

# **Upper Trinity Groundwater Conservation District**

**Proposed Temporary Rules for Water Wells in  
Hood, Montague, Parker, and Wise Counties, Texas**

**For Consideration by the District Board of Directors  
at the August 18, 2008, Rulemaking  
Public Hearing**

# Upper Trinity Groundwater Conservation District

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# Upper Trinity Groundwater Conservation District

## District Rules

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### PREAMBLE

The Upper Trinity Groundwater Conservation District ("District") was created in 2007 by the 80<sup>th</sup> Texas Legislature with a directive to conserve, protect and enhance the groundwater resources of Montague, Wise, Parker, and Hood Counties, Texas. The District's boundaries are coextensive with the boundaries of Montague, Wise, Parker, and Hood Counties, and all lands and other property within these boundaries will benefit from the works and projects that will be accomplished by the District. The creation of the District was confirmed by the citizens of Montague, Wise, Parker, and Hood Counties, Texas, on November 6, 2007, in an election called for that purpose, with over 78 percent of the voters casting favorable ballots.

The Mission of the Upper Trinity Groundwater Conservation District is to develop rules to provide protection to existing wells, prevent waste, promote conservation, provide a framework that will allow availability and accessibility of groundwater for future generations, protect the quality of the groundwater in the recharge zone of the aquifer, insure that the residents of Montague, Wise, Parker, and Hood Counties maintain local control over their groundwater, and operate the district in a fair and equitable manner for all residents of the district.

The District is committed to manage and protect the groundwater resources within its jurisdiction and to work with others to ensure a sustainable, adequate, high quality and cost effective supply of water, now and in the future. The District will strive to develop, promote, and implement water conservation, augmentation, and management strategies to protect water resources for the benefit of the citizens, economy and environment of the District. The preservation of this most valuable resource can be managed in a prudent and cost effective manner through conservation, education, and management. Any action taken by the District shall only be after full consideration and respect has been afforded to the individual property rights of all citizens of the District.

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### SECTION 1. DEFINITION, CONCEPTS, AND GENERAL PROVISIONS

#### **Rule 1.1      Definition of Terms.**

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

- (a) "Agricultural irrigation" means applying groundwater to soil to produce crops for human food, animal feed, or planting seed or for the production of fibers.
- (b) "Aquifer" means a water bearing geologic formation in the District.
- (c) "Beneficial use" or "beneficial purpose" means use of groundwater for:
  - 1. agricultural, gardening, domestic, stock raising, municipal, mining, manufacturing, industrial, commercial, or recreational purposes;
  - 2. exploring for, producing, handling, or treating oil, gas, sulfur, lignite, or other minerals; or
  - 3. any other purpose that is useful and beneficial to the users that does not constitute waste.
- (d) "Board" means the Board of Directors of the District.
- (e) "District" means the Upper Trinity Groundwater Conservation District created in accordance with Section 59, Article XVI, Texas Constitution, Chapter 36, Texas Water Code, and the District Act.
- (f) "District Act" means the Act of May 25, 2007, 80th Leg., R.S., ch. 1343, 2007 Tex. Gen. Laws 4583, codified at TEX. SPEC. DIST. LOC. LAWS CODE ANN. ch. 8830 ("the District Act"), as may be amended from time to time.
- (g) "Domestic use" means the use of groundwater by an individual or a household to support domestic activity. Such use may include water for drinking, washing, or culinary purposes; for irrigation of lawns, or of a family garden and/or family orchard; for watering of domestic animals. Domestic use does not include water used to support activities for which consideration is given or received or for which the product of the activity is sold. Domestic use does not include use by or for a public water system. Domestic use does not include irrigation of crops in fields or pastures. Domestic use does not include water used for open-loop residential geothermal heating and cooling systems, but does include water used for closed-loop residential geothermal systems. Domestic use does not include pumping groundwater into a pond or other surface water impoundment unless the impoundment is fully lined with an impervious artificial liner and has a surface area equal to or smaller than one-third of a surface acre (14,520 square feet).
- (h) "Effective date" means date of adoption of these Temporary Rules.
- (i) "General Manager" is the chief administrative officer of the District, as set forth in the District's bylaws.
- (j) "Groundwater" means water percolating below the surface of the earth.

- (k) “Groundwater reservoir” means a specific subsurface water-bearing stratum.
- (l) “Landowner” means the person who holds possessory rights to the land surface or to the withdrawal of groundwater from wells located on the land surface.
- (m) “Livestock” means, in the singular or plural, grass- or plant-eating, single- or cloven-hooved mammals raised in an agricultural setting for subsistence, profit or for its labor or to make produce such as food or fiber, including cattle, horses, mules, asses, sheep, goats, llamas, alpacas, and hogs, as well as species known as ungulates that are not indigenous to this state from the swine, horse, tapir, rhinoceros, elephant, deer, and antelope families, but does not mean a mammal defined as a game animal in section 63.001, Parks and Wildlife Code, or as a fur-bearing animal in section 71.001, Parks and Wildlife Code, or any other indigenous mammal regulated by the Texas Department of Parks and Wildlife as an endangered or threatened species. The term does not include any animal that is stabled, confined, or fed at a facility that is defined by Texas Commission on Environmental Quality rules as an Animal Feeding Operation or a Concentrated Animal Feeding Operation.
- (n) “Meter” or “measurement device” means a water flow measuring device that can measure within +/- 5% of accuracy the instantaneous rate of flow and record the amount of groundwater produced or transported from a well or well system during a measure of time.
- (o) “Person” means an individual, corporation, limited liability company, organization, government, governmental subdivision, agency, business trust, estate, trust, partnership, association, or other legal entity.
- (p) “Poultry” means chickens, turkeys, nonmigratory game birds, and other domestic nonmigratory fowl, but does not include any other bird regulated by the Parks and Wildlife as an endangered or threatened species. The term does not include any animal that is stabled, confined, or fed at a facility that is defined by Texas Commission on Environmental Quality rules as an Animal Feeding Operation or a Concentrated Animal Feeding Operation.
- (q) “Production” or “producing” means the act of extracting groundwater from an aquifer by pumping or other method.
- (r) “Public Water System” means a system for the provision to the public of water for human consumption through pipes or other constructed conveyances, which includes all uses described under the definition for “drinking water” in 30 Texas Administrative Code, Section 290.38. Such a system must have at least 15 service connections or serve at least 25 individuals at least 60 days out of the year. This term includes any collection, treatment, storage, and distribution facilities under the control of the operator of such system and used primarily in connection with such system, and any collection or pretreatment storage facilities not under such control which are used primarily in

connection with such system. Two or more systems with each having a potential to serve less than 15 connections or less than 25 individuals but owned by the same person, firm, or corporation and located on adjacent land will be considered a public water system when the total potential service connections in the combined systems are 15 or greater or if the total number of individuals served by the combined systems total 25 or greater at least 60 days out of the year. Without excluding other meanings of the terms "individual" or "served," an individual shall be deemed to be served by a water system if he lives in, uses as his place of employment, or works in a place to which drinking water is supplied from the system.

