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District Rules

Effective October 14, 2013

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Rule Revision Record

History of each Rule is noted following each section of the Rule

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CHAPTER 1. AUTHORITY of DISTRICT, PURPOSE of RULES

Section

1.1 Authority to Promulgate Rules

1.2 Purpose of the Rules

1.3 Applicability

1.4 Effective Date

1.5 Action on Rules

1.6 Severability

1.7 Regulatory Compliance

1.1 Authority to Promulgate Rules

The Trinity Glen Rose Groundwater Conservation District (TGRGCD or District) is a political subdivision of the State of Texas. The District was created in 2001 during the 77th Texas Legislature and confirmed by voters in 2002. The District was created in response to the Texas Natural Resources Conservation Commission (TNRCC), now the Texas Commission on Environmental Quality (TCEQ), designation of the Trinity Aquifer within Bexar County as a Priority Groundwater Management Area (PGMA) in accordance with applicable provisions and requirements of the Texas Water Code. The District was created for the purpose of conserving, preserving, recharging, protecting and preventing waste of groundwater in northern Bexar County. Additionally, the District is charged with developing and implementing regulatory programs for groundwater resources within District boundaries.

As a duly created groundwater district, the District may exercise any and all statutory authority or power conferred under Chapter 36 of the Texas Water Code, including the adoption and enforcement of rules under Section 36.101 Rulemaking power, except as otherwise provided by House Bill 2005 (2001). All references to statutory provisions in these Rules are to the Texas Water Code, as amended, and governing legislation(*) unless otherwise specifically stated.

*Act of May 27, 2001, 77th Leg., R.S., ch. 1312, § 1, 2001 Tex. Gen. Laws 3222

(Enacting Legislation)

Act of May 28, 2003, 78th Leg., R.S. *(Timely completion of well, non-prohibition of sale, purchase, lease or trade of groundwater by private well owner.)*

Act of May 25, 2005, 79th Leg., R.S. *(Exemption for municipal supplier or consumer of water from source other than Trinity Aquifer.)*

Act of May 26, 2009, 81st R.S. *(Fees, annexation of land.)*

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

1.2 Purpose of the Rules

The District Rules are promulgated under the District's Texas Water Code Chapter 36 statutory authority and House Bill 2005 (2001) to make and enforce rules to provide for

the conservation, preservation, protection, and recharge of groundwater and aquifers within TGRGCD boundaries. These Rules are intended to implement the management strategies and policies incorporated in the District Groundwater Management Plan and carry out the powers and duties conferred under Chapter 36.

These Rules, and any orders, regulations, requirements, resolutions, policies, directives, standards, guidelines, 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 Chapter 36 or any other applicable law or statute. The Board shall develop rules that are fair and impartial, and shall consider all groundwater uses and needs.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

1.3 Applicability

These rules, and District actions taken pursuant to these rules, do not apply to groundwater withdrawals from the Edwards Aquifer, or to wells drilled for the purpose of withdrawing water from the Edwards Aquifer that are completed so as to be incapable of withdrawing water from any other aquifer within the District's boundaries. None of these rules may be construed to conflict with the rules of the Edwards Aquifer Authority.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

1.4 Effective Date

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

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

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.
- B. The Board may adopt an emergency Rule without prior notice or hearing, or with an abbreviated notice and hearing.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

1.6 Severability

If any Rule, provision, section, sentence, paragraph, clause, word, or other portion of these Rules is for any reason held to be invalid, illegal, or unenforceable in any respect,

the invalidity, illegality, or unenforceability shall not affect any other Rules or portions thereof, and these Rules shall be construed as if such invalid, illegal, or unenforceable Rule or of portions thereof had never been contained herein.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

1.7 Regulatory Compliance

All wells and well owners, well drillers, pump installers, and others under the jurisdiction of the District, shall comply with all applicable Rules, orders, regulations, requirements, resolutions, policies, directives, standards, guidelines, or any other regulatory measures implemented by the District.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

1.8 Variances

The District may grant an exception to requirements or provisions of the Rules to the extent allowed by Texas Water Code Chapter 36. A person desiring a variance shall submit a written request with supporting information and rationale for consideration to the General Manager. The General Manager may act on the request or refer the matter to the Board for consideration. If requested by the person requesting the variance, the General Manager shall refer the matter to the Board for consideration. Refer to Chapter 16 Variance Procedures for complete variance procedures.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

CHAPTER 2.

BOARD

Section

2.1 Purpose of Board

2.2 Board Structure, Officers

2.3 Meetings

2.4 Committees

2.5 Quorum

2.6 Conduct and Decorum at Board Meetings

2.1 Purpose of Board

The Board was created to determine policy and regulate the withdrawal of groundwater within the boundaries of the District for conserving, preserving, protecting and recharging the groundwater within the District, and to exercise its rights, powers, and duties in a way that will effectively and expeditiously accomplish the purposes of the

District Act and Chapter 36 of the Texas Water Code. The Board's responsibilities include, but are not limited to, the adoption and enforcement of reasonable rules and other orders.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

2.2 Board Structure, Officers

The Board consists of the members elected and qualified as required by the District Act and other applicable law. The Board will elect one of its members to serve as President, to preside over board meetings and proceedings; one to serve as Vice President to preside in the absence of the President; one to serve as Secretary to keep a true and complete account of all meetings and proceedings of the Board; and one to serve as Treasurer to keep a true and complete account of the District's financial condition. Other officers or assistant officers may be elected as the Board deems necessary.

The Board may elect officers annually, but will elect officers at the first meeting following the May elections of each even-numbered year. Members and officers serve until their successors are elected or appointed and sworn in accordance with the District Act, Chapter 36 of the Texas Water Code, and these rules.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

2.3 Meetings

The Board will meet at least quarterly. All board meetings will be held according to the Open Meetings Law.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

2.4 Committees

The President may establish committees for formulation of policy recommendations to the Board, and appoint the chair and membership of the committees. Committee members serve at the pleasure of the President. A meeting of a committee of the Board, where less than a quorum of the full Board is present, is not subject to the provisions of the Open Meetings Law.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

2.5 Quorum

A simple majority of the entire membership of the Board constitutes a quorum for any meeting, and a concurrence of a majority of the entire membership of the Board is sufficient for transacting any business of the District.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

2.6 Conduct and Decorum at Board Meetings

1. Individuals who attend or participate in a meeting of the Board must act in a manner that is respectful of the conduct of public business and conducive to orderly and polite discourse.
2. All individuals shall comply with the president's directions concerning the offer of public comment, conduct and decorum.
3. Individuals who have special requests concerning a presentation during a meeting shall make advance arrangements with the District's General Manager. A special request includes:
 - a. the presentation of audio or video recordings;
 - b. the need to move furniture, appliances, or easels;
 - c. alternative language interpreters; or
 - d. auxiliary aids or services, such as interpreters for persons who are hearing impaired, readers, large print, or Braille.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

CHAPTER 3.

DISTRICT STAFF

Section

3.1 General Manager

3.1 General Manager

The Board may employ a person to manage the District, and title this person General Manager. The General Manager is the chief administrative officer of the District and shall have authority to manage and to operate the affairs of the District, subject to the direction given by the Board. The Board will determine the salary and review the position of General Manager each year at the anniversary date of hire.

The General Manager, with approval of the Board, may employ persons necessary for the proper handling of business and operation of the District.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

CHAPTER 4

DEFINITION OF TERMS

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

- (1) “Abandoned well” means a well that has not been in use for six consecutive months. A well is considered to be in use in the following cases:
 - (A) a non-deteriorated well that contains the casing, pump, and pump column in good condition; or
 - (B) a non-deteriorated well that has been capped in accordance with District rules.
- (2) “Acre-foot” of water means the quantity of water needed to cover one acre of land to the depth of one foot; 325,851 U.S. gallons of water.
- (3) “Aesthetic water use” means water use for ornamental or decorative purposes such as fountains reflecting pools, and water gardens
- (4) “Affected person” means a person who has a personal justifiable interest related to a legal right, duty, privilege, power, or economic interest that is within the District’s regulatory authority and is or may be affected by the application in question. An interest common to members of the general public does not qualify as a personal justifiable interest.
- (5) “Agricultural Well” means a well used for agricultural activities listed under section 36.001 (19) of the Texas Water Code
- (6) “Annular space” means the space between the casing and borehole wall.
- (7) “Aquifer” means a geologic formation, group of formations or part of a formation that is capable of yielding groundwater to a well or spring.
- (8) “Aquifer storage and recovery (ASR) project” means a process of storing water through injection wells or other means into a suitable aquifer for later recovery or retrieval.
- (9) “Artesian well” means a well completed in the confined portion of an aquifer such that, when properly cased, water will rise in the well, by natural pressure, above an overlying impermeable stratum.
- (10) “Atmospheric barrier” means a section of cement placed from two feet below land surface to the land surface when using granular sodium bentonite as a casing sealant or plugging sealant in lieu of cement.
- (11) “Beneficial use” or “beneficial purpose” means use of groundwater for:

- (A) agricultural, gardening, domestic, stock raising, municipal, mining, manufacturing, industrial, commercial, recreational, or pleasure purposes;
- (B) exploring for, producing, handling, or treating oil, gas, sulfur, or other minerals; or
- (C) any other purpose that is useful and beneficial to the user that does not commit or result in waste as that term is defined in these Rules.

(12) “Bentonite” means a sodium hydrous aluminum silicate clay mineral (montmorillonite) commercially available in powdered, granular, or pellet form that is mixed with potable water and used for a variety of purposes including the stabilization of borehole walls during drilling, the control of potential or existing high fluid pressures encountered during drilling below a water table, and to provide a seal in the annular space between the well casing and borehole wall.

(13) “Board” means the board of Directors of the District.

(14) “Capped well” means a well that is closed or capped with a covering capable of preventing surface pollutants from entering the well. The cap must be able to sustain weight of at least 400 pounds per square inch and constructed in such a way that it cannot be easily removed by hand.

(15) “Casing” means a watertight pipe installed in an excavated or drilled hole, temporarily or permanently, to maintain the borehole sidewalls against caving, and in conjunction with grouting, to confine the groundwater to their respective zones of origin, and to prevent surface contaminant infiltration.

(A) Plastic casing - shall be National Sanitation Foundation (NSF); or American Society of Testing Material (ASTM) F-480 minimum SDR 26 approved water well casing.

(B) Steel casing - shall be ASTM A-53 Grade B or better and have a minimum weight and thickness of American National Standards Institute (ANSI) schedule 40.

(C) Monitoring wells may use other materials, such as fluoropolymer, glassfiber-reinforced epoxy, or various stainless steel alloys.

(16) “Chemigation” means a process whereby pesticides, fertilizers or other chemicals, or effluent from animal wastes are added to irrigation water applied to land or crops, or both, through an irrigation distribution system.

(17) “Commercial Use” means 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 water in those processes, or to supply water to the business establishment primarily for employee and customers conveniences (i.e. flushing of toilets, sanitary processes, or limited landscape watering). Does not include agricultural, livestock, industrial, or irrigation use.

(18) “Completed monitoring well” means a monitoring well that allows water from a single water-producing zone to enter the well bore, but isolates the single water-producing zone from the surface and from all other water-bearing zones by proper casing or grouting procedures. The single water-producing zone shall not include more than one continuous water-producing unit unless a qualified geologist or groundwater hydrologist has determined that all the units screened or sampled by the well are interconnected naturally.

(19) “Completed to produce undesirable water” means a completed well designed to extract water from a zone that contains undesirable water.

(20) “Completed water well” means a water well that has sealed off access of undesirable water to the well bore by proper casing or grouting procedures.

(21) “Conjunctive use” means the combined use of groundwater and surface water sources that optimizes the beneficial characteristics of each source.

(22) “Conservation” means those practices, techniques, and technologies that 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 supply is conserved and made available for future or alternative uses

(23) “Constituents” means elements, ions, compounds, or substances that may cause the degradation of the soil or ground water

(24) “Continuous injection method” means a grout placement method whereby grout is placed by float shoe continuous injection method, after water or other drilling fluid has been circulated in the annular space sufficient to clear obstructions. The bottom of the casing shall be fitted with a suitable drillable float shoe equipped with a backpressure valve. Tubing or pipe shall be run to the float shoe to which it shall be connected by a bayonet fitting, left hand thread coupling, or similar release mechanism. Water or other drilling fluid shall be circulated through the tubing and up through the annular space surrounding the casing. When the annular space surrounding the casing is clean and open, grout shall be pumped down the pipe or tubing and forced by continual pumping out into the annular space surrounding the casing. Pumping shall continue until the entire annular space surrounding the casing is filled. The grouting pipe shall then be detached from the float shoe and raised to the surface for flushing. After the grout has set, the float shoe, backpressure valve, and any plug remaining in the bottom of the casing shall be drilled out.

(25) “Desired Future Condition” means the quantitative description of the desired condition of groundwater resources at one or more specified future times, in accordance with Section 36.108, Texas Water Code, provided such desired future conditions have been selected and are applicable to the District.

- (26) “Deteriorated well” means a well, the condition of which will cause, or is likely to cause, pollution of any groundwater in the District.
- (27) “De-watering well” means a well used to remove water from a construction site or excavation, or to relieve hydrostatic uplift on permanent structures.
- (28) “Director” means a member of the board.
- (29) “Discharge” means the amount of water that leaves an aquifer by natural or artificial means.
- (30) “District” means the Trinity Glen Rose Groundwater Conservation District created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, that has the authority to regulate the spacing of water wells, the production from water wells, or both.
- (31) “District Act” means Act of May 27, 2001, 77th Leg., R.S., ch. 1312, 2001 Tex. Gen. Laws 3222, amended by Act of May 28, 2003, 78th Leg., R.S., Act of May 25, 2005, 79th Leg., R.S., and Act of May 26, 2009, 81st R.S.
- (32) “District Office” means the office of the District as established by the Board
- (33) “Domestic Use” means use of groundwater by a residence (not a business or other commercial structure) to support essential domestic activity, including but not limited to: uses inside residence; watering of lawns, flower beds, shrubs, trees shading the residence, or of a garden or orchard that produces vegetables and fruit for consumption within the residence and not for sale; protection of foundations; and non-commercial recreation associated with the residence.
- (34) “Drought” means a meteorological period of serious moisture (precipitation) deficiency, and a resultant reduction in spring flow and stream flow generally accompanied by an increase in demand.
- (35) “Drought Indices” those indicators selected for the purposes of this plan to initiate (trigger) drought stages: aquifer level, Palmer Drought Severity Index.
- (36) “Driller” means a water well driller, injection well driller, dewatering well driller, or monitoring well driller.
- (37) “Dry litter poultry facility” means a fully enclosed poultry operation where wood shavings or similar material is used as litter.
- (38) “Edwards Aquifer well” means any water well, injection well, dewatering well, or monitoring well located within the boundaries of the District that:
- (A) is constructed for the purpose of exploring for or producing groundwater from the Edwards Aquifer; or
 - (B) passes through the Edwards Aquifer and is constructed for the purpose of

exploring for or producing groundwater from an aquifer other than the Edwards Aquifer.

(39) “Environmental soil borings” means An artificial excavation constructed to measure or monitor the quality and quantity or movement of substances, elements, chemicals, or fluids beneath the surface of the ground. The term shall not include any well used in conjunction with the production of oil, gas, or any other minerals.

