

These Rules replace Rules adopted on May 9, 2006 and become effective upon adoption by the District Board of Directors on July 8, 2008. Exception is made with respect to Rule 5.6D (production regulation) for holders of permits issued prior to the adoption of rules dated November 9, 1999.

**CHAPTER 36 REFERENCES:** All references herein citing sections of the Texas Water Code Chapter 36 as authority shall be shown as sections or subsections of said Code, i.e. (36.113) shall reference Section 36.116 of the Texas Water Code.

**OTHER STATUTORY AND REGULATORY REFERENCES:** All references to Texas statutes and the Texas Administrative Code shall be to those statutes and regulations as amended.

## **RULE 1. DEFINITIONS AND CONCEPTS**

**RULE 1.1 DEFINITIONS:** The definitions that follow are presented in alphabetical order. The order of appearance does not imply or mean to assign priority or relative importance.

**“Abandoned Well”** shall mean a well that has not been used for six consecutive months. A well is considered to be in use in the following cases: (A) a non-deteriorated well that contains the casing, pump, and pump column in good condition; or (B) a non-deteriorated well that has been capped.

**“Agricultural”** shall mean any of the following activities:

- (A) Cultivating the soil to produce crops for human food, animal feed, or planting seed or for the production of fibers;
- (B) The practice of floriculture, viticulture, silviculture, and horticulture, including the cultivation of plants in containers or nonsoil media, by a nursery grower;
- (C) Raising, feeding, or keeping animals for breeding purposes or for the production of food or fiber, leather, pelts, or other tangible products having a commercial value;
- (D) Planting cover crops, including cover crops cultivated for transplantation, or leaving land idle for the purpose of participating in Federal CRIP program or normal crop or livestock rotation procedure;
- (E) Wildlife management; and
- (F) Raising or keeping equine animals.

**“Agricultural Use”** shall mean using water for any use or activity involving agriculture,

**“Annular Space”** shall mean the space between the casing and borehole wall.

**“Applicant”** shall mean a person applying for a permit or permit amendment who is the owner of the land on which the well(s) or proposed well(s) are located.

**“Aquifer”** shall mean a formation or group of saturated geologic units capable of storing and yielding water in usable quantities.

**“Aquifer Mining”** shall mean the existence of that condition where the average annual available recharge of an aquifer or portion of an aquifer is less than the annual production from that aquifer. For purposes of these rules the terms “aquifer overdrafting”, “reduction of artesian pressure”, and “the drawdown of the water table or aquifer”, shall mean aquifer mining.

**“Artesian Pressure”** shall mean the pressure in a confined aquifer created by the overlying and underlying confining units.

**“Beneficial Use or Beneficial Purpose”** shall mean groundwater use for:

- (A) agricultural, gardening, domestic, stock raising, municipal, mining, manufacturing, industrial, commercial, recreational, fish and wildlife, or pleasure purposes;
- (B) exploring for, producing, handling, or treating oil, gas, sulfur, or other minerals; or
- (C) any other purpose that is useful and beneficial to the users that is of economic use and does not commit waste as defined in this rule.

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

**“Board”** shall mean the Board of Directors of the Hill Country Underground Water Conservation District, consisting of five (5) duly elected members.

**“Buffer Zone”** shall mean a transition zone between a designated High Historical Groundwater Use Area or a Critical Groundwater Depletion Area and adjacent areas that are not in a High Historical Groundwater Use Area or a Critical Groundwater Depletion Area.

**“Casing”** shall mean a tubular watertight structure installed in the excavated or drilled hole to maintain the well openings.

**“Cement”** shall mean a neat Portland or construction cement mixture of not more than seven (7) gallons of water per ninety-four (94) pound sack of dry cement, or cement slurry that contains cement along with bentonite, gypsum or other additives.

**“Conservation”** shall mean practices, techniques and technologies that will reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water, or increase the recycling and use of water.

**“Contested Hearing”** shall mean a permit hearing that is noticed and conducted according to the procedures of Rule 12.3.

**“Hearings Officer”** shall mean any person appointed by the Board to conduct a hearing on a permit, rule or enforcement matter.

**“Contiguous”** shall mean property within a continuous perimeter boundary situated within the District. Contiguous may also apply to properties that are divided by a road or highway if the properties border one another.

**“Critical Groundwater Depletion Area”** (CGDA) shall mean an area in the District where pumpage has caused a drawdown of the water table or a reduction of artesian pressure to an extent that aquifer mining is occurring.

**“Deteriorated Well”** shall mean a well, the condition of which will cause, or is likely to cause, pollution of any groundwater in the District.

**“District”** shall mean the Hill Country Underground Water Conservation District.

**“District Act”** shall mean Act of May 26, 1987, 70th Leg., 1987 Tex. Gen. Laws Chapter 865.

**“Domestic Use”** shall mean use of groundwater by an individual or a household to support essential domestic activity. Such essential domestic activity includes water for uses inside the home; for irrigation of lawns, flower beds, shrubs, trees shading the home, or a family garden and/or orchard with manual sprinklers and garden hoses for watering of domestic animals; for protection of foundations; and for recreation specifically only for swimming pools. Essential domestic activity does not include:

- (A) water used to support activities for which consideration is given or for which the product of the activity is sold;
- (B) the irrigation of lawns or other landscaped areas by sprinkler or other system, whether above ground or below ground, permanent or temporary (other than hand-held hose or single sprinkler attached to a garden hose).
- (C) Pond, lake, tank, reservoir, or other confinement which has a capacity greater than 50,000 gallons;
- (D) Non-closed system geothermal heating/cooling systems.

**“Enforcement Action”** shall mean an action taken by the District to enforce District Rules or any other law within its authority.

**“Enforcement Hearing”** shall mean a hearing held on an enforcement action which is noticed and conducted according to the procedures of Rule 12.4.

**“Export Permit/Export Fee”** shall have the same meaning as “Transport Permit/Transport Fee” as set out in Rule 10.

**“Groundwater”** shall mean water percolating below the surface of the earth.

**“Hazardous substances”** shall mean any substance designated as a hazardous substance under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 40 CFR Part 302, as amended.

**“Hazardous wastes”** shall mean any “solid waste,” as that term is defined by 30 Texas Administrative Code 335.1, identified or listed as a hazardous waste by the administrator of the Environmental Protection Agency pursuant to the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 United States Code 6901 et seq., as amended.

**“High Historical Groundwater Use Area” (HHGUA)** shall mean those areas of the District in which historical groundwater use is such that additional production will have adverse effect on historical users.

**“Historical Users”** shall mean well owners to whom permits have been issued by the District and owners of registered wells.

**“Irrigation System, Installer, and Irrigator”** shall mean that as defined in 30 Texas Administrative Code, Section 344.1.

**“Landscape Irrigation”** shall mean systems or devices used to deliver water to lawns and shrubbery at private residences and at commercial establishments for ornamental purposes solely.

**“Lot”** shall mean any single contiguous parcel of land covered by deed.

**“Managed Available Groundwater”** shall mean the amount of water that may be permitted by the District for beneficial use.

**“Open or Uncovered Wells”** shall mean an excavation at least ten feet in depth dug for the purpose of producing underground water and is not covered or capped as required by the Texas Water Code.

**“Meetings Act”** shall mean Chapter 551, Government Code.

**“Public Information Act”** shall mean Chapter 552, Government Code.

**“Other Aquifer Penetration”** shall mean any penetration of an aquifer within the District including oil and gas test wells; mineral test wells (stratigraphic or core holes or geophysical shot holes); or any other penetrations that fall in the oversight of the TCEQ or Texas Railroad Commission.

**“Owner”** shall mean without limitation any person having legal title to the property on which the water well or proposed water well is located.

**“Party in a Contested Hearing”** shall mean an applicant or other persons who have a justiciable interest related to a legal right, duty, privilege, power, or economic interest that is within the District’s regulatory authority and that may be affected by a permit or permit amendment. Said party shall not include persons who have an interest common to members of the public.

**“PCBs or polychlorinated biphenyls”** shall mean compounds subject to Title 40, Code of Federal Regulations (CFR), Part 761, as amended.

**“Person”** shall mean any individual, partnership, firm, governmental agency, political subdivision, corporation, or other legal entity.

**“Pollution”** shall mean the alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water in the District that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or to public health, safety or welfare, or impairs the usefulness of the water for any lawful or reasonable purpose.

**“Presiding Officer”** shall mean the Chairman, Vice Chairman, Secretary, or other Board member presiding at any hearing or other proceeding, or a Contested Hearings Officer.

**“Radioactive wastes”** shall mean any waste which contains radioactive material in concentrations which exceed those listed in 10 Code of Federal Regulations (CFR) Part 20, Appendix B, Table II, Column 2, as amended.

**“Respondent”** shall mean the individual who receives a notice of violation under Rule 12.4.

**“Retail Public Utility”** shall mean any person, corporation, public utility, water supply or sewer service corporation, municipality, political subdivision, or agency operating, maintaining, or controlling in this state facilities for providing potable water service or service, or both, for compensation.

**“Rules”** shall mean the rules of the District compiled in this document and as may be supplemented or amended from time to time.

**“Rulemaking Hearing”** shall mean a Board meeting noticed and conducted according to Rule 12.1 at which the Board considers changes to District Rules, Management Plan, High Historical Groundwater Use Areas, or Critical Groundwater Depletion Areas and during which the public has an opportunity to comment on such changes.

