

**RULES OF THE LOST PINES
GROUNDWATER CONSERVATION DISTRICT**

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SECTION 1: DEFINITIONS

"Agriculture" means:

- (1) cultivating the soil to produce crops for human food, animal feed, or planting seed or for the production of fibers;
- (2) the practice of floriculture, viticulture, silviculture, and horticulture, including the cultivation of plants in containers or nonsoil media, by a nursery grower;
- (3) raising, feeding, or keeping animals for breeding purposes or for the production of food or fiber, leather, pelts, or other tangible products having a commercial value;
- (4) planting cover crops, including cover crops cultivated for transplantation, or leaving land idle for the purpose of participating in any governmental program or normal crop or livestock rotation procedure;
- (5) wildlife management; and
- (6) raising or keeping equine animals.

"Administratively Complete" means: (1) that all information requested by the District has been fully and accurately provided; and (2) that all applicable fees and deposits have been paid.

"Agricultural Use" means any use or activity involving agriculture, including irrigation. Irrigation of a golf course is not an agricultural use.

"Aquifer Unit" means the Sparta aquifer unit, the Queen City aquifer unit, the Carrizo aquifer unit, the Calvert Bluff aquifer unit, the Simsboro aquifer unit, the Hooper aquifer unit, or any other formation or sand from which groundwater is produced.

"Beneficial Use" means use of water for one of the following beneficial purposes, without waste:

- (1) agricultural, gardening, domestic, stock raising, municipal, mining, manufacturing, industrial, commercial, recreational, or pleasure purposes;
- (2) exploring for, producing, handling, or treating oil, gas, sulphur, or other minerals; or
- (3) any other purpose that is useful and beneficial to the user.

"Board" means the Board of Directors of the Lost Pines Groundwater Conservation District.

"Completion of a well" means the date when the construction of a water well is finished, excluding setting the pump.

"Contested Case" means an application or other matter for which the Board has granted a request for a contested case hearing.

"Dedicated" means committed to a definite use.

"Desired Future Condition" means a quantitative description, adopted in accordance with Texas Water Code section 36.108, of the desired condition of the groundwater resources in the District at one or more specified future times.

"Deteriorated Well" means a well that, because of its condition, will cause or is likely to cause pollution of any water in the State, including groundwater.

"District" means the Lost Pines Groundwater Conservation District.

"District Fee Schedule" means the schedule of fees charged by the District, adopted in accordance with Rule 2.3.

"District Management Plan" means a management plan developed by the District pursuant to Texas Water Code section 36.1071.

"District Office" means the office of the District, which is designated by and may be changed by resolution of the Board.

"Domestic Use" means use of water by an individual or a household to support domestic activity. Such use may include water for drinking, washing, or culinary purposes; for irrigation of lawns, or of a family garden and/or orchard; for watering of domestic animals; and for water recreation including aquatic and wildlife enjoyment. Domestic use does not include water used to support activities for which consideration is given or received or for which the product of the activity is sold.

"End User" means the person or entity who makes beneficial use of the water withdrawn from a well, including, but not limited to, an agricultural user, industrial user, mining user, municipal user, or Retail Public Water Utility. End user does not include the retail customers of a retail public water utility.

"Exempt well" means a well that is not required to obtain an Operating Permit, as described in Rule 3.1.

"General Manager" means the General Manager of the District, as described in Rule 2.2.

"GPM" means gallons per minute.

"Hearings Examiner" means a person, other than a Board member, appointed by the Board to conduct a hearing on a permit or enforcement action.

"Landowner" or **"owner of land"** means the owner of the right to use the surface of a tract of land, if that owner is different from the owner or holder of the right to produce groundwater from the tract of land.

"Livestock Use" means the use of water for the watering of livestock, poultry, or wildlife, including exotic livestock, game animals, fur-bearing animals, birds, or waterfowl, and for maintaining aquatic life. Livestock use includes watering livestock that are kept for pleasure, recreational use, or commercial use.

"Management Zone" means one or more of the zones into which the Board may divide the District, as set forth in Rule 9.2.

"Modeled Available Groundwater" means the amount of groundwater that the executive administrator of the TWDB determines may be produced on an average annual basis to achieve a desired future condition established under Texas Water Code section 36.108.

"New well" means a well drilled after June 21, 2000.

"Non-exempt well" means a well that is required to obtain an Operating Permit under Section 5 of these Rules.

"Open Meetings Act" means chapter 551 of the Texas Government Code.

"Operating Permit" means a permit issued under Section 5 of these Rules.

"Owner" means the owner or holder of the right to produce groundwater from a tract of land.

"Pre-existing well" means a well drilled before June 21, 2000.

"Production Fee" means a fee, adopted in accordance with Rule 2.3, to be paid to the District for the amount of water actually withdrawn from a non-exempt well, as authorized by Texas Water Code section 36.205(c).

"Property Line" means a line at which the ownership of the right to produce groundwater changes.

"Replacement well" means a well drilled with the purpose of replacing an existing well.

"Reservation Fee" means a fee, adopted in accordance with Rule 2.3, to be paid to the District for the amount of water authorized for withdrawal under an Operating Permit, as set forth in Rule 5.5.B.

"Retail Public Water Utility" means a person or entity, including a municipality, that provides potable water to the ultimate consumer for compensation.

"State Plugging Report" means the report that a person who plugs a well is required to complete under 16 Texas Administrative Code section 76.700(2).

"State Well Report" means the report that every well driller who drills, completes, deepens, or alters a well is required to complete under the Texas Department of Licensing and Regulation Rules, as defined in 16 Texas Administrative Code sections 76.10(45) and 76.700(1).

"TCEQ" means the Texas Commission on Environmental Quality, or any successor agency.

"Transport Fee" means a fee, adopted in accordance with Rule 2.3, to be paid to the District for the amount of water transported outside the District boundaries, as authorized by Texas Water Code section 36.122(e).

"Transport Permit" means a permit issued under Section 6 of these Rules.

"TWDB" means the Texas Water Development Board, or any successor agency.

"Waste" means any one or more of the following:

(1) The withdrawal of groundwater from a groundwater reservoir at a rate and in an amount that causes or threatens to cause intrusion into the reservoir of water unsuitable for agricultural, gardening, domestic, or livestock raising purposes.

(2) The flowing or producing of wells from a groundwater reservoir if the water produced is not used for a beneficial purpose, or the non-use of water for an authorized beneficial purpose.

(3) The escape of groundwater from one groundwater reservoir to any other reservoir or geologic stratum that does not contain groundwater.

(4) The pollution or harmful alteration of groundwater in a groundwater reservoir by saltwater or by other deleterious matter admitted from another stratum or from the surface of the ground.

(5) Willfully or negligently causing, suffering, or allowing groundwater to escape into any river, creek, natural watercourse, depression, lake, reservoir, drain, sewer, street, highway, road, or road ditch, or onto any land other than that of the Well

Owner, unless such discharge is authorized by permit, rule, or order issued by the TCEQ under chapter 26 of the Texas Water Code.

(6) Groundwater pumped for irrigation that escapes as irrigation tailwater onto land other than that of the Well Owner unless permission has been granted by the occupant of the land receiving the discharge.

(7) Unless the water from an artesian well is used for a purpose and in a manner in which it may be lawfully used on the Well Owner's land, willfully causing or knowingly permitting the water to run off the owner's land or to percolate through the stratum above which the water is found.

(8) Drilling or operating a well or wells without a required permit or producing groundwater in violation of a permit condition or a District Rule.

(9) Operating a Deteriorated Well.

"Well System" means two or more non-exempt wells that are owned by the same Well Owner and connected to the same water collection or distribution system.

"Water well" or **"well"** means an artificial excavation constructed to explore for, produce, sample, or monitor the water level of groundwater.

"Well Owner" or **"owner of well"** means the owner of a water well or well.

"Well registration" means the registration required by Rule 4.2.

SECTION 2: GENERAL PROVISIONS

Rule 2.1 Board of Directors

A. **Board structure; officers.** The Board consists of appointed members, qualified as required by law. Each year at its regular January meeting, and if there is no January meeting, at its next regular meeting, the Board will select one of its members to serve as president to preside over Board meetings and proceedings, one to serve as vice-president to preside over Board meetings and proceedings in the absence of the president, and one to serve as secretary-treasurer to keep a true and correct account of all proceedings of the Board. The Board may appoint an assistant secretary to assist the secretary-treasurer. In the event of a vacancy in an office, the Board will select out of its members a person to serve out the remaining term of office. Unless a vacancy occurs, members and officers serve until their successors are selected and qualified to hold office. In the absence of a General Manager, the president will serve as General Manager.

B. **Meetings.** The Board will hold regular meetings at least four times a year on a day and at a place that the Board may establish from time to time by resolution. At the request of the president, or upon written request of at least three Board members, the Board may hold a special meeting. The business of the District will be conducted at regular or special Board meetings when a quorum is present. All Board meetings will be held in accordance with the Open Meetings Act.

C. **Committees.** The president may establish committees for formulation of policy recommendations to the Board, and may appoint the chair and membership of the committees, which may include persons who are and who are not Board members. Committee members serve at the pleasure of the president.

Rule 2.2 General Manager

A. **Authority.** The Board may employ a person to be the General Manager, who is the chief administrative officer of the District. The General Manager will have full authority to manage and operate the affairs of the District, subject only to the direction given by the Board through policies and orders adopted by the Board. At least annually, the Board will determine the compensation to be paid to the General Manager, and shall review the actions and performance of the General Manager to determine whether the General Manager has fulfilled his or her responsibilities and whether additional responsibilities should be delegated to the General Manager. The General Manager, with the approval of the Board, may employ all persons necessary for the proper handling of the business of the District.

B. **Delegation of authority.** The General Manager may delegate duties as may be necessary to effectively and expeditiously accomplish those duties, provided that no delegation will relieve the General Manager from his or her responsibilities under the

Texas Water Code, the act creating the District, these Rules, or the policies, orders, and permits promulgated by the Board.