(40) “Exempt well” means a well that the District is prohibited by law from restricting production under either:

(A) Water Code, section 36.117 (c) as a well used solely for domestic use or for providing water for livestock or poultry on a tract of land larger than ten acres that is either drilled, completed, or equipped so that it is incapable of producing more than 10,000 gallons a day, unless the well either serves more than five households or the well is located on or serves a tract of land of less than five acres and the well was installed after September 1, 2001; or

(B) District Act, section 16.

(41) “Flapper” means the clapper, closing or checking device within the body of a check valve.

(42) “Foreign substance” means a constituent that may include recirculated tailwater and open ditch water when a pump discharge pipe is submerged in the ditch.

(43) “Freshwater” means water that’s bacteriological, physical, and chemical properties are such that it is suitable and feasible for beneficial use.

(44) “Geothermal Well” means a closed system well used to circulate water and other fluids or gases through the earth as a heat source or heat sink

(45) “Granular sodium bentonite” means sized, coarse ground, untreated, sodium based bentonite (montmorillonite) that has the specific characteristic of swelling in freshwater.

(46) “Grout” means a fluid mixture of the following types of materials of a consistency that can be forced through a pipe and placed in the annular space between the borehole and the casing to form an impermeable seal:

(A) Cement grout - A neat portland or construction cement mixture of not more than seven gallons of water per 94-pound sack of dry cement, or a cement that contains cement along with bentonite, gypsum or other additives.

(B) Bentonite grout - A fluid mixture of sodium bentonite and potable water mixed at manufacturer’s specifications to a slurry consistency that can be pumped through a pipe directly into the annular space between the casing and the borehole

wall. Its primary function is to seal the annular space in order to prevent the vertical subsurface migration or communication of fluids in the annular space.
(C) Cement-bentonite grout – A mixture of one (1) 94-pound sack of dry cement to 7 ½ gallons of clean water and 2% to 6% bentonite (by weight 2 to 6 pounds) to increase fluidity and to control shrinkage.

(47) “Groundwater” means water percolating beneath the earth’s surface within the boundaries of the District but does not include water produced with oil in the production of oil and gas.

(48) “Groundwater reservoir” means a specific subsurface water-bearing stratum.

(49) “Inflows” means the amount of water that flows into an aquifer from another formation.

(50) “Injection well” includes:

- (A) An air conditioning return flow well used to return water used for heating or cooling in a heat pump to the aquifer that supplied the water;
- (B) A cooling water return flow well used to inject water previously used for cooling;
- (C) A drainage well used to drain surface fluid into a subsurface formation;
- (D) A recharge well used to replenish the water in an aquifer;
- (E) A saltwater intrusion barrier well used to inject water into a freshwater aquifer to prevent the intrusion of salt water into the freshwater;
- (F) A sand backfill well used to inject a mixture of water and sand, mill tailings, or other solids into subsurface mines;
- (G) A subsidence control well used to inject fluids into a non-oil producing or non-gas producing zone to reduce or eliminate subsidence associated with the overdraft of freshwater; and
- (H) A closed system geothermal well used to circulate water, other fluids, or gases through the earth as a heat source or heat sink.

(51) “Impermeable lining” means a liner for tank, pond, or impoundment that acts as a hydrological barrier to prevent losses. An impermeable may be constructed of synthetic material, Bentonite sealant, compacted soil-dispersant mixture, or compacted clay liners.

(52) “Industrial water use” means the use of water in processes designed to convert materials of lower value into forms having greater usability and value.

(53) “Injection well driller” means a person who drills, bores, cores, or constructs an injection well. The term includes the owner or operator of a well or the contractor or drilling supervisor. The term does not include a person who acts under the direct supervision of an injection well driller and is not primarily responsible for the drilling operation.

(54) “Installer” means a person who installs or repairs well pumps and equipment. The term does not include a person who:

(A) Installs or repairs well pumps and equipment on the person’s own property for the person’s own use; or

(B) assists in pump installation under the direct supervision of an installer and is not primarily responsible for the installation

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

(56) “Irrigation use” means the use of water for the irrigation of improved pastures and commercial crops, including orchards.

(57) “Landowner” means the person who holds possessory rights to the land surface or to the withdrawal of groundwater from wells located on such land surface.

(58) “Landscape irrigation use” means water used for the irrigation and maintenance of landscaped area, whether publicly or privately owned, including residential and commercial lawns, gardens, athletic fields, golf courses, parks, and rights-of-way and medians.

(59) “Licensed driller” means any person who holds a license issued pursuant to the provisions of Chapter 32, TEXAS WATER CODE or Chapter 1901, TEXAS OCCUPATIONS CODE.

(60) “Licensed installer” means a person who holds a license issued under Chapter 33, TEXAS WATER CODE or Chapter 1902, TEXAS OCCUPATIONS CODE.

(61) “Management area” means an area designated and delineated by the Texas Water Development Board under Chapter 35 as an area suitable for management of groundwater resources

(62) “Mean Sea Level” or “MSL” means elevation above mean sea level

(63) “Meter” means a water flow measuring device that can, within +/- 5% of accuracy, measure the instantaneous rate of flow and record the amount of groundwater produced from a well during a measure of time that is incapable of being reset.

(64) “Modeled available groundwater” means the amount of water that the Texas Water Development Board Executive Administrator determines may be produced on an average

annual basis to achieve a desired future condition established under Section 36.108, Texas Water Code.

(65) “Monitoring well” means an artificial excavation constructed to measure or monitor the quality, quantity or movement of substances, elements, chemicals, or fluids beneath the surface of the ground. Included within this definition are environmental soil borings, piezometer wells, and recovery wells. The term shall not include any well used in conjunction with the production of oil, gas, coal, lignite, or any other minerals.

(66) “Monitoring well driller” means a person who drills, bores, cores, or constructs a monitoring well. The term includes the owner or operator of a well or the contractor or drilling supervisor.

(67) “Mud” means a relatively homogenous, viscous fluid produced by the suspension of clay-size particles in water or the additives of bentonite or polymers.

(68) “Natural Gamma-Ray Log” means Natural Gamma-Ray log recording the naturally occurring radiation emitted from sediments in the well bore.

(69) “Non-essential water use” means water uses that are neither essential nor required for the protection of public health, safety, and welfare, including:

(A) Irrigation of landscape areas, including parks, athletic fields, and golf courses, except as otherwise provided by this Plan.

(B) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle.

(C) Use of water to wash down any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas except for the protection of public health, safety and welfare.

(D) Use of water to wash down buildings or structures for purposes other than immediate fire protection or for the protection of public health, safety and welfare.

(E) Use of water to fill, refills, or add to any indoor or outdoor swimming pools or Jacuzzi-type pools.

(F) Use of groundwater to fill fountains, ponds, lakes, tanks, reservoirs, ornamental fountains or ponds, or other surface impoundments.

(G) Failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such a leak(s).

(70) “Non-Exempt well” means a well not exempted under District Rules, for which the owner is required to report pumpage volume to the district and required to pay a fee based on the amount of water produced. A non-exempt well has the production capacity of more than 10,000 gallons per day. Non-exempt wells are required to meet District construction standards and must be registered with the District.

(71) "Nursery grower" means a person who grows more than 50 percent of the products that the person either sells or leases, regardless of the variety sold, leased, or grown. For the purpose of this definition, "grow" means the actual cultivation or propagation of the product beyond the mere holding or maintaining of the item prior to sale or lease and typically includes activities associated with the production or multiplying of stock such as the development of new plants from cuttings, grafts, plugs, or seedlings.

(72) "Open Meetings Law" means Chapter 551, Texas Government Code, as may be amended from time to time.

(73) "Ornamental fountain" means a structure or excavation with an impermeable lining used primarily for aesthetic purposes containing water which is mechanically moved from one level to a higher elevation, either by being sprayed into the air or pumped to a higher level from which it flows or cascades to a lower elevation. Sometimes referred to as an aesthetic water fountain or an aesthetic water feature.

(74) "Ornamental pond" means a structure or excavation with an impermeable lining used primarily for aesthetic purposes. It may contain fish and/or aquatic plants. Water may be re-circulated for filtration purposes but is not mechanically sprayed or moved to a higher elevation.

(75) "Packer" means a short expandable-retractable device deliberately set in a well bore to prevent upward or downward fluid movement. The device may be either permanent or removable.

(76) "Person" includes corporation, individual, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, or any other legal entity.

(77) "Piezometer well" means a well of a temporary nature constructed to monitor well standards for the purpose of measuring water levels or used for the installation of a piezometer (a device constructed and sealed to measure hydraulic head at a point in the subsurface) resulting in the determination of locations and depths of permanent monitor wells.

(78) "Plugging" means an absolute sealing of the well bore.

(79) "Pollution" means the alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any groundwater in the District, that renders the groundwater harmful, detrimental, or injurious to humans, animal life, vegetation, or property or to public health, safety, or welfare, or impairs the usefulness or public enjoyment of the water for any lawful or reasonable use.

(80) "Positive displacement exterior method" means a grout placement method whereby grout is placed by a positive displacement method such as pumping or forced injection after water or other drilling fluid has been circulated in the annular space sufficient to

clear obstructions. A grout placement pipe shall be lowered to the bottom of the annular space or zone being grouted and raised slowly as the grout is introduced. The pipe shall be kept full continuously from start to finish of the grouting procedure, with the discharge end of the pipe being continuously submerged in the grout until the annular space is completely filled. In the event of interruption in the grouting operations, the bottom of the pipe shall be raised above the grout level and shall not be re-submerged until all air or water has been displaced from the pipe and the pipe flushed clean with clear water.

(81) "Positive displacement interior method" means a grout placement method whereby a measured quantity of grout, sufficient to fill the annular space shall be pumped into the casing, after water or other drilling fluid has been circulated in the annular space sufficient to clear obstructions. A drillable plug constructed of plastic or other suitable material shall be inserted on top of the grout. The plug will be forced down the casing using either water or drilling rods and therefore forcing the plug to the bottom of the casing. Pressure shall be maintained for a minimum of 24 hours or until such time as the sample of the grout indicates a satisfactory set.

(82) "Public Information Act" means Chapter 552, Texas Government Code, also referred to as the "Open Records Law," as may be amended from time to time.

(83) "Public water supply well" means, for purposes of a district governed by this chapter, a well that produces the majority of its water for use by a public water system.

(84) "Pump installation" means the procedures employed in the placement, and preparation for operation, of equipment and materials used to obtain water from a well, including construction involved in establishing seals and safeguards as necessary to protect the water from contamination. The term includes repairs to an existing pump.

(85) "Rain Sensor" refers to a device that shuts off the common line of an irrigation system and overrides the cycle of an automatic irrigation system when an adequate amount of rainfall has been received

(86) "Recharge" means the amount of water that infiltrates to the water table of an aquifer.

(87) "Recharge Facility" means any system for recharge, injection, storage, pressure maintenance, cycling or recycling, of water, which includes one or more wells, spreading dams, or percolation basins, or any other surface or subsurface system engineered and designed for the purpose of recharging water into a groundwater reservoir.

(88) "Recovery well" means a well constructed for the purpose of recovering undesirable groundwater for treatment or removal of contamination.

(89) "Registration" means providing information to the District on forms approved by the Board of Directors.

- (90) “Rules” means the rules of the District compiled in this document and as may be supplemented or amended from time to time.
- (91) “Sanitary well seal” means a watertight device to maintain a junction between the casing and the piping used for the delivery of water.
- (92) “Soil borings” means soil samples taken by drilling a hole in the ground.
- (93) “State Well Report” means a well log recorded on forms prescribed by the Department, at the time of drilling showing the depth, thickness, character of the different strata penetrated, location of water-bearing strata, depth, size, and character of casing installed, and well grouting/sealing information, together with any other data or information required by the Department.
- (94) “Steel or PVC Sleeve” means a protective covering, generally a pipe, that is placed over the casing of a well.
- (95) “Surface Completion” means sealing off access of undesirable water, surface material, or other potential sources of contamination to the well bore by proper casing and/or grouting procedures.
- (96) “TCEQ” means the Texas Commission on Environmental Quality
- (97) “Transportation Facility” means any system for transporting water, which may include a pipeline, channel, ditch, watercourse or other natural or artificial facilities, or any combination of such facilities, if such water is produced from a well or wells located or to be located within the District, and if all or any part of such water is used or is intended for use outside of the boundaries of the District.
- (98) “Tremie method” means a grout placement method whereby a tremie pipe is lowered to the bottom of the annular space or zone being grouted and raised slowly as the grout is introduced. The tremie pipe shall be kept full continuously from start to finish of the grouting procedure, with the discharge end of the tremie pipe being continuously submerged in the grout until the annular space is completely filled.
- (99) “Tremie pipe” means a string of pipe that is lowered into the annular space to place a filter pack or grouting material.
- (100) “The Trinity Aquifer” means the Trinity Group aquifer of Cretaceous age that overlies rocks of Paleozoic age and is overlain by younger rocks of the Fredericksburg Group (Cretaceous age). The Trinity Group is divided into the following formations in order from the oldest to youngest: Travis Peak and Glen Rose. The Travis Peak Formation is subdivided into the following members in order from oldest to youngest: Hosston Sand, Sligo Limestone, Hammett Shale, Cow Creek Limestone, and Bexar Shale and Hensell Sand. The Bexar Shale is a finer grain, gradational marine shale that was

deposited at the same time as the Hensell Sand.

(101) “TWDB” means the Texas Water Development Board

(102) “Undesirable water” means water that is injurious to human health and the environment or water that can cause pollution to land or the waters in the state.

(103) “Waste” means any one or more of the following:

- (A) Withdrawal of groundwater from a groundwater reservoir at a rate and in an amount that causes or threatens to cause intrusion into the reservoir of water unsuitable for agricultural, gardening, domestic or stock raising purposes;
- (B) The flowing or producing of wells from a groundwater reservoir if the water produced is not used for a beneficial purpose;
- (C) Escape of groundwater from a groundwater reservoir to any other reservoir or geologic strata that do not contain groundwater;
- (D) Pollution or harmful alteration of groundwater in a groundwater reservoir by saltwater or by other deleterious matter admitted from another stratum or from the surface of the ground;
- (E) Willfully or negligently causing, suffering, or allowing groundwater to escape into any river, creek, natural watercourse, depression, lake, reservoir, drain, sewer, street, highway, road, or road ditch, or onto any land other than that of the owner of the well unless such discharge is authorized by permit, rule, or order issued by the commission under Chapter 26, Texas Water Code;
- (F) Groundwater pumped for irrigation that escapes as irrigation tailwater onto land other than that of the owner of the well unless permission has been granted by the occupant of the land receiving the discharge;
- (G) For water produced from an artesian well, “waste” has the meaning assigned by § 11.025, Texas Water Code; or
- (H) The pumping of groundwater from a well within the District into a pond, lake, tank, swimming pool, reservoir or other confinement that is not entirely lined with impermeable materials.

(104) “Water Conservation Plan” means a written document that must include proof of irrigation efficiency and demonstrate specific measures to be taken to reduce consumption to meet the reduction goals established for each stage as described in District Rules, Chapter 9. A plan includes irrigation schedules and run times.

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

(106) “Water well driller” means a person who drills, bores, cores, or constructs a water

well. The term includes the owner or operator of a well or the contractor or drilling supervisor. The term does not include a person who:

- (A) Drills, bores, cores, or constructs a water well on the person's own property for the person's own use; or
- (B) assists in constructing a water well under the direct supervision of a driller and is not primarily responsible for the drilling operation

(107) "Well" means any artificial opening or excavation in the ground to a depth greater than the top of any stratum containing groundwater.