**“Service Area”** shall mean:

- (A) that area only to which water is being applied within the contiguous area in which the well is located;
- (B) the total acreage within the corporate boundary of a municipality in the case of a municipal water utility;
- (C) Except for those lots defined in a platted subdivision which will be added to the existing service of the servicing retail public utility, the number of connections of a Retail Public Utility outside municipal corporate boundaries based on 1/2 acre per connection; or
- (D) In contiguous areas of unknown service area, service area will be defined based on the contiguous area on which the well is located.

**“Toxic pollutants”** shall mean any pollutants subject to regulation under 40 Code of Federal Regulations (CFR), Chapter I, Part 129, as defined in 40 CFR 129.4, as amended.

**“Transport”** shall mean the transport of water out of the District.

**“Transfer”** shall mean moving water from one well location(s) in the District to another non contiguous location(s) in the District.

**“Waste”** (§ 36.001(8)) shall mean any one or more of the following:

- (A) withdrawal of groundwater from a groundwater reservoir at a rate and in an amount that causes or threatens to cause intrusion into the reservoir of water unsuitable for agricultural, gardening, domestic, or stock raising purposes;
- (B) the flowing or producing of wells from a groundwater reservoir if the water produced is not used for a beneficial purpose;
- (C) escape of groundwater from a groundwater reservoir to any other reservoir or geologic strata that does not contain groundwater;
- (D) pollution or harmful alteration of groundwater in a groundwater reservoir by saltwater or by other deleterious matter admitted from another stratum or from the surface of the ground;
- (E) other than allowed by these rules willfully or negligently causing, suffering, or allowing groundwater to escape into any river, creek, natural watercourse, depression, lake, reservoir, drain, sewer, street, highway, road, or road ditch, or onto any land other than that of the owner of the well unless such discharge is authorized by permit, rule, or order issued by the commission under Chapter 26;
- (F) groundwater pumped for irrigation or landscape irrigation that escapes as irrigation tail water onto land other than that of the owner of the well unless written permission has been granted by the occupant of the land receiving the discharge;
- (G) for water produced from an artesian well, waste has the meaning assigned by Section 11.205;
- (H) the supply of groundwater to any surface reservoir with a capacity greater than 50,000 gallons except as provided in District Rules;

- (I) groundwater pumped for industrial use or application in excess of that quantity, if any, recognized by the industry according to its Standard Industrial Code (SIC) classification as being the maximum amount of water necessary to efficiently meet the demands for the particular use or application to which the groundwater is being made;
- (J) groundwater used for heating or cooling that is allowed to drain onto the land surface as tail water and is not re-circulated back to the aquifer (a non-closed system).

**RULE 1.2 PURPOSE OF RULES:** These rules are adopted to achieve the provisions of the District Act and accomplish its purposes.

**RULE 1.3 USE AND EFFECT OF RULES:** The District uses these rules as guides in the exercise of the powers conferred by law and in the accomplishment of the purposes of the District Act. They may not be construed to deprive the District or Board of the exercise of any powers, duties or jurisdiction conferred by law, nor be construed to limit or restrict the amount and character of data or information that may be required to be collected for the proper administration of the District Act.

**RULE 1.4 ACTIONS ON RULES:**

- A. All changes to the District's Rules will be made after notice and hearing by using the procedure required by Rule 12.1. Such changes include repeal or amendment of existing Rules and the adoption of new Rules.
- B. The Board may adopt an emergency Rule without prior notice or hearing, or with an abbreviated notice and hearing, according to Rule 12.2 (36.1001).

**RULE 1.5 HEADINGS AND CAPTIONS:** The section and other headings and captions contained in these rules are for reference purposes only. They do not affect the meaning or interpretation of these rules in any way.

**RULE 1.6 CONSTRUCTION:** A reference to a title, chapter or section without further identification is a reference to a title, chapter or section of the Water Code. Construction of words and phrases are governed by the Code Construction Act, Subchapter B, Chapter 311, Government Code.

**RULE 1.7 METHODS OF SERVICE UNDER THESE RULES:** Except as otherwise expressly provided in these rules, any notice or documents required by these rules to be served or delivered may be delivered to the recipient, or the recipient's authorized representative, in person, by agent, by courier receipted delivery, by certified mail sent to the recipient's last known address, or by telephonic document transfer to the recipient's current telecopier number or digitally signed email. Service by mail is complete upon transfer deposit in a post office or other

official depository in the United States Postal Service. Service by telephonic document transfer is complete upon transfer, except that any transfer occurring after 5:00 p.m. Central Standard Time will be deemed complete on the following business day. Where service by one or more methods has been attempted and failed, the service is complete upon notice publication in a generally circulated newspaper in Gillespie County.

**RULE 1.8 SEVERABILITY:** If any one or more of the provisions contained in these rules are for any reason held to be invalid, illegal, or unenforceable in any respect, the invalidity, illegality, or unenforceability shall not affect any other rules or provisions of these rules, and these rules shall be construed as if such invalid, illegal or unenforceable rules or provision had never been contained in these rules.



## **RULE 2. BOARD**

- RULE 2.1 PURPOSE OF BOARD:** The Board was created to determine policy and regulate the withdrawal of groundwater within the boundaries of the District; for conserving, preserving, protecting and recharging the groundwater within the District; and to exercise its rights, powers, and duties in a way that will effectively and expeditiously accomplish the purposes of the District Act. The Board's responsibilities include, but are not limited to, the adoption and enforcement of reasonable rules and other orders.
- RULE 2.2 BOARD STRUCTURE, OFFICERS:** The Board consists of the members elected and qualified as required by the District Act. On each odd numbered year at its regular May meeting (if there is no May meeting, at its next regular meeting), the Board shall elect one of its members to serve as Chairman; one to serve as Vice Chairman; and one to serve as Secretary/Treasurer. Members and officers serve until their successors are elected or appointed and sworn in accordance with the District Act and these rules.
- RULE 2.3 MEETINGS:** The Board will hold a regular meeting once each month and as the Board may establish from time to time by resolution. At the request of the Chairman, or by written request of at least three members, the Board may hold special meetings. All Board meetings will be held according to the Texas Open Meetings Law.
- RULE 2.4 COMMITTEES:** The Chairman may establish committees for formulation of policy recommendations to the Board, and appoint the chair and membership of the committees. Committee members serve at the pleasure of the Chairman.

### **RULE 3. DISTRICT STAFF**

**RULE 3.1 GENERAL MANAGER:** The Board may employ a person to manage the District, and title this person general manager. The general manager shall have only those powers, duties, or responsibilities in performing Water District functions as determined by the Board. The Board shall determine the salary and review the position of general manager during the last quarter of every fiscal year. The general manager, with approval of the Board, may employ all persons necessary for the proper handling of business and operation of the District and their salaries shall be set by the Board.

## **RULE 4. DISTRICT**

- RULE 4.1 MINUTES AND RECORDS OF THE DISTRICT:** All documents, reports, records, and minutes of the District are available for public inspection and copying to the extent required by the Public Information Act. Upon written application of any person, the District will furnish copies of its public records. A copying charge shall be established pursuant to the Public Information Act. A list of the charges for copies will be furnished by the District.
- RULE 4.2 CERTIFIED COPIES:** Requests for certified copies must be in writing. Certified copies will be made under the direction of the Board of Directors. A certification charge and copying charge may be assessed, pursuant to policies established by the Board of Directors.
- RULE 4.3 DISTRICT MANAGEMENT PLAN:** The District Management Plan specifies the acts, procedures, performances and avoidance necessary to prevent waste and the decline of the water table, and forms the basis of the District rules in regards to permitting decisions and other requirements imposed by the Board. The Board will review the plan at least every fifth year. The Board's action on the Plan, either to renew it or to amend or replace it, will occur after an opportunity for notice and hearing by using the procedure required by Rule 12.1. A plan, once adopted, remains in effect until the adoption of a new plan. The District Management Plan will be prepared in accordance with Section. 36.1071.

## **RULE 5. WELL PERMITTING**

**RULE 5.1 STANDARD PERMIT PROVISION:** No person shall begin to drill or alter a well without having received a permit from the District, unless the well is exempted for permitting under Rule 5.2. All wells used for municipal, commercial, and irrigation, inclusive of wells used in landscape irrigation and attached to an irrigation system, require permits. Irrigation installers shall first ensure that a permit has been obtained from the District prior to system installation. Wells exempted under Rule 5.2 are required to register under **Rule 6, Well Registration**. For purposes of these rules, alteration of a well, changes in permitted use, or loss of exemption shall be considered as a new well requiring a new permit.

A permit issued by the District is based solely on the authority derived from the District's Enabling Legislation, District Rules, and Chapter 36 of the Texas Water Code. No other legal right to produce groundwater can be constructed from a District issued permit.

- A.** Application for a well drilling and production permit shall be made to the District on forms promulgated by the District for all wells drilled and completed unless the well is exempted from permitting under Rule 5.2.
- B.** When approved by the District Board the permit shall authorize the drilling of the well and shall specify the location of the well, the annual maximum production allowed from the well, ownership of the well, and permitted use of water from well.
- C.** The District may impose more restrictive permit conditions (Section 36.113(e)) in a designated High Historical Groundwater Use Area (HHGUA) on new permit applications and permit amendment applications to increase use by historic users
- D.** The District may impose more restrictive permit conditions on existing permits and new permit applications in designated Critical Groundwater Depletion Area (CGDA).

