum, construction of a Monitoring Well dedicated to and used solely for monitoring aquifer conditions. The Monitoring Well is to be located within 100 feet of the boundary of the Well Field closest to the greatest level of predicted drawdown. The Monitoring Well shall have a continuous 100-foot screen intersecting the major sand units of the closest Class D Production Well;

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- (b)** A description of the Well site with a map identifying Class D Production Wells and Monitoring Wells;
- (c)** Tasks to establish and report initial and quarterly water level conditions, measured as depths below the surface, of the monitoring Wells;
- (d)** Tasks to establish and report initial and semi-annual water quality conditions of the Class D Production Wells and the monitoring Wells by the following laboratory analyte and method:
  - (i)** Total Dissolved Solids - Method M2540C;
  - (ii)** elements / metals - ICPMS (0.45u filtered and acid preserved): SW6020A;
  - (iii)** specific conductivity - M2510 B;
  - (iv)** alkalinity – M2320 B;
  - (v)** pH – M45000-H+ B;
  - (vi)** anions – IC method – Water (E300); and
  - (vii)** silica (USEPA method 370.1).
- (e)** A list of equipment and specifications to be used to collect aquifer monitoring data including field protocols for sample collection and preservation.
- (f)** Methodologies and protocols for the following:
  - (i)** calibrating and installing aquifer monitoring equipment;
  - (ii)** collecting and storing aquifer monitoring data;
  - (iii)** controlling and assuring data quality;
  - (iv)** post-process aquifer monitoring data;
  - (v)** statistical processing of aquifer monitoring data; and
  - (vi)** modeling impacts of the Class D Production Wells on the Zone Underground Strata or the Non-Zone Underground Strata, whichever is applicable.

**I.** Proposed Subsidence Monitoring Plan describing measures to monitor subsidence during the duration of the Operating Permit using methods described in Uddameri Ph.D., P.E., Venkatesh, "Technical Memo 1: Recommendations for Monitoring Subsidence at Deep Brackish Groundwater Wells within Kenedy County Groundwater Conservation

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District" (09/10/2020), as may be amended from time to time. (The most up to date version is found in Appendix B of these Rules and can also be obtained from the District Office.) The proposed Subsidence Monitoring Plan shall include the following:

- (1)** A description of the Well site with a map identifying the location of a permanent benchmark monument and GPS measurement unit or units.
  - (2)** An initial level survey plan to obtain land surface elevations prior to the initiation of Production.
  - (3)** A permanent benchmark monument at a location that is not likely to be affected by Groundwater Production (e.g., outside the estimated cone of depression) but as close to the Well Field of the Class D Production Wells as possible.
  - (4)** If the Plan contemplates the use of an extensometer or differential GPS, continuous GPS measurement unit(s) at the site within 100 feet of the Class D Production Well. A single station can be used if a location that is within 100 feet of all Class D Production Wells can be found. If not, an adequate number of stations must be constructed to ensure measurements are being monitored within 100 feet of every Class D Production Well.
  - (5)** If the Plan contemplates the use of an extensometer or differential GPS, tasks to establish and report initial and semi-annual elevation levels by collecting continuous GPS data at 15 second intervals and using standard data processing methods to provide daily information.
  - (6)** Tasks to monitor the elevation at the station(s) for at least 30 days prior to beginning Production to obtain baseline elevations. The GPS elevations must correlate with level survey information at the site.
  - (7)** Reporting requirements including
    - (a)** written report to the District prior to beginning Production certifying completion of tasks under Rule 14.9.B and relaying the information to the District.
    - (b)** written report to the District semi-annually containing the elevation information required under Rule 14.10.B(5); and
    - (c)** inclusion of pre-Production and semi-annual elevation data in the annual report required by Rule 14.10.
- J.** A Water Well integrity testing program to implement the requirements of Rule 4.7.
- K.** Any other information developed during pre-Application activities required by Rule 14.3.