Rule 2.3 Regulatory Fees

The Board will adopt a District Fee Schedule by resolution. The District Fee Schedule shall set out the administrative fees, production fees, and transportation fees that the District will collect. A copy of the District Fee Schedule may be obtained from the District Office.

Rule 2.4 Purpose and Effect of Rules

The District Rules are promulgated under the act creating the District and the Texas Water Code chapter 36 authority to make and enforce rules to provide for the conservation, preservation, protection, and recharge of groundwater and aquifers within the District, while recognizing the ownership and rights of the owners of the land and their lessees and assigns in groundwater. These Rules may not be construed to limit, restrict, or deprive the District or the Board of any exercise of any power, duty, or jurisdiction conferred by the act creating the District, Texas Water Code chapter 36, or any other applicable law or statute.

Rule 2.5 Amending of Rules

The Board may from time to time amend or revoke these Rules or adopt new Rules following the procedures in Rules 14.1 and 14.2.

Rule 2.6 Headings and Captions

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

Rule 2.7 Severability

If any provision of these Rule or its application to any person or circumstance is held invalid or unenforceable, the invalidity does not affect other provisions or applications of the Rules which can be given effect without the invalid provision or application, and to this end the provisions of these Rules are severable.

SECTION 3: EXEMPT WELLS AND NON-EXEMPT WELLS

Rule 3.1: Wells Exempt From Obtaining Operating Permit (Exempt Wells)

A. Domestic and livestock well.

(1) A water well completed before [date of adoption], 2012, that is used solely for Domestic Use or for Livestock Use is exempt from obtaining an Operating Permit under Section 5 of these Rules if the well is drilled, completed, or equipped so that it is incapable of producing more than 25,000 gallons of groundwater a day.

(2) A water well completed after [date of adoption], 2012, that is used solely for Domestic Use or Livestock Use is exempt from obtaining an Operating Permit under Section 5 of these Rules if the well is:

(a) located or to be located on a tract of land larger than two (2) acres;
and

(b) drilled, completed, or equipped so that it is incapable of producing more than 25,000 gallons of groundwater a day.

(3) A water well used to supply water for a subdivision of land for which a plat approval is required by Chapter 232, Local Government Code is not an exempt well under this Rule 3.1.A.

B. Agricultural well. A water well that is used solely for Agricultural Use is exempt from obtaining an Operating Permit under Section 5 of these Rules.

C. Rig supply well. 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 is exempt from obtaining an Operating Permit under Section 5 of these Rules, provided that the person holding the permit is responsible for drilling and operating the water well and the water well is located on the same lease or field associated with the drilling rig. A well that is no longer 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 must obtain an Operating Permit under Section 5 of these Rules, unless the well will be an exempt well under Rule 3.1.A, Rule 3.1.B, Rule 3.1.D, or Rule 3.1.E.

D. Mining well. A water well authorized under a permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code, or for production from the well to the extent the withdrawals are required for mining activities regardless of any subsequent use of the water, is exempt from obtaining an Operating Permit under Section 5 of these Rules.

E. **Test or monitoring well.** A water well drilled and completed solely for purposes of aquifer testing, including a test well or a well for monitoring water levels or water quality, is exempt from obtaining an Operating Permit under Section 5 of these Rules.

F. **Required registration.** The exempt wells described in this Rule must be registered as provided in Section 4 of these Rules.

Rule 3.2 Wells Requiring Operating Permit (Non-exempt Wells)

A. A well that does not qualify for an exemption under Rule 3.1 is a non-exempt well.

B. A non-exempt well completed before or on June 21, 2000 must apply for an Operating Permit on or before August 31, 2001.

C. No person may operate or produce water from a non-exempt well completed after June 21, 2000 without first obtaining an Operating Permit from the District.

D. No person may drill, operate, or produce water from a non-exempt well after [date of adoption], 2012 without first obtaining an Operating Permit from the District.

SECTION 4: WELL REGISTRATION FOR EXEMPT WELLS AND NON-EXEMPT WELLS

Rule 4.1 Required Well Registration

A. All water wells drilled before June 22, 2000, must be registered with the District. Such wells are referred to as pre-existing wells.

B. Beginning on June 22, 2000, no new water well may be drilled or operated without first registering the proposed well with the District. Such wells are referred to as new wells.

Rule 4.2 Well Registration Application

A. Forms for registering wells are available from the District Office.

B. An applicant for registration of a new well shall provide the following information:

(1) the name, address, and phone number of the applicant, and the name, address and phone number of the Owner and the owner of the land on which the well is located, if different from the applicant;

(2) if the applicant is different from the Owner or the owner of the land on which the well is located, documentation of the applicant's authority to construct and operate a well on the property for the proposed use;

(3) a statement of the nature and purposes of the proposed use of water from the well;

(4) a description of the well's location;

(5) the proposed total depth of the well;

(6) the proposed depth of the screened intervals;

(7) the casing size;

(8) the pump size;

(9) a signed affidavit by the applicant for registration that the location complies with the spacing requirements of Rule 8.2 or evidence that the applicant has applied for a variance under Rule 8.3; and

(10) a registration fee if one has been established under Rule 2.3.

C. An applicant for registration of a pre-existing well shall provide the following information, to the best of the applicant's knowledge:

(1) the name, address, and phone number of the applicant, and the name, address and phone number of the Owner and the owner of the land on which the well is located, if different from the applicant;

(2) if the applicant is different from the Owner or the owner of the land on which the well is located, documentation of the applicant's authority to construct and operate a well on the property for the proposed use;

(3) a statement of the nature and purposes of the use of water from the well;

(4) a description of the well's location;

(5) the total depth of the well;

(6) the depth of the screened intervals;

(7) the casing size; and

(8) the pump size.

D. The General Manager may require the applicant to submit any additional information necessary to make a determination under Rule 4.3.A.

E. The General Manager will assist the applicant in filing an application to register a well that is exempt under Rule 3.1.A.

Rule 4.3. Approval of Well Registration

A. At the time of filing of a registration, the General Manager will determine whether the water well is an exempt well or a non-exempt well, as defined in Rules 3.1 and 3.2.

B. If the well is a non-exempt well, the applicant shall apply for an Operating Permit under Section 5 of these Rules. If the District grants the application for an Operating Permit, the Operating Permit is an approval of the well registration on the terms and conditions set out in the Operating Permit.

C. If a well was drilled before June 21, 2000, and is an exempt well, the General Manager shall approve the registration if the information provided is complete. Upon the General Manager's approval, the District shall issue a certificate of registration to the applicant.

D. If a new well is an exempt well, the General Manager shall approve the registration if:

(1) the information provided is complete; and

(2) the new well will comply with the applicable spacing requirements under Rule 8.2 or the applicant has obtained a variance under Rule 8.3.

E. Upon the General Manager's approval of a well registration, the District shall issue a certificate of registration to the applicant. The certificate of registration will serve as authorization to drill and operate the new well as described in the registration. A copy of the certificate of registration must be on-site while the well is being drilled.

F. An applicant may appeal any decision of the General Manager under this Rule 4.3 to the Board as provided in Rule 14.8.

Rule 4.4 Time Limit for Completion of New Exempt Well

A. A certificate of registration for a new well shall expire if the new well is not completed and the well log required by Texas Occupations Code Section 1901.251 is not filed with the District within 180 days of the issuance of the certificate of registration. A certificate holder may request an extension of the time to drill a well. The request must be submitted in writing and must include the reasons for the request. The General Manager may grant the request, deny it, or grant a different extension than the one requested, without notice and hearing.

B. An applicant may appeal any decision of the General Manager under this Rule 4.4 to the Board as provided in Rule 14.8.

SECTION 5: OPERATING PERMITS FOR NON-EXEMPT WELLS

Rule 5.1 Operating Permit Application

A. An application for an Operating Permit shall be submitted on a form obtained from the District and shall be signed and sworn to by the applicant. A separate application is required for each well.

B. The application form shall require the applicant to provide the following information:

- (1) a copy of the completed registration form for the well;
- (2) a location map or property plat drawn on a scale that adequately details the proposed well site by latitude and longitude or by GPS coordinates, the contiguous acres that will be assigned to the well, and the location of other registered or permitted wells within 5,000 feet of the location of the proposed well;
- (3) the maximum instantaneous production rate requested (in gallons per minute);
- (4) the maximum annual production amount requested (in gallons per year and acre feet per year) for each purpose;
- (5) if the application requests a total maximum annual production amount of 200 acre-feet or greater, the results of a 36-hour pump test performed in accordance with procedures approved by the District, unless the General Manager waives this requirement in writing;
- (6) the location of the use of the water;
- (7) information describing how the amount of water requested addresses an existing or projected water supply need;
- (8) if the applicant is not the End User of the water, the identity of the End User and a description of the applicant's regulatory, statutory, contractual or other legal obligation to address the End User's water supply need, if any;
- (9) the applicant's water conservation plan, and, if the applicant is different from the End User, the End User's water conservation plan, if available;
- (10) the applicant's drought contingency plan, and, if the applicant is different from the End User, the End User's drought contingency plan, if available;
- (11) a water well closure plan or a declaration that the applicant will comply with well plugging guidelines and report closure to the TCEQ;

(12) for new wells, an Operating Permit application fee if one has been established under Rule 2.3; and

(13) any other information deemed necessary by the District to comply with the requirements of Texas Water Code chapter 36, its enabling statutes, and general law.

C. The applicant may provide the District with any other information relevant to the considerations in Rule 5.2.C.

Rule 5.2 Processing of Operating Permit Application

A. **Processing.** Except as provided in Rule 5.2.B., an application for an Operating Permit will be processed as provided in Rule 14.3. If an applicant files more than one application for an Operating Permit at the same time, the District shall process those applications together, unless the applicant requests otherwise.