**RULE 5.2 EXEMPTIONS; EXCEPTIONS; LIMITATIONS:** The following exemptions, exceptions and limitations apply to permitting of wells:

- A.** The District does not require a permit for drilling or producing from a well used solely: (1) for domestic use or, (2) for providing water for livestock or poultry on a tract of land larger than 10 acres that is either drilled, completed or equipped so that it is incapable of producing more than 25,000 gallons of groundwater a day (36.117(b)(1)).

- B.** The District may not require a permit for drilling or producing from a well for groundwater used to supply water for hydrocarbon production in accordance with 36.117(b)(2) and (3), except that permits may be required by the District for water wells drilled for hydrocarbon production under conditions defined in 36.117(d)(1) and (2).
- C.** In addition to the exceptions required by law in Texas Water Code, Section 36.117 and by Rules 5.2(A) and (B), the District by these rules also exempts from requiring a permit for drilling or producing from a well on lot sizes ten (10) acres or less insofar as there shall be only one well per lot used to supply groundwater to no more than four households for Domestic Use only. Wells exempted by the provisions of this sub-section C are required to register the well under Rule 6 and are subject to the regulations of Rule 9.
- D.** Domestic exemption in Rule 5.2C is extended to certain commercial operations in which water is used only in the lavatories and kitchen utilized by the owner(s) and employees of the business and not used in the business operation. Outdoor water usage is also granted as defined in “Domestic Use” in Rule 1.1.
- E.** A well to supply water for a subdivision of land for which plat approval is required by Chapter 232, Local Government Code, is not exempted under Subsections A and C above.
- F.** Nothing in the exemptions of Rule 5.2(A), (C) and (D) above can be construed to allow waste of groundwater (See Waste Definition Rule 1.1) (36.0001(8)). The supply of groundwater to a surface reservoir (stock tank, lake, or other confinement) that has a capacity greater than 50,000 gallons is considered waste. This exclusion is not applicable to commercial irrigators who use a surface catchment for temporary daily storage of groundwater prior to irrigation use. For livestock or wildlife management purposes any request for a permit to supply groundwater to a surface reservoir for greater than 50,000 gallons surface storage would be based on the total contiguous acreage and the carrying capacity of the acreage for the livestock or wildlife management watered.
- G.** At any time the production of a well exempted by Rule 5.2 is used for purposes other than those stated in Rule 5.2 the well is no longer exempted and continued use is a violation of District Rules subject to injunction and civil penalties
- H.** The District requires water wells exempted under this Rule 5.2 to be registered (Rule 6) with the District before drilling. Water wells exempted under this Rule shall be equipped and maintained so as to conform to the District’s rules requiring installation of casing, pipe and fittings to prevent the escape of groundwater from a groundwater reservoir to any reservoir not containing groundwater and to prevent the pollution or harmful alteration from any source of the water in any groundwater reservoir.

**RULE 5.3 WELL PERMIT APPLICATION AND FEES:**

- A.** The permit application provided for herein must be filed with the District on the form or forms promulgated by the District, contain all requested information, be sworn to, and such permit must be obtained from the District prior to the drilling of a water well and production of water. Permit applications for landscape irrigation systems may be required to be accompanied by an affidavit certifying compliance with 30 Texas Administrative Code Chapter 344, Landscape Irrigators. Irrigation Installers shall notify the District upon completion of the system. Completed irrigation systems may be subject to District inspections.
- B.** All permit applications shall include a description of methods used in the system to:

  - (1) Prevent contamination of the groundwater supply, including as a minimum a backflow preventor on wells used for irrigation,
  - (2) Achieve water conservation, and for landscape irrigation systems the devices used thereto, including as a minimum either a soil moisture sensor, relative humidity sensor or a rain sensor, and
  - (3) Measure the amount of water used by the system.
- C.** An application fee and deposit shall accompany the permit application. The deposit will be refunded to the applicant when all required well information is supplied to the District. The application fee is to cover the cost of processing the application and is nonrefundable. Upon completion of the well, District personnel shall have access to property at a reasonable time to inspect the well and complete the inventorying of the well.
- D.** The District will determine whether the application, maps, and other materials comply with the requirements of this rule. The District may require amendment of the application, maps, or other materials to achieve necessary compliance.
- E.** Applicant shall prepare for District approval a water conservation plan and a drought management plan. Applicant's State approved water conservation plan and drought management plan will be accepted by the District. An applicant for a permit, or an applicant requesting to amend or renew a permit, shall submit a water conservation plan and a drought management plan to the District as part of the application for review. The District will provide checklist for applicants use in preparing a water conservation plan and drought management plan.

**RULE 5.4 PERMIT APPLICATIONS PROCEDURE; TERM, RENEWAL, AND AMENDMENT:**

- A.** This Rule 5.4 and Texas Water Code Section 36.114 are applicable to all well

permit applications and applications for amendment.

- B.** The Board will consider each well permit application and application for amendment by using the procedures required by this Rule 5.4. The General Manager will determine whether the application contains the data required by the District's rules and make a determination as to whether the application is administratively complete. An administratively complete application requires information set forth in the application instructions, Rule 5.3, and Texas Water Code 36.113 and 36.1131. If the application is determined to be incomplete, the applicant will be notified and provided the opportunity to submit the necessary information.
- C.** Within sixty days of the date that an administratively complete application is filed with the District, the General Manager shall give notice of the meeting at which the Board will consider the application .
- D.** At the meeting at which the Board first considers the application, the Board will determine need for a hearing (Sec. 36.114B), which will be reflected in the minutes. Conditions of a well permit application which may be considered by the Board when determining need for a hearing are: potential impact on the District Management Plan, potential adverse effects on adjoining well owners, or other factors deemed appropriate by the Board.
- E.** An application may be contested by the Board when parameters of the application regarding production, spacing, setback, or use are not consistent with District Rules or would adversely affect the District Management Plan.

Parties contesting an application or requesting a rehearing on a Board decision on an application shall be limited to parties to the original hearing. All District hearings are open to the public; however only those persons defined in this subsection shall have a right to participate in any hearing in which an application is contested.

- F.** If the Board determines at the initial meeting cited at 5.4D that no hearing is needed, the Board may act on the application at that Board meeting (Section 36.114(c). The application may be granted in whole or in part as amended. The application will be approved unless the Board of Directors finds that the proposed use shall constitute waste or that such use shall not constitute a use for a beneficial purpose, as those terms are defined in these Rules, or is otherwise inconsistent with the objective and goals of the District's Management Plan or with these Rules. In evaluating the application, the District will consider whether (36.113(d)):
  - (1) the proposed use of water unreasonably affects existing groundwater and surface water resources or historic users;
  - (2) the proposed use of water is dedicated to beneficial use;

- (3) the proposed use of water is consistent with the District Management Plan;
  - (4) the applicant has agreed to avoid waste and achieve water conservation;
  - (5) the applicant has agreed that reasonable diligence shall be used to protect groundwater quality and that the applicant shall follow well plugging guidelines at the time of well closure; and
  - (6) the well will meet District well spacing and production limits.
- G.** If no request for a contested hearing under Rule 12 is received by the District, the effective date of the permit action will be 10 days after the application was approved. Any appeal authorized by Texas Water Code Chapter 36, Subchapter H will run from that effective date. If a request for a contested hearing under Rule 12 is received, then the provisions of Rule 12.3 control the effective date.
- H.** If the Board comes into possession of information not previously available to the Board and which would have been of material significance in the Board's original decision, the Board may cancel, change conditions, or let stand the permit.
- I.** On approval of an application, the District will issue a permit to the applicant. The permitted right to produce shall be limited to the extent of and for stated purpose(s) in the permit and shall be valid for a period of five (5) years unless otherwise designated if the permitted well is in a HHGUA or CGDA. The permit may be renewed at the end of the period unless the District determines that the permit owner is not in compliance with the permit conditions or District Rules. In event of such noncompliance, the District will notify the permit owner of the conditions preventing renewal of the permit and allow the owner an opportunity to correct any noncompliance. If the owner does not effect compliance with the permit conditions or the District Rules, after notice and an enforcement hearing conducted according to the procedure required by Rule 12.4, the Board may cancel the permit.
- J.** The application/permit process will be deemed completed upon the completion and equipping of the well and the filing of the required information and copy of the drillers log with the District.
- K.** A permit issued pursuant to an application to drill a well is valid for a period of six months. Upon written request by permittees permits may be extended by the Board upon reasonable cause for an additional six months after which time the well is not drilled the permit is cancelled and a new application process may be initiated.
- L.** Permits may be transferred to another person through change of ownership of the well provided all permit conditions remain unchanged and in compliance with District rules and the District is notified of the change in ownership. A change in purpose of or use by the new well owner invalidates the permit and requires a new permit application.



- M. Permits issued under these Rules are subject, after notice and an enforcement hearing conducted according to the procedure required by Rule 12.4, to amendment or revocation by the District for waste, deviation from the purposes and terms of the permit, or availability of other sources of water not available at the time of permit issuance.
- N. Permit amendments are required for any change in well size, depth, or an increase in production.

**RULE 5.5 REPORTING AND MONITORING:**

- A. **Reporting:** A permittee shall file with the District annual reports describing the amount of water produced and used for the permitted purpose. Such reports shall be filed on the appropriate form or forms provided by the District within thirty (30) days of December 31. All drillers logs, geophysical logs, pump test data, water level data, water quality data or any other data pertinent to the well shall be filed in the District office in Fredericksburg, Texas within sixty (60) days after completion of the well or project. Failure to provide production and/or well reports may invoke Rule 11.3.
- B. **Monitoring:** The Board may require monitoring devices on permitted wells, which would be available for District inspection during business hours. An hour meter may be considered as a production monitoring device, if the well output (gpm) can be measured accurately.