(108) "Well construction permit" means a permit for a well issued or to be issued by the District allowing a well to be drilled.

(109) "Well operator" means the person who operates a well or well system.

(110) "Well owner" means the person who owns a possessory interest in the land upon which a well or well system is located or to be located.

(111) "Well system" means a well or group of wells tied to the same distribution system.

(112) "Withdraw" means extracting groundwater by pumping or by another method.

(113) "Windmill" means a wind-driven or hand-driven device that uses a piston pump to remove groundwater.

(114) "Variance" means exception to requirements or provisions of the Rules granted by the District as authorized under District Rules.

Amended October 10, 2013 by Board Order 101013-02; Effective date October 14, 2013.

CHAPTER 5 WELL REGISTRATION AND PERMITTING

Section

5.1 Well Registration

5.1 Well Registration

5.1.1 As of the effective date of these rules, all wells within the District are required to be registered with the District on District forms. Information on the form shall include the owner's name, mailing address, well location, well size, use and any other information the District may determine to be needed. The District well registration form is attached to these rules as Form #1.

5.1.2 No person shall construct, drill, modify, complete, change type of use, plug, abandon or alter the size of a well in the District without District authorization. Prior to conducting any of the above activities on any well or aquifer penetration in the District, the owner must complete and submit to the District a notice of intent to drill or modify a well form and pay the applicable fee. Information on the form shall include the owner's name, mailing address, phone number, well location, well size, use, production rates, distance from nearest property line, building, road, stream, existing well, or septic tank, and any other information the District may determine to be of need. The District's notice of intent to drill or modify a well form is attached to these rules as Form #2. District authorization to drill or modify a well is evidenced by the issuance a certificate of authorization to drill or modify a well in the form attached to these rules as Form #3. District personnel shall be given access to the property to inspect the well and complete the well inventory.

- a) The following activities are not considered to be well modifications that require the filing of a notice of intent:
 - i. replacing a pump or pump motor of equal size;
 - ii. repair or replacing pipe and fittings;
 - iii. normal maintenance and repairs that do not increase the productive capacity of the well.

- b) In an emergency situation in which immediate action is required to bring a well back into service, such as replacing a pump or pump motor (even if the replacement motor has a greater horsepower), the lowering of a pump, the deepening of a well, or other activity required to bring a well that is in service back into service, the notice of intent shall be filed as soon as reasonably possible after the emergency activities are completed.

5.1.3 All wells registered with the District shall be classified by the District according to use. The well will be identified by the State numbering system along with longitude and latitude and identified on a USGS quadrangle map.

5.1.4. The District reserves the right, to the extent allowed by law, to adopt, revise, and supersede rules applicable to registered wells and to require the owner of a registered well to obtain a permit if the well is not exempt from the District's permitting requirements. The receipt of the well registration by the District or the issuance of authority to drill or modify a well shall not limit the District's authority to regulate a well or the production of water from a well, unless the well is otherwise exempt from such authority.

Adopted May 22, 2003 by Board Order; effective date May 22, 2003.

CHAPTER 6 WELL COMPLETION AND CONSTRUCTION STANDARDS

Section

6.1 Well Construction and Completion Process

6.2 Well Construction and Completion Standards

6.1 Well Construction and Completion Process

6.1.1. Powers and duties of the District relating to well construction and completion.

The District, its employees and agents shall have the following powers:

1. to make or have made examinations of all wells, privately owned or otherwise, within the limits of the District;
2. to make or have made at any time the necessary analyses or tests of water there from;
3. to go upon the land and property of the owner of a well for any purpose allowed in this section;
4. to require the owner to furnish all information requested concerning a well, including, in the case of new wells, complete logs of the well showing depth to and depth through all geologic formations encountered;
5. to supervise the construction, repair, and plugging of wells and the operation of such wells. The District or its duly authorized agent shall keep a register of all wells within the limits of the District. This register shall show for each well the name of the owner, exact location, date of construction, depth and diameter, the purpose for which the well was constructed, and, if applicable, date of plugging.

It shall be a violation for any person to refuse or otherwise fail to comply with any requirement of this section, or with any order of the District in conformity with and under the authority of this section.

6.1.2. Inspection.

It shall be the duty of the District to inspect the property where any well will be drilled, sunk, dug, or bored.

6.1.3 Nuisance of defective or contaminating wells, abatement.

- (a) Any defective or contaminating well, as described herein, is hereby found to be a threat to the water supply of the District, a potential source of disease, injurious to the public health, and is hereby declared a nuisance.

(b) For the purpose of this section a contaminating well is considered to be any well or other opening which penetrates the underground water supply and which in any way pollutes or contaminates any other well or the District water supply.

(c) For the purpose of this section a defective well is considered to be: any well, whether dug or drilled, which for any reason does not completely prevent, or which has the potential to allow, the mixing of water or other liquid from above and below the groundwater aquifers, or any water well that was constructed without a permit and associated inspections.

(d) District on its own initiative or upon information or complaint from any source, make an examination of any well suspected of being defective. If such examination indicates in the opinion of the District that the well is a contaminating or defective well or that the water from such well is unsafe for human consumption, then the director, or his authorized representative shall issue an order or written instructions to the owner of his agent in charge of such well or the property upon which it is situated to plug this well in such a manner as prescribed by the District and in compliance with TCEQ regulations and District Permitting Procedures.

6.1.4 Abandoned Wells

(a) For the purpose of this section a well is considered to be an abandoned well if it has not been used for a period of six (6) consecutive months or longer. A well is considered to be in use in the following cases:

(i) A non-deteriorated, non-defective or non-contaminating well which contains the casing, pump and pump column in good condition, and which is connected to an active electrical or other power source; or

(ii) A non-deteriorated, non-defective or non-contaminating well which has been properly capped.

(b) It is hereby declared that an abandoned well, as defined in subsection (a) above, has the potential to pollute the water supply or be otherwise injurious to the public health, and, pursuant to Tex. Loc. Govt. Code Ann. §§ 217.042 and 401.002 (Vernon's 1994), is hereby declared a nuisance, for which the District, acting through the District Board, pursuant to the Code, may require the abatement of such nuisance.

(c) The Owner, operator, or agent in charge of an abandoned well shall notify the District of that condition. Every abandoned well shall be filled and plugged in accordance with all applicable TCEQ regulations and District Permitting Procedures and with such materials and in such manner as in the

judgment of the District will prevent the pollution and contamination of the District water supply or of any other well within the limits of the District.

(d) Whenever the District shall receive notice from any source of the existence of an abandoned well which has not been plugged and filled in accordance with the provisions of this section, the District shall notify the owner, operator, or agent in charge of such well or of the property upon which it is situated that such well is abandoned and shall order such person to fill and plug the well in accordance with this section of the Code.

(e) The District may require any owner of a capped well to take any action necessary or to provide any information or materials necessary to establish that such a capped well is not defective, contaminating, or deteriorated.

6.1.5 Failure to abate nuisance, remedies.

Should the owner, operator, or agent in charge responsible for the contaminating, defective, or abandoned well which has been declared a nuisance, or for the property on which it is situated, fail to abate such nuisance within the prescribed time from the date of issuance of notice of nuisance or order issued pursuant to the District rules, or if, after exercising reasonable diligence, the District is unable to locate the owner, operator, or agent in charge, the District, shall have the right to go on the property upon which the well is situated and abate such nuisance in the manner provided, and the owner thereof shall be liable to the District for the cost of such work and shall pay such cost upon demand, and the District, shall have the right to file a lien on the property to secure payment of the costs of such work.

6.1.6 Variance and appeal

(a) All requests for variances shall be made in writing to the District and shall include:

- (i) The subject of the requested variance, and
- (ii) The justification for granting a variance.

(b) The party requesting a variance has the burden of demonstrating that sufficient evidence exists for the granting of a variance of these rules, and the District shall consider and provide a written response to all such variance requests.

Adopted August 7, 2003 by Board Order; effective date August 7, 2003.

Section 6.2 Well Construction and Completion Standards

6.2.1 Purpose:

A completed TGR notice of intent to drill or modify a well is required to drill, modify (including the capping or plugging of a well), or otherwise construct any new water well,

or any other artificial excavation to explore for or produce groundwater, or injection wells for the purpose of earth coupled heat exchange. All procedures set forth by TGR shall meet or exceed standards set by the TGR, State and local regulatory agencies.

All wells shall be drilled, equipped, and completed so as to comply with the standards set by the Texas Department of Health, Texas Commission on Environmental Quality, Texas Department of Licensing and Regulation, and additional rules established by this District.

6.2.2 Responsibility:

The TGR is given the responsibility to oversee the construction, modification and plugging of wells within the TGR District Boundaries, except as provided by the District's Enabling Act. The board or its duly authorized agent shall also maintain a register of all wells with the TGRGCD. The register shall include but not be limited to the name of the owner, location of the well, its depth and diameter and other pertinent data. The owner of a well is required to furnish all information available concerning such well, including but not limited to, in the case of a new well, complete logs of the well showing depths to each consecutive geological formation encountered.

6.2.3 Procedures

6.2.3.1 Notification of Intent to Drill or Modify a Well

Notices / Inspection Fees are established under TGR Rules. All notifications shall be executed in triplicate, one copy to be issued to the applicant and two copies to be retained in the office of the TGR. Applications shall be completed and fees paid prior to drilling, plugging or modifying a well.

6.2.3.2 Notification Process

Notification forms for well activities are available through the TGR. Once a notification is received the assigned inspector will contact the owner or representative to schedule an inspection of the proposed well location. Upon completion of the inspection the field file is forwarded to the TGR agent. The field file must contain the following: The original completed application; survey and or plat with the proposed location of the well, Edwards Aquifer Authority approval letter if applicable and all required variances. Approved well applications are valid for a period of no longer than six (6) months.

It shall be the duty of the TGR to inspect the property where any water well is to be drilled, and to observe if the operations to drill or modify a well meet with all the applicable codes.

6.2.4 Drilling Guidelines

6.2.4.1 Drilling guidelines within the Edwards Aquifer Formation

Drilling operations which involve drilling or plugging operations in the Edwards Aquifer formations shall comply with the Edwards Aquifer Authority rules.

6.2.4.2 Drilling Guidelines for Non-Edwards Wells

Each proposed well application is evaluated individually in order to determine the applicable method(s) required to satisfactorily drill the well.

A 1 1/2" annulus must be provided between the borehole and the casing: diameter of the borehole must be a minimum of 3" larger than the outside of the casing.

- a. The diameter of the drilled hole shall be a minimum of three (3") inches larger than the outside diameter of the casing to be used down to a minimum depth of forty feet (40').
- b. Either steel pipe or polyvinyl chloride (PVC) casing may be used. PVC casing shall meet minimum specifications as defined by the Department of Licensing and Regulations Water Well Drillers and Pump Installers. Wells completed with steel casing must meet all specifications set forth by the Water Well Driller and Pump Installers Rules. Completed at the surface with the annular space filled with cement slurry or bentonite. If more than forty feet (40') of casing is set, it shall be grouted using the interior or exterior positive displacement method.
- c. The borehole casing annulus shall be filled with cement slurry or bentonite from ground level to a depth of not less than forty feet (40') below the land surface. All wells must satisfy all State and local water well completion and annular space sealing requirements.
- d. The casing shall extend at least eighteen inches (18") above land surface at a site not generally subject to flooding; provided however, that if a well must be placed in a flood prone area, it shall be completed with a water tight sanitary well seal and steel casing extending a minimum of thirty six inches (36") above known flood levels.
- e. All wells completed with PVC casing shall be completed according to one of the three surface completion methods as described by the following:
 1. Slab – The slab or block shall extend at least two feet (2') from the well in all directions and have a minimum thickness of four inches (4"), and should be separated from the well casing by a plastic or mastic coating or sleeve to prevent bonding of the slab to the casing. The surface of the slab shall be sloped to drain away from the well. The top of the casing shall extend a minimum of one foot (1') above the top of the slab.
 2. Steel and PVC Sleeve – The steel sleeve shall be a minimum of 3/16" in

thickness and/or the plastic sleeve shall be a minimum of schedule 80 sun resistant and twenty four inches (24") in length and shall extend twelve inches (12") into the cement, except when steel casing or a pitless adapter is used. The casing shall extend a minimum of one and one half foot (1.5') above the original ground surface, and the steel sleeve shall be two inches (2"), larger in diameter than the plastic casing being used.

3. Pitless Adapters – In wells with Steel or Plastic Casings completed with pitless adapters, the adapters shall be welded to the casing or fitted with another suitably effective seal, and the borehole-casing annulus filled with cement slurry or bentonite to a depth of not less than forty feet (40') below land surface, or to the top of the first potable water bearing strata above forty feet (40'). All wells completed with pitless adapters must satisfy all State Water well completion and annular space sealing requirements that pertain to pitless adapters.

6.2.4.2 Drilling Guidelines for Non-Edwards Wells:

f. All wells shall be completed so that aquifers or zones containing waters that differ significantly in chemical quality are not allowed to commingle through the borehole and cause quality degradation of any aquifer or zone. At no time shall the Upper and Lower Glen Rose be allowed to commingle. In all cases where penetrating into the Lower Glen Rose, the well casing and cementing shall extend a minimum of twenty-five feet (25') into the Lower Glen Rose.

A Natural Gamma-ray Log to determine the location of the Lower Glen Rose/Upper Glen Rose contact shall be required. A copy of the log shall be provided to the TGR and/or their agent. The TGR copy of the Natural Gamma-Ray Log shall be printed at a scale of 1" every 20 feet. The Well Driller shall identify the Formation contact(s) and determine the proper length of casing needed.

g. All wells shall be equipped with a water tight sanitary well seal with a $\frac{3}{4}$ " diameter id inspection port, located on top of the well seal which allows for free access to the water table for the purpose of water level measurement and disinfection. Any well presently not equipped in the future shall be so equipped when that well is serviced. On those wells with odd sized casing, which cannot be fitted with a factory made water tight sanitary well seal, the completion must be done in a manner that will prevent any pollutants (waste, insects, chemicals, etc.) from entering the well.

A minimum of forty feet (40') of casing shall be required unless any undesirable waters are encountered. (1) When undesirable water or constituents are encountered in a water well, the undesirable water or constituents shall be sealed off and confined to the zone(s) of origin. (2) When undesirable water or constituents are encountered in a zone overlying fresh water, the driller shall case the water well from an adequate depth below the undesirable water or constituent zone to the land surface to ensure the protection of water

quality. (3) The annular space between the casing and the wall of the bore hole shall be grouted with a state approved grouting material an adequate depth below the undesirable water or constituent zone to the land surface to ensure the protection of groundwater, by the interior or exterior positive displacement method or tremie method. Wells encountering zones of differing water quality shall be grouted within five business days to prevent any commingling or degradation.

Adopted August 7, 2003 by Board Order; effective date August 7, 2003; amended January 11, 2007 by Board Order 2007-002; effective January 11, 2007.

6.2.5 Plugging of Non-Edwards Aquifer Wells

Any plugging of wells, casing, liner, or bore hole will require notification, completion of the application form, and payment of fees to the TGR.