B. **No additional withdrawal amount requested.** An application for an Operating Permit will be processed as provided in Rule 14.5, if:

(1) the application requests that production from the well be aggregated with the permitted annual withdrawal amount of other wells pursuant to Rule 5.3.C.; and

(2) the application does not seek authority to withdraw any amount of water in addition to the aggregated permitted annual withdrawal amount of the other designated wells.

C. **Consideration.** In deciding whether to grant an application for an Operating Permit, approve the Operating Permit with terms other than those requested in the application, or deny the application, the Board shall consider the requirements of Texas Water Code chapter 36 and the District Rules, including, but not limited to, the following:

(1) whether the application conforms to the requirements prescribed by chapter 36 of the Texas Water Code and the District Rules;

(2) whether the proposed use of water unreasonably affects existing groundwater and surface water resources or existing permit holders;

(3) whether the proposed use of water is dedicated to a Beneficial Use;

(4) whether the proposed use of water is consistent with the District Management Plan;

(5) whether the applicant has agreed to avoid waste and achieve water conservation; and

(6) whether the applicant has agreed that reasonable diligence will be used to protect groundwater quality;

(7) whether the applicant will follow well plugging guidelines at the time of well closure.

(8) whether granting the application is consistent with the District's duty to manage total groundwater production on a long-term basis to achieve an applicable Desired Future Condition, considering:

(a) the Modeled Available Groundwater determined by the TWDB executive administrator;

(b) the TWDB executive administrator's estimate of the current and projected amount of groundwater produced under exemptions granted by District Rules and Texas Water Code § 36.117;

(c) the amount of groundwater authorized under permits previously issued by the District;

(d) a reasonable estimate of the amount of groundwater that is actually produced under permits issued by the District; and

(e) yearly precipitation and production patterns;

(9) whether the conditions and limitations in the Operating Permit prevent Waste, achieve water conservation, minimize as far as practicable the drawdown of the water table or the reduction of artesian pressure, or lessen interference between wells;

(10) whether the permittee has a history of non-compliance with District Rules and chapter 36 of the Texas Water Code, including any record of enforcement actions against the permittee for violation of District Rules or chapter 36.

Rule 5.3 Operating Permit Provisions

A. **Well-specific permit provisions.** Every Operating Permit issued by the District will include the following:

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

(2) the location of the well;

(3) the date the permit is to expire if the permitted well is not drilled and completed;

- (4) a statement of the purpose(s) for which water from the well is to be used;
- (5) the location of the use of the water from the well;
- (6) the total depth of the well and the aquifer unit from which the well will produce water;
- (7) the maximum amount of water that may be withdrawn from the well in a calendar year;
- (8) the maximum instantaneous rate at which water may be withdrawn from the well; and
- (9) the term of the permit.

B. **Standard permit provisions.** All Operating Permits are granted subject to the District Rules, the orders of the Board, the District Management Plan, and Chapter 36 of the Texas Water Code. In addition to any well-specific permit provisions and special conditions included in the Operating Permit, each Operating Permit includes the following standard permit provisions:

- (1) This permit is granted in accordance with District Rules, and acceptance of this permit constitutes an acknowledgement and agreement that permittee will comply with the terms, conditions, and limitations set forth in this permit, the District rules, the orders of the Board, and the District Management Plan.
- (2) Water withdrawn under the permit must be put to beneficial use at all times, and operation of the permitted well in a wasteful manner is prohibited.
- (3) Water produced from the well must be measured using a water measuring device or method approved by the District that is within plus or minus 10% of accuracy.
- (4) The well site must be accessible to District representatives for inspection, and permittee agrees to cooperate fully in any reasonable inspection of the well and well site by District representatives.
- (5) The application pursuant to which this permit has been issued is incorporated in this permit by reference, and this permit is granted on the basis of and contingent upon the accuracy of the information provided in that application. A finding that false or inaccurate information has been provided is grounds for revocation of the permit.
- (6) Violation of the permit's terms, conditions, requirements, or special provisions, including pumping amounts in excess of authorized withdrawals, may subject the permittee to enforcement action under Section 13 of these Rules.

(7) Whenever the special conditions in the permit are inconsistent with other provisions of the permit or the District Rules, the special condition will prevail.

C. **Aggregation of withdrawals.** The Board may include a special condition in an Operating Permit allowing the aggregation of the permitted annual withdrawal amount in the Operating Permit with the permitted annual withdrawal amount of other wells designated in the Operating Permit or of other wells within a geographic area designated in the Operating Permit, so that the aggregated annual withdrawal amount may be withdrawn from any one or more of those designated wells, if:

(1) the wells whose withdrawal will be aggregated are part of the same Well System; and

(2) the wells whose withdrawals will be aggregated are completed in the same aquifer unit.

D. **Other special conditions.** An Operating Permit may also include:

(1) any special conditions that the Board determines are required by the considerations in Rule 5.2.C; and

(2) any other special conditions required or authorized by these Rules or applicable law.

Rule 5.4 Operating Permit Term

A. Operating Permits authorizing the use of water solely for agricultural purposes are effective until amended or revoked as provided in these Rules.

B. Except as provided in Rule 5.4.A and Rule 5.5, Operating Permits are effective for a period of five years from the date the permit is granted, unless amended or revoked as provided in these Rules.

Rule 5.5 Time Limit for Completion of Permitted Well

A. An Operating Permit shall automatically terminate if, within 180 days of the date of issuance of the permit:

(1) the permitted well has not been completed; or

(2) the well log required by Texas Occupations Code Section 1901.251 has not been filed with the District.

B. Before an Operating Permit automatically terminates under Rule 5.5.A, the permittee may request an extension of the time to drill a well. The request must be

submitted in writing and must include the reasons for the request. The Board will take action on the request under Rule 14.7.

Rule 5.6 Time Limit for Operation of Permitted Well

A. An Operating Permit shall automatically terminate if, within 24 months of the date of issuance of the permit, the permittee has not used water from the permitted well for a purpose authorized in the Operating Permit.

B. Before an Operating Permit automatically terminates under Rule 5.6.A, the permittee may request an extension of the time to operate a well. The request must be submitted in writing and must include the reasons for the request. The Board will take action on the request under Rule 14.7. If the Board grants the request for an extension, then the permittee shall pay the Reservation Fee to the District beginning on the date of the Board's approval of the request and ending on the date that the permittee uses water from the permitted well for a purpose authorized in the Operating Permit.

Rule 5.7 Renewal of Operating Permit

A. **Application.** Before the term of an Operating Permit expires, a permittee may apply for renewal of the permit. An application for renewal shall be submitted on a form obtained from the District and shall be signed and sworn to by the applicant. A renewal application fee must also be submitted, if one has been established under Rule 2.3. A permittee who has timely filed an application for renewal may continue to operate the well under the terms of the permit while the District considers the application.

B. **Processing.** An application for renewal of an Operating Permit will be processed as provided in Rule 14.3.

C. **Considerations.** In deciding whether to grant an application for renewal, deny it, or approve renewal of the Operating Permit with amended terms or conditions, the Board shall consider the following:

(1) whether the permittee has complied with the terms and conditions of the Operating Permit;

(2) whether the permittee has complied with District Rules and chapter 36 of the Texas Water Code, including any record of enforcement actions against the permittee for violation of District Rules and chapter 36;

(3) whether and how much water has been produced from the well for an authorized purpose and whether there has been any change in the projections of the water supply needs that the water from the well is intended to address since the permit was issued;

(4) whether any false or inaccurate information provided in the application justifies non-renewal or any changes in the permit conditions;

(5) whether any changes in the Texas Water Code or the District Rules on which the permit or a permit condition was based or any judicial decision issued after the permit was granted justify any changes in the permit conditions; and

(6) whether any changes in the District's Desired Future Conditions or the District Management Plan that were approved after the permit was granted justify any changes in the permit conditions.

D. **Failure to apply.** If a permittee fails to timely file an application for renewal, the Operating Permit will expire at the end of its stated term.

SECTION 6: TRANSPORT PERMITS

Rule 6.1 Required Transport Permit

A. Except as provided in Rule 6.1.B, no person may transfer groundwater outside of the District's boundaries for use outside the District's boundaries without first obtaining a Transport Permit.

B. A Transport Permit is not required for the transfer of groundwater outside of the District's boundaries under the following circumstances:

(1) if the groundwater will be used on a contiguous property owned by the same person that is partly inside and partly outside the District boundaries;

(2) if the groundwater will be used by a Retail Public Water Utility that is required to obtain a certificate of convenience and necessity under Texas Water Code chapter 13 to supply water within a certificated service area that lies partly inside and partly outside the District boundaries;

(3) if the groundwater will be used by a Retail Public Water Utility that is not required to obtain a certificate of convenience and necessity under Texas Water Code chapter 13 to supply water to a retail service area that lies partly inside and partly outside the District boundaries; and

(4) if the groundwater is transferred outside of the District's boundaries under a continuing arrangement in effect before March 2, 1997; provided, however, that a Transport Permit is required for any increase in the amount of groundwater transferred outside the District's boundaries under a continuing arrangement in effect before March 2, 1997.

Rule 6.2 Transport Permit Application

A. An application for a Transport Permit shall be submitted on a form obtained from the District and shall be signed and sworn to by the applicant. A separate application is required for each well from which the water to be transferred outside the District's boundaries will be produced.

B. The application form for a Transport Permit shall require the applicant to provide the following information:

(1) a copy of the completed registration form for the well;

(2) the maximum amount of water proposed to be transferred outside the District's boundaries annually (in gallons per year or acre feet per year);

(3) the location of the use of the water;

(4) information describing how this application addresses a water supply need in the receiving area, including information on when that water supply need is projected to occur; and

(5) if the applicant is not the End User of the water, the identity of the End User and a description of the applicant's regulatory, statutory, contractual or other legal obligation to address the End User's water supply need, if any;

(6) a Transport Permit application fee if one has been established under Rule 2.3; and

(7) any other information deemed necessary by the District to comply with the requirements of Texas Water Code chapter 36, its enabling statutes, and general law.