- (s) "Pump" means any facility, device, equipment, materials, or method used to obtain water from a well.
- (t) "Registrant" means a person required to submit a registration.
- (u) "Registration" means a well owner providing certain information about a well to the District, as more particularly described under Section 3.
- (v) "Rule" or "Rules" or "Temporary Rules" means these Temporary Rules of the District regulating water wells, which shall continue to be effective until amended or repealed.
- (w) "Substantially alter" with respect to the size or capacity of a well means to increase the inside diameter of the pump discharge column pipe size of the well in any way or to increase the size of the pump on the well.
- (x) "Transfer" means a change in a registration as follows, except that the term "transfer" shall have its ordinary meaning as read in context when used in other contexts:
  - 1. ownership; or
  - 2. the person authorized to exercise the right to make withdrawals and place the groundwater to beneficial use.
- (y) Types of wells:
  - 1. "Exempt well" means a new or an existing well that is exempt under Rule 2.1 from certain regulatory requirements in these rules.
  - 2. "Existing well" means a well that was in existence or for which drilling commenced prior to January 1, 2009.
  - 3. "Leachate well" means a well used to remove contamination from soil or groundwater.

4. “Monitoring well” means a well installed to measure some property of the groundwater or the aquifer that it penetrates, and does not produce more than 5,000 gallons per year.
  5. “New well” means a well for which drilling commenced on or after January 1, 2009.
- (z) “Waste” means one or more of the following:
1. withdrawal of groundwater from the aquifer at a rate and in an amount that causes or threatens to cause an intrusion into the aquifer unsuitable for agriculture, gardening, domestic, stock raising, or other beneficial purposes;
  2. the flowing or producing of water from the aquifer by artificial means if the water produced is not used for a beneficial purpose;
  3. the escape of groundwater from the aquifer to any other underground reservoir or geologic stratum that does not contain groundwater;
  4. pollution or harmful alteration of groundwater in the aquifer by saltwater or by other deleterious matter admitted from another stratum or from the surface of the ground;
  5. willfully or negligently causing, suffering, or allowing groundwater to escape into any river, creek, natural watercourse, depression, lake, reservoir, drain, sewer, street, highway, road, or road ditch, or onto any land other than that of the owner of the well unless such discharge is authorized by permit, rule, or other order issued by the Texas Commission on Environmental Quality under Chapters 11 or 26 of the Texas Water Code;
  6. groundwater pumped for irrigation that escapes as irrigation tailwater onto land other than that of the owner of the well unless permission has been granted by the occupant of the land receiving the discharge;
  7. for water produced from an artesian well, “waste” has the meaning assigned by Section 11.205, Texas Water Code;
  8. operating a deteriorated well;
  9. drilling a well within the boundaries of the District without a required permit;
  10. operating a well within the boundaries of the District without a required permit;
  11. producing groundwater in violation of District Rule 6.2(b) or (c); or

12. producing groundwater in violation of any District rule governing the withdrawal of groundwater through production limits on wells, managed depletion, or both.
- (aa) “Well” means any artificial excavation located within the boundaries of the District dug or drilled for the purpose of exploring for or withdrawing groundwater from the aquifer.
- (bb) “Well owner” means the person who owns a possessory interest in: (1) the land upon which a well or well system is located or to be located; (2) the well or well system; or (3) the groundwater withdrawn from a well or well system.
- (cc) “Well system” means a well or group of wells tied to the same distribution system.
- (dd) “Withdraw” means the act of extracting or producing groundwater by pumping or other method.
- (ee) “Year” means a calendar year (January 1 through December 31), except where the usage of the term clearly suggests otherwise.

**Rule 1.2 Authority of District.**

The Upper Trinity Groundwater Conservation District is a political subdivision of the State of Texas organized and existing under Section 59, Article XVI, Texas Constitution, Chapter 36, Texas Water Code, and the District Act. The District is a governmental agency and a body politic and corporate. The District was created to serve a public use and benefit.

**Rule 1.3 Purpose of Rules.**

These Temporary Rules are adopted under the authority of Sections 36.101 and 36.1071(f), Texas Water Code, and the District Act for the purpose of conserving, preserving, protecting, and recharging groundwater in the District in order to prevent subsidence, prevent degradation of water quality, prevent waste of groundwater, and to carry out the powers and duties of Chapter 36, Texas Water Code, and the District Act.

**Rule 1.4 Use and Effect of Rules.**

These rules are used by the District in the exercise of the powers conferred on the District by law and in the accomplishment of the purposes of the law creating the District. These rules may be used as guides in the exercise of discretion, where discretion is vested. However, under no circumstances and in no particular case will they, or any part therein, be construed as a limitation or restriction upon the District to exercise powers, duties and jurisdiction conferred by law. These rules create no rights or privileges in any person or water well, and shall not be construed to bind the Board in any manner in its promulgation of the District Management Plan, amendments to these Temporary Rules, or promulgation of permanent rules.

**Rule 1.5 Purpose of District.**

The purpose of the District is to provide for the conservation, preservation, protection, recharging, and prevention of waste of groundwater, and of groundwater reservoirs or their subdivisions, consistent with the objectives of Section 59, Article XVI, Texas Constitution.

**Rule 1.6 Construction.**

A reference to a title or chapter without further identification is a reference to a title or chapter of the Texas Water Code. A reference to a section or rule without further identification is a reference to a section or rule in these Rules. Construction of words and phrases is governed by the Code Construction Act, Subchapter B, Chapter 311, Texas Government Code. The singular includes the plural, and the plural includes the singular. The masculine includes the feminine, and the feminine includes the masculine.

**Rule 1.7 Methods of Service Under the Rules.**

Except as provided in these rules, any notice or document required by these rules to be served or delivered may be delivered to the recipient or the recipient's authorized representative in person, by agent, by courier receipted delivery, by certified or registered mail sent to the recipient's last known address, or by telephonic document transfer to the recipient's current telecopier number and shall be accomplished by 5:00 o'clock p.m. on the date which it is due. Service by mail is complete upon deposit in a post office depository box or other official depository of the United States Postal Service. Service by telephonic document transfer is complete upon transfer, except that any transfer commencing after 5:00 o'clock p.m. shall be deemed complete the following business day. If service or delivery is by mail and the recipient has the right or is required to do some act within a prescribed period of time after service, three days will be added to the prescribed period. If service by other methods has proved unsuccessful, service will be deemed complete upon publication of the notice or document in a newspaper of general circulation in the District.

**Rule 1.8 Severability.**

If a provision contained in these Temporary Rules is for any reason held to be invalid, illegal, or unenforceable in any respect, the invalidity, illegality, or unenforceability does not affect any other rules or provisions of these Temporary Rules, and these Temporary Rules shall be construed as if the invalid, illegal, or unenforceable provision had never been contained in these rules.

**Rule 1.9 Regulatory Compliance; Other Governmental Entities.**

All registrants of the District shall comply with all applicable rules and regulations of the District and of all other governmental entities. If the District Rules and regulations are more stringent than those of other governmental entities, the District Rules and regulations control.

**Rule 1.10 Computing Time.**

In computing any period of time prescribed or allowed by these Rules, order of the Board, or any applicable statute, the day of the act, event, or default from which the designated period of time begins to run is not included, but the last day of the period so computed is included, unless it is a Saturday, Sunday, or legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday, or legal holiday.

**Rule 1.11 Time Limits.**

Applications, requests, or other papers or documents required or allowed to be filed under these Rules or by law must be received for filing by the District within the time limit for filing, if any. The date of receipt, not the date of posting, is determinative of the time of filing. Time periods set forth in these rules shall be measured by calendar days, unless otherwise specified.

**Rule 1.12 Notification to Well Owners.**

As soon as practicable after the effective date, the District shall publish notice to inform the well owners of the District's existence, the management authority of the District, and the well owners' duties and responsibilities under these Rules.