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*Adopted June 16, 2021, by Board Order; effective June 16, 2021. Amended August 16, 2024, by Board Order; effective August 16, 2024.*

**14.5 Notice of Application for a Class D Production Permit**

**A.** Within 10 business days of submitting the Application, an Applicant for an Operating Permit for a Class D Production Well shall give Notice of Application in a form provided by the District. Notice shall be provided as follows:

- (1)** Publish notice in a newspaper regularly distributed throughout the District and the county where the proposed Water Well or Well Field will be located. It must be published once a week for two consecutive weeks.
- (2)** Mail notice by certified mail to all Water Well Owners on property adjacent to the Production-Limit-Acreage and to Water Well Owners within a 3-mile Buffer Area of all proposed Water Wells.

**B.** Within 30 days of submitting the Application, provide to the District proof of notice under this Rule 14.5

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**14.6 TWDB Technical Review of Class D Municipal/Electric Production Well Permit Applications**

**A.** This Rule 14.6 applies only to Applications for a Class D Municipal/Electric Production Permit.

**B.** TWDB staff will do a technical review of each Application for a Class D Municipal/Electric Production Permit.

**C.** The resulting TWDB Technical Report will include:

- (1)** whether the Well Field design is compatible with the Zone; and
- (2)** recommendations for the Production Monitoring Well system.

**D.** When the District receives the report, the General Manager shall ensure that the Applicant receives a copy.

**E.** Once the District determines+ that the Application is Administratively Complete pursuant to Rule 3.6.A and that the Applicant has performed all actions required by the TWDB Technical Report, the District shall deem the Application Administratively Complete and Technically Complete as set out in Rule 3.6.B and send notice to the Applicant pursuant to Rule 3.6.B(1).

**F.** The District may not schedule a hearing on a Class D Municipal/Electric Zone Production Permit Application until it receives the TWDB Technical Report.

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**14.7 Contents of a Class D Production Permit**

- A.** An Operating Permit for a Class D Production Well shall contain the information required by Rule 3.6.C, as applicable, and this Rule 14.7.
- B.** A requirement that the Permit Holder notify the District in writing at least 10 days prior to beginning Production.
- C.** A requirement that the Permit Holder notify the District in writing at least ten days before beginning the required 72-hour aquifer pumping test set out in Rule 14.9.A.
- D.** A requirement that the Area of Review Mitigation Plan pursuant to Rule 4.2.E and 14.3.B, if any, be implemented prior to construction of any Water Well.
- E.** Additional Special Permit Conditions as follows:
  - (1)** Before beginning Production, submit the results of a 72-hour aquifer pumping test as set out in Rule 14.9.A and receive District approval to begin Production.
  - (2)** Implement the approved Subsidence Monitoring Plan submitted as part of the Application, which requires Instituting measures to monitor subsidence during the duration of the Operating Permit. The approved Subsidence Monitoring Plan will be incorporated as an attachment to the Operating Permit and will become an enforceable part of the Permit. The Subsidence Monitoring Plan shall include the requirements of Rules 14.4.I and 14.12.
  - (3)** During the life of the Operating Permit, if subsidence at the Well site exceeds 0.5 foot the District will impose more frequent measuring and reporting on a case-by-case basis in conjunction with the requirements of 14.12. The Operating Permit will be revoked if subsidence exceeds 1.0 foot.
- F.** Drawdown and Groundwater quality restrictions based on the data and modeling provided in the Application. These restrictions will be set by the District on a case-by-case basis.
- G.** A provision that the Permit Holder comply with Rule 14.10 for submittal of annual reports to the District.
- H.** Monitoring Well performance response requirements will be set on a case-by-case basis by the District based on the data in the annual reports required under Rule 14.10.
- I.** A statement that the Production Monitoring Well Plan shall be implemented as set out in the approved Production Monitoring Well Plan which is incorporated as an

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enforceable part of this Operating Permit. A copy of the Production Monitoring Well Plan shall be a referenced Attachment to the Operating Permit.

**J.** A statement that the Well Integrity Testing Plan shall be implemented as set out in the approved Well Integrity Testing Plan, which is incorporated as an enforceable part of the Operating Permit. A copy of the Plan shall be a referenced Attachment to the Operating Permit.