C. The applicant may provide the District with any other information relevant to the considerations in Rule 6.3.B.

Rule 6.3 Processing of Transport Permit Application

A. **Processing.** An application for a Transport Permit shall be processed as provided in Rule 14.3. If an application for a Transport Permit for a well is submitted with an application for an Operating Permit for the same well, the applications will be combined and processed together.

B. **Considerations.** In deciding whether to grant an application for a Transport Permit, deny the application, or approve the Transport Permit with terms other than those requested in the application, the Board shall consider the requirements of Texas Water Code chapter 36 and the District Rules, including, but not limited to, the following:

(1) the availability of water in the District and in the proposed receiving area during the period for which the water supply is requested;

(2) the projected effect of the proposed transfer on aquifer conditions, depletion, subsidence, or effects on existing permit holders or other groundwater users within the District; and

(3) the approved regional water plan and the District Management Plan.

Rule 6.4 Transport Permit Provisions

A. **Standard permit provisions.** Every Transport Permit issued by the District will include the following:

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

- (2) the location of the well;
- (3) the purpose for which water from the well is to be used;
- (4) a provision requiring water withdrawn under the permit be put to beneficial use at all times;
- (5) the location of the use of the water from the well;
- (6) the maximum amount of water withdrawn from the well that may be transferred outside the District's boundaries in a calendar year; and
- (7) the term of the permit.

B. **Special conditions.** A Transport Permit may also include any other special conditions required or authorized by these Rules or other applicable law for Operating Permits.

Rule 6.5. Term of Transport Permit

A. The term of a Transport Permit shall be three years if construction of a conveyance system has not been initiated prior to the issuance of the permit.

B. The term of a Transport Permit shall be thirty (30) years if construction of a conveyance system has been initiated prior to the issuance of the permit.

C. A three-year term under Rule 6.5.A shall automatically be extended to a 30-year term under Rule 6.5.B. if construction of a conveyance system is begun before the expiration of the initial term.

Rule 6.6 Renewal of Transport Permit

A. **Application.** Before the term of a Transport Permit expires, a permittee may apply for renewal of the permit. An application for renewal shall be submitted on a form obtained from the District and shall be signed and sworn to by the applicant. A renewal application fee must also be submitted, if one has been established under Rule 2.3. A permittee who has timely filed an application for renewal may continue to transfer water outside the District's boundaries under the terms of the permit while the District considers the application.

B. **Processing.** An application for renewal of a Transport Permit will be processed as provided in Rule 14.3.

C. **Considerations.** In deciding whether to grant an application for renewal, deny it, or approve renewal of the Transport Permit with amended terms or conditions, the Board shall consider the following:

(1) if the well requires an Operating Permit, whether the Operating Permit for the well remains in effect;

(2) whether the permittee has complied with the terms and conditions of the permit, the District Rules, and chapter 36 of the Texas Water Code, including any record of enforcement actions against the permittee;

(3) whether any inaccurate information provided in the application justifies non-renewal or any changes in the permit conditions;

(4) whether any changes in the Texas Water Code or the District Rules on which the permit or a permit condition was based or any judicial decision issued after the permit was granted justify any changes in the permit conditions; and

(5) whether any changes in the District's desired future conditions or the District Management Plan that were approved after the permit was granted justify any changes in the permit conditions.

SECTION 7: CHANGE IN WELL CONDITIONS OR OPERATIONS; CHANGE IN OWNERSHIP; REPLACEMENT WELLS

Rule 7.1 Changes to Well Conditions or Operations Requiring Amended Registration for Exempt Wells and Non-exempt Wells

A. No owner of an exempt well or a non-exempt well may make any change to a well that (i) would change an exempt well to a non-exempt well or (ii) would change the applicable spacing requirements for the well, without filing an amended registration form with the District and receiving prior authorization for the action under this Rule 7.1. A registration fee must be submitted with the amended registration form, if a registration fee has been established under Rule 2.3.

B. If proposed action would change an exempt well to a non-exempt well, the Well Owner shall also apply for an Operating Permit under Section 5 of these Rules. If the District grants the application for an Operating Permit, the Operating Permit is an approval of the amended well registration on the terms and conditions set out in the Operating Permit.

C. If the proposed action would require a change in any of the terms of the Operating Permit for a non-exempt well, the Well Owner shall also apply for an amendment to the Operating Permit under Rule 7.3. If the District grants the application for the amendment to the Operating Permit, the amendment to the Operating Permit is an approval of the amended well registration on the terms and conditions set out in the amendment to the Operating Permit.

D. If the proposed action does not require an application for an Operating Permit or an amendment to an Operating Permit, then the General Manager shall approve the amended registration if the General Manager determines that:

- (1) the information provided is complete;
- (2) any required fee has been paid; and
- (3) after the proposed action, the well will comply with the applicable spacing requirements under Rule 8.2 or the Well Owner has obtained a variance under Rule 8.3.

E. Upon the General Manager's approval, the District shall issue an amended certificate of registration to the Well Owner. The amended certificate of registration will serve as authorization to take the proposed action within 180 days of the issuance of the amended certificate of registration. The applicant may request an extension of the time to take the proposed action. The request be submitted in writing and must include the reasons for the request. The Board will take action on the request under Rule 14.7.

F. An applicant may appeal any decision of the General Manager under this Rule 7.1 to the Board as provided in Rule 14.8.

Rule 7.2. Amendments to Operating Permit for Non-exempt Wells

A. **Required amendments.** An amendment to an Operating Permit is required for any change to the terms, provisions or special condition in the Operating Permit.

B. **Application.** An Operating Permit holder shall submit an application for an amendment to an Operating Permit on a form obtained from the District. The form shall be signed and sworn to by the applicant. An amendment application fee must also be submitted, if one has been established under Rule 2.3.

C. **Amendment without increase in authorized amount or withdrawal rate.** If an application to amend an Operating Permit does not seek to increase the maximum amount of water that may be withdrawn from the well in a calendar year, or the maximum instantaneous rate at which water may be withdrawn from the well, then the application will be processed as provided in Rule 14.5; provided, however, that the Board may, in its sole discretion, require the application to be processed as provided in Rule 14.3.

D. **Amendment to decrease authorized amount or withdrawal rate.** The General Manager may grant an application to amend an Operating Permit that seeks solely to decrease the maximum amount of water that may be withdrawn from the well in a calendar year, or the maximum instantaneous rate at which water may be withdrawn from the well, without notice or hearing.

E. **Processing.** Except as provided in Rule 7.3.C. and Rule 7.3.D., an application for an amendment shall be processed as provided in Rule 14.3.

F. **Considerations.** Except as provided in Rule 7.3.G., in deciding whether to grant an application for an amendment, deny it, or approve the amendment with terms other than those requested in the application, the District shall use the considerations provided in Rule 5.2.C.

G. **General Manager-proposed amendments.** The General Manager may propose an amendment to an Operating Permit. The General Manager shall provide the permittee with written notice of a General Manager-proposed amendment not later than the 60th day before the first Board meeting at which a General Manager-proposed amendment will be considered. A General Manager-proposed amendment shall be processed as provided in Rule 14.3.C(1), (2) and (4) and Rule 14.3.D.-F. In deciding whether to grant a General Manager-proposed amendment, deny it, or approve the amendment with terms other than those proposed, the Board shall consider:

(1) whether changes in the Texas Water Code or the District Rules on which the permit or a permit condition was based or any judicial decision issued after the permit was granted justify any changes in permit conditions; and

(2) whether changes in the District's Desired Future Conditions or the District Management Plan that were approved after the permit was granted justify any changes in permit conditions.

Rule 7.3 Amendments to Transport Permit

A. **Required amendments.** An amendment to a Transport Permit is required for any change to the terms, provisions or special conditions in the Transport Permit.

B. **Application.** An application for an amendment to a Transport Permit shall be submitted on a form obtained from the District and shall be signed and sworn to by the applicant. A amendment application fee must also be submitted, if one has been established under Rule 2.3.

C. **Amendment without increase in authorized transport amount.** If an application to amend a Transport Permit does not seek to increase the maximum amount of water that may be transported outside the boundaries of the District in a calendar year, then the application will be processed as provided in Rule 14.5; provided, however, that the Board may, in its sole discretion, require the application to be processed as provided in Rule 14.3.

D. **Amendment to decrease authorized amount.** The General Manager may grant an application to amend a Transport Permit to decrease the maximum amount of water that may be transferred outside the boundaries of the District in a calendar year, without notice or hearing.

E. **Processing.** Except as provided in Rule 7.3.C and Rule 7.3.D., an application for an amendment to a Transport Permit shall be processed as provided in Rule 14.3.

F. **Considerations.** In deciding whether to grant an application for an amendment, deny it, or approve the amendment with terms other than those requested in the application, the Board shall use the considerations provided in Rule 6.3.B.

Rule 7.4 Transfer of Ownership and Well Registration for Exempt Wells and Non-Exempt Wells

A. The new owner of an exempt or non-exempt well shall report the change in ownership of the well to the District within 60 days of the date of the ownership change.

B. The new Well Owner shall submit to the District:

(1) a completed change of ownership form obtained from the District;

(2) a copy of the written instrument transferring ownership of the well to the new Well Owner; and

- (3) a change of ownership fee, if one has been established under Rule 2.3.

C. The General Manager shall reflect the change in ownership of the well and the well registration in the records of the District if the General Manager determines that:

- (1) the information provided is complete; and
- (2) any required fee has been paid.

D. An applicant may appeal any decision of the General Manager under this Rule 7.1 to the Board as provided in Rule 14.8.

Rule 7.5 Transfer of Operating Permit for Non-exempt Wells

A. **Prior approval required.** Except as provided in Rule 7.5.E, the holder of an Operating Permit may not transfer ownership of an Operating Permit to another person or entity without the District's prior approval.

B. **Application.** The proposed transferee shall submit:

- (1) a completed application to transfer an Operating Permit on a form obtained from the District;

- (2) a copy of the written instrument transferring ownership of the well to the proposed transferee; and

- (3) a transfer application fee, if one has been established under Rule 2.3.