**RULE 5.6 WELL SPACING AND PRODUCTION REGULATION (§ 36.116):**

- A. All water wells intended for domestic and livestock use shall be placed on a tract of land seventy-five feet (75 ft.) from property lines and public roadways. On any new division of property, new property lines shall also be seventy-five feet (75 ft.) from any existing wells. Existing permitted wells shall satisfy the setback and spacing requirements outlined in 5.6B for all new property lines. It should be noted that where public roadways are involved as a property boundary line it is permissible to use the centerline of a public roadway to calculate the distance required for the setback of a tract border along a roadway.

In any request to decrease the specified setback distance on any well a variance from the District shall be obtained. An affidavit shall be obtained from the affected adjoining landowner(s), signed by both parties and recorded with the County Clerk's office citing the encroachment and that all parties are agreeable to the encroachment. A fee set by the Board will be assessed to cover administrative charges. In those cases where an adjoining landowner will not agree to the setback encroachment and will not sign the affidavit, the District will allow an encroachment up to the State's required minimum setback established for new

wells. This setback exception will only pertain to existing domestic and livestock wells. Permitted wells shall satisfy setback and spacing requirements outlined in 5.6B. For those domestic and livestock wells that are less than the State’s required minimum setback requirement from property lines, or permitted wells that cannot satisfy the setback and spacing requirements of 5.6B shall be plugged unless the adjoining property owner(s) agree to the encroachment and the District grants a variance. On newly subdivided property, the District will only grant a variance to the setback requirements if the County has provided a variance to the County’s subdivision ordinance allowing a tract to be less than the County’s minimum.

All water wells shall be located a minimum horizontal distance of 100 feet from any concentrated source of pollution, such as existing or proposed livestock or poultry yards and septic system absorption fields. Such horizontal distance may be decreased, provided the total depth of pressurized cement slurry in the annular space (the space between the casing and the borehole wall), is increased by twice the horizontal reduction, or to the top of the water bearing strata, but in no case shall such distance be less than 50 feet (16 Texas Administrative Code, Section 76.1000(a)(1)).

**B.** In addition to the requirements of 5.6A, the following well spacing shall be required on permitted wells, with the exception of wells permitted for landscape irrigation.

Actual Pumping Capacity Of	Minimum Distance From Existing Permitted Wells and Between Proposed Permitted Wells	Distance From Property Line
Less than 17.36 gpm	150 feet	100 feet
17.36-200 gpm	300 feet	100 feet
200-400 gpm	750 feet	200 feet
400-800 gpm	1200 feet	400 feet
>800 gpm	1500 feet	400 feet

**C.** If in the case of development of multiple wells by a single owner on the same parcel of property and for geological reasons it is desired to cluster wells, the District may consider and may approve such a request provided the spacing requirements are achieved as follows:

- (1) In the case of wells of capacity 400-800 gpm the distance from the property line shall be 500 feet to the nearest well of the cluster;
- (2) In the case of wells of capacity >800 gpm the distance from the property line shall be 600 feet to the nearest well of the cluster;
- (3) Nothing in (1) or (2) above precludes the well owner from obtaining from adjoining property owners a waiver of the property line distances;
- (4) The total property upon which the clustered wells are to be located shall be contiguous and owned by the permittee, and the same in square or rectangular configuration as if the wells were not clustered and were

located on a grid accommodating both the spacing between wells and the property line distances, e.g., a 2 well field of > 800 gpm/well would require an area of 42.2 acres (800 ft. by 2300 ft.) and a 4 well field of > 800 gpm/well would require an area of 121.44 acres (2300 ft. by 2300 ft.);

- (5) In cases where an existing permitted well is located on adjoining property the minimum distance from this well to the nearest well of the cluster shall be maintained as cited in the above table.

**D.** Production limits for permitted wells are based on service area. Maximum allowable production rates shall be based on the size of tracts in accordance with the following table:

<b>Contiguous Tract Size Area Of 10 Acres Or Less</b>	
<b>With Sevice Area</b>	<b>Allowed Production Rate</b>
0-1 acres	0.5 acre foot/year or 13,580 gallons/month
1-10 acres	0.5 acre foot/acre/year

<b>Contiguous Tract Size Area Of Greater Than 10 Acres</b>	
<b>With Sevice Area</b>	<b>Allowed Production Rate</b>
0-1 acres	0.5 acre foot/year or 13,580 gallons/month
>1 acres	1 acre foot/acre/year

Production rates as defined above and the total contiguous service area upon which water will be applied shall determine the actual production limits, e.g. a five acre service area on a fifteen acre tract shall be allowed a production of 5 acre feet/year. Production rate limits may be lowered by the Board in HHGUA or CGDA where depletion is a factor and is reasonably necessary to protect existing use (36.116(a)(2)(A)(B)(C)(D)(E)). Final production limits will be determined on a case-by-case basis by the Board. The applicant or permittee may be required to drill test wells and conduct pump tests. A certified engineer and/or geoscientist maybe required to oversee the test and provide a certified report of the finding. The Board after reviewing the report will decide production limits.

In determining production rates for wells located on tracts not contiguous with the destination service area, all sources of water allocated to the destination service area will be considered and the permitted production rate based on the total of all sources as if all sources were subject to District production rules, e.g., a destination service area of 200 acres with existing allocations of current 150 acre feet per year would be permitted a production rate of 50 acre feet per year based on a 1 acre foot per acre per year allowed production rate. Permitted production rates for transport or transfer of water may be lowered by the Board in HHGUA or CGDA declarations at the source as above. Further, at permit renewal, production rates will be redetermined by considering first all other water allocations to the service area at the time of renewal.

**RULE 5.7 PROHIBITED AQUIFER PENETRATIONS:** There shall be no excavation or drilling of a well(s), or use of an excavation or a well(s) for the purpose of temporarily or permanently disposing of the following materials or substances, as defined in District Rules, within the District:

- (1) Radioactive wastes
- (2) Toxic pollutants
- (3) Hazardous substances
- (4) Hazardous wastes
- (5) Polychlorinated biphenyls(PCBs)
- (6) Soils, fluids or other materials or substance contaminated with any of the above.

## **RULE 6. WELL REGISTRATION**

### **RULE 6.1 STANDARD REGISTRATION PROVISION:**

- A.** All wells exempt from permitting under Rule 5.2 shall be registered with the District.
- B.** All wells so registered shall be equipped and maintained so as to conform to the standards outlined in Rule 8 as well as the Texas Water Well Drillers and Pump Installers Rules, 16 Texas Administrative Code Chapter 76.
- C.** Application for registration of any existing well shall be filed with the District on a form(s) promulgated by the District.
- D.** Transport or transfer of water from a registered well nullifies the registered well exemption of Rule 5.2

**RULE 6.2 WELL REGISTRATION DEPOSIT, INVENTORY, AND FEE:** If the penetration is a new water well, the completely filled out application shall be accompanied by an inspection and inventory charge and by a deposit which will be refunded upon the filing with the District a copy of the driller's log and completion and equipping report including type and size of the pump. Upon completion of the well, District personnel shall have access to the property at a reasonable time to inspect the well and complete the inventorying of the well.

**RULE 6.3 RECORDS AND REPORTS REQUIRED:** In addition to the information provided in the registration application, accurate driller's logs and records of equipping and completion of the wells, including any electric logs made, pump test data, any water level data, water quality data, or any data pertinent to the well, shall be filed in the District office in Fredericksburg, Texas, within sixty (60) days after completion of the well or project. Failure to do so may invoke Rule 11.3.

## **RULE 7. WASTE**

**RULE 7.1**    **WASTE:** Prohibition against waste and/or wasteful use of groundwater.

- A.**    Groundwater shall not be produced within, or used within or without the District, in such a manner as to constitute waste as defined by Rule 1.1.
  
- B.**    Any owner producing or using groundwater shall use every possible precaution, in accordance with the latest approved methods, to stop and prevent waste of such water.
  
- C.**    Groundwater pumped for industrial or commercial use or application shall be considered waste if the quantity is in excess of the quantity, if any, recognized by the industry according to its Standard Industrial Code (SIC) classification to be the maximum amount of water necessary to efficiently meet the demands for the particular use or application in question.
  
- D.**    In event of a conflict between “Beneficial Use” or “Beneficial Purposes” and “Waste”, “Beneficial Use” or “Beneficial Purposes” shall be subordinate to “Waste”.

**RULE 8. WELL CONSTRUCTION AND COMPLETION STANDARDS AND PERSONS AUTHORIZED TO DRILL WELLS AND INSTALL PUMPS**

**RULE 8.1 WELL CONSTRUCTION AND COMPLETION STANDARDS:** Monitor wells are exempt from this rule; however, their construction shall follow state guidelines.