**Rule 1.13 Amending of Rules.**

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

**SECTION 2.**

**APPLICABILITY OF REGULATORY REQUIREMENTS; EXEMPTIONS**

**Rule 2.1 Wells Exempt from Fee Payment, Metering, and Reporting Requirements of These Temporary Rules.**

- (a) The requirements of these Temporary Rules relating to the payment of fees under Section 7, the requirement to install and maintain a meter under Section 8, and the requirement to report to the District the amount of water produced from a well under Section 3 do not apply to the following types of wells:
1. All wells, existing or new, of any size or capacity used solely for domestic use, livestock use, poultry use, or agricultural irrigation use;
  2. An existing well or new well that does not have the capacity, as equipped, to produce more than 25 gallons per minute and is used in whole or in part for commercial, industrial, municipal, manufacturing, or public water supply use, use for oil or gas or other hydrocarbon exploration or production, or any other purpose of use other than solely for domestic, livestock, poultry, or agricultural irrigation use, except as provided by Subsection (b) of this rule; and
  3. Leachate wells and monitoring wells.
- (b) For purposes of determining whether the exemption set forth under Subsection (a)(2) applies, the capacity of a well that is part of a well system shall be determined by taking the sum of the capacities of each of the individual wells, as equipped, in the system. If the total sum of the capacities is greater than 30 gallons per minute, the well system and the individual wells that are part of it are not exempt from the fee payment, metering, and reporting requirements of these rules.

- (c) A well exempted under Subsection (a) will lose its exempt status if the well is subsequently used for a purpose or in a manner that is not exempt under Subsection (a).
- (d) A well exempted under Subsection (a)(2) will lose its exempt status if, while the well was registered as an exempt well, the District determines that the well had the capacity, as equipped, to produce more than 25 gallons per minute. Such wells are subject to the fee payment, metering, reporting, and other requirements of these Temporary Rules, and may be subject to enforcement under Section 9.
- (e) The owner of a new well that is exempt under this Rule shall nonetheless register the well with the District, as required under Section 3.

**Rule 2.2 Wells Subject to Fee Payment, Metering, and Reporting Requirements of These Temporary Rules**

All wells not described as exempt under Rule 2.1(a) are subject to the fee payment, metering, reporting, registration, and other requirements of these Temporary Rules. Such wells include wells with a capacity, as equipped, to produce more than 25 gallons per minute and that are used in whole or in part for any purpose of use other than solely for domestic use, livestock use, poultry use, or agricultural irrigation use.

**SECTION 3.**  
**REGISTRATIONS, RECORDS, REPORTS, AND LOGS; PERMIT NOT REQUIRED**

**Rule 3.1 Purpose and Policy**

The accurate and timely reporting to the District of activities governed by these Rules is a critical component to the District's ability to effectively and prudently manage the groundwater resources that it has been charged by law with regulating. The purpose of Section 3 is to require the submission, by the appropriate person or persons, of complete, accurate, and timely records, reports, and logs as required throughout the District Rules. Because of the important role that accurate and timely reporting plays in the District's understanding of past, current and anticipated groundwater conditions within the District, the failure to comply with these rules may result in the assessment of additional fees, civil penalties, or any combination of the same.

**Rule 3.2 Permit Not Required Under Temporary Rules.**

No permit of any kind is required under these Temporary Rules. Notwithstanding Chapter 36, Water Code, a permit is not required under these Temporary Rules to drill, equip, operate, or complete a well, produce water from a well, or to substantially alter the size or capacity of a well. Permitting requirements will be developed and adopted by the District in the future after it has had a sufficient opportunity to develop a management plan and carefully consider various regulatory approaches and how such approaches may impact landowners and other water users in the District while achieving proper management of the groundwater resources. Permitting rules will be adopted only after ample opportunity has been afforded the public to participate in the development of such rules.

**Rule 3.3 Well Registration.**

- (a) Well owners of the following wells shall file an application for well registration with the District and the District shall register:
1. all new wells drilled on or after January 1, 2009, including new wells exempt under Rule 2.1(a);
  2. all existing wells that are not exempt under Rule 2.1(a).
- (b) A person seeking to register a well shall provide the District with the following information in the registration application on a form provided by the District:
1. the name and mailing address of the registrant and the owner of the property, if different from the registrant, on which the well is or will be located;
  2. if the registrant is other than the owner of the property, documentation establishing the applicable authority to file the application for well registration, serve as the registrant in lieu of the property owner, and construct and operate a well for the proposed use;
  3. a statement of the nature and purpose of the existing or proposed use of water from the well;
  4. the location of the well and the location of the use of water from the well if different from the location of the well;
  5. the production capacity of the well, as equipped, in gallons per minute;
  6. a water well closure plan or a declaration that the applicant will comply with well plugging guidelines and report closure to the District;
  7. a statement that the water withdrawn from the well will be put to beneficial use at all times; and
  8. any other information deemed necessary by the Board.
- (c) The timely filing of an application for registration shall provide the owner of a well described under Subsection (a)(2) with evidence that a well existed before the effective date of these Temporary Rules for purposes of grandfathering the well from the requirement to comply with any well location or spacing requirements of the District and any other entitlements that existing wells may receive under these Temporary Rules or under permanent rules adopted by the District. A well that is required to be registered under this Rule and that is not exempt under Rule 2.1(a) shall not be operated after January 1, 2009, without first complying with the the metering provisions set forth under Section 8.

- (d) Once a registration is complete, which for new wells also includes receipt by the District of the well report required by Rule 3.7, the registration shall be perpetual in nature, subject to being amended or transferred and to enforcement for violations of these Rules.

**Rule 3.4 Registration of Existing Non-Exempt Wells Required By July 1, 2009.**

- (a) The owner of an existing well described under Rule 3.2(a)(2) must register the well with the District between January 1, 2009, and July 1, 2008, and must install a meter on the well as set forth under Section 8 of these rules by January 1, 2009. Failure of the owner of such a well to timely register the well under this Rule shall subject the well owner to enforcement under these Rules.
- (b) Although not required under these Temporary Rules, the owner of an existing well exempt under Rule 2.1(a) may elect to register the well with the District to provide the owner with evidence that the well existed before the adoption of these Temporary Rules for purposes of grandfathering the well from the requirement to comply with any well location or spacing requirements of the District and any other entitlements that existing wells may receive under these Temporary Rules or under permanent rules adopted by the District.

**Rule 3.5 Registration of New Wells or Alterations to Existing Wells Required Prior to Drilling or Alteration.**

- (a) An owner or well driller, or any other person legally authorized to act on their behalf, must submit a registration application and well report deposit with the District before any new well, except leachate wells or monitoring wells, may be drilled, equipped, or completed, or before an existing well may be substantially altered with respect to size or capacity, beginning on and after January 1, 2009.
- (b) A registrant for a new well has 120 days from the date of filing its application for well registration of an exempt well to drill and complete the new well, and must file the well report within 60 days of completion.
- (c) If the well report is timely submitted to the District, the District shall return the well report deposit to the owner or well driller. In the event that the well report required under this rule and Rule 3.7 are not filed within 60 days after the date the well is completed, the driller shall forfeit the well report deposit and shall be subject to enforcement by the District for violation of this rule.

**Rule 3.6 General Provisions Applicable to Registrations.**

- (a) Registration may be in person, by mail, or by telephonic document transfer, using the registration form provided by the District.
- (b) A determination of administrative completeness shall be made by the General Manager. If an application is not administratively complete, the District shall request the applicant to

complete the application. The application will expire if the applicant does not complete the application within 120 days of the date of the District's request. An application will be considered administratively complete if it substantially complies with all requirements set forth under Rule 3.2, including all information required to be included in the application.