C. **Processing.** An application to transfer an Operating Permit will be processed as provided in Rule 14.5.

D. **Considerations.** In deciding whether to grant an application for transfer, deny it, or approve the transfer with conditions, the Board shall consider:

- (1) whether the proposed transferee has complied with the terms and conditions of any other District permits issued to the proposed transferee, the District Rules, and chapter 36 of the Texas Water Code, including any record of enforcement actions against the proposed transferee; and

- (2) whether the proposed transferee has the financial and managerial capabilities necessary to comply with the terms and conditions of the permit to be transferred.

E. **Agricultural Wells.** The holder of an Operating Permit for a well that is used solely for Agricultural Use may transfer ownership of the Operating Permit without the

District's prior approval. The new owner shall report the change of ownership to the District as provided in Rule 7.4.

Rule 7.6 Transfer of Transport Permit

A. **Exempt wells.** A Transport Permit for an exempt well may only be transferred with the ownership and well registration for the well. Applications to transfer Transport Permits for exempt wells shall be processed with the application for transfer of ownership and well registration under Rule 7.2.

B. **Non-exempt wells.** A Transport Permit for a non-exempt well may only be transferred with the Operating Permit for the well. Applications to transfer Transport Permits shall be processed with the application for transfer of the Operating Permit under Rule 7.5.

Rule 7.7 Replacement Wells for Exempt Wells and Non-exempt Wells

A. No person may drill a replacement well for an exempt well or a non-exempt well without the District's prior approval.

B. The Well Owner shall submit an application for a replacement well on a form obtained from the District. The application shall be signed and sworn to by the proposed transferee. A replacement well application fee must also be submitted, if one has been established under Rule 2.3.

C. The General Manager shall approve the application in writing if the General Manager determines that:

(1) either: (a) the location of the proposed replacement well is within 500 feet of the existing well and complies with the applicable spacing requirements under Rule 8.2; or (b) the applicant has obtained a variance under Rule 8.3 or Rule 14.7; and

(2) the replacement well will be located in the same aquifer unit as the well being replaced.

D. A replacement well must be drilled within 30 feet of the approved location, and not elsewhere. Rule 10.1.A does not apply to a replacement well.

E. The approval of a replacement well shall expire if the new well is not completed and the well log required by Texas Occupations Code Section 1901.251 is not filed with the District within 180 days of the issuance of the approval. The applicant may request an extension of the time to drill a replacement well. The request be submitted in writing and must include the reasons for the request. The General Manager may grant the request, deny it, or grant a different extension than the one requested, without notice and hearing.

F. If a replacement well is completed and the well log is filed with the District within the applicable time limit under Rule 7.7.E, then the well registration, Operating Permit, and other permits for the well that is being replaced will be assigned to the replacement well, unless the Well Owner notifies the District in writing that the Well Owner intends to plug the replacement well and retain the original well. Immediately after determining whether the replacement well or the original well will be retained for production, the Well Owner shall plug the other well in accordance with applicable law, unless the District and the well owner mutually agree that the District will use that other well as a monitoring well.

G. An applicant may appeal any decision of the General Manager under this Rule 7.7 to the Board as provided in Rule 14.8.

SECTION 8: SPACING REQUIREMENTS

Rule 8.1. Purpose and Applicability

A. The purpose of these well spacing requirements is to minimize as far as practicable the drawdown of the water table or the reduction of artesian pressure, to prevent interference between wells, to prevent degradation of water quality, and to prevent waste.

B. The requirements of this Rule 8 apply to all new wells drilled within the District after [date of adoption], 2012, except exempt wells described in Rule 3.1.C and Rule 3.1.D.

Rule 8.2 Minimum Well Spacing Requirements

A. **From Property Lines.** A new non-exempt well may not be drilled within 100 feet of the nearest Property Line. A new exempt well may not be drilled within 50 feet of the nearest Property Line.

B. **From other wells.** A new non-exempt well shall be spaced from the nearest well that is (1) completed in the same aquifer unit and (2) owned by a different Well Owner as follows:

Maximum Pump Capacity (gpm)	Simsboro and Carrizo (feet)
≤ 500	1,500
501 – 1000	2,500
> 1000	5,000

Rule 8.3. Well Spacing Variances

A. **Application.** A Well Owner may apply for a variance to the spacing requirements of Rule 8.2. The applicant shall submit a variance application to the District on a form furnished by the District. The application shall require the applicant to provide the following information:

(1) a location map or property plat drawn on a scale that adequately details the well site, all existing wells located within 5,000 feet of the well location, and any existing or proposed wastewater systems or other potential sources of contamination within 500 feet of the well location;

(2) a description of the facts supporting the variance request, including any supporting documentation; and

(3) any signed and notarized waivers from an Owner or Well Owner within the applicable spacing limits described in Rule 8.2 stating that the Owner or Well Owner has no objection the proposed location of the well.

B. **Non-exempt wells.** If the well for which the variance is requested is a proposed new well that requires an Operating Permit under Section 5 of these Rules or an existing well that requires an amendment to an Operating Permit under Rule 7.3, then the Well Owner shall submit the variance application with the application for an Operating Permit or for an amendment to an Operating Permit, and the variance request will be processed in the same manner as the Operating Permit application.

D. **Exempt wells.** If the well for which the variance is requested is or will be an exempt well, the variance application shall be processed as follows:

(1) The General Manager may grant the variance, without notice or hearing, if:

(a) the applicant has submitted signed and notarized waivers from all Owners and Well Owners within the applicable spacing limits described in Rule 8.2; and

(b) the well location complies with the requirements of Rule 10.1.B.

(2) The General Manager, in his or her sole discretion, may refer a request for a variance to the Board for decision, without regard to whether the request meets the requirements of Rule 8.3.D(1).

(3) If the application does not meet the requirements of Rule 8.3.D(1), or if the General Manager refers the application to the Board, the request for a variance will be set on the agenda for a Board meeting. In addition to the notice required by the Open Meetings Act, the District shall mail notice at least fourteen (14) days prior to the Board meeting at which the variance request will be considered to the applicant for the variance and to all Owners and Well Owners located within the spacing limits described in Rule 8.2. The notice shall provide the proposed location of the well(s), the applicant's name and address, and the date, time, and location of the Board meeting. The Board shall consider the variance at the Board meeting, which shall serve as the hearing on the variance. The Board will decide whether to grant the variance, deny the variance, or approve the variance with terms other than those requested, using the process described in Rule 14.5.

SECTION 9: PRODUCTION LIMITS FOR NON-EXEMPT WELLS

Rule 9.1. Production Limits

A. To accomplish the purposes of Texas Water Code chapter 36, and to achieve the stated purposes and goals of the District, including managing the sustainability of the aquifers and preventing significant, sustained water-level declines within the aquifers, the district shall manage total groundwater production on a long-term basis to achieve the applicable Desired Future Condition. The District may establish production limits on all permits for this purpose. All Operating Permits are issued subject to any future production limits adopted by the District.

B. After the TWDB issues the Modeled Available Groundwater amounts for the District, the Board will determine if production limits are necessary. In making this determination, the Board will consider:

(1) the Modeled Available Groundwater determined by the TWDB executive administrator;

(2) the TWDB's executive administrator's estimate of the current and projected amount of groundwater produced under exemptions granted by District rules and Texas Water Code section 36.117;

(3) the amount of groundwater authorized for withdrawal under Operating Permits previously issued by the District;

(4) a reasonable estimate of the amount of groundwater that is actually produced under Operating Permits issued by the District; and

(5) yearly precipitation and production patterns.

C. The Board shall review the considerations in Rule 9.1.B prior to renewing permits under Rule 5.7.

Rule 9.2. Management Zones

A. Using the best hydrogeologic and other relevant scientific data readily available, the Board by resolution may create certain management zones within the District based on geographically or hydrogeologically defined areas, aquifers, or aquifer subdivisions, in whole or in part, within which the District may:

(1) assess water availability;

(2) authorize total production and make proportional adjustments to permitted withdrawals;

(3) allow for the transfer of permits; and

(4) otherwise undertake efforts to manage the groundwater resources in a manner that is consistent with the District Management Plan and that aids in the attainment of all applicable Desired Future Conditions.

B. The District shall attempt to delineate Management Zones along boundaries that, to the extent practicable, will promote fairness and efficiency by the District in its management of groundwater and the ability of the public to identify the boundaries based upon land surface features.

SECTION 10: WELL LOCATION AND CONSTRUCTION STANDARDS

Rule 10.1. Well Location

A. All new wells must be drilled within 100 feet of the location identified in the approved certificate of registration or the approved Operating Permits; provided that the well location must comply with the applicable well spacing requirements under Rule 8.2 or any variance granted under Rule 8.3.

B. All new wells must comply with the location standards of Texas Department of Licensing and Regulation rules at 16 Texas Administrative Code Section 76.1000, as amended, and with the minimum required separation distance for on-site sewage facilities under Texas Commission on Environmental Quality rules at 30 Texas Administrative Code Section 285.91(10), as amended.

C. Public water system wells must comply with the location standards of 30 Texas Administrative Code chapter 290.

Rule 10.2 Well Construction

A. Except as provided in Rule 10.2.C, all new construction of wells and installation of pumps shall be in accordance with the Texas Occupations Code Chapter 1901, "Water Well Drillers," and Chapter 1902, "Water Well Pump Installers," as amended, and the rules of the Texas Department of Licensing and Regulation at 16 Texas Administrative Code, Chapter 76, as amended.

B. All public water supply wells must be completed using the engineer-designed criteria approved by the Texas Commission on Environmental Quality under 30 Texas Administrative Code Chapter 290, as amended.