- A.** The diameter of the drilled hole shall be a minimum of three inches (3") larger than the outside diameter of the casing to be used down to a depth of fifty feet (50') or to the top of the first potable water bearing strata above fifty feet (50').
- B.** Either steel pipe or polyvinyl chloride (PVC) casing may be used. PVC casing shall meet minimum specifications as defined by the Department of Licensing and Regulations Water Well Drillers and Pump Installers in 16 Texas Administrative Code Chapter 76.
- C.** The borehole casing annulus shall be filled with cement slurry or bentonite from ground level to a depth of not less than fifty feet (50') below the land surface or to the top of the first potable water bearing strata above fifty feet (50'). In those cases where the well is cemented above fifty feet (50'), in order to prohibit comingling of shallow water with water from deeper strata, the well shall not be drilled or completed in water bearing strata below fifty feet (50'). All wells shall satisfy all State water well completion and annular space sealing requirements.
- D.** The casing shall extend at least eighteen inches (18") above land surface at a site not generally subject to flooding; provided however, that if a well must be placed in a flood prone area, it shall be completed with a water tight sanitary well seal and steel casing extending a minimum of thirty six inches (36") above known flood levels.
- E.** All wells completed with plastic casing shall be completed according to one of the three surface completion methods as described by the following:
  - (1) Slab - The slab or block shall extend at least two feet (2') from the well in all directions and have a minimum thickness of four inches (4"), and should be separated from the well casing by a plastic or mastic coating or sleeve to prevent bonding of the slab to the casing. The surface of the slab shall be sloped to drain away from the well. The top of the casing shall extend a minimum of one foot (1') above the top of the slab.
  - (2) Steel and PVC Sleeve - The steel sleeve shall be a minimum of 3/16" in thickness and/or the plastic sleeve shall be a minimum of schedule 80 sun resistant and twenty four inches (24") in length and shall extend twelve inches (12") into the cement, except when steel casing or a pitless adapter is used. The casing shall extend a minimum of one foot (1') above the original ground surface, and the steel sleeve shall be two inches (2"), larger in diameter than the plastic casing being used.

- (3) Pitless Adapters - In wells with Steel or Plastic Casings completed with pitless adapters, the adapters shall be welded to the casing or fitted with another suitably effective seal, and the borehole-casing annulus filled with cement slurry or bentonite to a depth of not less than fifty feet (50') below land surface, or to the top of the first potable water bearing strata above fifty feet (50'). All wells completed with pitless adapters shall satisfy all State water well completion and annular space sealing requirements that pertain to pitless adapters.
  
- F.** Wells completed with steel casing shall meet all specifications set forth by the Water Well Driller and Pump Installers Rules, 16 Texas Administrative Code Chapter 76, and need to be completed at the surface with the annular space filled with cement slurry or bentonite as described in Rule 8.1C.
  
- G.** All wells, especially those that are gravel packed, shall be completed so that aquifers or zones containing waters that are known to differ significantly in chemical quality are not allowed to commingle through the borehole-casing annulus or the gravel pack and cause quality degradation of any aquifer or zone.
  
- H.** All wells shall be equipped with a water tight sanitary well seal with an inspection port, or some other means which allows for free access to the water table for the purpose of water level measurement and disinfection. Any well presently not equipped with a water tight sanitary well seal is required to be so equipped in the future when that well is serviced. On those wells with odd sized casing, which cannot be fitted with a factory made water tight sanitary well seal, the completion shall be done in a manner that shall prevent any pollutants (waste, insects, chemicals, etc.) from entering the well.

**RULE 8.2 PERSONS AUTHORIZED TO DRILL WELLS AND INSTALL PUMPS:**

- A.** Only persons who are licensed water well drillers, in good standing with the Department of Licensing and Regulation Texas Water Well Drillers Board and whose licenses are verified with the District are allowed to commercially drill water wells within the District. License verification with the District shall be on forms provided by the District and be in accordance with and contain information called for in the form of verification. Owners may personally drill water wells on their own property provided wells are completed according to State and District completion requirements.
  
- B.** Commercial Pump Installers are required to show licensed verification with the District. License verification shall be on forms provided by the District and shall be in accordance with and contain the information called for in the form of verification.



**RULE 9. HIGH HISTORICAL GROUNDWATER USE AREA AND CRITICAL  
GROUNDWATER DEPLETION AREA**

**RULE 9.1 STATUTORY AUTHORITY:**

- A. The District may regulate the production of wells in order to minimize the drawdown of the water table or the reduction of artesian pressure. The District has the authority to establish different spacing and production rules for different geographic areas within the District, based on hydrogeological conditions. (36.116)
- B. This Rule 9 implements the requirement in the District's comprehensive management plan, adopted as required by Texas Water Code, that calls for regulating production of groundwater from wells if the District determines that (i) groundwater within the District or a part of the District (or a reservoir or subdivision of a reservoir) is experiencing a drawdown of the water table or the reduction of artesian pressure and (ii) the regulation of production of water from wells within the District or that part of the District, shall minimize, as far as practicable, the drawdown of the water table or the reduction of artesian pressure.
- C. The District may impose more restrictive permit conditions on new permit applications and applications for increased use by historic users if the limitations are reasonably necessary to protect existing use (36.113(e)(3)). The District may also eliminate the exemptions granted in Rule 5.2 (C) and (D) of these Rules.

**RULE 9.2 HIGH HISTORICAL GROUNDWATER USE AREA:**

Permits for new wells or amendments to permits for increased production from existing wells may be subject to increased spacing, restricted production, or denial if the well is located in a High Historical Groundwater Use Area (HHGUA). The District can declare a HHGUA and Buffer Zones only after notice and hearing conducted according to the procedure required by Rule 12.1 Such a designation will be based on current production levels, well density, and aquifer conditions as determined by the District's aquifer monitoring program. These criteria are as follows:

- A. **Criteria for designation of HHGUA.** The District may designate a HHGUA based on any of the following.
  - (1) Water level decline over time;
  - (2) Production levels;
  - (3) Degree of increase in number of permitted wells
  - (4) Cone of depression development and size.
- B. **Criteria for boundary placement of HHGUA.** The District may determine the boundary of HHGUA based on any of the following.
  - (1) Rectangular or square in shape to enable N-S, E-W parallel to be

determined using latitude and longitude coordinates as determined from global positioning systems (GPS);

- (2) Well defined recognized natural or manmade landmarks such as rivers or streams or county or state roads and highways; or
- (3) Circular or non-square or rectangular boundaries could be used and also based on GPS measurements.

**C. Designation of High Historical Groundwater Use Buffer Zones.** The purpose of such HHGUA Buffer Zones is to put into place a transition between a HHGUA and adjacent non-HHGUA.

**D. Permit term and renewal, regulation of production and well setback requirements in a HHGUA.** On new permitted wells and requests for increased production on existing permitted wells in a HHGUA, the District will require the following:

- (1) More stringent production limits will be placed on new or increased production permitted wells in HHGUA than on new permitted wells outside of a HHGUA.
- (2) The well spacing requirements of Rule 5.6(A) and (B) are doubled in a HHGUA for new permitted wells
- (3) Metering of either flow or pumped time shall be required for new or increased production permitted well production in a HHGUA..
- (4) New well or increased production permits in a HHGUA may be valid for two (2) years. Before the permit is renewed for an additional 2-year period, the permit will be reviewed by the District and new production limits may be established based on aquifer conditions.
- (5) Existing permitted wells within a HHGUA that require replacement due to deterioration may be replaced without permit change provided intended use and production remain the same. In addition the replaced well shall be plugged.

**E.** Well spacing and setback requirements in a HHGUA Buffer Zone shall be the same as for new permitted wells in a HHGUA.

### **RULE 9.3 CRITICAL GROUNDWATER DEPLETION AREA:**

**A. Identification of a Critical Groundwater Depletion Area (CGDA):** The District periodically reviews the water level data obtained from its various water level monitoring programs across the District. If evidence of drawdown of the water table or reduction of artesian pressure in an area of an aquifer indicates an aquifer mining situation, that is, a non-sustainable yield, and/or in consideration of such local climate indicators such as the Palmer Hydrological Drought Severity Index published by the National Oceanic and Atmospheric Administration (NOAA), the Board may declare the area a Critical Groundwater Depletion Area (CGDA). Prior to establishing a CGDA the District will invite comment from and exchange aquifer condition data with well owners within the proposed CGDA.

Following the foregoing collaboration study and notice made, a hearing will be held using the procedure required by Rule 12.1 prior to declaration of a CGDA. A CGDA will be classified into one of two categories:

- (1) A Category One classification will be assigned to an area experiencing critical depletion due to climatic events where the ability of the aquifer to provide sustainable yields at normal usage rates is seriously impaired. The duration and severity of the climatic conditions will determine the extent and period of the conservation actions taken by the District. Upon return of normal climatic conditions and adequate recharge to bring the aquifer back to sustainable normal usage, the District will cancel the CGDA.
- (2) A Category Two classification will be assigned to an area experiencing critical depletion due to increased pumpage that has caused or will shortly cause the aquifer to fall below sustainable yield on a permanent basis, not primarily caused by but possibly exacerbated by short-term climatic conditions. Conservation actions taken by the District will remain in effect until such time the aquifer shows long-term reversal of the non-sustaining condition. Such reversal can conceivably be brought about through permanent pumpage reduction, use of alternative water sources, or changes in well owner's use of water.

**B. Procedures Following Establishment of a CGDA:** Once a CGDA is declared and delineated, the area will be given a unique name or number for identification purposes and all well owners in the area will be notified. Notification of all Board decisions related to a CGDA will be made to all well owners within the CGDA by published notice. When the Board declares and delineates a CGDA, the Board will take action, including any combination of the following:

- (1) Deny all applications for drilling within the CGDA and cancel the District's defined exemptions of Rule 5.2(C).
- (2) Set production limits on Permitted Wells located within the CGDA to an assigned volume of water as may be determined from the historical production data obtained from District records. The allowed volume will be an amount that will halt the decline of the aquifer sustainable yield, which may allow continued but reduced pumpage. The approved conservation/drought management plans will be considered in determining the production limits. The Board will review the production allocation on a quarterly basis and make appropriate adjustments as permitted or dictated by aquifer conditions.
- (3) Require all Permitted Wells within the CGDA to be equipped with a District approved meter or measuring device. The expense of the device shall be borne by the well owner.
- (4) Require increased spacing for all new permits within the CGDA.
- (5) Establish recommended production limits on all exempted wells within the CGDA to reasonably correspond to retail water utility conservation/drought management plans used within the District.