All removable casing shall be removed. The contractor, after pulling the pump and pump column from the well, must ensure the well is free of any obstructions to the bottom of the borehole. The well will be logged or tagged by the TGR agent to determine necessary information such as total depth, casing depth and formations depths to properly complete the plugging. The well must be plugged by filling the uncased borehole to the water level with washed and disinfected pea gravel. Then the entire casing from the top of the gravel to the surface shall be filled with cement slurry.

6.2.6 Modifications

Any modification of well depth, casing, liner, depth or diameter of bore hole will require notification, completion of the application form, and payment of fees to the TGR.

6.2.7 Well Reports

Every well driller who drills, deepens, or otherwise alters a Trinity Aquifer well, shall be properly licensed and shall make and keep a legible and accurate State Well Report. Every well driller shall deliver or transmit by first-class mail a photocopy of the State Well Report, and any other forms required by the District, to the TGR Agent and a copy to the owner or person for whom the well was drilled, deepened, or otherwise altered within 60 days from the completion or cessation of drilling, deepening, or otherwise altering a well.

6.2.8 Reporting Undesirable Water or Constituents

Each well driller shall inform, within 24 hours, the landowner or person having a Trinity Aquifer well drilled, deepened, or otherwise altered or their agent when undesirable water or constituents have been encountered.

The well driller shall, within thirty (30) days of encountering undesirable water or constituents, submit to the District, and the landowner or person having the well drilled, deepened, or otherwise altered, on forms authorized by the District:

1. A statement signed by the well driller indicating that the landowner or person having the well drilled, deepened, or otherwise altered, has been informed that undesirable water or constituents have been encountered; and
2. A copy of the Undesirable Water or Constituents Report required pursuant to 16 TEX. ADMIN. CODE § 76.701, as may be amended.

Adopted August 7, 2003 by Board Order; effective date August 7, 2003; amended January 11, 2007 by Board Order; amended October 10, 2013 by Board Order 101013-02 to consolidate all “definition of terms” under Chapter 4 Definition of Terms; effective October 14, 2013.

CHAPTER 7. WELL SPACING REQUIREMENTS

Section

- 7.1 Residential Lot Sizing with On-site Sewage Facilities**
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The purpose of these well spacing requirements is to promote groundwater conservation, provide for long-term availability of groundwater resources, reduce localized depletion of groundwater, prevent interference between wells, and prevent the degradation of groundwater.

7.1 Residential Lot Sizing with On-site Sewage Facilities

Wells drilled within the District must comply with Bexar County regulations for on-site sewage facilities including; the minimum lot size for subdivisions and/or parcels of land requiring the use of on-site sewage facilities for residential development utilizing private individual wells shall be at least 1 1/2 acres of usable land outside of any easements and right-of-way dedications for each individual residence.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

7.2 Spacing from Potential Sources of Pollution

All well spacing must comply with the spacing requirements of 16 Texas Administrative Code, Section 76.1000, as amended. The Board may add additional permit conditions

increasing the spacing requirements where necessary to meet the draw down goals incorporated into this Rule.

1. A well shall be located a minimum horizontal distance of 50 feet from any water-tight sewage and liquid-waste collection facility, except in the case of monitoring, dewatering, piezometer, and recovery wells which may be located where necessity dictates.
2. Except as noted in paragraph (1) and (2) of this subsection, a well shall be located a minimum horizontal distance of 150 feet from any concentrated sources of potential contamination such as, but not limited to, existing or proposed livestock or poultry yards, cemeteries, pesticide mixing/loading facilities, and privies, except in the case of monitoring, dewatering, piezometer, and recovery wells which may be located where necessity dictates. A well shall be located a minimum horizontal distance of 100 feet from an existing or proposed septic system absorption field, septic systems spray area, a dry litter poultry facility and 50 feet from any property line provided the well is located at the minimum horizontal distance from the sources of potential contamination.
3. A well shall be located at a site not generally subject to flooding; provided, however, that if a well must be placed in a flood prone area, it shall be completed with a watertight sanitary well seal, so as to maintain a junction between the casing and pump column, and a steel sleeve extending a minimum of 36 inches above ground level and 24 inches below the ground surface.
4. No well may be located within 500 feet of a sewage treatment plant, solid waste disposal site, or land irrigated by sewage plant effluent, or within 300 feet of a sewage wet well, sewage pumping station, or a drainage ditch that contains industrial waste discharges or wastes from sewage treatment systems.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

7.3 Alternatives to Well Spacing Requirements

The distances given for separation of wells from sources of potential contamination in section 7.2 of this section may be decreased to a minimum of 50 feet provided the well is cemented with positive displacement method to a minimum of 100 feet to surface or the well is tremie pressured filled to a depth of 100 feet to the surface provided the annular space is three inches larger than the casing.

For wells less than 100 feet deep, the cement slurry, bentonite grout, or bentonite column shall be placed to the top of the producing layer.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

7.4 Spacing from Property Lines and Other Wells

- a. All new wells shall be located a minimum horizontal distance from existing wells and property lines as required by 16 Texas Administrative Code Section 76.1000, unless covered by the more stringent spacing requirements of this Rule 7.4(b).
- b. All new water wells shall be located a minimum horizontal distance from existing water wells as specified in the following Table.

The District recommends 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 or proposed water well. The distances in the chart below are set to minimize draw down between neighboring wells.

Actual Pumping Capacity of Well as Equipped (gallons per minute)	Minimum Distance (in feet) between Existing Water Wells and the New Water Well	Distance of New Water Well from Property Lines (in feet)
Less than 60 gpm	200	100 *(50)
61 gpm through 150 gpm	600	300
151 gpm through 400 gpm	1000	500
Greater than 400 gpm	1200	600
<i>* pressure cementing of annular space required to reduce distance from property line from 100 feet to 50 feet</i>		

The Board may add additional permit conditions increasing the spacing requirements where necessary to meet the draw down goals incorporated into this Rule. Exceptions to the distance requirements set forth are subject to change based on the following criteria:

- a. Areas containing multiple wells that operate continuously for long periods of time,
- b. Areas where available drawdown is limited due to partially penetrating wells, persistently lower water level elevations, or other conditions that produce limited depth of water in a well above pumps,
- c. Areas where faulting or other hydrogeologic conditions may cause more water level decline than under the assumptions implemented herein.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

7.5 Public Water System Well Spacing

- a. Public Water System Wells must comply with the 150-foot sanitary control easements as required by Title 30 Texas Administrative Code Chapter 290.
- b. Retail water utilities and community water systems may apply to drill new wells, replacement wells, or monitor wells within the confines of a well field owned by

the utility without regard for District spacing requirements if the site plan for the proposed new well and the well field has been designed by a professional engineer and has been approved by the Texas Commission on Environmental Quality (TCEQ).

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

7.6 Geothermal Well Spacing

Geothermal wells are exempt from the requirements of these Chapter 7 Rules. Refer to Chapter 6. - Well Construction and Completion Standards for rules regarding geothermal well construction.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

CHAPTER 8. DROUGHT AND CONSERVATION PLAN

Section

8.1 Purpose, Authority, and Intent

8.2 Public Outreach

8.3 Authorization

8.4 Applicability

8.5 Triggering Criteria for Initiation and Termination of Drought Stages

8.6 Drought Stage Response

8.7 Variances

8.1 Purpose, Authority, and Intent

The purpose of the Trinity Glen Rose Groundwater Conservation District (TGRGCD) is to provide for the conservation, preservation, protection, recharge and prevention of waste of groundwater within the Trinity Aquifer located in northern Bexar County in accordance with the state law creating TGRGCD, as amended.

To accomplish this purpose and as required by Texas Water Code, section 36.1071, the TGRGCD adopted a Groundwater Management Plan that includes goals addressing drought conditions and conservation and the TGRGCD is required to adopt rules necessary to implement the Management Plan.

This Drought and Conservation Plan (hereto referred to as the “Plan”) is one of the tools that the TGRGCD has chosen to accomplish the goals set forth in the Management Plan.

Adopted January 11, 2007 by Board Order 2007-001; amended October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

8.2 Public Outreach

The TGRGCD will periodically provide the public with information about the Plan, including information about the conditions under which each stage of the Plan is to be initiated and the drought response measures to be implemented at each stage. This information may be provided by means of press releases, website updates, articles, public meetings and mailings.

Adopted January 11, 2007 by Board Order 2007-001; amended October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

8.3 Authorization

The TGRGCD Board of Directors, or its designee, shall implement the applicable provisions of this Plan upon determination that such implementation is necessary for the conservation, preservation, protection, recharge and prevention of waste of the Trinity Aquifer groundwater within the TGRGCD's boundaries. The Board of Directors of the TGRGCD, or its designee, shall have the authority to initiate or terminate drought management measures as described in this Plan.

Adopted January 11, 2007 by Board Order 2007-001; amended October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

8.4 Applicability

Provisions of this Plan shall apply to all persons or organizations having or operating wells producing, or utilizing, groundwater within the District, regardless of size, capacity, date of drilling, or ownership of the wells, unless such wells are exempt from regulation by the TGRGCD.

Adopted January 11, 2007 by Board Order 2007-001; amended October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

8.5 Triggering Criteria for Initiation and Termination of Drought Stages

The TGRGCD Board of Directors, or its designee, shall monitor the defined drought trigger indices and shall determine when conditions warrant initiation, or termination, of each stage of the Plan. The Plan consists of three levels of drought and groundwater production restrictions for each of the three drought levels as defined herein.

Most of the residences and businesses located within the TGRGCD are served by public water systems, the major four being San Antonio Water System, the City of Fair Oaks Ranch, Grey Forest Utilities, and Southwest Water Company. All public water systems located within the TGRGCD boundaries have established Drought Contingency and Conservation Plans and the District expects these Public Water Systems to implement and enforce their plans.

A. Drought Trigger Indices

Drought stages may be initiated and terminated by the TGRGCD Board of Directors based on the following conditions or indices, none of which are controlling:

1. TGRGCD may choose to initiate drought stages corresponding with the major public water systems declaration of drought stages.
2. TGRGCD may base indices on water level data gathered from monitor wells chosen by TGRGCD that represent groundwater level fluctuations and declines.
3. The Palmer Drought Severity Index (PDSI), which is an index based on regional meteorological and hydrological data such as rainfall, temperature, and soil moisture content.

The Palmer Drought Severity Index (PDSI) uses the following values:

Moderate Drought: -2 or less

Severe Drought: -3 or less

Extreme Drought: -4 or less

The Palmer Drought Severity Index may be viewed at:

<http://www.txwin.net/monitoring/meteorological/Drought/pdsi.htm>

B. Initiation and termination of drought stages

Stage 1 – Moderate Drought Conditions

Initiation –The PDSI Drought Indicator is between -2 to -3 or the majority of public water suppliers within the District have initiated stage 1 of their drought plans. Stage 1 of the plan may be initiated by TGRGCD board action.

Termination – Stage 1 of the Plan may be rescinded by TGRGCD board action when the PDSI Drought Indicator is above -2.

Stage 2 – Severe Drought Conditions

Initiation – The PDSI Drought Indicator is between -3 to -4 and the majority of public water suppliers within the District have initiated stage 2 of their drought plans. Stage 2 may be initiated by TGRGCD board action.

Termination – Stage 2 of the Plan may be rescinded by TGRGCD board action when the Drought Indicator is above -3. Upon termination of Stage 2, Stage 1 becomes effective.

Stage 3 - Extreme Drought Conditions

Initiation – The Drought Indicator is equal to -4 or the majority of public water suppliers within the District have initiated stage 3 of their drought plans. Stage 3 may be initiated TGRGCD board action.

Termination – Stage 3 of the Plan may be rescinded by TGRGCD board action when the Drought Indicator is above -4. Upon termination of Stage 3, Stage 2 becomes effective.

Adopted January 11, 2007 by Board Order 2007-001; amended October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

8.6 Drought Stage Response

The TGRGCD Board of Directors, or its designee, shall monitor the defined drought trigger indices, local water utility drought stages and shall determine when conditions warrant initiation or termination of each stage of the Plan. Drought Stages will be initiated and terminated by action of the Board of Directors. TGRGCD may provide public notification of the initiation or termination of drought stages by means of a notice posted on the door of the TGRGCD office, in a newspaper of general circulation, on its website, or other means of public announcement.

The Plan is applicable to all current and future exempt and non-exempt wells within the TGRGCD's boundaries with the exception(s) as defined in TGRGCD District Rules Chapter 4 Definitions.

a. Restrictions on Exempt Wells

TGRGCD has the authority to monitor the production from all Exempt (Registered) wells. The District encourages compliance during each drought stage with the restrictions stated in this Plan. Such voluntary compliance will contribute to the achievement of the desired level of conservation and reduce the impact of drought conditions and restrictions.

b. Restrictions on Non-Exempt Wells

The TGRGCD has the authority to monitor and manage the production from all Non-Exempt wells. This Plan places restrictions on the production from such wells as a function of drought stage.

It is required that the production from every non-exempt well be reported to TGRGCD monthly, regardless of current drought stage or conditions.

A. YEAR-ROUND CONSERVATION

1. The TGRGCD strongly encourages homeowners, homebuilders and/or developers, exempt and non-exempt well users to incorporate the conservation practices as outlined in the City Of San Antonio's Ordinance #100322 where standards became effective January 2006. Specifically, the incorporation of the following best management practices:
 - a. Rain Sensors- rain sensors should be installed and maintained on all irrigation systems equipped with automatic irrigation controls;
 - b. Xeriscape Option- Homebuilders and/or developers subdividing lots and/or constructing new single family residential homes should offer a xeriscape option in any series of landscaping options offered to prospective home buyers;
 - c. Model Homes- Homebuilders and/or developers who construct model homes for a designated subdivision should have at least one model home per subdivision landscaped according to a xeriscape design; and
 - d. Rain Water Harvesting Systems- Homebuilders, developers, and homeowners should consider the installation of rain harvesting systems. Rain harvesting systems can reduce reliance on common water supplies with a low cost investment.
2. Waste is prohibited at all times. Allowing groundwater to run off into a gutter, ditch, or drain or failing to repair a controllable leak is considered waste.
3. Users of groundwater should use common sense and best practices to avoid water waste, practice water conservation and minimize use of groundwater for non-essential purposes.
4. Landscape watering with groundwater using an irrigation system, soaker hose, or sprinkler should follow guidelines in accordance with times and days as described below.
5. Hand watering with groundwater using a hand-held hose, drip irrigation or bucket is encouraged any time and any day.

6. Using groundwater for washing impervious cover such as parking lots, driveways, streets or sidewalks is discouraged and should be done responsibly to avoid runoff.
7. The use of commercial vehicle wash facilities that recycle water is encouraged.
8. Reduce groundwater consumption by any means available.

STAGE 1: MODERATE DROUGHT

Water Use Restrictions: Persons using groundwater from non-exempt wells, other than customers of public water supply systems, are encouraged to follow these water use restrictions:

1. Watering with an irrigation system or sprinkler should be limited to only once a week between 12 a.m. and 10 a.m., or 8 p.m. to 12 a.m. on the designated watering day as determined by address:

**0 or 1 the irrigation day is Monday,
2 or 3 the irrigation day is Tuesday,
4 or 5 the irrigation day is Wednesday,
6 or 7 the irrigation day is Thursday,
8 or 9 the irrigation day is Friday.**
2. Areas such as medians and common areas, which are not represented by an address, shall water only once a week between 7a.m. and 11 a.m., or 7 p.m. to 11 p.m. on Wednesdays.
3. Non-exempt well users shall reduce their water usage by 5% of the same calendar month during the previous calendar year. Reduction will be based on reported monthly usage for the prior year's same month provided by the non-exempt well owner.
4. All non-public swimming pools should have a minimum of 25 percent of the surface area covered with evaporation screens when not in use. Inflatable pool toys or floating decorations may be used.
5. Hand watering with a hand-held hose, drip irrigation, or bucket is allowed any time and any day; however, we strongly encourage use of these methods during the hours of 7a.m. and 11 a.m., or 7 p.m. to 11 p.m..