C. All non-exempt wells other than public water supply wells must be completed in accordance with the stricter of the Texas Department of Licensing and Regulation rules set forth at 16 Texas Administrative Code, Chapter 76, the applicable county regulations, the applicable city ordinances, or the following specifications:

(1) The annular space between the borehole and the casing shall be filled with cement slurry from the ground level to a depth of not less than 10 feet below the land surface or well head.

(2) All wells shall have a concrete slab or sealing block above the cement slurry around the well at the ground surface.

(3) The slab or block shall extend at least two (2) feet from the well in all directions and have a minimum thickness of four inches and shall be separated from the well casing by a plastic or mastic coating or sleeve to prevent bonding of the slab to the casing.

- (4) The surface of the slab shall be sloped to drain away from the well.
- (5) In all new wells:
 - (a) the casing shall extend a minimum of one foot above the original ground surface; and
 - (b) A slab or block as described in Rule 10.2.C(3) is required above the cement slurry except when a pitless adapter is used. Pitless adapters may be used in such wells provided that:
 - (i) the pitless adapter is welded to the casing or fitted with another suitably effective seal; and
 - (ii) the annular space between the borehole and the casing is filled with cement to a depth not less than 15 feet below the adapter connection.
- (6) The well casing shall be capped or completed in a manner that will prevent pollutants from entering the well.

Rule 10.3 Re-completions

- A. The Well owner shall have the continuing responsibility of insuring that a well does not allow commingling of undesirable water with fresh water or the unwanted loss of water through the wellbore to other porous strata.
- B. If a well is allowing the commingling of undesirable water with fresh water or the unwanted loss of water, and the casing in the well cannot be removed and the well re-completed within the applicable rules, the casing in the well shall be perforated and cemented in a manner that will prevent the commingling or loss of water. If such a well has no casing, then the well shall be cased and cemented, or plugged in a manner that will prevent such commingling or loss of water.
- C. The Board may direct a Well Owner to take steps to prevent the commingling of undesirable water with fresh water, or the unwanted loss of water.

SECTION 11: REPORTING; RECORDKEEPING; PAYMENT OF PRODUCTION FEES AND TRANSPORT FEES

Rule 11.1 Filing State Reports

A. **Well Report.** A water well driller shall submit a copy of the State Well Log report and, if available, a geophysical log to the District within 30 days of: (1) the cessation of drilling, for a well that will not be completed; (2) the completion of a well; (3) the deepening of a well; or (4) any other alteration to the well.

B. **Plugging Report.** Within 30 days after plugging a well, the person plugging the well shall submit to the District a copy of the State Plugging Report.

Rule 11.2 Water Use Reports and Fee Payments

A. **Wells with Operating Permits.** An Operating Permit holder shall keep a record of the total amount of water produced from a well or a Well System in each calendar month. The Operating Permit holder shall submit the monthly water production record to the District on or before the 15th day of the following calendar month, along with the total amount of the Production Fee due to the District under the District Fee Schedule for the reported month's production.

B. **Wells with Transport Permits.** A Transport Permit holder shall keep a record of the total amount of water produced from a well or a Well System and transported outside the boundaries of the District in each calendar month. The Transport Permit holder shall submit the monthly water transport record to the District on or before the 15th day of the following calendar month, along with the total amount of the Transport Fee due to the District under the District Fee Schedule for the reported month's transported water.

C. **Other wells transporting water outside District boundaries.** A Well Owner who transports groundwater outside the District's boundaries for use outside the District's boundaries, but is exempted from obtaining a Transport Permit under Rule 6.1.B.(2) or Rule 6.1.B.(3), shall keep a record of the total amount of water transported outside the boundaries of the District in each calendar month. The Well Owner shall submit the monthly water transport record to the District on or before the 15th day of the following calendar month, along with the total amount of the Transport Fee due to the District under the District Fee Schedule for the reported month's transported water.

D. **Exempt rig supply wells.** The production of water from all wells that are exempted from obtaining an Operating Permit under Rule 3.1.B shall be recorded using a water measuring device or method approved by the District that is within plus or minus 10% accuracy. The well operator shall keep a record of (i) the total amount of water produced from the well in each calendar month and (ii) the quantity of water produced from a well and transported outside the boundaries of the District in the same month, if any. The well operator shall submit the monthly water production record and monthly

water transport record to the District on or before the 15th day of the following calendar month. For purposes of this Rule 11.2.C, the well operator is the person holding the Railroad Commission oil or gas permit as described in Texas Water Code section 36.117(b)(2). If water was transported outside the District boundaries in a calendar month, the well operator shall submit the total amount of the Production Fee and the Transport Fee due to the District under the District Fee Schedule for the reported month's transported water.

E. Exempt mining wells. An entity holding a permit issued by the Railroad Commission under Texas Natural Resources Code, Chapter 134, that authorizes the drilling of a water well shall report monthly to the district before the 15th day of the next calendar month:

- (1) the total amount of water withdrawn from the well during the calendar month;
- (2) the quantity of water necessary for mining activities in that month;
- (3) the quantity of water withdrawn for other purposes in that month; and
- (4) the quantity of water transported outside the boundaries of the District in that month, if any.

If water was transported outside the District boundaries in a calendar month, the entity holding the permit shall submit the total amount of the Production Fee and the Transport Fee due to the District under the District Fee Schedule for the reported month's transported water.

SECTION 12: PROHIBITION AGAINST WASTE AND POLLUTION

Rule 12.1 Wasteful Use

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

Rule 12.2 Groundwater Pollution

No person shall pollute or harmfully alter the character of the groundwater within the District by causing or allowing the introduction of undesirable water, pollutants, or other deleterious matter from another stratum, from the surface of the ground, or from the operation of a well. Injection activities that are in compliance with the Texas Commission on Environmental Quality regulatory requirements authorized by chapter 27 of the Texas Water Code chapter 27, for which the U.S. Environmental Protection Agency and the TCEQ have approved the aquifer exemption specified in the federal Safe Drinking Water Act and codified in 40 Code of Federal Regulations, section 114.7(b) and 30 Texas Administrative Code, section 331.13, shall not constitute groundwater pollution under this Rule 12.2.

Rule 12.3 Waste Prevention

Any person producing or using groundwater shall exercise due care in accordance with acceptable and approved methods to stop and prevent waste of groundwater.

Rule 12.4 Deteriorated Well

No person shall allow the continued existence of a Deteriorated Well or an abandoned well. Not later than the 180th day after the date a landowner or other person who possesses a Deteriorated Well learns of its condition and location, the well shall be plugged in accordance with the Rules of the Texas Department of Licensing and Regulation, 16 Texas Administrative Code chapter 76, as amended. It is the responsibility of the landowner to ensure that such a well is plugged in order to prevent pollution of the groundwater and to prevent injury to persons. Not later than the 30th day after the date the well is plugged, a State Plugging Report shall be submitted to the District as required by Rule 11.1.B.

SECTION 13: INVESTIGATIONS AND ENFORCEMENT

Rule 13.1 Notice and Access to Property

District employees and agents are entitled to enter any public or private property within the boundaries of the district at any reasonable time for the purpose of inspecting and investigating conditions relating to the quality of water in the State or the compliance with any rule, regulation, permit, or other order of the District. Before entering upon property for purpose of an inspection or investigation, the District will provide notice of their presence to the property owner, his agent, tenant, or other local contact, as determined by the information in the District's records. District employees or agents acting under this authority shall exhibit proper credentials upon request, and shall observe all applicable rules and regulations concerning safety, internal security, and fire protection.

Rule 13.2 Notice of Violation

The District will send a notice of violation to a person who is believed to be in violation of law, including violation of a District Rule, order, or permit. The notice of violation shall include the investigation report, if any. The notice of violation may require remedial action, including the sealing of a well under Rule 14.4, and may assess a penalty. The notice shall provide the opportunity for the respondent to take remedial action and to meet with the District regarding the alleged violation. The respondent will also be provided an opportunity for hearing under Rule 14.9.

Rule 13.3 Penalties for Violation of District Rules, Permits, or Orders

Following notice and opportunity for hearing, the Board may assess penalties of up to \$5,000 per day for each day that a violation of a District Rule, or a permit or order issued under the District Rules continues.

Rule 13.4 Sealing of Wells

A. The District may require the sealing of a well that is in violation of District Rules or that the District has prohibited from producing groundwater.

B. If the District believes that continued operation of a well may cause a threat of imminent endangerment to human health, safety, or the environment, the District may require the sealing of a well on an emergency basis. In such a case, the District shall provide an opportunity for notice and hearing under Rule 14.9 no later than the next regularly scheduled Board meeting.

C. If the District requires the sealing of a well and the owner fails to seal the well, the District may enter upon the property as provided by Rule 13.1 and seal the well.

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

E. Tampering with, altering, damaging, removing, or violating the seal of a sealed well in any way, or pumping groundwater from a well that has been sealed constitutes a violation of District Rules and subjects the person who performs that action, as well as the well owner, to enforcement and penalties under District Rules.

Rule 13.5 Civil Enforcement of Rules

The Board may seek enforcement of District Rules by injunction, mandatory injunction, or other appropriate remedy through a suit filed in a court of competent jurisdiction, as provided by Texas Water Code section 36.102.

SECTION 14: PROCEDURAL RULES

Rule 14.1 Hearing on Rules Other Than Emergency Rules

A. The Board will consider proposed Rules at a regularly scheduled or specially called Board meeting. The Board meeting at which the proposed Rules are considered under this Rule shall be considered the public hearing on the proposed Rules and fulfills the requirement, if any, for a public hearing.

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

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

- (1) Post notice in a place readily accessible to the public at the District office;
- (2) Provide notice to the county clerks of Bastrop County and Lee County;
- (3) Publish notice in one or more newspapers of general circulation in the counties in which the District is located; and
- (4) Provide notice by mail, facsimile, or electronic mail to any person who has requested notice under Rule 14.1.F. Failure to provide such notice does not invalidate an action taken by the District at a rulemaking hearing.