**K.** All Wells shall be constructed in compliance with Rule 4.

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**14.8 Considerations for Issuing a Class D Production Permit**

**A.** The Board shall consider the issues listed in Rule 3.7, as applicable.

**B.** In addition, the Board shall consider the following when deciding whether to issue an Operating Permit for a Class D Production Well:

- (1)** For all Class D Municipal/Electric Zone Production Permits and Operating Permits for Class D Zone Production Permits Wells, whether the Well Field design is compatible with the Zone. For all Operating Permits for Class D Non-Zone Production Wells, whether the Well Field design is compatible with applicable Production Limits and spacing requirements.
- (2)** Whether the Production Monitoring Well Plan meets the requirements of these Rules, and when implemented, whether it provides sufficient drawdown and water quality data to allow the District, and the TWDB, as applicable, to assess the effect of the Permitted project on the Production aquifer or aquifers, as well as, the Zone Underground Strata or the Non-Zone Underground Strata, whichever is applicable.
- (3)** Whether the Operating Permit requires land elevation monitoring sufficient to allow the District, and the TWDB, as applicable, to assess the effect of the Permitted project on subsidence.
- (4)** For Class D Municipal/Electric Zone Production Permits and Operating Permits for Class D Zone Production Wells, whether the withdrawals and rates of withdrawal from the Zone do not exceed and are consistent with the withdrawal amounts in the Zone Designation Memo. For Class D Non-Zone Production Permits, whether the withdrawals and rates of withdrawal are consistent with applicable Production Limits and spacing requirements.
- (5)** For Class D Municipal/Electric Zone Production Permits and Operating Permit for Class D Zone Production Wells, whether the requested Production from the Zone is in addition to the amount of the applicable Modeled

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Available Groundwater established in the GMA-16 Joint Planning process, including any double counting as between the most recent Modeled Available Groundwater and designation of the Zone.

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**14.9 Class D Production Permit Pre-Production Activities**

**A.** Before beginning Production, submit the results of a 72-hour aquifer pumping test pursuant to this Rule 14.9.A.

- (1) Conduct the pumping test according to an aquifer Production test work plan approved by the District, which includes the following:
  - (a) develop contour plots representing the measured pumping rates and measured water levels of each Class D Production Well; and
  - (b) establish the initial water level for each Monitoring Well.
- (2) Obtain approval of the aquifer pumping test plan prior to beginning the test.
- (3) Provide notice to the District pursuant to Rule 14.7.C.
- (4) Perform the aquifer pumping test while pumping the Class D Production Well(s) at a constant rate, measuring water levels in the Class D Production Wells and all Monitoring Well(s) and calculating hydraulic properties for the aquifer.
- (5) Submit the results of the aquifer pumping test to the District for approval to begin Production from the Well(s).
- (6) If the results of the aquifer pumping test are, by a factor of two or more, different from those presented in the modeling report submitted as part of the Application, the District will initiate the Involuntary Amendment process of Rule 3.8.F.

**B.** Institute the following measures as set out in the approved Subsidence Monitoring Plan, which is part of the issued Operating Permit:

- (1) Conduct an initial level survey to obtain land surface elevations;
- (2) Construct a permanent benchmark monument;
- (3) Install a continuous GPS measurement unit at the site;
- (4) Monitor the elevation at the station(s) for at least 30 days prior to beginning Production to obtain baseline elevations; and

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- (5) Submit a written report to the District prior to beginning Production certifying completion of tasks under Rule 14.9.B and relaying the information to the District.

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**14.10 Class D Production Permit Recordkeeping and Reporting**

**A.** A Permit Holder for a Class D Production Well shall submit to the District the following:

- (1) Semi-annual Groundwater quality and elevation reports according to the approved Production Monitoring Well Plan and Subsidence Monitoring Plan incorporated into the Operating Permit.
- (2) Quarterly water level reports according to the approved Monitoring Well Plan incorporated into the Operating Permit.
- (3) Annual reports within 60 days of the end of each year following the beginning of Production under the Operating Permit.