6. Washing impervious cover such as parking lots, driveways, streets or sidewalks is prohibited if the water is allowed to run into the street or enter a drain or drainage channel.
7. Residential washing of vehicles or other equipment is should be done only on Saturday or Sunday. A hose with an automatic shut-off nozzle or bucket of five gallons or less should be used. Water should not be allowed to run into the street or drain.
8. The use of commercial car wash facilities that recycle water is encouraged.
9. Operators of golf courses, athletic fields, parks, and irrigators of over 1 acre utilizing a non-exempt well must submit a water conservation plan to the Trinity Glen Rose Groundwater Conservation District. TGRGCD encourages plans that eliminate irrigation between the hours of 10 a.m. and 8 p.m. and provide for irrigation of landscape areas not directly “in play” once per week.
10. Waste and non-essential water use, as defined under Texas Water Code, Chapter 36, and TGRGCD Chapter 4 Definitions, is prohibited.

STAGE 2: SEVERE DROUGHT

Water Use Restrictions: All requirements of Stage 1 shall remain in effect during Stage 2 with the following modifications applicable to persons using groundwater from non-exempt wells, other than customers of public water supply systems:

1. Aesthetic fountains are discouraged, unless an alternative source of water other than groundwater is used.
2. Watering with a hand-held hose or drip irrigation is allowed at any time; however, we strongly encourage using these methods during the hours of 7a.m. and 11 a.m., or 7 p.m. to 11 p.m..
3. Watering with an irrigation system or sprinkler permitted only once a week on the designated watering day during the hours of 7a.m. and 11 a.m., or 7 p.m. to 11 p.m. is encouraged. Designated watering days will be determined by the last digit of the address on which the water well is located. The designated watering day chart is identified in stage 1 of this plan.

4. Areas such as medians and common areas, which are not represented by an address, shall water only once a week before during the hours of 7a.m. and 11 a.m., or 7 p.m. to 11 p.m. on Wednesdays.
5. Non-exempt well users shall reduce their water usage by 10% of the same calendar month during the previous calendar year. Reduction will be based on reported monthly usage for the prior year's same month provided by the non-exempt well owner.
6. Residential, commercial, industrial, and agricultural Trinity Aquifer water users should use common sense and best practices to avoid water waste and to practice water conservation and to minimize or discontinue use of water for non-essential purposes.
7. Waste and non-essential water use, as defined under Texas Water Code, Chapter 36, and TGRGCD Chapter 4 Definitions, is prohibited.

STAGE 3: EXTREME DROUGHT

Water Use Restrictions: All requirements of Stage 1 and 2 shall remain in effect during Stage 3 with the following modifications applicable to persons using groundwater from non-exempt wells, other than customers of public water supply systems:

1. Non-exempt well users shall reduce their water usage by 15% of the same calendar month during the previous calendar year. Reduction will be based on reported monthly usage for the prior year's same month provided by the non-exempt well owner.
2. Aesthetic fountains are discouraged, unless an alternative source of water other than groundwater is used.
3. Irrigation with an irrigation system or sprinkler should be limited to the hours between 7a.m. and 11 a.m., or 7 p.m. to 11 p.m. on the designated watering day every other week.
4. Use of a handheld hose, drip irrigation system or 5 gallon bucket on Mondays, Wednesdays, and Fridays between 7a.m. and 11 a.m., or 7 p.m. to 11 p.m. is encouraged.

5. Watering newly planted landscapes permitted only with a variance from the TGRGCD.
6. Waste and non-essential water use, as defined under Texas Water Code, Chapter 36, and TGRGCD Chapter 4 Definitions, is prohibited.

Adopted January 11, 2007 by Board Order 2007-001; amended October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

8.7 Variances

The Board President of the TGRGCD, or its designee, may, in writing, grant variances for existing water uses otherwise prohibited under this Plan, if it is determined that failure to grant such a variance would cause an emergency condition adversely affecting the public health or sanitation, or the person requesting such variance, and if one or more of the following conditions are met:

1. Compliance with this Plan cannot be technically accomplished during the duration of the water shortage or other condition for which the Plan is in effect.
2. Alternative methods can be implemented which will achieve the same level of reduction in water use. Persons requesting an exemption from the provisions of the Plan shall file a petition for the variance with the Trinity Glen Rose Groundwater Conservation District within 5 days after the Plan or a particular drought response stage has been invoked. All petitions for variances shall be reviewed by the General Manager or his/her designee. Refer to Chapter 16 Variance Procedures for complete variance procedures.

Adopted January 11, 2007 by Board Order 2007-001; amended October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

CHAPTER 9. TRANSFER OF GROUNDWATER OUT OF DISTRICT

Section

9.1 Applicability

9.2 Groundwater Exportation Permits Required

9.3 Exportation Permitting Approval Process

9.4 Contents of Groundwater Exportation Permits

9.5 Basis for Approval on Groundwater Exportation Permit Applications

9.6 Standard Permit Conditions

9.7 Groundwater Exportation Permit Term; Renewal

9.8 Review of Groundwater Exportation Permits; Limitation on Exportation

9.9 Groundwater Production in Violation of Permit Prohibited; Permit Transfers and Amendments; Applications; Exceptions

9.10 Transfer of Ownership; Notice

9.11 Groundwater Export Fees

9.12 Reporting and Fee Collection

9.1 Applicability

- a. Except as provided in subsection (b), this subchapter applies to any person who seeks to export groundwater that is produced from a well within the District's boundaries and from a source other than the Edwards Aquifer to a place of use outside the District's boundaries.
- b. This subchapter does not apply to:
 1. a groundwater export arrangement in effect prior to March 2, 1997, and continuing thereafter, so long as there is no increase in the annual amount exported after March 2, 1997;
 2. groundwater that is incorporated into a finished, manufactured product within Bexar County and then exported for sale outside of the County; or
 3. groundwater that is produced from an exempt well located within the District, where the well is situated on a contiguous tract of land that straddles the District boundary and the groundwater is placed to use solely on that tract, but including portions outside the District's boundaries.
 4. a retail public utility that (i) obtains water from the Trinity Group of Aquifer and also water from other sources and (ii) provides retail service directly to more than 10,000 residential connections.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

9.2 Groundwater Exportation Permit Required

- a. Exporting groundwater from the District without a required groundwater exportation permit is prohibited, wasteful per se, and a nuisance.
- b. Any person seeking to export groundwater to a place of use outside of the District's boundaries is required to file with the District an application to export groundwater on a form prescribed by the District and obtain a groundwater exportation permit from the District.
- c. An application filed to comply with this section shall be considered and processed under the same procedures as other applications for other permits and may be

combined with applications filed to obtain a permit for in-District water use from the same applicant, if any.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

9.3 Exportation Permitting Approval Process

- a. The application shall be submitted on the form developed and prescribed by the District.
- b. All necessary forms are available through the District office and District website;
- c. The requestor of the exportation permit must submit one copy of the completed application and applicable fee(s) directly to the District office. Once submitted, the District will determine the completeness of the application and refer the application to the District Board of Directors for consideration as outlined in 9.5.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

9.4 Contents of Groundwater Exportation Permit Application

A groundwater exportation permit shall include the following information:

- a. the name, address, and telephone number of the permittee;
- b. the State well number for the well to be used for the exportation project;
- c. latitude and longitude of the well(s) being utilized for water exportation;
- d. map, or plat, depicting physical location of well(s) and conveyance system;
- e. if the permittee does not own the well from which the production for exportation is made, then the name, address and telephone number of the well owner;
- f. if not the permittee, the name, address and telephone number of the owner of the land on which the well is located;
- g. the permit term, including dates of issuance, effectiveness, and termination;
- h. the purpose of use for which the water produced from the well is to be used;
- i. the specific location of the place of use outside the District's boundaries;
- j. the maximum amount of production in acre-feet per annum that may be exported from the District; and
- k. annual acre-ft, peak demand in gallons per minute, and total storage capacity;
- l. any other information as may be required by the board.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

9.5 Basis for Approval on Groundwater Exportation Permit Applications

The board shall grant an application for a groundwater exportation permit if the board finds that:

- a. the application is administratively complete;
- b. the application complies with the rules of the District;
- c. all applicable fees and have been paid;
- d. the water to be exported is proposed to be placed to a beneficial use;
- e. the place of use is identified specifically and located outside the District's boundaries;
- f. the well to be used for the proposed exportation project is identified specifically and located within the District's boundaries;
- g. the applicant is in compliance with any permits the applicant holds from the District and with the District's rules;
- h. the well has been registered with the District to produce the groundwater necessary for the proposed exportation project, or has a contract to purchase the groundwater from a third party who holds such permit or other authorization;
- i. there is insufficient water available in the proposed receiving area to substantially meet the actual or projected demand during the proposed term of the groundwater exportation permit;
- j. there is sufficient water available within the District to substantially meet the actual or projected demand during the proposed term of the groundwater exportation permit;
- k. the proposed exportation will not have an unreasonably adverse effect on aquifer conditions, depletion, or water quality within the District;
- l. the proposed exportation will not have an unreasonably adverse effect on existing permittees, or other groundwater users within the District;
- m. the proposed exportation is consistent with the applicable Regional Water Plans approved by the Texas Water Development Board; and
- n. the proposed exportation is consistent with the District's certified Groundwater Management Plan, as may be amended.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

9.6 Standard Permit Conditions

All exportation permits shall be issued with and subject to the following conditions:

- a. the duty to beneficially use water and avoid waste;
- b. the duty to conserve water in accordance with applicable law, and comply with both the District's water conservation plan, as may be amended from time to time, and the permittee's drought management plan approved by the District, as appropriate;
- c. the duty to file all applicable reports with the District and other appropriate federal, state, or local governments;
- d. the duty to comply with the District's certified groundwater management plan, as may be amended from time to time;

- e. the duty to use all reasonable diligence to protect the groundwater quality of the aquifer;
- f. the duty to comply with the District's rules as may be amended from time to time;
- g. permit review, or renewal conditions;
- h. the continuing right of the District to supervise the depletion of the aquifer;
- i. installation, equipping, operation, and maintenance of all meters in accordance with the District's rules;
- j. the duty to comply with the District's rules relating to transfers and amendments of permits as may be amended from time to time;
- k. the duty to pay and be current in the payment of all applicable fees;
- l. the duty to maintain a record of the permit;
- m. the duty to give notice to District of any changes in name, address, or telephone number of the permittee, or the authorized representative, or the landowner, as may be appropriate;
- n. the duty to comply with all of the terms and conditions of the permit;
- o. the duties to ensure that the well site is accessible to District representatives for inspection, and to cooperate fully in any reasonable inspection of the well and well site by District representatives;
- p. the right of the District to enter land under §36.123, Texas Water Code, as may be amended; and
- q. any other conditions as the board may deem appropriate.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

9.7 Groundwater Exportation Permit Term; Renewal

- a. The permit term for an exportation permit shall be set by the board, consistent with the following criteria:
 - 1. the permit term shall be three years, if construction of the conveyance system in the District's boundaries has not been initiated prior to the issuance of the permit; or
 - 2. the permit term shall be thirty years, if construction of a conveyance system has been initiated in the District's boundaries prior to the issuance of the permit.
- b. The three year term specified in Subsection (a)(1) shall automatically be extended to thirty years if construction of a conveyance system is begun before the expiration of the three year period. For the purposes of this Section, construction of a conveyance system shall be considered to have been initiated when the permittee has completed construction of at least 10% of the portion of the conveyance facilities located within the District that will be used to convey the

maximum annual quantity of groundwater permitted for transfer outside of the boundaries of the District.

- c. An exportation permit may be renewed. Any person seeking the renewal of a groundwater exportation permit must file with the District an application to renew on a form prescribed by the District. The application must be filed with the District no later than one year prior to the expiration of the permit term.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

9.8 Review of Groundwater Exportation Permits; Limitation on Exportation

The board may periodically review the amount of water that is authorized for exportation under a groundwater exportation permit and may reduce or otherwise limit the amount of exportation if the factors considered in section 9.4 warrant the limitation.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

9.9 Groundwater Production in Violation of Permit Prohibited; Permit Transfers and Amendments; Applications; Exceptions

- a. No holder of an exportation permit may export groundwater in a manner inconsistent with the terms of the permit, and any such production is illegal, wasteful per se, and a nuisance. No change in the production and use of groundwater under a permit may be made without the prior approval of a permit amendment issued by the board.
- b. This section also applies to the owners of exportation permits seeking to transfer or change their permit in the following respects:
 - 1.purpose of use;
 - 2.place of use; or
 - 3.the total volume of groundwater exported in acre-feet per annum.
- c. Any person seeking to transfer or change their permit as provided in subsection (b) must file with the District an application to amend on a form prescribed by the District.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

9.10 Transfer of Ownership; Notice

- a. The ownership of an exportation permit may be transferred separately from the ownership of the place of use or point of withdrawal. The owner of an exportation

permit may authorize a person other than the permit owner to export groundwater under the permit.

- b. Within 30 days after transfer of the ownership of an exportation permit, or lease of the right to export thereunder, the transferee shall file with the District a notice on a form prescribed by the District. For transfers of ownership, if the notice is complete, and the transfer is otherwise in compliance with this subchapter, the general manager shall reflect the new ownership and issue an amended permit to the transferor, transferee, or both, as may be appropriate. For leases, the general manager will update the District's permit records to reflect the lease.
- c. No permit transfer or amendment is effective until the application has been approved by the board.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

9.11 Groundwater Export Fees

- a. The fee associated with the exportation permit application is \$350.00. This fee is due upon submission of the exportation permit application to the District.
- b. The District shall assess an export fee on all persons exporting groundwater produced from a well within the District's boundaries and from a source other than the Edwards Aquifer to a place of use outside of the District's boundaries.
- c. The groundwater export fee for a given permit will be selected by the District using one of the following methods:
 - 1. an annual fee negotiated between the District and the owner of the groundwater export permit;
 - 2. a 50 percent export surcharge, in addition to the District's production fee, for water transferred out of the District.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

9.12 Reporting and Fee Collection

- a. The general manager will collect the groundwater export fee. The annual groundwater exportation report shall constitute the groundwater export fee invoice. The holder of a groundwater export permit shall file the completed

groundwater exportation report form with the District not later than May 1st of the year following the year reported on. Payment of the groundwater export fee shall accompany the groundwater exportation report. The groundwater export fee for a given calendar year becomes due and payable on May 1st of the following year, and payment will be considered delinquent if not received in full by the District by the close of business on May 15th.