D. Notice of the hearing on the proposed Rules shall include:

- (1) A brief explanation of the subject of the rulemaking hearing, including a statement that the Board will consider changes to the Rules.
- (2) The time, date, and location of the hearing.
- (3) The agenda of the hearing.
- (4) A statement that the proposed Rules are available to be reviewed or copied at the District Office prior to the hearing.
- (5) A statement that the District will accept written comments and that provides the deadline for submitting such written comments.
- (6) A statement that oral public comment will be taken at the hearing.

E. Copies of the proposed Rules shall be available at the District Office during normal business hours at least 20 days prior to the hearing.

F. A person may submit to the District a written request for notice of a rulemaking hearing. A request is effective for the remainder of the calendar year in which the request is received by the District. To receive notice of a rulemaking hearing in a later year, a person must submit a new request.

G. The presiding officer shall conduct a rulemaking hearing in the manner the presiding officer determines to be most appropriate to obtain information and comments relating to the proposed rule as conveniently and expeditiously as possible. Comments may be submitted orally at the hearing or in writing. The presiding officer may hold the record open for a specified period after the conclusion of the hearing to receive additional written comments.

H. A district may require each person who participates in a rulemaking hearing to submit a hearing registration form stating:

- (1) the person's name;
- (2) the person's address; and
- (3) whom the person represents, if the person is not at the hearing in the person's individual capacity.

I. The presiding officer shall prepare and keep a record of each rulemaking hearing in the form of an audio or video recording or a court reporter transcription.

J. A district may use an informal conference or consultation to obtain the opinions and advice of interested persons about contemplated rules and may appoint advisory committees of experts, interested persons, or public representatives to advise the district about contemplated rules.

K. If the Board decides to consider substantial changes to the proposed Rules, the Board will provide new notice of the proposed rules and hold an additional hearing on the proposed Rules in accordance with this Rule.

L. The Board shall issue a written order or resolution reflecting its decision. The proposed Rules that the Board has approved shall be an attachment to that written order or resolution.

M. The effective date of the written order or resolution shall be the date on which the President of the District signs the order or resolution. The order or resolution shall include a statement that the proposed Rules become effective and final on that date. Any appeal authorized by Texas Water Code chapter 36, subchapter H shall run from the effective date.

Rule 14.2 Hearing on Emergency Rules

A. The Board may adopt an emergency rule without following the procedures in rule 14.1 if the Board:

(1) finds that a substantial likelihood of imminent peril to the public health, safety, or welfare, or a requirement of state or federal law, requires adoption of a rule on less than 20 days' notice; and

(2) prepares a written statement of the reasons for its finding under Rule 14.A(1).

B. An emergency rule under this Rule 14.2 must be adopted at a meeting of the Board subject to the requirements of the Open Meetings Act. Notice required by the Open Meetings Act shall be provided.

C. Except as provided by Rule 14.2.D, a rule adopted under this section may not be effective for longer than 90 days.

D. If notice of a hearing under Rule 14.1 is given not later than the 90th day after the date the rule is adopted, the rule is effective for an additional 90 days.

Rule 14.3 Permit Actions by the Board

A. **"Application" defined.** In this Section 14, "Application" refers to:

(1) an application for a Operating Permit;

(2) an application for a Transport Permit;

(3) an application to amend an Operating Permit, except an application described in Rule 7.2.C. and Rule 7.2.D; or

(4) an application to amend a Transport Permit, except an application described in Rule 7.5.C. and Rule 7.5.D.

B. **Technical review.** Upon receipt of an Application, the General Manager will conduct a technical review as follows:

(1) The General Manager will notify the applicant if the Application is incomplete or if any additional information or documentation is useful or necessary to address the factors that the Board will consider in making a decision on the Application under these Rules. If the applicant has not supplied the additional information or documentation within 180 days following the date that the General Manager notified the applicant of the need for the additional information or documentation, the Application shall expire.

(2) The General Manager will notify the applicant in writing when the technical review has been completed and the Application has been declared Administratively Complete. The written notice will contain a summary of the General Manager's recommendation on the Application, and, if the General Manager recommends that a permit, an amendment, or a renewal be granted, may include a draft permit.

C. **Notice.** Within 60 days of the date on which the General Manager determines that an Application is Administratively Complete, the Application will be set on the agenda for a Board meeting. Notice of the meeting shall be provided as required by the Open Meetings Act and as follows:

(1) **Contents of notice.** The General Manager shall prepare a notice, which shall include the following information:

- (a) the name of the applicant;
- (b) the address or approximate location of the well or proposed well;
- (c) a brief explanation of the proposed permit, permit amendment, permit renewal, or permit transfer, including any requested amount of groundwater, the purpose of the proposed use, and any change in use;
- (d) the time, date, and location of the meeting; and
- (e) any other information the General Manager considers relevant and appropriate.

(2) **District notice.** The General Manager shall provide the notice as follows:

(a) Not later than the 25th day before the date of the meeting, the General Manager shall provide the notice to the applicant by regular mail. At the request of the applicant, the General Manager will also provide the notice of hearing to the applicant by facsimile or electronic mail.

(b) Not later than the 20th day before the date of the meeting, the General Manager shall:

- (i) post the notice in a place readily accessible to the public at the District Office;
- (ii) provide the notice to the county clerks of Bastrop County and Lee County; and
- (iii) provide the notice by regular mail, facsimile, or electronic mail to any person who has requested notice under Rule 14.3.C(4).

(3) **Applicant notice.** The applicant shall provide the notice as follows:

(a) Not later than the 20th day before the meeting, the applicant shall provide the notice by regular mail to:

(i) the Owner and Landowners of property adjoining the Property Line, as shown in the county tax rolls on the date the notice is mailed;

(ii) the owners of all existing registered and permitted wells within 5,000 feet of the proposed well, as shown in the records of the District on the date the notice is mailed; and

(b) Not later than the 20th day before the meeting, the applicant shall publish the notice once in a newspaper of general circulation in each county within the District.

(c) The applicant shall provide the District with proof of the mailing and publication of notice before the date of the hearing. Proof of publication shall include a publisher's affidavit and tear sheet of the notice.

(4) **Request for notice.** A person may request notice from the District of a meeting or hearing on an Application. The request must be in writing and is effective for the remainder of the calendar year in which the request is received by the District. To receive notice of a hearing in a later year, a person must submit a new request. An affidavit of an officer or employee of the District establishing attempted service by first class mail, facsimile, or e-mail to the person in accordance with the information provided by the person is proof that notice was provided by the District. Failure to provide notice to a person requesting notice under this Rule 14.3.C(4) does not invalidate an action taken by the District at the meeting or hearing.

D. **Request for contested case hearing.** A request for a contested case hearing on the Application, to be conducted under Rule 14.4, must be made in writing and filed with the District no later than the 5th day before the date of the Board meeting at which the Application will be considered. A request for a contested case hearing may be granted if the request is made by:

(1) the General Manager;

(2) the applicant; or

(3) a person who has a personal justiciable interest that is related to a legal right, duty, privilege, power, or economic interest that is within the District's regulatory authority and that is affected by the Board's action on the Application, not including persons who have an interest common to members of the public.

E. Consideration of request for contested case hearing.

(1) If the District receives a timely-filed request for a contested case hearing on the Application, then, at its meeting, the Board may:

- (a) determine whether to grant or deny a request for a contested case;
- (b) designate parties;
- (c) refer the Application to a Hearings Examiner or, if a timely request has been made under Rule 14.4.B(1), to the State Office of Hearings Administration for a contested case hearing
- (d) if a timely request has been made under Rule 14.4.B(1), establish the deposit required by Rule 14.4.B(2);
- (e) designate the location of the hearing; or
- (f) schedule a preliminary hearing at which the Board will determine all of the matters described in subsections (a) to (e) or any matters described in those subsections that were not decided at the meeting.

(2) Any preliminary hearing called pursuant to Rule 14.3.E(1)(f) will be scheduled within 35 days of the Board meeting date. The District will provide notice of the preliminary hearing as required by the Open Meetings Act. In addition, the District shall send notice of the preliminary hearing to the applicant, any person who filed a request for a contested case hearing, and persons requesting notice under Rule 14.3.C(4) no later than the 10th day before the date of the preliminary hearing. Failure to provide notice to a person requesting notice under Rule 14.3.C(4) does not invalidate an action taken by the District at the preliminary hearing.

(3) If the Board grants a request for a contested case hearing, a hearing on the Application will be held in accordance with Rule 14.4.

F. Uncontested Application. If the District does not receive a timely-filed request for a contested case hearing on the Application, or if the Board denies all requests for a contested case hearing on the Application, the Board will take action on the application under Rule 14.5.

Rule 14.4 Permit Actions Requiring Contested Case Hearing

A. Application. This Rule 14.4 applies only to Applications for which the Board has granted a request for a contested case hearing under Rule 14.3.E.

B. Hearing Conducted by SOAH. If timely requested by the applicant or other party to a contested case, the District shall contract with the State Office of Administrative Hearings (SOAH) to conduct the hearing.

(1) The applicant or other party must request that the hearing be conducted by SOAH not later than the 5th day before the date of the preliminary hearing on the Application.

(2) The requesting party 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. The Board shall determine the amount of the required deposit at the preliminary hearing held under Rule 14.3.E. The requesting party shall make the required deposit with the District no later than the 20th day after the preliminary hearing. At the conclusion of the hearing, the District shall refund any excess money to the paying party. All other costs may be assessed as authorized by this chapter or district rules.

(3) A hearing before a SOAH Administrative Law Judge shall be conducted as provided by Texas Government Code chapter 2001, subchapters C, D and F, the procedural rules of SOAH, and Rule 14.4 of the District Rules to the extent that Rule 14.4 is consistent with SOAH's procedural rules. The SOAH Administrative Law Judge will be the presiding officer for purposes of Rule 14.4.