- (c) The General Manager shall review the registration and make a preliminary determination on whether the well meets the exemptions provided in Rule 2.1 from water use fee payments, metering, and reporting requirements. If the preliminary determination is that the well is not exempt, the District staff shall inform the registrant in writing by regular mail of the metering, fee payment, and reporting requirements applicable to the well.
- (d) An application pursuant to which a registration has been issued is incorporated in the registration, and the registration is valid contingent upon the accuracy of the information supplied in the registration application. A finding that false information has been supplied in the application may be grounds to refuse to approve the registration or to revoke or suspend the registration.
- (e) Submission of a registration application constitutes an acknowledgment by the registrant of receipt of the rules and regulations of the District and agreement that the registrant will comply with all rules and regulations of the District.
- (f) The District may amend any registration, in accordance with these Rules, to accomplish the purposes of the District Rules, management plan, the District Act, or Chapter 36, Texas Water Code.
- (g) If multiple wells have been aggregated under one registration and one or more wells under the registration will be transferred, the District will require separate registration applications from each new owner for the wells retained or obtained by that person.

**Rule 3.7      Records of Drilling and Pump Installation and Alteration Activity**

- (a) Each person who drills, deepens, completes or otherwise alters a well shall make, at the time of drilling, deepening, completing or otherwise altering the well, a legible and accurate well report recorded on forms prescribed by the District or by the Texas Department of Licensing and Regulation.
- (b) Each well report required by subsection (a) of this Rule shall contain:
  - (1) the name and physical address of the well owner;
  - (2) the location of the drilled, deepened, completed or otherwise altered well, including the physical address of the property on which the well will be located, as well as the coordinates of the wellhead location, as determined by a properly functioning and calibrated global positioning system (GPS) unit;
  - (3) the type of work being undertaken on the well;

- (4) the type of use or proposed use of water from the well;
  - (5) the diameter of the well bore;
  - (6) the date that drilling was commenced and completed, along with a description of the depth, thickness, and character of each strata penetrated;
  - (7) the drilling method used;
  - (8) the borehole completion method performed on the well, including the depth, size and character of the casing installed;
  - (9) a description of the annual seals installed in the well;
  - (10) the surface completion method performed on the well;
  - (11) the location of water bearing strata, including the static level and the date the level was encountered, as well as the measured rate of any artesian flow encountered;
  - (12) the type and depth of any packers installed;
  - (13) a description of the plugging methods used, if plugging a well;
  - (14) the type of pump installed on the well, including the horsepower rating of the pump, as assigned by the pump manufacturer;
  - (15) the type and results of any water test conducted on the well, including the yield, in gallons per minute, of the pump operated under optimal conditions in a pump test of the well; and
  - (16) a description of the water quality encountered in the well;
- (c) As set forth in Rule 3.5, the person who drilled, deepened, completed or otherwise altered a well pursuant to this rule shall, within 60 days after the date the well is completed, file a well report described in Subsections (a) and (b) of this Rule with the District.

**Rule 3.8      Transfer of Well Ownership**

- (a) Within 90 days after the date of a change in ownership of a well exempt under Rule 2.1, the new well owner (transferee) shall notify the District in writing of the effective date of the change in ownership, the name, daytime telephone number, and mailing address of the new well owner, along with any other contact or well-related information reasonably requested by the General Manager. The new well owner may, in addition, be required to submit an application for registration of an existing well if a registration does not yet exist for the well.
- (b) Within 90 days after the date of a change in ownership of a well that is not exempt under District Rule 2.1 from the fee payment, metering, and reporting requirements of these

rules, the new well owner (transferee) shall submit to the District, on a form provided by the District staff, a signed and sworn-to application for transfer of ownership.

- (c) If a registrant conveys by any lawful and legally enforceable means to another person the real property interests in one or more wells or a well system that is recognized in the registration so that the transferring party (the transferor) is no longer the "well owner" as defined herein, and if an application for change of ownership under subsection (b) has been approved by the District, the District shall recognize the person to whom such interests were conveyed (the transferee) as the legal holder of the registration, subject to the conditions and limitations of these District Rules.
- (d) The burden of proof in any proceeding related to a question of well ownership or status as the legal holder of a registration issued by the District and the rights thereunder shall be on the person claiming such ownership or status.
- (e) Notwithstanding any provision of this Rule to the contrary, no application made pursuant to subsection (b) of this Rule shall be granted by the District unless all outstanding fees, penalties, and compliance matters have first been fully and finally paid or otherwise resolved by the transferring party (transferor) for all wells included in the application or existing registration, and each well and registration made the subject of the application is otherwise in good standing with the District.

### **Rule 3.9      Amendment of Registration.**

A registrant shall file an application to amend an existing registration prior to engaging in any activity that would constitute a substantial change from the information in the existing registration. For purposes of this rule, a substantial change includes a change that would substantially alter the size or capacity of a pump, a change in the type of use of the water produced, the addition of a new well to be included in an already registered aggregate system, a change in location of a well or proposed well, a change of the location of use of the groundwater, or a change in ownership of a well. A registration amendment is not required for maintenance or repair of a well if the maintenance or repair does not increase the designed production capabilities of the pump.

### **Rule 3.10      Water Production Reports**

- (a) Not later than February 15 of each year, the owner of any non-exempt well within the District must submit, on a form provided by the District, a report containing the following:
  - (1) the name of the registrant;
  - (2) the well numbers of each registered well within the District owned or operated by the registrant;

- (3) the total amount of groundwater produced by each well or well system during the immediately preceding calendar year;
  - (4) the total amount of groundwater produced by each well or well system during each month of the immediately preceding calendar year;
  - (5) the purposes for which the water was used; and
  - (6) the amount and source of surface water used; and
- (b) The report required by subsection (a) must also include a true and correct copy of the meter log required by District Rule 8.6.

**SECTION 4.**  
**SPACING AND LOCATION OF WELLS; WELL COMPLETION**

**Rule 4.1 Spacing and Location of Existing Wells.**

Wells drilled prior to the effective date shall be drilled in accordance with state law in effect, if any, on the date such drilling commenced and are exempt from the spacing and location requirements of these rules to the extent that they were drilled lawfully.

**Rule 4.2 Spacing and Location of New Wells.**

- (a) All new wells must comply with the spacing and location requirements set forth under the Texas Water Well Drillers and Pump Installers Administrative Rules, Title 16, Part 4, Chapter 76, Texas Administrative Code, unless a written variance is granted by the Texas Department of Licensing and Regulation and a copy of the variance is forwarded to the District by the applicant or registrant. All such new wells must also be drilled or completed at locations that comply with the minimum tract sizes requirements, the minimum distances from the nearest registered well, and the minimum distances from the property lines for the land upon which the well is to be located, as provided in the Rule 4.3 below, unless an exception is granted by the Board under this rule. As used in this Section, "tract" shall mean a surface estate plat, surface estate deed, or other legally recognized surface estate property configuration recorded in the deed records of the county in which the real estate is located, and "property line" shall mean the property line of such tract.
- (b) After authorization to drill a well has been granted under the District's registration rules, the well, if drilled, must be drilled within ten (10) yards (30 feet) of the location specified in the registration, and not elsewhere. If the well should be commenced or drilled at a different location, the drilling or operation of such well may be enjoined by the Board pursuant to Chapter 36, Texas Water Code, and these Rules.
- (c) The Board may authorize wells producing from different aquifers to observe a reduction in spacing between each other if the wells comply with the additional well completion requirements set forth under Rule 4.4(c).