- b. For any export fee that is delinquent, if payment in full is not received on or before 10 days after the date the amount becomes delinquent, then the general manager shall assess, for every month thereafter that the invoice remains delinquent, an administrative penalty of 10%. Additionally, each day that an export fee is delinquent constitutes a separate violation of the District's rules.
- c. No person may export groundwater outside the District's boundaries if the owner of the well from which the exported groundwater is produced is delinquent in the payment of any fee that is due and payable to the District.
- d. Any person who, without any legal authority, exports groundwater outside the District's boundaries shall pay to the District the export fee then in force and effect for the period of time during which the unauthorized exports were made as well as applicable delinquency fees.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

CHAPTER 10 INVESTIGATIONS AND ENFORCEMENT

Section

10.1 Notice and Access to Property (§36.123)

10.2 Investigation of Possible Violation(s) (§36.123)

10.3 Rule Enforcement

10.4 Sealing, Capping and Plugging Wells

10.1 Notice and Access to Property: (§36.123)

Board Members and District representatives and employees are entitled to access to all property within the District to carry out technical and other routine investigations (i.e. photographing, sampling, monitoring and testing) necessary to the implementation of the District Rules. Prior to entering upon the property for the purpose of conducting an investigation, the person seeking access will give notice in writing or in person or by telephone to the owner, operator, agent, or employee of the well owner, as determined by

information contained in the application or other information on file with the District. Notice is not required if prior permission is granted to enter without notice. Inhibiting or prohibiting access to any Board Member or District representative or employees who are attempting to conduct an investigation under District Rules constitutes a violation and subjects the person who is inhibiting or prohibiting access, as well as any other person who authorizes or allows such action, to the penalties set forth in the Texas Water Code Chapter 36.102.

Adopted January 11, 2007 by Board Order 2007-002; effective January 11, 2007.

10.2 Investigation of Possible Violation(s) (§36.123)

A. When the District's Board of Directors has been informed of a possible violation of a District Rule, the District Representative will send a letter notifying the owner about the potential violation and arranging to meet with the owner to investigate the potential violation.

B. Investigations or inspections that require entrance upon property will be conducted at reasonable times, and will be consistent with the establishment's reasonable rules and regulations concerning safety, internal security, and fire protection. The persons conducting such investigations shall identify themselves and present credentials upon request of the owner.

C. Following the investigation, the District Representative shall report to the Board of Directors the findings of the investigation. If the Board determines that no violation has occurred, the District will notify the owner by letter of the Board's finding that no violation has occurred.

D. If the Board of Directors determines from the investigation that a violation has occurred, the District will notify the owner by certified mail that the owner is in violation and outline the action the owner shall take to come into compliance with District Rules.

E. When the owner notifies the District that compliance has been met, an investigation by the District Representative will be made and reported to the Board. The Board shall determine if compliance has been met by the owner. If so, the District will notify the owner by letter that compliance with District Rules has been met.

Adopted January 11, 2007 by Board Order 2007-002; effective January 11, 2007.

10.3 Rule Enforcement

If the Board determines that compliance has not been met, then the Board may chose from the following actions to ensure compliance with District Rules:

A. Begin the enforcement hearing process for permit revocation, involuntary amendment

or suspension.

B. Enforce these rules by injunction, mandatory injunction or other appropriate remedy in a court of competent jurisdiction.

C. Assess reasonable civil penalties for breach of any District Rule as authorized in Chapter 36 of the Texas Water Code. A penalty under this Rule is in addition to any other penalty provided by law of this state and may be enforced by complaints filed in the appropriate court of jurisdiction in the county in which the District's principal office or meeting place is located. If the District prevails in any suit to enforce its Rules, it may, in the same action, recover reasonable fees for attorneys, expert witnesses, and other cost incurred by the District before the court. The amount of the attorney's fee shall be fixed by the court.

D. After a notice and an enforcement hearing, order a non-compliant well to be sealed under District Rule 10.4.

E. Continue to work with the owner until compliance is met and may mandate the monitoring of groundwater use by requiring the metering of the well or any other monitoring methods and provide regular production reports as determined by the Board.

F. Any combination of the above actions or other reasonable means as determined by the Board to ensure compliance.

Adopted January 11, 2007 by Board Order 2007-002; effective January 11, 2007.

10.4 Sealing, Capping and Plugging Wells

A. Sealing of Wells: After notice and an enforcement hearing, the District may seal wells to ensure that a well is not operated in violation of the District Rules. A well may be sealed when:

- (1) no permit has been obtained to drill a new water well that requires a permit under Rule 5.1
- (2) no application form has been filed for a permit to withdraw groundwater; or
- (3) the Board has denied, cancelled or revoked a drilling permit or an operating permit.

The well may be sealed by physical means and tagged to indicate that the well has been sealed by the District. Other appropriate action may be taken as necessary to preclude operation of the well or to detect unauthorized operation of the well.

Tampering with, altering, damaging, or removing the seal of a sealed well, or in any other way violating the integrity of the seal, or pumping of groundwater from a well that has

been sealed constitutes a violation of these rules and subjects the person performing that action, as well as any well owner or primary operator who authorizes or allows that action, to such penalties as provided by the District Rules.

B. Capping Wells: After notice and an enforcement hearing , the District may require a well to be capped to prevent waste, prevent pollution, or prevent further deterioration of a well casing. The well shall remain capped until such time as the conditions that led to the capping requirement are eliminated. If well pump equipment is removed from a well and the well will be re-equipped at a later date, the well shall be capped, provided however that the casing is not in a deteriorated condition that would permit commingling of water strata in which case the well shall be plugged. The cap shall be capable of sustaining a weight of at least four hundred (400) pounds.

C. Plugging Wells: A deteriorated or abandoned or open and uncovered well shall be plugged in accordance with the Well Driller and Pump Installers Rules, 16 Texas Administrative Code Chapter 76. It is the responsibility of the owner to see that such a well is plugged to prevent pollution of the underground water and to prevent injury to persons.

D. Plugging Report: Not later than the 30th day after a well is plugged, the person plugging the well shall submit a plugging report to the District on a form provided by the District.

Adopted January 11, 2007 by Board Order 2007-002; effective January 11, 2007.

CHAPTER 11. CONTESTED CASE HEARING PROCEDURES

Section

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11.1 Purpose

The purpose of this subchapter is to provide for the procedures to be applied to contested case hearings before the District.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

11.2 Applicability

This chapter applies to matters subject to a contested case hearing under 11.4(a) for which a timely request for contested case hearing is pending before the District and the request has not been withdrawn because of settlement or for some other reason.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

11.3 Persons Entitled to Request a Contested Case Hearing

The following persons may request a contested case hearing on an application subject to this subchapter:

- a. the applicant; and
- b. any other affected person.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

11.4 Timing, Form and Contents of Requests for Contested Case Hearing

- a. A request for a contested case hearing may only be made for applications for notice of intent to drill, plug, or modify a new or existing well; operating permits; applications for groundwater exportation permits; and applications for variance from well spacing limitations.
- b. A request for a contested case hearing must be in writing and be filed by United States mail, facsimile, or hand delivery to the District.
- c. A hearing request must substantially include the following:
 1. the name, address, daytime telephone number, fax number, and email address of the person filing the request. If the request is made by a corporation, partnership, or other business entity, the request must identify the entity and one person by name, physical and mailing address, daytime telephone number, fax number, and email address, who shall be responsible for receiving all documents on behalf of the entity;
 2. the basis for the contention that the person will be injured and has a personal justifiable interest in the matter such that a contested case hearing is appropriate;
 3. request a contested case hearing;
 4. provide any other information requested in the notice of hearing; and
 5. the person filing the request shall subscribe and swear or affirm under oath that the facts set out in the request are true and correct before any person entitled to administer oaths who shall also sign his or her name and affix his or her seal of office to the request.
- d. Where a request for a contested case hearing is filed by a person other than the applicant, a copy of that request must be served on the applicant at or before the time that the request is filed with the District. The request shall include a certificate indicating the date and manner of service and the name and address of all persons served.
- e. If a person is requesting a contested case hearing on more than one application, a separate request must be filed in connection with each application.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

11.5 Processing of Hearing Requests

- a. Except as provided in Subsection (e), the general manager shall schedule any timely filed contested case hearing request for board consideration. At least five days prior to the board hearing, the general manager shall provide notice to the applicant and other persons making a timely hearing request of the hearing. The board may receive relevant oral testimony or documentary evidence at a board hearing during which the contested case hearing request is evaluated.
- b. The hearing request will be the initial matter considered at the hearing on the permit application.
- c. Persons may submit a written response to the hearing request no later than two days before the hearing at which the board shall consider the request. Responses shall be filed with and served on the general manager, the applicant and any persons filing a hearing request in connection with that matter. The response should address the question of whether the person requesting the contested case hearing has a personal justiciable interest related to the application at issue.
- d. The board shall evaluate the hearing request and any written responses thereto at the scheduled board hearing and shall determine that the person requesting the hearing:
 1. does not have a personal justiciable interest related to the application and deny the hearing request and not admit the person as a party to the hearing; or
 2. has a personal justiciable interest relating to the application, refer the application to a contested case hearing, and admit the person as a party to the hearing.
- e. The board may delegate to a presiding officer the processing of requests for contested case hearing.
- f. The determination of whether a hearing request should be granted is not itself a contested case hearing.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

11.6 Request for Referral of Contested Case Hearing to State Office of Administrative Hearings

- a. If requested to do so by the applicant or any person who timely requested a contested case hearing pursuant to section 11.4, and who has been determined by the presiding officer to be a person entitled to a contested case hearing under the standard set forth in section 11.5, the Board shall refer the hearing to the State

Office of Administrative Hearings (SOAH) and contract with SOAH to conduct the hearing.

- b. The applicant or other party requesting the referral to SOAH must make such request to the District, in writing, no later than five days following the Board's determination that a hearing request should be granted under section 11.5.
- 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 before the hearing begins. At the conclusion of the hearing, the District shall refund any excess money to the party requesting the hearing before SOAH.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

11.7 General Hearing Procedures in Contested Cases

- a. Except for a hearing referred to the State Office of Administrative Hearings (SOAH), the procedures provided in this subchapter apply to contested case hearings. If the board refers a contested case hearing to SOAH, then the hearing shall be conducted as provided by Subchapters C, D, and F, Chapter 2001, Texas Government Code, and the applicable rules of practice and procedure of SOAH (Title 1, Chapter 155, Texas Administrative Code, as may be amended) govern any contested case hearing of the District conducted by SOAH, as supplemented by this subchapter.
- b. A contested case hearing of the District must be conducted by either:
 - 1. a quorum of the board;
 - 2. an individual to whom the board has delegated in writing the responsibility to preside as a hearings examiner over the hearing or matters related to the hearing; or
 - 3. a SOAH administrative law judge.
- c. Except as provided by Subsection (d), the board president or the hearings examiner shall serve as the presiding officer at the hearing.
- d. If the hearing is conducted by a quorum of the board and the board president is not present, the directors conducting the hearing may select another director to serve as the presiding officer.
- e. Authority of presiding officer: The presiding officer may conduct the hearing in the manner the presiding officer deems most appropriate for the particular proceeding. The presiding officer has the authority to:
 - 1. convene the hearing at the time and place specified in the notice for public hearing;
 - 2. set hearing dates;

3. designate the parties;
 4. establish the order for presentation of evidence;
 5. administer oaths to all persons presenting testimony;
 6. examine persons presenting testimony or comments;
 7. ensure that information and testimony are introduced as conveniently and expeditiously as possible, without prejudicing the rights of any party to the proceeding;
 8. prescribe reasonable time limits for testimony and the presentation of evidence;
 9. exercise the procedural rules of the District;
 10. issue subpoenas when required to compel the attendance of witnesses or the production of papers and documents;
 11. require the taking of depositions and compel other forms of discovery under these rules;
 12. reopen the record of a hearing for additional evidence when necessary to make the record more complete;
 13. establish the jurisdiction of the District concerning the subject matter under consideration;
 14. rule on motions and on the admissibility of evidence and amendments to pleadings;
 15. conduct public hearings in an orderly manner in accordance with these rules;
 16. recess any hearing from time to time and place to place; and
 17. exercise any other appropriate powers necessary or convenient to effectively carry out the responsibilities of the presiding officer.
- f. **Alignment of Parties in a Contested Case Hearing; Number of Representatives Heard:** Parties in a contested case hearing may be aligned according to the nature of the hearing and their relationship to it. The presiding officer may require the participants of an aligned class to select one or more persons to represent them in the hearing or on any particular matter or ruling and may limit the number of representatives heard, but must allow at least one representative of an aligned class to be heard in the proceeding or on any particular matter or ruling.
- g. **Appearance by Applicant or Movant:** The applicant, movant or party requesting the hearing or other proceeding or a representative should be present at the hearing or other proceeding. Failure to so appear may be grounds for withholding consideration of a matter and dismissal without prejudice or may require the rescheduling or continuance of the hearing or other proceeding if the presiding officer deems it necessary in order to fully develop the record.

- h. Reporting: Contested case hearings will be recorded by audio or video recording or, at the discretion of the presiding officer, may be recorded by a certified court reporter transcription. The District does not prepare transcripts of hearings or other proceedings recorded on audio cassette tape on District equipment for the public, but the District will arrange access to the recording. On the request of a party to a contested case hearing, the presiding officer shall have the hearing transcribed by a court reporter. The presiding officer may assess any court reporter transcription costs against the party that requested the transcription or among the parties to the hearing. Except as provided by this subsection, the presiding officer may exclude a party from further participation in a hearing for failure to pay in a timely manner costs assessed against that party under this subsection. The presiding officer may not exclude a party from further participation in a hearing as provided by this subsection if the parties have agreed that the costs assessed against that party will be paid by another party. If a proceeding other than a contested case hearing is recorded by a reporter, and a copy of the transcript of testimony is ordered by any person, the testimony will be transcribed and the original of any transcript will be filed with the District and placed in the papers of the proceeding at the expense of the person requesting the transcript of testimony. Copies of the transcript of testimony of any hearing or other proceeding thus reported may be purchased from the reporter.
- i. Continuance: The presiding officer may continue hearings in a contested case hearing from time to time and from place to place without the necessity of publishing, serving, mailing or otherwise issuing a new notice under Texas Government Code, Chapter 551. If the presiding officer continues a contested case hearing without announcing at the hearing the time, date and location of the continued hearing, the presiding officer must provide notice of the continued hearing by regular mail to all parties.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

11.8 Conduct and Decorum

Every person participating in or observing a contested case hearing, or other associated proceeding, must conform to ethical standards of conduct and exhibit courtesy and respect for all other participants or observers. No person may engage in any activity during a proceeding that interferes with the orderly conduct of District business. If, in the judgment of the presiding officer, a person is acting in violation of this provision, the presiding officer shall first warn the person to refrain from engaging in such conduct. Upon further violation by the same person, the presiding officer may exclude that person from the proceeding for such time and under such conditions as the presiding officer deems necessary.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

11.9 Hearing Registration Forms

Each individual attending who provides comments or testimony in a contested case hearing shall submit a hearing registration form providing the following information: name, address, who the person represents, if the person is not there in person's individual capacity, whether the person plans to testify or provide comments, and any other information relevant to the hearing.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

11.10 Opportunity for Hearing and Participation; Notice of Hearing

In a contested case, each party is entitled to an opportunity:

- a. for hearing; and
- b. to respond and to present evidence and argument on each issue involved in the case.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