C. Hearing conducted by Board or Hearings Examiner. Except as provided in Rule 14.B, a contested case hearing shall be conducted by a quorum of the Board, or the Board, at its sole discretion, may appoint a Hearings Examiner to preside at and conduct the hearing on the Application. The appointment of a Hearings Examiner shall be made in writing. If the contested case hearing is conducted by a quorum of the Board, the President shall preside. If the President is not present, the Board shall select one of the Directors who are present to preside. If the hearing is conducted by a Hearings Examiner, the Hearings Examiner shall be the presiding officer.

D. Powers of Presiding Officer. The presiding officer in a contested case has the following authority and obligations:

- (1) May set any necessary additional hearing dates.
- (2) May establish the order for presentation of evidence.
- (3) May administer oaths to all persons presenting testimony.
- (4) May examine persons presenting testimony.
- (5) May ensure that information and testimony are introduced as conveniently and expeditiously as possible without prejudicing the rights of any party.

(6) May prescribe reasonable time limits for testimony and the presentation of evidence.

(7) May allow or require testimony to be submitted in writing and may require that written testimony be sworn to. On the motion of a party to the hearing, the presiding officer may exclude written testimony if the person who submits the testimony is not available for cross-examination by phone, a deposition before the hearing, or other reasonable means.

(8) Shall admit relevant evidence and may exclude evidence that is irrelevant, immaterial, or unduly repetitious. The Texas Rules of Evidence shall apply to a contested case, except that evidence inadmissible under those rules 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.

(9) May issue subpoenas when required to compel the attendance of a witness or the production of documents or other tangible things in the manner provided in the Texas Rules of Civil Procedure.

(10) May allow any discovery that is authorized by the Texas Rules of Civil Procedure.

(11) May rule on motions, on discovery issues, on the admissibility of evidence, and on other interlocutory matters.

(12) May refer parties to an alternative dispute resolution (ADR) procedure on any matter at issue in the hearing, apportion costs for ADR, and appoint an impartial third party as provided by Section 2009.053 of the Government Code to facilitate that procedure.

(10) May continue a hearing from time to time and from place to place without providing notice under Rule 14.3.C. If the continuance is not announced on the record at the hearing, the presiding officer shall provide notice of the continued hearing by regular mail to the parties. If the hearing is being conducted by a quorum of the Board, Open Meetings notice also shall be provided.

E. **Ex parte communications.** A Board member, or a Hearings Examiner or Administrative Law Judge assigned to render a decision or to make findings of fact and conclusions of law in a contested case, may not directly or indirectly communicate in connection with an issue of fact or law in the contested case with a state agency, person, party, or a representative of those entities, except on notice and opportunity for each party to the contested case to participate. A Board member may communicate ex parte with another Board member in connection with an issue of fact or law in the contested case, if a quorum is not present. All ex parte communications that are not prohibited by Rule 14.4.E(1) are expressly permitted.

F. **Record of hearing.** The presiding officer shall prepare and keep a record of each hearing in the form of an audio or video recording or a court reporter transcription. On the request of a party to the contested case hearing and payment of an appropriate deposit, as set by the presiding officer, the hearing shall be transcribed by a court reporter. The costs of such court reporter may be assessed against the party requesting it or among the parties to the hearing. The presiding officer may exclude a party from further participation in the hearing for failure to pay in a timely manner costs assessed against that party under this Rule 14.4.F.

G. **Hearings Examiner report.** If the Board has appointed a hearings examiner to be the presiding officer at the hearing, the hearings examiner shall submit a report to the Board not later than the 30th day after the date the hearing is concluded. A copy shall be provided to the applicant and each party to the hearing. The applicant and other parties to the hearing may submit to the Board written exceptions to the report within 10 days of issuance of the report. The report shall include:

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

H. **Board order.** The Board shall issue a written order or resolution reflecting its decision, which shall be made at the hearing or at a meeting subject to the requirements of the Open Meetings Act. A copy of the permit shall be an attachment to that written order or resolution. The Board's decision shall be made within 60 days after the final hearing on the Application is concluded.

Rule 14.5 Permit Actions Not Requiring Contested Case Hearing

A. **Application.** This Rule 14.5 applies only to:

- (1) an Application for which the Board for which the District did not receive a timely-filed request for a contested case hearing on the Application;

(2) an Application for which the Board denied all requests for a contested case hearing on the Application; and

(3) an application to amend an Operating Permit described in Rule 7.2.C. or Rule 7.2.D, an application to amend a Transport Permit described in Rule 7.5.C. and Rule 7.5.D., an application to transfer ownership of an Operating Permit, or an application to transfer ownership of a Transport Permit.

B. **Technical review.** Upon receipt of an application subject to this Rule, the General Manager will conduct a technical review as follows:

(1) The General Manager will notify the applicant if the application is incomplete or if any additional information or documentation is useful or necessary to address the factors that the Board will consider in making a decision on the Application under these Rules. If the applicant has not supplied the additional information or documentation within 180 days following the date that the General Manager notified the applicant of the need for the additional information or documentation, the application shall expire.

(2) The General Manager will notify the applicant in writing when the technical review has been completed and the application has been declared Administratively Complete. The written notice will contain a summary of the General Manager's recommendation on the application, and, if the General Manager recommends that a permit, an amendment, or a renewal be granted, may include a draft permit.

C. **Notice.** Within 60 days of the date on which the General Manager determines that an application subject to this Rule is Administratively Complete, the application will be set on the agenda for a Board meeting. Notice of the meeting shall be provided as required by the Open Meetings Act.

D. **Registration.** Each person who desires to comment on the application shall submit a registration form stating:

- (1) the person's name;
- (2) the person's address; and
- (3) whom the person represents, if the person is not there in the person's individual capacity.

E. **Comments.** Any person who has submitted a registration may make oral comments on the application at the time designated for comments. The Board, at its sole discretion, may administer an oath to any member of the District staff, the applicant, or anyone who makes oral comments on the application.

F. **Record of decision.** The Board's decision on the application will be reflected in the minutes of the Board meeting.

G. **Board order.** The Board shall issue a written order or resolution reflecting its decision. If the Board approves an application for a permit or permit amendment, the permit or permit amendment shall be an attachment to that written order or resolution. The Board's decision shall be made within 60 days after the Board meeting at which the Application was considered.

Rule 14.6 Rehearing of Permit Action

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

(1) Not later than the 20th day after the date of the Board's decision, an applicant or a party to a contested case hearing may administratively appeal a decision of the Board on an Application by requesting written findings and conclusions or a rehearing before the Board.

(2) On receipt of a timely written request, the Board shall make written findings and conclusions regarding a decision of the Board on an Application. The board shall provide certified copies of the findings and conclusions to the person who requested them, and to each designated party, not later than the 35th day after the date the Board receives the request. The applicant or a party to the contested case hearing may request a rehearing before the Board not later than the 20th day after the date the Board issues the findings and conclusions.

(3) A request for rehearing must be filed in the District office and must state the grounds for the request. The person requesting a rehearing must provide copies of the request to all parties to the hearing.

(4) If the Board grants a request for rehearing, the Board shall schedule the rehearing not later than the 45th day after the date the request is granted. Any action by the Board on a request for rehearing shall be made at a Board meeting subject to the Open Meetings Act.

(5) The failure of the Board to grant or deny a request for rehearing before the 91st day after the date the request is submitted is a denial of the request.

B. **Final decision.** A decision by the Board on an Application is final:

(1) If a request for rehearing is not timely filed, then on the expiration of the period for filing a request for rehearing; or

(2) If request for rehearing is timely filed, then on the date:

- (a) the Board denies the request for rehearing; or
- (b) the Board renders a written decision after rehearing.

14.7 Variances or Extensions of Time

A. **Applicability.** This Rule 14.6 applies to requests for variances from the requirements imposed by District Rules and to requests for extension of time under Rules 5.5, 5.6, and 7.1.E, with the following exceptions:

(1) Requests for variances from the well spacing requirements in Section 8 of these Rules will be processed under Rule 8.3.D; and

(2) Requests for variances submitted with an application or a permit or an amendment to a permit will be processed with the application.

B. **Request.** A request for variance or extension of time shall be submitted in writing and include the reasons for the request.

C. **Notice and hearing.** The request for a variance or any request for an extension of time will be set on the agenda for a Board meeting, which shall serve as the hearing on the request. In addition to the notice required by the Open Meetings Act, the District shall mail notice to the applicant at least ten (10) days prior to the Board meeting at which the variance request will be considered. The notice to the applicant will contain a summary of the General Manager's recommendation on the request. Any interested person may attend the meeting and comment on the request. The Board, at its sole discretion, may administer an oath to any member of the District staff, the applicant, or anyone who makes oral comments on the request.

D. **Decision.** The Board's decision on the request will be recorded in the minutes of the meeting.

Rule 14.8 Appeals of General Manager Decisions

A. **Applicability.** An applicant who has been aggrieved by a decision of the General Manager under Rules 4.4, 7.1, 7.2, or 7.7 may appeal that decision to the Board under this Rule 14.8.

B. **Request.** The appeal shall be submitted in writing and include the reasons for the request.

C. **Notice and hearing.** The appeal will be set on the agenda for a Board meeting, which shall serve as the hearing on the request. In addition to the notice required by the Open Meetings Act, the District shall mail notice to the applicant at least ten (10) days prior to the Board meeting at which the appeal will be considered. Any interested person may attend the meeting and comment on the appeal. The Board, at its sole

discretion, may administer an oath to any member of the District staff, the applicant, or anyone who makes oral comments on the request.

D. **Decision.** The Board's decision on the request will be recorded in the minutes of the meeting.

Rule 14.9 Enforcement Proceedings

A. **Request for contested case hearing.** Any person who receives a notice of violation may request a contested case hearing on the violation. The request must be made in writing and filed with the District no later than the 30th day following the date the notice of violation was issued.

B. **Hearing.** If a timely request for a contested case hearing is received, a hearing will be conducted, and the Board order will be issued, in the manner provided in Rule 14.4 for permit actions requiring contested case hearings. The respondent and the General Manager shall be the sole parties to the contested case hearing.

New Well Authorization Requirements