(d) Exceptions to Spacing Requirements:

- (1) The Board may grant exceptions to the spacing requirements of the District.
- (2) If an exception to the spacing requirements of the District is desired, a person shall submit an application to the Board. In the application, the applicant must explain the circumstances justifying an exception to the spacing requirements of the District. The application must include a plat or sketch, drawn to scale. The plat or sketch must show the property lines in the immediate area and show accurately, to scale, all wells within one-half mile of the proposed well site. The application must contain the names and addresses of all owners of property whose property adjoins the tract on which the proposed well is to be located. The application must contain the names and addresses of all owners of existing registered wells within one-half mile of the proposed well site. The application and plat must be certified by some person actually acquainted with the facts who shall state that the facts contained in the application and plat are true and correct.
- (3) An exception may be granted by the Board after written notice has been given to the applicant and all owners of property or existing registered wells located within than the minimum required distance from the proposed well site, after a public hearing at which all interested parties may appear and be heard, and after the Board has decided that an exception should be granted. Provided, however, if all such owners execute a waiver in writing, stating that they do not object to the granting of the exception, the Board may proceed, upon notice to the applicant only and without hearing, and determine the outcome of the application. The applicant may waive notice or hearing or both. Grounds for granting a waiver may include evidence that the well or wells proposed in the application will produce groundwater from an aquifer other than the aquifer from which the wells that are closer than the minimum distances are producing.
- (4) If the applicant presents waivers signed by all landowners and well owners whose property or registered wells would be located within the applicable minimum distance established under these Rules from the proposed well site stating that they have no objection to the proposed location of the well site, the Board may waive certain spacing requirements for the proposed well location.
- (5) If the District grants an exception to its spacing requirements, the well owner granted the spacing exception is required to have the spacing exception recorded in the property deed records of the county in which the well is located and provide the District with a copy of the recordation within 60 days of the granting of the exception.
- (6) Notwithstanding anything to the contrary in this rule, the District shall grant a waiver upon request by a landowner and without the need for written notice to other landowners or well owners for a tract of land that was platted, meets an

exception to platting, or was otherwise lawfully configured prior to the effective date as a tract that is too small to comply with the minimum tract size and spacing requirements set forth in Rule 4.3, only if:

(A) the well is to be used solely for domestic, livestock, or poultry watering use;

(B) the well as equipped is incapable of producing more than 17.36 gallons of water per minute; and

(C) such tract is not further subdivided into smaller tracts of land after the effective date and prior to the drilling, completion, or equipping of the well.

- (e) Compliance with the spacing and location requirements of these rules or the grant of an exception to such requirements does not necessarily authorize a person to drill a well at a specified location in the District. Agencies or other political subdivisions of the State of Texas that are located in whole or in part within the boundaries of the District may impose additional requirements related to the drilling or completion of water wells.

**Rule 4.3 Aquifer-Specific Well Spacing Requirements**

(a) Trinity aquifer

1. Wells completed in the Upper Trinity subdivision (Paluxy Sand and Glen Rose Formations)

<b>Casing Size</b>	<b>Minimum Tract Size</b>	<b>Spacing from Other Well Sites</b>	<b>Spacing from Property Line</b>
The inside diameter, measured in inches, of the tubing or well screen installed within the borehole of a well for the purpose of preventing collapse of the borehole, protecting water quality or for any other purpose.	The minimum tract size that may be considered an appropriate site for a new well.	The minimum distance, in feet, that a new well or proposed well site may be located from an existing registered well or approved well site that does or will produce water from the same subdivision of the same aquifer.	The minimum distance, in feet, that a new well or proposed well site may be located from the nearest property line or limit of control of the tract of land on which it is to be located.
5-inch or less	Minimum Tract Size is 2 acres.	150 feet	50 feet
More than 5-inch and less than 8-inch		1,000 feet	100 feet
8-inch or larger		1,800 feet	200 feet
10-inch or larger		2,800 feet	400 feet

2. Wells completed in the Middle Trinity subdivision (Hensell Sand and Cow Creek Limestone)

<b>Casing Size</b>	<b>Minimum Tract Size</b>	<b>Spacing from Other Well Sites</b>	<b>Spacing from Property Line</b>
The inside diameter, measured in inches, of the tubing or well screen installed within the borehole of a well for the purpose of preventing collapse of the borehole, protecting water quality or for any other purpose.	The minimum tract size that may be considered an appropriate site for a new well.	The minimum distance, in feet, that a new well or proposed well site may be located from an existing registered well or approved well site that does or will produce water from the same subdivision of the same aquifer.	The minimum distance, in feet, that a new well or proposed well site may be located from the nearest property line or limit of control of the tract of land on which it is to be located.
5-inch or less	Minimum Tract Size is 2 acres.	150 feet	50 feet
More than 5-inch and less than 8-inch		1,200 feet	100 feet
8-inch or larger but less than 10-inch		1,800 feet	200 feet
10-inch or larger		2,400 feet	400 feet

3. Wells completed into the Lower Trinity subdivision (Sligo Limestone and Hosston Sand)

<b>Casing Size</b>	<b>Minimum Tract Size</b>	<b>Spacing from Other Well Sites</b>	<b>Spacing from Property Line</b>
The inside diameter, measured in inches, of the tubing or well screen installed within the borehole of a well for the purpose of preventing collapse of the borehole, protecting water quality or for any other purpose.	The minimum tract size that may be considered an appropriate site for a new well.	The minimum distance, in feet, that a new well or proposed well site may be located from an existing registered well or approved well site that does or will produce water from the same subdivision of the same aquifer.	The minimum distance, in feet, that a new well or proposed well site may be located from the nearest property line or limit of control of the tract of land on which it is to be located.
5-inch or less	Minimum Tract Size is 2 acres.	150 feet	50 feet
More than 5-inch and less than 8-inch		1,200 feet	100 feet
8-inch or larger but less than 10-inch		1,500 feet	200 feet
10-inch or larger		1,800 feet	400 feet

(b) (reserved for expansion for other aquifers in the District)

**Rule 4.4 Standards of Completion for All Wells**

- (a) All wells must be completed in accordance with the well completion standards set forth under the Texas Water Well Drillers and Pump Installers Administrative Rules, Title 16, Part 4, Chapter 76, Texas Administrative Code, and under these Rules.
- (b) Water well drillers shall indicate the method of completion performed on the well report.
- (c) To prevent the commingling of water between the aquifers which can result in a loss of artesian (or static) head pressure or the degradation of water quality, each well penetrating more than one aquifer or subdivision thereof must be completed in a manner so as to prevent the commingling of groundwater between aquifers or between subdivisions of an aquifer. The driller shall indicate the method of completion used to prevent the commingling of water on the well report. The well driller may use any lawful method of completion calculated to prevent the commingling of groundwater. The following is one well completion methodology that may be used by a well driller for wells penetrating more than one aquifer:
  - (1) Verify and document the depth of the overlying aquifer with a geophysical log indicating the base of the overlying aquifer and provide a copy of the log to the District prior to completion of the well.
  - (2) Notwithstanding the borehole completion requirements in Chapter 76.1000, Texas Occupations Code, drill the borehole of the well that will penetrate the overlying aquifer to a diameter at least 4 inches greater than the largest outside dimension of the casing to be installed in the well, creating an annulus of at least 2 inches in all directions around the casing. Install at least one centralizer at a distance halfway between the land surface and the base of the casing.
  - (3) Extend the borehole (drilled to a diameter at least 4 inches greater than the largest outside dimension of the casing to be installed) to a depth at least 10 feet greater than the base of the overlying aquifer as identified in the geophysical log provided the District.
  - (4) Cement the 2-inch casing annulus by means of positive pressure displacement or tremie method from the depth identified as being at least 10 feet below the identified base of the overlying aquifer to land surface.
  - (5) Notify the District at least 24 hours prior to the cementing of the casing by positive pressure of the intent to proceed with cementing, to allow the opportunity to witness the cementing procedure.
  - (6) Provide the District with an affidavit of the cementing procedure describing the positive pressure cementing procedure employed, giving the depth to which the well was cemented by positive pressure and the volume of cement used for the procedure within 10 days of the cementing procedure.