11.11 Pre-Hearing Conferences

- a. The presiding officer may hold a pre-hearing conference at which the presiding officer may consider any matter which may expedite the hearing or otherwise facilitate the hearing process.
- b. Matters Considered. Matters which may be considered at a pre-hearing conference include, but are not limited to:
 1. the withdrawal of protest;
 2. the designation of parties;
 3. the formulation and simplification of issues;
 4. the necessity or desirability of amending applications or other pleadings;
 5. the possibility of making admissions or stipulations;
 6. the scheduling of discovery;
 7. the identification of and specification of the number of witnesses;
 8. the filing and exchange of prepared testimony and exhibits; and
 9. the procedure at the hearing.
- c. Conference Action. Action taken at a pre-hearing conference may be reduced to writing and made a part of the record or may be stated on the record at the close of the conference.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

11.12 Designation of Parties

The following persons shall be designated as parties in a contested case hearing:

- a. The general manager of the District is a party in all contested case hearings;
- b. The applicant is a party in a contested case hearing on its application; and
- c. Any person who timely requested a contested case hearing pursuant to section 11.4, and who has been determined by the presiding officer to be a person entitled to a contested case hearing under the standard set forth in section 11.5.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

11.13 Right to Counsel

- a. Each party to a contested case hearing may have the assistance of legal counsel before the District.
- b. A party to a contested case hearing may choose not to have the assistance of legal counsel.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

11.14 Interpreters for Deaf or Hearing Impaired Parties and Witnesses

- a. In a contested case hearing, the District shall provide an interpreter whose qualifications are approved by the Texas Office for Deaf and Hard of Hearing Services to interpret the proceedings for a party or subpoenaed witness who is deaf or hearing impaired.
- b. In this section, “deaf or hearing impaired” means having a hearing impairment, whether or not accompanied by a speech impairment, that inhibits comprehension of the proceedings or communication with others.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

11.15 Informal Disposition of Contested Case Hearing

An informal disposition may be made of a contested case hearing by:

- a. stipulation;
- b. agreed settlement;
- c. consent order; or
- d. default.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

11.16 Hearing Conducted by Hearings Examiner

- a. This section applies only to contested case hearings presided over by a hearings examiner.
- b. A hearings examiner who conducts a contested case hearing shall consider applicable District rules or policies in conducting the hearing.
- c. The District shall provide the hearings examiner with the District rules or policies applicable to the matter under consideration in the hearing.
- d. The District may not attempt to influence the findings of fact or the hearings examiner's application of law in a contested case hearing except by proper evidence and legal argument.
- e. The District may change a finding of fact or conclusion of law made by the hearings examiner, or may vacate or modify an order issued by the hearings examiner, only if the District determines:
 1. that the hearings examiner did not properly apply or interpret applicable law, District rules or policies provided under Subsection (c), or prior administrative decisions;
 2. that a prior administrative decision on which the hearings examiner relied is incorrect or should be changed; or
 3. that a technical error in a finding of fact should be changed. The District shall state in writing the specific reason and legal basis for a change made under this subsection.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

11.17 Certified Questions

- a. At any time during a contested case hearing presided over by a hearings examiner, on a motion by a party or on the hearings examiner's own motion, the hearings examiner may certify a question to the District.
- b. Issues regarding District policy, jurisdiction or the imposition of any sanction by the hearings examiner that would substantially impair a party's ability to present its case are among the types of issues appropriate for certification. Policy questions for certification purposes include, but are not limited to:
 1. the District's interpretation of its rules and applicable statutes;
 2. which rules or statutes are applicable to a proceeding; or whether District policy
 3. should be established or clarified as to a substantive or procedural issue of significance to the proceeding.

- c. If a question is certified, the hearings examiner shall submit the certified issue to the general manager. The general manager will place the certified issue on the agenda of the earliest possible meeting of the board, in compliance with the Open Meetings Act and other applicable law. The general manager will give the hearings examiner and parties notice of the meeting at which the certified question will be considered. The parties to the proceeding may file with the District briefs on the certified question. Briefs shall be filed with the parties with a copy served on the hearings examiner. The general manager will provide copies of the certified question and any briefs to the board. The hearings examiner may abate the hearing until the District answers the certified question, or continue with the hearing if the hearings examiner determines that no party will be substantially harmed.
- d. The District will issue a written decision on the certified issue within 30 days following the meeting at which the certified issue is considered. A decision on a certified issue is not subject to a motion for rehearing, appeal or judicial review prior to the issuance of the District's final decision in the proceeding.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

11.18 Service of Documents Filed in a Contested Case Hearing

- a. Service of all Documents Required. For any document filed with the District or the judge in a contested case hearing, the person filing that document must serve a copy on all parties to the contested case including the general manager at or before the time that the request is filed.
- b. Certificate of Service. A document presented for filing must contain a certificate of service indicating the date and manner of service and the name and address of each person served. The docket clerk may permit a document to be filed without a certificate of service but will require the certificate to be filed promptly thereafter.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

11.19 Privilege

In a contested case hearing, the District shall give effect to the rules of privilege recognized by law.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

11.20 Objections to Evidence

An objection to an evidentiary offer in a contested hearing may be made and shall be noted in the record.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

11.21 Burden of Proof

The burden of proof is on the applicant to establish, by a preponderance of the evidence, that the applicant is entitled to have the application granted.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

11.22 Assessing Costs

Except as provided by § 11.6(c), upon the timely request of any party, or at the discretion of the presiding officer, the presiding officer may make a recommendation to the board regarding the assessment of the costs incurred by the District for the hearing, including the District's expenditures for attorney's fees and technical experts, and any reporting and transcription costs to one or more of the parties. If the hearing is conducted by the board, a hearing report with recommendations need not be filed, and the board may directly assess the District's hearing costs and reporting and transcription costs to one or more of the parties. The presiding officer must consider the following factors in assessing the District's hearing costs and the reporting and transcription costs:

- a. the party who requested the transcript;
- b. the financial ability of the party to pay the costs;
- c. the extent to which the party participated in the hearing;
- d. the relative benefits to the various parties of having a transcript;
- e. the budgetary constraints of a governmental entity participating in the proceeding; and
- f. any other factor that is relevant to a just and reasonable assessment of costs. In any proceeding where the assessment of the District's hearing costs and reporting or transcription costs is an issue, the presiding officer must provide the parties an opportunity to present evidence and argument on the issue. A recommendation regarding the assessment of costs must be included in the hearing presiding officer's report to the board.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

11.23 Rights of Designated Parties

Subject to the direction and orders of the presiding officer, parties have the right to conduct discovery; present a direct case; cross-examine witnesses; make oral and written

arguments; obtain copies of all documents filed in the proceeding; receive copies of all notices issued by the District concerning the proceeding; and otherwise fully participate in the proceeding.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

11.24 Persons Not Designated Parties

At the discretion of the presiding officer, a person not designated as a party to a proceeding may submit a comment or statement, orally or in writing. Comments or statements submitted by non-parties may be included in the record, but may not be considered by the presiding officer as evidence and shall not form part of the administrative record on the matter.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

11.25 Ex Parte Communications

Except as otherwise provided below, the presiding officer or a member of the board assigned to render a decision or to make findings of fact or conclusions of law on a contested permit application may not communicate, directly or indirectly, about any issue of fact or law during the pendency of the contested case with any representative of the District or other designated party to the contested case, except on notice and opportunity for all parties to participate. This rule does not apply to a board member who abstains from voting on any matter in which he or she engaged in ex parte communications. A member of the board may communicate ex parte with other members of the board consistent with the requirements of other law, such as the Open Meetings Act. A member of the board or the presiding officer may communicate ex parte with a District employee who has not participated in any hearing in the contested case for the purpose of using the special skills or knowledge of the District employee in evaluating the evidence.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

11.26 Evidence

The presiding officer shall admit evidence that is relevant to an issue at the hearing. The presiding officer may exclude evidence that is irrelevant, immaterial, or unduly repetitious. The Texas Rules of Evidence may be referred to in order to determine the admissibility and introduction of evidence in contested case hearings. However, evidence not admissible under the Texas Rules of Evidence may be admitted if the evidence is:

- a. necessary to ascertain facts not reasonably susceptible of proof under those rules;
- b. not precluded by statute; and

- c. of a type on which a reasonably prudent person commonly relies in the conduct of the person's affairs.

In addition, evidence may be stipulated to by agreement of all parties.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

11.27 Written Testimony

- a. When a proceeding will be expedited and the interests of the parties will not be prejudiced substantially thereby, the presiding officer may allow testimony in a contested case hearing to be received in written form.
- b. The written testimony of a witness, either in narrative or question and answer form, must be sworn to by the witness and may be admitted into evidence upon the witness being sworn and identifying the testimony as a true and accurate record of what the testimony would be if given orally. The witness must be available, in person, by phone, or by other reasonable means, for clarifying questions and cross-examination, and the prepared testimony will be subject to objection. On the motion of a party, the presiding officer may exclude written testimony if the person who submits the testimony is unavailable for cross-examination by phone, a deposition before the hearing, or other reasonable means.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

11.28 Requirements for Exhibits

- a. Exhibits of a documentary character must be sized to not unduly encumber the files and records of the District. All exhibits must be numbered and, except for maps and drawings, may not exceed 8-1/2 by 11 inches in size.
- b. Abstracts of Documents. When documents are numerous, the presiding officer may receive in evidence only those which are representative and may require the abstracting of relevant data from the documents and the presentation of the abstracts in the form of an exhibit. Parties have the right to examine the documents from which the abstracts are made.
- c. Introduction and Copies of Exhibits. Each exhibit offered must be tendered for identification and placed in the record. Copies must be furnished to the presiding officer and to each of the parties, unless the presiding officer rules otherwise.
- d. Excluding Exhibits. In the event an exhibit has been identified, objected to, and excluded, it may be withdrawn by the offering party. If withdrawn, the exhibit

will be returned and the offering party waives all objections to the exclusion of the exhibit. If not withdrawn, the exhibit will be included in the record for the purpose of preserving the objection to excluding the exhibit.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

11.29 Official Notice; District Evaluation of Evidence

- a. In connection with a contested case hearing, the presiding officer may take official notice of:
 1. all facts that are judicially cognizable; and
 2. generally recognized facts within the area of the District's specialized knowledge.
- b. Each party shall be notified, either before or during the hearing, or by reference in a preliminary report or otherwise, of the material officially noticed, including staff memoranda or information.
- c. Each party is entitled to be given an opportunity to object to material that is officially noticed.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

11.30 Agreement of Parties; Remand to Board

- a. No agreement between parties or their representatives affecting any pending matter shall be considered by the presiding officer unless it is in writing, signed, and filed as part of the record, or unless it is announced at the prehearing conference or the hearing and entered of record.
- b. An agreed disposition of a contested case may be made by stipulation, settlement, consent order, or the withdrawal of all requests for a contested case hearing so that no facts or issues remain controverted. Upon settlement of a matter, the presiding officer shall remand the matter to the board. If the person requesting the contested case hearing defaults, then the presiding officer may also deem the request for a contested case hearing to have been withdrawn by the person and remand the case to the board. Applications remanded under this section shall be considered to be uncontested and shall be considered under established District rules. The presiding officer shall summarize the evidence, including findings of fact and conclusions of law based on the existing record and any other evidence submitted by the parties at the hearing. Any stipulations, settlements, consent orders, withdrawals of requests for contested case hearing, orders, findings of default, presiding officer summary of the proceedings, and other relevant documents shall be presented to the board for its consideration.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

11.31 Discovery

Discovery shall be conducted upon such terms and conditions, and at such times and places, as directed by the presiding officer. Unless specifically modified by this subchapter or by order of the presiding officer, discovery shall be governed by, and subject to the limitations set forth in, the Texas Rules of Civil Procedure. In addition to the forms of discovery authorized under the Texas Rules of Civil Procedure, the parties may exchange informal requests for information, either by agreement or by order of the presiding officer.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

11.32 Documents in District Files

Extrinsic evidence of authenticity is not required as a condition precedent to admissibility of documents maintained in the files and records of the District.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

11.33 Oral Argument

At the discretion of the presiding officer, oral arguments may be heard at the conclusion of the presentation of evidence. Reasonable time limits may be prescribed. The presiding officer may require or accept written briefs in lieu of, or in addition to, oral arguments. When the matter is presented to the board for final decision, further oral arguments may be heard by the board if the board did not preside over the hearing.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

11.34 Closing the Record

At the conclusion of the presentation of evidence and any oral argument, the presiding officer may close the record or, if the board has not taken final action on the application, keep it open and allow the submission of additional testimony by a person who testified at the hearing, or exhibits, briefs, or proposed findings and conclusions from one or more of the parties. Any supplementation of the record must be filed not later than the 10th day after the date of the final hearing. A person who files additional written material with the presiding officer under this section must also provide the material, not later than the 10th day after the date of the hearing, to any person who provided comments on an uncontested application or any party to a contested case hearing. A person who receives additional written material under this section may file a response to the material with the presiding officer not later than the 10th day after the date the material was received. No

additional evidence, exhibits, briefs, or proposed findings and conclusions may be filed unless permitted or requested by the presiding officer.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

11.35 Proposal for Decision

Except for contested cases presided over by a quorum of the board, no later than 30 days following the completion of the contested case hearing, the presiding officer shall submit a proposal for decision to the District and serve a copy on the applicant and each designated party to the contested case. A proposal for decision shall include a summary of the subject matter of the hearing, a summary of the evidence or public comments received, and the presiding officer's recommendations for board action on the subject matter of the hearing. The presiding officer, when submitting the proposal for decision, shall notify the parties of the deadlines for the filing of exceptions and replies.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

11.36 Scheduling a Meeting of the Board

- a. After receiving the proposal for decision or proposed order, the general manager shall schedule the presentation of the proposal for decision or proposed order to the board. The general manager shall provide notice to the parties of the date of the board meeting at which the proposal for decision or proposed order will be presented and considered. The board may reschedule the presentation of the proposal for decision or proposed order. The general manager shall send notice of the rescheduled meeting date to the parties no later than 10 days before the rescheduled meeting.
- b. Consistent with notices required by law, the board may consolidate related matters if the consolidation will not injure any party and may save time and expense or otherwise benefit the public interest and welfare.
- c. The board may sever issues in a proceeding or hold special hearings on separate issues if doing so will not injure any party and may save time and expense or benefit the public interest and welfare.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

11.37 Oral Presentation Before the Board

- a. Any party to the contested case hearing may make an oral presentation at the board meeting in which the proposal for decision in that case is presented to the board.