Owners of Permitted Wells within the CGDA shall provide the District with

reports of the amount of water produced from each well under permit in the CGDA on forms provided by the District and on a schedule determined by the Board. If the Board has not required metering devices on wells, production volume reports shall be provided by accurate estimates such as recording duration of pumping and the well output capacity (gpm).

Owners of Permitted Wells within the CGDA may request a temporary change in water allocation through petition to the Board. Decision on such requests will be made consistent with prudent aquifer management, the effect on other well owners in the CGDA, and the degree of necessity for the request.

## **RULE 10. TRANSPORTATION OF GROUNDWATER OUT OF THE DISTRICT**

**RULE 10.1 PURPOSE:** The District being within a State designated priority groundwater management area (Hill Country Priority Groundwater Management Area) with limited groundwater resources available for present and future demands, and by the authority granted it under Section 36.122 of the Texas Water Code, these rules are adopted and require that an application shall be made and a transport permit be obtained to transfer groundwater out of the District. Transport applications shall be on forms provided by the District and contain all required information before application is considered. All water wells used for the transfer of water out of the District shall be permitted wells. Rule 10 applies only to a transfer of water that is permitted after September 1, 1997 (36.122(n)).

**RULE 10.2 EXCEPTIONS:** Water used for emergency purposes such as for fire fighting may be transported by truck out of the District on a per incident basis without need for a transport permit. Likewise occasional transport by truck out of the District of water for support of county or state construction or paving projects may be made without need for a transport permit.

**RULE 10.3 FEES:** The District may impose a reasonable fee for processing an application for a transport permit to transfer water out of the District, not to exceed the application fee for a well permit under Rule 5.

**RULE 10.4 APPLICATION PROCEDURES:** All applications to obtain permits to transfer groundwater out of the District (transport permits) will be considered and processed under the same procedures as applications for well permits under Rule 5 and shall contain the following:

- (1) The name and address of the applicant,
- (2) The legal description of the exact location(s) of the well(s) from which water to be transported is to be produced and the well(s) permit number,
- (3) The name and address of the well owner(s) of the land upon which is located the well(s) which is to produce water to be transported,
- (4) The time schedule for construction and/or operation of the facility,
- (5) A complete construction and operations plan that shall include, but not limited to, information as to a technical description of the facilities to be used for transportation of water,
- (6) The use of the water to be transported,
- (7) The volume of water to be transported annually,
- (8) Scientific evidence showing that the proposed operation will not cause pollution as defined in Rule 1 or waste as defined in Rules 1 and 7,
- (9) Provide information showing the effect of the proposed transportation on the quantity and quality of water available within the District,
- (10) Provide information showing the projected effect on the proposed transfer on aquifer conditions, depletions, subsidence, or effects on existing permit holders or other groundwater users within the District,
- (11) Provide information that the proposed transfer conforms to the goals and

objectives in the approved District Management Plan and the Regional Water Plan,

- (12) A water conservation plan and a drought management plan,
- (13) Additional information that may be required by the Board.

**RULE 10.5 HEARING:** The District may conduct a hearing on an application for a transport permit.

**RULE 10.6 PERMIT APPROVAL/DENIAL:**

- (1) As required by state law, the District may not impose more restrictive permit conditions on transporters than the District imposes on existing in-district users including determination of service area, except as provided in Rule 5.1 (36.122(c)). In reviewing a proposed transfer of groundwater out of the District, the Board will consider:
  - (a) the availability of water in the District and in the proposed receiving area during the period for which the water supply is requested (36.122(f)(1)),
  - (b) the projected effect of the proposed transfer on aquifer conditions, depletion, with special concern for the possibility of aquifer mining and the subsequent implementation of the Critical Groundwater Depletion Area, subsidence, or effects on existing permit holders or other groundwater users within the District (36.122(f)(2)) that may be in a designated High Historical Groundwater Use Area ,
  - (c) the approved Regional Water Plan and certified District Management Plan (36.122(f)(3)),
- (2) As required by state law, the District may not deny a transport permit based on the fact that the applicant seeks to transfer groundwater outside of the District but may limit a transport permit if conditions in 36.122(f) warrant the limitation, but may not impose more restrictive permit conditions on transporters than on permits for in-district use of groundwater.

**RULE 10.7 TRANSPORT FEE (§36.122(e)(1)(2)):** The District may impose a reasonable fee or surcharge for an transport fee using one of the following methods:

- (1) A fee negotiated between the district and the transporter,
- (2) A rate not to exceed the amount authorized through Chapter 36.122(e)..

**RULE 10.8 PERMIT TO TRANSPORT GROUNDWATER OUT OF THE DISTRICT:** If a permit is granted to an applicant, the permit may specify the following (36.122):

- (1) The amount of water that may be transferred out of the District; and the period for which the water may be transferred (36.122 (h)).
- (2) A transport permit will be issued for an initial term of at least 3 years if construction of a conveyance system has not been initiated prior to the issuance of the permit (36.122(i)(1)); or at least 30 years if construction of

a conveyance system has been initiated prior to the issuance of the permit (36.122 (j)(2)).

- (3) If during the initial term of a transport permit, construction of a conveyance system is begun, the transport permit will automatically be extended to the full 30-year term.
- (4) Notwithstanding the permit term, the District shall renew a transport permit every five years, using the standards in Rule 5.4(H). In its determination of renewal of a transport permit, the District shall consider relevant and current data for the conservation of groundwater resources and will consider the permit in the same manner it would consider a permit under Rule 5. The District may limit the amount of water authorized by the transport permit if warranted by the standards in Rule 5.4(H).
- (5) The District may not prohibit the export of groundwater if the purchase was in effect on or before June 1, 1997 (36.122(m)).
- (6) In applying Rule 10, the District will be fair, impartial, and nondiscriminatory (36.122(q)).

**RULE 10.9 MONITORING AND REPORTING:**

- (1) All permitted transportation facilities shall be equipped with flow monitoring devices approved by the District and shall be available at all reasonable times for inspection by District personnel,
- (2) The operation of a permitted transportation facility shall be required to keep records and provide monthly production reports to the District, which show daily production rates.

## **RULE 11: INVESTIGATIONS AND ENFORCEMENT**

**RULE 11.1 NOTICE AND ACCESS TO PROPERTY:** (36.123) Board Members and District representatives and employees are entitled to access to all property within the District to carry out technical and other routine investigations (i.e. photographing, sampling, monitoring and testing) necessary to the implementation of the District Rules. Prior to entering upon the property for the purpose of conducting an investigation, the person seeking access will give notice in writing or in person or by telephone to the owner, operator, agent, or employee of the well owner, as determined by information contained in the application or other information on file with the District. Notice is not required if prior permission is granted to enter without notice. Inhibiting or prohibiting access to any Board Member or District representative or employees who are attempting to conduct an investigation under District Rules constitutes a violation and subjects the person who is inhibiting or prohibiting access, as well as any other person who authorizes or allows such action, to the penalties set forth in the Texas Water Code Chapter 36.102.

### **RULE 11.2 INVESTIGATION OF POSSIBLE VIOLATION(S) (§36.123):**

- A.** When the District's Board of Directors has been informed of a possible violation of a District Rule, the District Manager will send a letter notifying the owner about the potential violation and arranging to meet with the owner to investigate the potential violation.
- B.** Investigations or inspections that require entrance upon property will be conducted at reasonable times, and will be consistent with the establishment's reasonable rules and regulations concerning safety, internal security, and fire protection. The persons conducting such investigations shall identify themselves and present credentials upon request of the owner.
- C.** Following the investigation, the District Manager shall report to the Board of Directors the findings of the investigation. If the Board determines that no violation has occurred, the District will notify the owner by letter of the Board's finding that no violation has occurred.
- D.** If the Board of Directors determines from the investigation that a violation has occurred, the District will notify the owner by certified mail that the owner is in violation and outline the action the owner shall take to come into compliance with District Rules.
- E.** When the owner notifies the District that compliance has been met, an investigation by the District Manager will be made and reported to the Board. The Board shall determine if compliance has been met by the owner. If so, the District will notify the owner by letter that compliance with District Rules has been met.



**RULE 11.3 RULE ENFORCEMENT:** If the Board determines that compliance has not been met, then the Board may chose from the following actions to ensure compliance with District Rules:

- A.** Begin the enforcement hearing process under Rule 12.4 for permit revocation, involuntary amendment or suspension.
- B.** Enforce these rules by injunction, mandatory injunction or other appropriate remedy in a court of competent jurisdiction.
- C.** Assess reasonable civil penalties for breach of any District Rule as authorized in Chapter 36 of the Texas Water Code. A penalty under this Rule is in addition to any other penalty provided by law of this state and may be enforced by complaints filed in the appropriate court of jurisdiction in the county in which the District’s principal office or meeting place is located. If the District prevails in any suit to enforce its Rules, it may, in the same action, recover reasonable fees for attorneys, expert witnesses, and other cost incurred by the District before the court. The amount of the attorney’s fee shall be fixed by the court.
- D.** After a notice and an enforcement hearing conducted according to the procedure required by Rule 12.4, order a non-compliant well to be sealed under District Rule 11.4.
- E.** Continue to work with the owner until compliance is met and may mandate the monitoring of groundwater use by requiring the metering of the well or any other monitoring methods and provide regular production reports as determined by the Board.
- F.** Any combination of the above actions or other reasonable means as determined by the Board to ensure compliance.
- G.** Comprise and Settlement Guidelines, See Appendix B for an outline of Minor and Major rule violations.