- (d) In order to protect water quality, the integrity of the well, or loss of groundwater from the well, the District may impose additional well completion requirements on any well as determined necessary or appropriate by the Board.

**SECTION 5.**  
**REGULATION OF PRODUCTION**

**Rule 5.1 Temporary Production Limitations.**

The maximum annual quantity of water that a person may withdraw after January 1, 2009, from a well that is not exempt under Rule 2.1(a) is the amount of water the person produces and timely:

- (1) submits payment to the District for in accordance with the fee rate adopted by the District under Section 7; and
- (2) reports pumpage volumes to the District under Rule 3.10.

**Rule 5.2 Regular Production Limitations.**

In order to accomplish the purposes of Chapter 36, Texas Water Code, and the District Act, and to achieve the goals of the District Management Plan, the District may establish groundwater production limitations for all wells when it adopts permanent rules for the District.

**SECTION 6.**  
**TRANSPORTATION OF GROUNDWATER OUT OF THE DISTRICT**

**Rule 6.1 General Provisions.**

- (a) A person who produces or wishes to produce water from a well located or to be located within the District and transport such water for use outside of the District must register the well and submit timely payment of the Groundwater Transport Fee to the District under Rule 7.2 for any water transported out of the District. The District may require the person to install any meters necessary to report the total amount of groundwater transported outside of the District for reporting purposes and for purposes of calculating the Groundwater Transport Fee.
- (b) The District may not, in a manner inconsistent with rules and fees applied to production and use occurring wholly within the boundaries of the District, regulate production of groundwater or assess fees against the transport of water produced in an area of a retail public utility that is located inside the district boundaries and transported for use to an area that is within the same retail public utility but that is located outside the district boundaries if the majority of the geographic area of the retail public utility's boundaries or defined service area is within the boundaries of the District and the majority of the groundwater produced is used within the boundaries of the District. If conditions change over time such that the majority of such geographic area or use is not within the

boundaries of the District, the groundwater used outside of the District shall be assessed the Groundwater Transport Fee.

**Rule 6.2 Reporting.**

A person transporting groundwater for use outside of the District and subject to the requirement to pay the Groundwater Transport Fee shall file annual reports with the District describing the amount of water transported and used outside the District. The report shall be filed with the District no later than February 15 of each year on the appropriate form provided by the District and shall state the following: (1) the name of the person; (2) the well registration numbers of each well from which the person has produced groundwater transported for use outside the District; (3) the total amount of groundwater produced from each well or well system during the immediately preceding calendar year; (4) the total amount of groundwater transported outside of the district from each well or well system during each month of the immediately preceding calendar year; (5) the purposes for which the water was transported; (6) the amount and source of surface water transported, if any; and (7) any other information requested by the District.

**SECTION 7.**  
**FEES AND PAYMENT OF FEES**

**Rule 7.1 Water Use Fees.**

- (a) A water use fee rate schedule shall be established by Board resolution annually at least 60 days before the end of the calendar year. The rate shall be applied to the total annual pumpage in the ensuing calendar year for each well not exempt under Rule 2.1. The District will review the account of any person changing the use of a well from non-exempt to exempt or vice versa to determine if additional water use fees are due or if a refund of water use fees is warranted.
- (b) Wells exempt under Rule 2.1 shall be exempt from payment of water use fees. However, if exempt well status is withdrawn, the District may assess fees and penalties in accordance with the District Rules.
- (c) No later than 60 days prior to the end of the calendar year, the District shall send by regular mail to each registrant that is required to pay the water use fee a reminder statement that final meter readings for total groundwater produced in the year should be logged and recorded at the end of December, setting forth the water use fee rate applicable to the water produced, setting forth the February 15 deadline for submission of fee payments and production reports, and other information deemed appropriate by the Board.

**Rule 7.2 Groundwater Transport Fee.**

The District shall impose a 50 percent export surcharge in addition to the District's water use fee for in-District use. The procedures, requirements, and penalties related to payment of the Water Use Fee shall also apply to payment of the Groundwater Transport Fee.

**Rule 7.3 Payment of Fees.**

- (a) All fees for groundwater production or transport in a calendar year are due to the District by February 15<sup>th</sup> of the following calendar year, and may be submitted in conjunction with the groundwater production volume reports and monthly logs. At the election of the registrant, the annual water use fee may be paid in advance or quarterly, as specifically set forth under Rule 7.4.
- (b) Any well that is subject to fee payment under this rule and that provides water for both agricultural and non-agricultural purposes shall pay the water use fee rate applicable to non-agricultural purposes for all water produced from the well, unless the applicant can demonstrate through convincing evidence to the satisfaction of the District that a system is or will be in place so as to assure an accurate accounting of water for each purpose of use.

**Rule 7.4 Early Fee Payment Incentive.**

(a) A person required to pay the Water Use Fee or Groundwater Transport Fee may elect to make early payments in accordance with the provisions of this rule and receive a reduction in the payment amount due.

(b) Annual Pre-Pay Option. A person who complies with the provisions of this subsection will be entitled to a discount of 10 percent off the total fees due for groundwater production in a calendar year, as specifically set forth herein. A well owner or operator may estimate their water use fee payment for estimated groundwater production for the entire calendar year and submit such estimate and water use fee payment to the District no later than February 15 of the same calendar year during which the groundwater is being produced. The water use fee rate applicable to the payment shall be a rate of 90% of the regular water use fee rate established by the Board for that calendar year. At the end of the calendar year, the person shall be required to take final water meter readings for the year and compare the difference in the estimated amount of water for which an early payment was submitted to the District and the actual amount of water produced during the year. If the person actually produced less water than the estimated amount and corresponding early payment submitted, the District shall provide a refund to the person within 60 days or credit the person's account with the District for the ensuing calendar year, as set forth under Subsection (e) of this rule. If the person actually produced more water than the estimated amount and corresponding early payment submitted, the person shall submit payment for the difference to the District by February 15<sup>th</sup> at 100 percent of the regular water use fee rate only for that amount of water produced in excess of the early estimate submitted to the District.

(c) Quarterly Payment Option. A person who complies with the provisions of this subsection will be entitled to a discount of 5 percent off the total fees due for groundwater production in a calendar year, as specifically set forth herein. A well owner or operator may submit water use fee payments for groundwater production on a quarterly basis by taking final quarterly meter readings on the last days of March, June, September, and December, and submitting production records and corresponding water use fee payments to the District no later

than 30 days after the end of each quarter. The water use fee rate applicable to such quarterly payments shall be a rate of 95% of the regular water use fee rate established by the Board for that calendar year. Failure to timely pay the fee will subject the amount of groundwater produced during the quarter to the full regular water use rate.

(d) A person may not participate in both the Annual Pre-Pay Option under Subsection (b) and the Quarterly Payment Option under Subsection (c) of this rule.

(e) Notwithstanding Rule 3.4, a person who desires to participate in an early fee payment incentive under Subsections (b) or (c) of this rule must register the well with the District in accordance with Section 3 of these rules no later than February 15 of the same calendar year.