**B.** The annual reports required by Rule 14.10.A(3) shall include the following:

- (1) amount of Groundwater
  - (a) withdrawn during the reporting year, reporting the annual total and monthly subtotals; and
  - (b) the cumulative amount of Groundwater withdrawn since the beginning of Production to the end of the reporting year.
- (2) monthly water level in each Production Water Well during the reporting year.
- (3) semi-annual average Groundwater quality for the reporting year and since the beginning of Production to the end of the reporting year of:
  - (a) the produced Groundwater;
  - (b) in the Monitoring Wells in the Production strata; and
  - (c) in any underground formation required to be monitored under the Operating Permit.
- (4) quarterly aquifer levels as of the end of the reporting year and shown as a comparison to the same aquifer levels before the beginning of Production and for each subsequent reporting year in:



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- (a) the Zone, or for Non-Zone Wells, the unit or units from which water is being produced, whichever is applicable; and
  - (b) in any underground formation required to be monitored under the Operating Permit.
- (5) semi-annual land elevation monitoring results to gauge subsidence since the beginning of Production and as a comparison to the land elevation Monitoring for each subsequent reporting year.
- E. For Class D Municipal/Electric Zone Production Wells, the Permit Holder shall submit each annual report pursuant to this Rule 14.10 to the TWDB after the District deems it to be complete. The District shall notify the Permit Holder in writing when the report is deemed to be complete.

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**14.11 Request for TWDB Investigation**

- A. This Rule 14.11 applies only to Class D Municipal/Electric Zone Production Permits.
- B. If the District requests the TWDB to investigate based on the Applicant's annual report pursuant to Rule 14.10, the TWDB will issue a report within 120 days. The District shall ask the TWDB to make findings on whether the Production is projected to cause the following:
  - (1) significant aquifer level declines in the Zone Underground Strata;
  - (2) negative effects on Groundwater quality in the Zone Underground Strata;  
or
  - (3) subsidence.
- C. Based on a TWDB Investigation Report,
  - (1) The District may amend the Operating Permit to establish a Production Limit and/or approve a mitigation plan necessary to mitigate any negative effects identified by the report.
  - (2) Such an amendment would be an Involuntary Amendment as authorized under Rule 3.8.F.
  - (3) The Permit Holder is entitled to notice and hearing as provided in Rule 3.8.F.

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**14.12 Subsidence Performance Standards**

- A.** The subsidence at any subsidence monitoring station located within 100 feet of a Class D Production Well shall not exceed 1 foot as compared to the elevation prior to the start of any Production from the Water Well.
- B.** When the subsidence at any elevation monitoring location exceeds 0.5 feet, the Permit Holder shall submit to the District a Subsidence Minimization Plan proposing remedial measures aimed at curtailment of additional subsidence at the site.
- (1)** The Subsidence Minimization Plan shall be submitted within 60 days of the measuring event showing the exceedance.
  - (2)** The District shall review and assess the Subsidence Minimization Plan within 60 days of receipt. Because subsidence generally tends to be irreversible, it is important that it be slowed down once discovered. The District may require one or more of the following mitigation actions, or others, to slow down the rate of subsidence. Mitigation measures may include curtailment of Production; reallocation of Production among Water Wells; installation of new Production Wells away from subsidence location; and deepening of Water Wells.
  - (3)** Upon approval of the Subsidence Minimization Plan by the District, the Permit Holder shall institute the plan.
- C.** The Subsidence Minimization Plan shall include, at a minimum, the following:
- (1)** Mitigation actions that the Permit Holder will undertake to maintain the reported elevation level or to reduce further subsidence.
  - (2)** A requirement to report to the District in writing elevation measurements on a quarterly basis during any period in which subsidence continues to be over 0.5 feet but less than or equal to 0.75 feet.
  - (3)** Additional mitigation actions that will be taken if subsidence at any monitoring location exceeds 0.75 feet but is less than 1.0 feet.
  - (4)** A requirement to report to the District in writing elevation measurements monthly during any period in which subsidence continues to be over 0.75 feet but is less than 1.0 feet.

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**14.13 Variance to Rule 14 Requirements**

- A.** An Applicant for a single Class D Production Well, or a Back-Up Well or Replacement Well for a single Class D Production Well, may request and receive a Variance regarding one or more of the requirements of Rule 14.
- B.** The Variance shall be made in writing and must be supported by technical information showing why the Variance is warranted.
- C.** The District shall make decisions regarding a request under this Rule 14.13 on a case-by-case basis and at the sole discretion of the District.
- D.** The District's written decision shall be provided to the Applicant.
- E.** If the requested Variance involves a Class D Municipal/Electric Zone Production Well, no Variance shall be granted to any Rule 14 requirement that implements Texas Water Code Section 36.1015 applicable to such Operating Permit.

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