**RULE 11.4 SEALING, CAPPING AND PLUGGING WELLS:**

- A. SEALING OF WELLS:** After notice and an enforcement hearing conducted according to the procedure required by Rule 12.4, the District may seal wells to ensure that a well is not operated in violation of the District Rules. A well may be sealed when:
  - (1) no permit has been obtained to drill a new water well that requires a permit under Rule 5;
  - (2) no application form has been filed for a permit to withdraw groundwater;  
or
  - (3) the Board has denied, cancelled or revoked a drilling permit or an

operating permit.

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

Tampering with, altering, damaging, or removing the seal of a sealed well, or in any other way violating the integrity of the seal, or pumping of groundwater from a well that has been sealed constitutes a violation of these rules and subjects the person performing that action, as well as any well owner or primary operator who authorizes or allows that action, to such penalties as provided by the District Rules.

- B. CAPPING WELLS:** After notice and an enforcement hearing conducted according to the procedure required by Rule 12.4, the District may require a well to be capped to prevent waste, prevent pollution, or prevent further deterioration of a well casing. The well shall remain capped until such time as the conditions that led to the capping requirement are eliminated. If well pump equipment is removed from a well and the well will be re-equipped at a later date, the well shall be capped, provided however that the casing is not in a deteriorated condition that would permit commingling of water strata in which case the well shall be plugged. The cap shall be capable of sustaining a weight of at least four hundred (400) pounds.
- C. PLUGGING WELLS:** A deteriorated or abandoned or open and uncovered well shall be plugged in accordance with the Well Driller and Pump Installers Rules, 16 Texas Administrative Code Chapter 76. It is the responsibility of the owner to see that such a well is plugged to prevent pollution of the underground water and to prevent injury to persons.
- D. PLUGGING REPORT:** Not later than the 30<sup>th</sup> day after a well is plugged, the person plugging the well shall submit a plugging report to the District on a form provided by the District.

## **RULE 12. HEARINGS**

This Rule 12 sets forth circumstances and procedures for holding formal hearings on the specific topics stated. Nothing in this Rule 12 will preclude the District Board from including as a standard Board meeting agenda item an allotted time for public comment and said agenda item for public comment will not be considered a hearing as defined by this Rule 12.

### **RULE 12.1 RULE MAKING HEARING**

- A.** Once the District has developed a proposal involving changes to District Rules, changes to the District Management Plan, designation of a High Historical Groundwater Use Area (HHGUA) and Buffer Zone, or Designation of a Critical Groundwater Depletion Area (CGDA), the District will decide at which Board meeting the proposal will be considered for action. The Board meeting at which the proposal is considered under this Rule will be considered the hearing on the proposal and fulfills the requirement, if any, for a hearing.
- B.** The General Manager shall provide notice of all rulemaking hearings in accordance with the Open Meetings Act.
- C.** In addition to the notice required by the Open Meetings Act, not later than the 20<sup>th</sup> day before the date of the hearing, notice shall be provided as follows:
  - (1) Post notice in a place readily accessible to the public at the District office;
  - (2) Provide notice to the county clerk of Gillespie County;
  - (3) Publish notice in one or more newspapers of general circulation in Gillespie County; and
  - (4) Provide notice by mail, facsimile, or electronic mail to any person who has requested notice under Rule 12.1.F. Failure to provide notice under this Rule 12.1.C(4) does not invalidate an action taken by the District at a hearing under Rule 12.1.
- D.** Notice of the hearing on the proposal required by Rule 12.1.C. will include:
  - (1) A brief explanation of the subject of the hearing, including a statement that the District's Board of Directors will consider proposed changes to the District's Rules, Management Plan, HHGUA, or CGDA at the Board meeting, which will serve as the hearing on the matter.
  - (2) The time, date, and location of the hearing.
  - (3) The agenda of the hearing.
  - (4) A statement that the proposal is available to be reviewed or copied at the District Office and on the District's website prior to the hearing.
  - (5) A statement that the District will accept written comments and give the deadline for submitting written comments.
  - (6) A statement that oral public comment will be taken at the hearing.

- E.** Copies of the proposal will be available during normal business hours at the District and posted on the District’s website.
- F.** A person may submit to the District a written request for notice of a hearing under this Rule 12.1. A request is effective for the remainder of the calendar year in which the request is received by the District.
- G.** Anyone interested in the proposal may submit written comments about the proposal to the District at least 5 business days prior to the scheduled hearing at which the proposal will be considered by the Board.
- H.** Anyone interested in the proposal may attend the hearing and make oral comments at the time designated for comments.
- I.** The District will make and keep in its files an audio recording of the hearing, written minutes of the hearing, and any written comments of the hearing.
- J.** The Board will issue a written order or resolution reflecting its decision and the proposal that the Board approves will be an attachment to that written order or resolution.
- K.** The effective date of the written order will be the date on which the Chairman of the District signs the order or resolution. The order or resolution will include a statement that the proposal becomes effective and final on that date. Any appeal authorized by Texas Water Code Chapter 36, Subchapter H will run from that effective date.
- L.** If in the course of the deliberation during the hearing, the Board decides to substantially change the proposal, the Board will “continue” or postpone the matter until a future Board meeting. Prior to consideration of the substantially changed proposal, the District will provide a notice and opportunity for comment and hold a hearing on the substantially changed proposal. It is solely within the discretion of the Board what constitutes a substantial change to a proposal under this Rule.

**RULE 12.2 ADOPTION OF EMERGENCY RULES**

- A.** The District may adopt an emergency rule without following the notice and hearing provisions of Rule 12.1, 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 12.2.A(1).

- B.** An emergency rule under this Rule 12.2 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 12.2.D., a rule adopted under this Rule may not be effective for longer than 90 days.
- D.** If notice of a hearing under Rule 12.1 is given before the emergency rule expires under Rule 12.2.C., the emergency rule is effective for an additional 90 days.

**RULE 12.3 HEARINGS ON PERMITS AND PERMIT AMENDMENTS**

- A.** In this Rule, “applicant” means a person who is applying for a permit or permit amendment, and “application” means the formal process for applying for a well permit or permit amendment. For this Rule “permit” shall mean for a well or for transport of water.
- B.** In accordance with Rule 5.4E, the Board may hold a hearing on one or more applications. The decision by the Board for a hearing will be made at the Board meeting in which the administratively complete application(s) is/are first brought before the Board for consideration. Any hearing will be held as part of a scheduled Board meeting at the regular Board meeting location unless the Board provides for the hearing to be held at a different location
- C.** Notice (Sec. 36.404)
  - (1) If the Board schedules a hearing on a permit or permit amendment, the District will give notice of the hearing as provided by this section.
  - (2) The notice must include:
    - (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 or permit amendment, 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 hearing;
    - (e) A statement that the District will accept written comments on the application and give the deadline for submitting written comments;
    - (f) A statement that oral public comment on the application will be taken at the hearing; and
    - (g) Any other information the Board considers relevant and appropriate.
  - (3) Not later than the 10<sup>th</sup> day before the date of a hearing, the District will:
    - (a) Post notice in a place readily accessible to the public at the District office;

- (b) Provide notice to the county clerk; and
  - (c) Provide notice by:
  - (d) Regular mail to the applicant;
  - (e) Regular mail, facsimile, or electronic mail to any person who has requested notice under Subsection (4);
  - (f) Regular mail to any other person entitled to receive notice under District Rules; and
  - (g) Other notification deemed appropriate by the Board.
- (4) A person may request notice from the District of a hearing on a permit or a permit amendment application. The request must be in writing and is effective for the remainder of the calendar year in which the request is received by the District. To receive notice of 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.
  - (5) Failure to provide notice under Subsection (3)(c)(ii) does not invalidate an action taken by the District at the hearing.

**D. Hearing Registration (36.405)**

The District may require each person who participates in a 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 there in the person's individual capacity,

**E. Hearing Procedures (36.406)**

- (1) The hearing must be conducted by a quorum of the Board, or the Board, at its sole discretion, may appoint a hearing Examiner to preside at and conduct the hearing on the permit or permit amendment. The appointment of a hearing Examiner shall be made in writing. If the hearing is conducted by a quorum of the Board, the President will preside. If the President is not present, the Board will select one of the Directors present to preside. Notice of all hearings conducted by a quorum of the Board will be made in accordance with the Open Meetings Act.
- (2) The presiding officer may:
  - (a) Convene the hearing at the time and place specified in the notice;
  - (b) Set any necessary additional hearing dates;
  - (c) Designate the parties regarding a contested application;
  - (d) Establish the order for presentation of evidence;
  - (e) Administer oaths to all persons presenting testimony;
  - (f) Examine persons presenting testimony;
  - (g) Ensure that information and testimony are introduced as conveniently and expeditiously as possible without prejudicing the rights of any party.