(f) A person that participates in the Annual Pre-Pay Option under Subsection (b), actually produces less water than the estimate and payment submitted early, and that desires to have a refund issued rather than have the credit applied to the person's account for the following year must submit a written request for a refund no later than February 15 of the year following the year in which the groundwater was produced. The amount of the refund due from the District to the person must be equal to or greater than \$50.00, or the refund will not be granted and will instead be applied to the person's account for the ensuing year. The General Manager may rule on requests for water use fee refunds without notice, hearing, or further action by the Board. An applicant may appeal the General Manager's ruling by filing a written request for a hearing before the Board. The Board will hear the applicant's appeal at the next regular Board meeting.

**Rule 7.5 Failure to Make Fee Payments.**

(a) Payments not received within 30 days following the date that annual water use fees or groundwater transport fees are due and owing to the District pursuant to Rule 7.3 will be subject to a late payment fee of the greater of the following:

- (1) \$25.00; or
- (2) ten percent (10 %) of the total amount of annual water use fees due and owing to the District.

(b) In addition to the penalty provided for in subsection (a), it is a major violation of the District's Rules to fail to pay annual water use fees due and owing to the District on or before the 60th day following the date such fees are due pursuant to Rule 7.3. A person who fails to pay such fees on or before the 60<sup>th</sup> day will be subject to a penalty equal to three times the total amount of the overdue water use fees. Such person may also be subject to enforcement, including without limitation the assessment of civil penalties, under the enforcement provisions set forth under Section 9.

**Rule 7.6 Returned Check Fee.**

The Board, by resolution, may establish a fee for checks returned to the District for insufficient funds, account closed, signature missing, or any other reason causing a check to be returned by the District's depository.

**Rule 7.7 Well Report Deposit.**

The Board, by resolution, may establish a well report deposit to be held by the District as part of the well registration procedures. The District shall return the deposit to the depositor if all relevant well logs are timely submitted to the District in accordance with these Rules. In the event the District does not timely receive all relevant well logs, or if rights granted within the registration are not timely used, the deposit shall become the property of the District.

**Rule 7.8 Enforcement.**

After a well is determined to be in violation of these rules for failure to make payment of water use fees or groundwater transport fees on or before the 60th day following the date such fees are due pursuant to Rule 7.3, all enforcement mechanisms provided by law and these Rules shall be available to prevent unauthorized use of the well and may be initiated by the General Manager without further authorization from the Board.

**SECTION 8.**  
**METERING**

**Rule 8.1 Water Meter Required.**

- (a) Except as provided in Rule 8.2, the owner of a well located in the District and not exempt under Rule 2.1 shall equip the well with a flow measurement device meeting the specifications of these Rules and shall operate the meter on the well to measure the flow rate and cumulative amount of groundwater withdrawn from the well. Except as provided in Rule 8.2, the owner of an existing well not exempt under Rule 2.1 that is located in the District shall install a meter on the well prior to producing groundwater from the well after December 31, 2008.
- (b) A mechanically driven, totalizing water meter is the only type of meter that may be installed on a well registered with the District. The totalizer must not be resettable by the registrant and must be capable of a maximum reading greater than the maximum expected annual pumpage. Battery operated registers must have a minimum five-year life expectancy and must be permanently hermetically sealed. Battery operated registers must visibly display the expiration date of the battery. All meters must meet the requirements for registration accuracy set forth in the American Water Works Association standards for cold-water meters as those standards existed on the date of adoption of these Rules.
- (c) The water meter must be installed according to the manufacturer's published specifications in effect at the time of the meter installation, or the meter's accuracy must be verified by the registrant in accordance with Rule 8.4. If no specifications are published, there must be a minimum length of five pipe diameters of straight pipe upstream of the water meter and one pipe diameter of straight pipe downstream of the water meter. These lengths of straight pipe must contain no check valves, tees, gate valves, back flow preventers, blow-off valves, or any other fixture other than those flanges or welds necessary to connect the straight pipe to the meter. In addition, the pipe must be completely full of water throughout the region. All installed meters must measure only groundwater.

- (d) Each meter shall be installed, operated, maintained, and repaired in accordance with the manufacturer's standards, instructions, or recommendations, and shall be calibrated to ensure an accuracy reading range of 95% to 105% of actual flow.
- (e) The owner of a well is responsible for the purchase, installation, operation, maintenance, and repair of the meter associated with the well.
- (f) Bypasses are prohibited unless they are also metered.

**Rule 8.2 Water Meter Exemption.**

Wells exempt under Rule 2.1(a) shall be exempt from the requirement to obtain a water meter under Rule 8.1.

**Rule 8.3 Metering Aggregate Withdrawal.**

Where wells are part of an aggregate system, one or more water meters may be used for the aggregate well system if the water meter or meters are installed so as to measure the groundwater production from all wells included in the system. The provisions of Rule 8.1 apply to meters measuring aggregate pumpage.

**Rule 8.4 Accuracy Verification.**

- (a) **Meter Accuracy to be Tested:** The General Manager may require the registrant, at the registrant's expense, to test the accuracy of a water meter and submit a certificate of the test results. The certificate shall be on a form provided by the District. The General Manager may further require that such test be performed by a third party qualified to perform such tests. The third party must be approved by the General Manager prior to the test. Except as otherwise provided herein, certification tests will be required no more than once every three years for the same meter. If the test results indicate that the water meter is registering an accuracy reading outside the range of 95% to 105% of the actual flow, then appropriate steps shall be taken by the registrant to repair or replace the water meter within 90 calendar days from the date of the test. The District, at its own expense, may undertake random tests and other investigations at any time for the purpose of verifying water meter readings. If the District's tests or investigations reveal that a water meter is not registering within the accuracy range of 95% to 105% of the actual flow, or is not properly recording the total flow of groundwater withdrawn from the well or wells, the registrant shall reimburse the District for the cost of those tests and investigations within 90 calendar days from the date of the tests or investigations., and the registrant shall take appropriate steps to bring the meter or meters into compliance with these Rules within 90 calendar days from the date of the tests or investigations. If a water meter or related piping or equipment is tampered with or damaged so that the measurement of accuracy is impaired, the District may require the registrant, at the registrant's expense, to take appropriate steps to remedy the problem and to retest the water meter within 90 calendar days from the date the problem is discovered and reported to the registrant.
- (b) **Meter Testing and Calibration Equipment:** Only equipment capable of accuracy results of plus or minus two percent of actual flow may be used to calibrate or test meters.

- (c) **Calibration of Testing Equipment:** All approved testing equipment must be calibrated every two years by an independent testing laboratory or company capable of accuracy verification. A copy of the accuracy verification must be presented to the District before any further tests may be performed using that equipment.

**Rule 8.5 Removal of Meter for Repairs.**

A water meter may be removed for repairs and the well remain operational provided that the District is notified prior to removal and the repairs are completed in a timely manner. The readings on the meter must be recorded immediately prior to removal and at the time of reinstallation. The record of pumpage must include an estimate of the amount of groundwater withdrawn during the period the meter was not installed and operating.

**Rule 8.6 Water Meter Readings.**

The registrant of a well not exempt under Rule 2.1 must read each water meter associated with the well and record the meter readings and the actual amount of pumpage in a log at least monthly. The logs containing the recordings shall be available for inspection by the District at reasonable business hours. Copies of the logs must be included with the Water Production Report required by District Rule 3.10, along with fee payments as set forth under Section 7. Except as otherwise provided under Rule 7.4 for early payment incentive participants, the registrant of a well shall read each water meter associated with a well annually within 15 days before or after the end of the calendar year and by February 15 of the ensuing calendar year report the readings to the District on a form provided by the District, along with copies of the monthly logs.

**Rule 8.7 Installation of Meters.**

Except as otherwise provided by these Rules, a meter required to be installed under these Rules shall be installed before producing water from the well on or after January 1, 2009.