- b. Any party to the contested case hearing may make an oral presentation at the board meeting in which the proposed order in that case is considered by the board.
- c. Oral presentations before the board shall be limited to 5 minutes each, excluding time for answering questions, unless the president establishes other limitations. Before the board meeting, the president may allot time for oral presentations. Oral presentations and responses to questions shall be directed to the board.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

11.38 Reopening the Record

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

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

11.39 Decision

- a. No later than 60 days after the date of the final hearing on the application is concluded, the board shall render its decision. The decision, if adverse to any party, must be in writing or stated in the record. If a written request is filed with the District not later than the 20th day after the date of the board's decision, then the board's decision must be in writing and shall include findings of fact and conclusions of law separately stated regarding the decision of the board. The board shall provide certified copies of the findings and conclusions to the person who requested them, and to each person who provided comments or each designated party, not later than the 35th day after the date the board received the request. A party who receives a certified copy of the findings and conclusions from the board may request a rehearing before the board not later than the 20th day after the date the board issues the findings and conclusions.
- b. The board's decision shall be rendered no later than 60 days after the date the final hearing on the application is concluded, unless the board determines that there is good cause for continuing the proceeding.
- c. The board may change a finding of fact or conclusion of law made by the presiding officer, or may vacate or modify an order issued by the presiding officer, only if the board determines:

1. that the presiding officer did not properly apply or interpret applicable law, District rules, written policies provided to the presiding officer by the District, or prior administrative decisions:
2. that a prior administrative decision on which the presiding officer relied is incorrect or should be changed; or
3. that a technical error in a finding of fact should be changed.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

11.40 Notification of Decisions and Orders

- a. The District shall notify all parties in a contested case either personally or by certified mail, return-receipt requested, of any decision or order.
- b. The District shall send a copy of the decision or order in a contested case by firstclass mail to attorneys of record and shall keep an appropriate record of the mailing. If a party is not represented by an attorney, the District shall send a copy of the decision or order by firstclass mail to the party and shall keep an appropriate record of the mailing.
- c. A party or attorney of record notified by mail under Subsection (b) is presumed to have been notified on the third day after the date on which the notice is mailed.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

11.41 Motion for Rehearing

- a. Filing motion. Only a party to the contested case may file a motion for rehearing. The motion shall be filed with the general manager within 20 days after the date the party or his or her attorney of record is notified of the decision or order. On or before the date of filing of a motion for rehearing, a copy of the motion shall be mailed or delivered to all parties with certification of service furnished to the District. The motion shall contain:
 1. the name and representative capacity of the person filing the motion;
 2. the style and official docket number assigned by the District;
 3. the date of the decision or order; and
 4. a concise statement of each allegation of error.
- b. Reply to motion for rehearing. Only a party to the contested case proceeding may reply to a motion for rehearing. A reply to a motion for rehearing must be filed with the general manager within 20 days after the date the motion for rehearing is filed.
- c. Ruling on motion for rehearing.

1. Upon the request of a board member, the motion for rehearing shall be scheduled for consideration during a board meeting. Unless the board rules on the motion for rehearing, the failure of the board to grant or deny a request for rehearing before the 91st day after the date the request is submitted constitutes a denial of the request by operation of law.
2. A motion for rehearing may be granted in whole or in part. When a motion for rehearing is granted, the decision or order is nullified. The board may reopen the hearing to the extent it deems necessary. If the board grants a request for rehearing, the board shall schedule the rehearing not later than the 45th day after the date the request is granted. Thereafter, the board shall render a decision or order as required by this subchapter

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

11.42 Decision Final and Appealable

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

1. the board denies the motion for rehearing;
2. the motion is denied by operation of law, or
3. the board renders a written decision after rehearing.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

11.43 Appeal of Final Decision

- a. A filing of a timely motion for rehearing is a prerequisite to appeal.
- b. Not later than the 60th day after the date on which the decision of the board becomes final, an applicant or a party to a contested case hearing may appeal the District's decision by filing suit under § 36.251, Texas Water Code. An applicant or a party to a contested case hearing may not file suit against the District under § 36.251 if a request for rehearing was not filed on time.
- c. The record. The record in a contested case shall include the following:
 1. all pleadings, motions and intermediate rulings;
 2. evidence received or considered;
 3. a statement of matters officially noticed;
 4. questions and offers of proof, objections and rulings on them;

5. summaries of the results of any conferences held before or during the hearing;
6. proposed findings, exceptions and briefs;
7. any decision, opinion or report issued by the presiding officer;
8. pre-filed testimony;
9. all memoranda or data submitted to or considered by the presiding officer; and
10. the final order and all interlocutory orders.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

11.44 Costs of Record on Appeal

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

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

CHAPTER 12.

FEE SCHEDULE

Section

12.1 Administrative Fees

12.2 Production Fees

12.3 Transportation of Groundwater out of District Fee

12.4 Calculation of Annual Fee

12.5 Payment

12.6 Recharge Credits

12.7 Enforcement

12.1 Administrative Fees

- a) "New Well Fee" or "Well Capping/Plugging Fee". The District shall charge an administrative fee of \$350 to process a notice of intent to drill a well or to plug or cap a well; provided, however, if the well is located within the well inspection jurisdiction of the San Antonio Water System, the District's fee shall be \$150 instead of \$350. The "Notice of Intent" Fee is waived and does not apply to public water supply wells.

- b) The District shall charge an administrative fee of \$350 to process an exportation permit application. The fee is due at the time the permit application is submitted.
- c) Returned Check Fee. The District will assess the person writing the returned check a \$25.00 fee for each check returned by the District Depository due to non-sufficient funds, account closed, signature missing or any other problem causing such a return. This fee will be charged every time a check is returned.
- d) Late fee. A late fee of 10% of the amount due will be assessed if payments are not received within 15 days following the due date. The fee payment and the late payment fee must be made within 30 days following the date of the assessment of the late payment fee.
- e) Trip Fee. If the District is required to have an employee or agent observe a well or meter or review documents not located within the district's office due to the actions or inaction of a Landowner, the District may charge a trip fee in the amount of Ten Dollars (\$10).
- f) Enforcement Fee. If the District is required to incur expenses to enforce the District's rules, including the payment of the District's production fee, the person responsible for causing the District to incur the expense shall reimburse the District for such expenses within ten days after receipt of a demand for payment from the District.
- g) Court-related Fee. If the District prevails in any suit to enforce its Rules, the District may seek, and the Court shall grant, in the same action, recovery for attorney's fees, costs for expert witnesses, and other costs incurred by the District before the Court. The Court shall fix the amount of the attorney's fees.
- h) Application and Processing Fee. For fees incurred during the process of If the District incurs additional costs including, but not limited to, professional consultant fees, legal counsel, the applicant will be responsible for all costs incurred.

Adopted May 22, 2003 by Board Order; effective May 22, 2003; amended October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

12.2 Production Fees.

Agricultural use: \$1 per acre-foot per year; or
 All other uses: \$22 per acre-foot per year.

- a) Assessment and Payment of "Notice of Intent" Fee: the "Notice of Intent" fee is assessed and due and payable, at the time the "Notice of Intent" is filed.

b) Assessment and Payment of Production Fee:

1. Assessment. Production Fees shall be assessed effective May 1 of each year on all wells within the District; however, the following types of wells are exempt from the District's Production Fee:

a) Domestic and livestock use.

Any well used solely to supply water for domestic use within a home or residence or for livestock use, or both domestic use within a home or residence and livestock use is exempt from the District's Production Fee, unless the well either (i) serves more than five households, or (ii) actually produces more than 10,000 gallons per day as determined by the District based upon information available to the District.

The District deems the well produces more than 10,000 gallons per day if (i) the well is connected to an irrigation system that irrigates more than two and one half (2.5) acres; or (ii) water from the well is discharged into any river, creek, natural watercourse, depression, lake, or reservoir.

b) District Enabling Act, HB 2005 (2001) 77th Texas Legislature, hereafter referred to as District Enabling Act.

Any well that is exempt from payment of production fees assessed by the District under the District Enabling Act, as follows:

(i) Section 14: The production capacity of the well is 10,000 gallons per day or less.

(ii) Section 15: The water produced from the well is not from the Trinity Aquifer.

(iii) Section 17:

(1) a person who provides water to a municipality, at least 50 percent of which annually is obtained from a source other than the Trinity Aquifer; or

(2) a resident of or other water user within a municipality that obtains its water from a person described by (1), whose source of water is the municipality.

c) Texas Water Code, section 36.117.

Any person or well exempt from payment of production fees assessed by the District under Texas Water Code, section 36.117, as modified by the Enabling Act.

(1) a water well used solely to supply water for a rig that is

actively engaged in drilling or exploration operations for an oil or gas well permitted by the Railroad Commission of Texas provided that the person holding the permit is responsible for drilling and operating the water well and the well is located on the same lease or field associated with the drilling rig; or,
(2) a water well authorized under a permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code, for production from such a well to the extent the withdrawals are required for mining activities regardless of any subsequent use of the water.

Adopted May 22, 2003 by Board Order; effective May 22, 2003; amended December 11, 2003 by Board Order; effective January 1, 2004; amended September 10, 2009 by Board Action; effective October 1, 2009.

12.3 Transportation of Groundwater out of District Fee

The District shall assess an export fee on all persons exporting groundwater produced from a well within the District's boundaries and from a source other than the Edwards Aquifer to a place of use outside of the District's boundaries

The groundwater exportation fee for a given permit will be selected by the District using one of the following methods:

1. An annual fee negotiated between the District and the owner of the groundwater export permit, or
2. A 50% export surcharge, in addition to the District's production fee, for water transferred out of the District.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

12.4 Calculation of Annual Fee

- a) Wells equipped with a meter.

If the well is equipped with a meter, the annual production fee will be based upon actual production. The Landowner, or other person responsible for the well and payment of the production fee, shall self-report the metered production during the prior calendar month; calculate the monthly installment; and submit payment to the District on or before the tenth day of each calendar month. The amount of the monthly installment payment shall be calculated as follows:

Agricultural:

Number of gallons produced times \$0.0000030689 per gallon.

All other uses:

Number of gallons produced times \$0.000067516 per gallon.

Supporting documentation reflecting the amount of water produced, such as reports filed with any state regulatory agency, should be submitted with the payment. The District reserves the power to confirm the accuracy of the meter. Fees a retail public utility pays to the District shall be collected directly from the customers of the utility as a regulatory fee and shown as a separate line item on the customer's bill.

- b) All other Non-metered Wells subject to the District's Production Fee.
 - i. Pumps with motors **not** exceeding two (2) horsepower.
The annual production fee will be \$242.00 based upon an assumed annual production of eleven (11) acre-feet per year, but the fee may be based upon actual production if the Landowner submits records to the District which the District determines accurately show actual usage.
 - ii. Pumps with motors exceeding two (2) horsepower.
If the well does not have a meter and is equipped with a pump motor in excess of two (2) horsepower, the annual production fee will be based upon the production capacity of the well as determined by the District from information readily available to the District.

Adopted May 22, 2003 by Board Order; effective May 22, 2003; amended September 10, 2009 by Board Order; effective October 1, 2009.

12.5 Payment

Production Fees shall be due and payable as follows:

- a) Wells not equipped with meters.
The annual fee for the twelve months beginning May 1, 2003 is due and payable May 1, 2003. The annual fee for each subsequent year shall be due and payable prior to May 1 of that year.
- b) Wells equipped with a meter.
The annual fee for the twelve months beginning May 1, 2003, and for each successive twelve months, is due and payable in twelve monthly installments based upon actual usage during the prior month with each installment due ten (10) days after the end of the month.

- c) The District waives payment of the production fee if the well is either (i) not equipped with a meter and is not equipped to produce more than 10,000 gallons per day or (ii) equipped with a meter and does not produce 10,000 gallons per day.

The determination of whether a metered well produces more than 10,000 gallons per day will be made by the District on either the daily production records of the well, if available, or if not available, the monthly production records of the well divided by the number of days in the monthly record.

Adopted May 22, 2003 by Board Order; effective May 22, 2003.

12.6 Recharge Credits

In accordance with the District Enabling Act, section 13(c), a person who pays production fees to the District shall receive recharge credits if the District determines that the person enhances, supplements, improves, or prevents pollution of recharge of the Trinity Aquifer. A person who claims a recharge credit shall file an application with the District demonstrating that the person enhances, supplements, improves, or prevents pollution of recharge of the Trinity Aquifer and providing any additional information required by the District. The amount of the recharge credit shall be determined by the District's board of directors on a case by case basis. A person is not entitled to a credit if the activities that enhance, supplement, improve, or prevent pollution of recharge of the Trinity Aquifer are required by law or federal, state, or local regulatory requirement.

Adopted May 22, 2003 by Board Order; effective May 22, 2003.

12.7 Enforcement

Upon failure to make payment of fees, all enforcement mechanisms provided by law shall be available to the District and may be initiated by the District.

- a) The late fee will be waived for the initial payment of the annual production fee due the District for wells existing on May 1, 2003, unless payment is late after District sends notice of the amount due to the Landowner.
- b) In accordance with the District Enabling Act, section 13(e), to secure payment of a production fee imposed by the District, a lien attaches to the property on which the well is located, or if title to the surface and the percolating groundwater has been severed, then the lien will be upon the percolating groundwater. The lien has the same priority and characteristics as a lien for taxes. The District may use the lien to collect the payment of the fee.

Adopted May 22, 2003 by Board Order; effective May 22, 2003.

CHAPTER 13.

VARIANCE PROCEDURES

Section

13.1 Variance Submittal and Consideration

13.2 Basis for Variance Approval

13.3 Variance Conditions

13.4 Rescission of Variance

13.1 Variance Submittal and Consideration

Any exceptions or variances to the requirements imposed by District Rules shall be considered on a case-by-case basis.

A request for a variance from the requirements of the District's Rules shall be filed in writing with the District's General Manager and include the reasons for the request, accompanied with information and data supporting the request.

A variance request shall include the following information:

1. Name and address of the individual requesting the variance.
2. Well number and location.
3. The specific rule citation for which the variance is sought;
4. The nature of the variance requested;
5. A detailed explanation as to why the variance should be granted; and
6. Period of time for which the variance is sought;
7. Any additional information, materials, maps, or documents required by the General Manager or the General Manager's designated representative.

The applicant or requestor shall provide public notice to affected parties as determined by the General Manager and assume any additional costs incurred by the District for such notices.

In addition, applicant or requestor will assume costs associated with research and/or professional services that fall outside the scope of the District's resources.

Within 30 days, the General Manager shall act upon the request or refer the matter to the District's Board for consideration.

The Board will address the variance at its next regularly scheduled board meeting. The Board will take action on the variance or request additional information. If no action is taken or additional information is needed, the variance will be acted upon at the District's next regularly scheduled board meeting, provided the requested information has been received.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

13.2 Basis for Variance Approval

In evaluating a request, the District shall act based on the following considerations:

1. Special circumstances existing on the property on which the application is made related to size, shape, area, topography, hydrogeology, surrounding condition and location that do not apply generally to other properties in the vicinity;
2. the granting of the variance on the specific property will not adversely affect any other provision of the District's Rules and Bylaws;
3. the variance, if granted, will be of no material detriment to the public welfare or injury to the use, enjoyment, or value of property in the vicinity for such activities that are under the jurisdictional authority of the District;
4. whether the operations proposed are reasonable under the circumstances and conditions prevailing in the vicinity considering the particular location and the character of the improvements located there;
5. Whether alternative options are available to the applicant such that if pursued a variance would not be required;
6. whether the operations proposed are consistent with the health, safety, and welfare of the public when and if conducted in accordance with the authorization or permit conditions to be imposed;
7. granting the variance would be in accordance with the intent of the District's mission, rules and statutes, regional planning guidelines, and the District's management plan; and
8. the recommendations of the General Manager or the General Manager's designated representative.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

13.3 Variance Conditions

1. The Board may grant a variance for a term and with any conditions the Board deems appropriate, which shall be outlined in the action granting the variance request.
No variance shall be retroactive or otherwise justify any violation of this Plan occurring prior to the issuance of the variance.
2. The Board may require an applicant granted a variance to file reports with the District containing such information as is relevant to monitoring the continuing appropriateness of the variance and compliance with the terms and conditions of the variance.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.

13.4 Rescission of Variance

By Board action, the District may rescind a variance at any time due to changed circumstances, new information, or failure of the holder of the variance to abide by the terms and conditions of the variance or any action of the Board.

Adopted October 10, 2013 by Board Order 101013-02; effective October 14, 2013.