**Rule 8.8 Enforcement.**

It is a major violation of these Rules to fail to meter a well and report meter readings in accordance with this Section. After a well is determined to be in violation of these rules for failure to meter or maintain and report meter readings, all enforcement mechanisms provided by law and these Rules shall be available to prevent unauthorized use of the well and may be initiated by the General Manager without further authorization from the Board.

**SECTION 9.**  
**INSPECTION AND ENFORCEMENT OF RULES**

**Rule 9.1 Purpose and Policy.**

The District's ability to effectively and efficiently manage the limited groundwater resources within its boundaries depends entirely upon the adherence to the rules promulgated by the Board to carry out the District's purposes. Those purposes include providing for the conservation, preservation, protection and recharge of the groundwater resources within the District, and to

protect against subsidence, degradation of water quality, and to prevent waste of those resources. Without the ability to enforce these rules in a fair, effective manner, it would not be possible to accomplish the District's express groundwater management mission. The enforcement rules and procedures that follow are consistent with the responsibilities delegated to it by the Texas Legislature through its Enabling Act, and through Sections 36.101 and 36.116 of the Texas Water Code.

### **Rule 9.2 Rules Enforcement.**

- (a) If it appears that a person or entity has violated, is violating, or is threatening to violate any provision of the District Rules, the Board of Directors may institute and conduct a suit in a court of competent jurisdiction in the name of the District for injunctive relief, recovery of a civil penalty in an amount set by District Rule per violation, both injunctive relief and a civil penalty, or any other appropriate remedy. Each day that a violation continues shall be considered a separate violation.
- (b) The civil penalty for a violation of any District rule is hereby set at the lower of: (1) \$10,000.00 per violation; or (2) a lesser amount based on the severity of the violation set forth in a civil penalty schedule which the Board of Directors may adopt from time to time via resolution in a properly noticed meeting, which civil penalty schedule is incorporated by reference into these Rules and shall constitute a Rule of the District for all purposes.
- (c) A penalty under this section is in addition to any other penalty provided by law and may be enforced by filing a complaint in a court of competent jurisdiction in the county in which the District's principal office or meeting place is located.
- (d) If the District prevails in a suit to enforce its Rules, the District may seek, in the same action, recovery of attorney's fees, costs for expert witnesses, and other costs incurred by the District before the court. The amount of attorney's fees awarded by a court under this Rule shall be fixed by the court.
- (e) Notwithstanding any other provision of these rules to the contrary, persons who fail to timely comply with Rule 3.2 (relating to registration of non-exempt wells within the District), Rule 3.10 (relating to the submission of an annual water production report), Rule 7.3 (relating to the payment of water use fees), and Rule 8.1 (relating to the requirement of water meters under certain circumstances) shall be subject to a disincentive fee set by the Board by rule or resolution, in addition to the fee assessed under Rule 7.1, of an amount not to exceed ten (10) times the rate assessed by the Board pursuant to Rule 7.1.

### **Rule 9.3 Failure to Report Pumpage and/or Transported Volumes.**

The accurate reporting and timely submission of pumpage and/or transported volumes is necessary for the proper management of water resources in the District. Failure of a well owner required by these Temporary Rules to submit complete, accurate, and timely pumpage and transportation reports

may result in late payment fees, fee rates of three times the regular Water Use Fees and/or Groundwater Transport Fees, payment of meter reading and inspection fees as a result of District inspections to obtain current and accurate pumpage and/or transported volumes, and other enforcement for violation of District Rules.

**Rule 9.4 District Inspections.**

No person shall unreasonably interfere with the District's efforts to conduct inspections or otherwise comply with the requirements, obligations, and authority provided in Section 36.123 of the Texas Water Code.

**Rule 9.5 Notices of Violation.**

Whenever the District determines that any person has violated or is violating any provision of the District's Rules, including the terms of any rule or order issued by the District, it may use any of the following means of notifying the person or persons of the violation:

- (a) Informal Notice – the officers, staff or agents of the District acting on behalf of the District or the Board of Directors, may inform the person of the violation by telephone by speaking or attempting to speak to the appropriate person to explain the violation and the steps necessary to satisfactorily remedy the violation. The information received by the District through this informal notice concerning the violation will be documented, along with the date and time of the call, and will be kept on file with the District. Nothing in this subsection shall limit the authority of the District to take action, including emergency actions or any other enforcement action, without first providing notice under this subsection.
- (b) Notice of Violation – the District may inform the person of the violation through a written notice of violation issued pursuant to this rule. Each notice of violation issued hereunder shall explain the basis of the violation, identify the rule or order that has been violated or is being violated, and list specific required actions that must be satisfactorily completed—which may include the payment of applicable civil penalties—to address each violation raised in the notice. Notices of violation issued hereunder shall be tendered by a delivery method that complies with District Rule 1.7. Nothing in this rule subsection shall limit the authority of the District to take action, including emergency actions or any other enforcement action, without first issuing a notice of violation.
- (c) Compliance Meeting – the District may hold a meeting with any person whom the District believes to have violated, or to be violating, a District Rule or District order to discuss each such violation and the steps necessary to satisfactorily remedy each such violation. The information received in any meeting conducted pursuant to this rule subsection concerning the violation will be documented, along with the date and time of the meeting, and will be kept on file with the District. Nothing in this rule subsection shall limit the authority of the District to take action, including emergency actions or any other enforcement action, without first conducting a meeting under this subsection.

**Rule 9.6 Show Cause Hearing.**

- (a) Upon recommendation of the General Manger to the Board of Directors or upon the Board's own motion, the Board of Directors may order any person that it believes has violated or is violating any provision of the District's Rules a District order to appear before the Board of Directors at a public meeting called for such purpose and show cause why an enforcement action, including the initiation of a suit in a court of competent jurisdiction, should not be pursued by the District against the person or persons made the subject of the show cause hearing.
- (b) No show cause hearing under subsection (a) of this Rule may be held unless the District first serves, on each person to be made the subject of the hearing, written notice within 30 days of the hearing. Such notice shall include the following:
  - 1. the time and place for the hearing;
  - 2. the basis of each asserted violation; and
  - 3. the rule or order that the District believes has been violated or is being violated; and
  - 4. a request that the person cited duly appear and show cause why enforcement action should not be pursued.
- (c) The District may pursue immediate enforcement action against the person cited to appear in any show cause order issued by the District where the person so cited fails to appear and show cause why an enforcement action should not be pursued.
- (d) Nothing in this rule shall limit the authority of the District to take action, including emergency actions or any other enforcement action, against a person at any time regardless of whether the District holds a hearing under this section.

**SECTION 10.**

**OTHER DISTRICT MANAGEMENT ACTIONS AND DUTIES**

**Rule 10.1 District Management Plan.**

Following notice and hearing, the District shall adopt a comprehensive Management Plan. The District Management Plan shall specify the acts and procedures and performance and avoidance measures necessary to prevent waste, the reduction of artesian pressure, or the draw-down of the water table. The District shall use the Rules to implement the Management Plan. The Board will review the Management Plan at least every five years. If the Board considers a new Management Plan necessary or desirable based on evidence presented at a hearing, a new Management Plan will be developed and adopted. A Management Plan, once adopted, remains in effect until the subsequent adoption of another Management Plan.

**SECTION 11.**  
**EFFECTIVE DATE**

**Rule 11.1. Effective Date.**

These Rules take effect on the date of their original adoption. It is the District's intention that the rules and amendments thereto be applied retroactively to activities involving the production and use of groundwater resources located in the District, as specifically set forth in these Rules.