- (h) Allow testimony to be submitted in writing and may require that written testimony be sworn to. On the motion of a party to the hearing, the presiding officer may exclude written testimony if the person who submits the testimony is not available for cross-examination by telephone, a deposition before the hearing, or other reasonable means;
- (i) Continue a hearing from time to time and from place to place without providing notice under Rule 12.3.C. If the continuance is not announced on the record at the hearing, the presiding officer must provide notice of the continued hearing by regular mail to the parties.(36.409)
- (j) If the Board has not acted on the application, the presiding officer may allow a person who testifies at the hearing to supplement the testimony given at the hearing by filing additional written materials with the presiding officer not later than the 10<sup>th</sup> day after the date of the hearing. A person who files additional written material with the presiding officer under this subsection must also provide the material at the same time to any person who provided comment at the hearing and to any party to a contested hearing. A persons who receives additional written material under this subsection may file a response to the material with the presiding officer not later than the 10<sup>th</sup> day after the date the additional material was received.(36.408(g))

**F. Evidence. (36.407)**

The presiding officer shall:

- (1) Admit relevant evidence; and
- (2) Prescribe reasonable time limits for testimony and the presentation of evidence;

**G. Recording. (36.408)**

The presiding officer shall prepare and keep a record of each hearing in the form of meeting minutes except in a contested hearing an audio recording shall also be made. On the request of a party to a contested hearing, 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 or have paid by others in a timely manner costs assessed against that party under this Rule 12.3.G.

**H.** Report. (36.410)

If the Board has appointed a hearing examiner to be the presiding officer at the hearing, the hearing examiner shall submit a report to the Board not later than the 30<sup>th</sup> day after the date the hearing is concluded. The report must include:

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

A copy of the report shall be provided to the applicant and to each party who provided comments or to each designated party. The applicant and other parties who receive the report may submit to the Board written exceptions to the report within 10 days of issuance of the report.

**I.** Board Action. (36.411)

The Board shall act on a permit or permit amendment application within 60 days after the final hearing on the application is concluded.

**J.** Request for Rehearing or Findings and Conclusions. (36.412)

- (1) Not later than the 20th day after the date of the Board's decision, an applicant, or a party to a contested hearing, may administratively appeal a decision of the Board on an application by requesting written findings and conclusions or a rehearing before the Board.
- (2) On receipt of a timely written request, the Board will make written findings and conclusions regarding a decision of the Board on permit or permit amendment. The Board will 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 a contested 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 will schedule the rehearing not later than the 45th day after the date the request is granted.
- (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.



- K.** Decision; When Final. (36.413)
- (1) A decision by the Board on permit or permit amendment is final if:
    - (a) A request for rehearing is not filed on time, on the expiration of the period for filing a request for rehearing; or
    - (b) A request for rehearing is filed on time, on the date:
      - (i) the Board denies the request for rehearing; or
      - (ii) the Board renders a written decision after rehearing.
  - (2) An applicant or a party to a contested hearing may file a suit against the District under Texas Water Code § 36.251 to appeal a decision on permit or permit amendment not later than the 60th day after the date on which the decision becomes final. A timely filed request for rehearing is a prerequisite to any such suit.

#### **RULE 12.4 HEARINGS ON ENFORCEMENT ACTIONS**

- A.** Once the District has determined that a person has violated any rule under the District's jurisdiction and that the Board is considering taking some action against the person, the District will decide at which Board meeting the enforcement action will be considered. The Board meeting at which the enforcement action is considered under this Rule will be considered the enforcement hearing on the matter and fulfills the requirement.
- B.** The General Manager shall post notice in accordance with the Open Meetings Act.
- C.** Notice of the enforcement hearing will be mailed to the respondent by certified mail, return receipt requested, at least ten days prior to the scheduled hearing date. This notice serves as the notice of violation.
- D.** Anyone attending the enforcement hearing may make oral comments at the time designated for comments.
- E.** The Board, at its sole discretion, may administer an oath to the staff, the respondent, and anyone who makes oral comments on the enforcement action.
- F.** The Board, at its sole discretion, may appoint a Hearings Officer or committee of the Board to conduct the enforcement hearing (Hearing Body). Any hearing conducted by a Hearing Body, will be conducted in the same manner as provided in this Rule 12.4. At the close of the enforcement hearing, the Presiding Officer will make a written recommendation to the Board. The recommendation will become part of the record. The Board is not required to approve the recommendation of the Hearing Body.
- G.** The Board will issue a written order reflecting its decision and actions. Actions may include the sealing of the well(s), cancellation of permit(s), civil penalties or injunctions.

- H.** The effective date of the written order will be the date on which the Chairman of the District signs the order or resolution. The order or resolution will include a statement that the order or resolution becomes effective and final on that date. Any appeal authorized by Texas Water Code Chapter 36, Subchapter H will run from that effective date.

## APPENDIX A

### RULE REVISION/AMENDMENT DATES

Adopted 1 <sup>st</sup> Rules – January 12, 1989	
Amended/Adopted – May 1, 1990	75' Setback Requirement
Amended/Adopted – December 1, 1992	Well Completion
Amended/Adopted – September 6, 1994	Waste
Amended/Adopted – November 9, 1999	General
Amended/Adopted – March 19, 2002	General
Amended/Adopted – June 11, 2002	Rule 5.6(A) - Clarification of 75' setback requirement
Amended/Adopted – September 10, 2002	Rule 5.1(C)(5); 5.2(C); Statutory Authority Section 9 A,B,C & D; Rule 9.1; 9.2(A); 9.2(A)(2); 9.2(B)(1)(4)(6) - Modify exemptions pertaining to domestic wells within high historical use and critical groundwater depletions areas
Amended/Adopted – December 16, 2003	Addition of buffer zones around High Historical Groundwater Use Areas in Rule 9.2C and 9.2E, modification of the hearing process in Rule 12. Hearings and general administrative changes.
Amended/Adopted – October 5, 2004	Definitions: Adding Retail Public Utility – Amending – Applicant, Contiguous, Owner and Service Area; Modifications to Rule 5. Well Permitting; and General Administrative Changes
Amended/Adopted – May 9, 2006	Definitions – adding new and deleting old terms - Modifications to Rule 5.4 Permit Applications Procedure; Term Renewal, and Amendment – Modifications to Rule 12.Hearings – General administrative changes
Amended/Adopted – July 8, 2008	Modifications Rule 5.1, 5.2(C), 5.2(D), 5.4(B),(C),(D),(E),(F),(G),(L),(N), Rule 5.6(A), Rule 6.1, Rule 8.1(C), Rule 11.3 and General Administrative Changes

## **APPENDIX B**

### **COMPROMISE AND SETTLEMENT GUIDELINES**

*These are the guidelines the District will follow after the Hearings on Enforcement Actions (Rule 12.4), the following procedures will be implemented.*

**Compromise and Settlement Worksheet:** Each compromise and settlement worksheet prepared for presentation to the board shall include the following information.

- The name of the permittee
- The type of violation and the facts underlying the violation (including whether it is a repeat occurrence), and
- The penalty as provided by Section 36.102(b) of the Texas Water Code.

**The fines listed below will be in addition to any other fees owed to the District.**

### **MINOR VIOLATIONS**

The following acts shall constitute minor violations:

- Failure to file a registration form on an exempt well.
- Failure to submit required paperwork and reports as required by District Rules.
- Refusing to allow District employees access to wells.
- Failure to prevent waste.
- Failure to comply with capping rules.

### **MAJOR VIOLATIONS**

The following acts shall constitute major violations:

- Failure to obtain a permit (Including: failure to permit an existing well, failure to obtain a permit prior to drilling, or failure to obtain a permit prior to installing a landscape irrigation system).
- Failure to abide by permit requirements (i.e. production limits).
- Failure to comply with well spacing and well density rules.
- Failure to complete well according to District Rules and/or State standards.
- Failure of drillers, pump installers, and irrigation installers to have all necessary State certification(s) and to be complainant with all District Rules.
- Failure to install the proper check valves to prevent contamination from chemical injection, chemigation, and foreign substance systems.
- Failure to meter a well if required.
- Failure to comply with plugging rules.
- Removal of the seal of a prohibited well sealed by Court Order.
- Tampering with or bypassing a well production monitoring device (i.e. meter).

- Failure to come into compliance after second occurrence on a minor violation.
- Pumping groundwater into surface impoundments in excess of 50,000 gallons.

### **CALCULATIONS**

#### **Minor Violation**

- First occurrence: Up to \$50.00 per day
- Second occurrence: Up to \$100.00 per day
- Third occurrence: Major violation

#### **Major Violation**

- First Occurrence: Up to \$250.00 per day
- Second Occurrence: Up to \$500.00 per day
- Third Occurrence: Civil Suit for injunction with penalties up to \$10,000.00 per day

*After the Hearings on Enforcement Actions (Rule 12.4), the following procedures will be implemented.*

On the first occurrence of any violation, the violator shall be notified and allowed a specified time to become compliant. The first occurrence per diem starts on the date of the violation notice and continues through the specified time, but will be waived if the violator becomes compliant in the time specified in the violation notice. After the first occurrence time period has expired and the violator has not become compliant, then a second occurrence will be assessed and the violator notified. A new time period will be given for compliance along with a new second occurrence per diem which will be in addition to the first occurrence per diem assessed and accrued. If during the second occurrence the violator has become compliant, the second occurrence per diem will be waived; however the first occurrence per diem may or may not be waived by the Board. A third occurrence will be assessed and the violator notified if the violator has not become compliant after the second occurrence time period has expired. A new third occurrence per diem will be assessed with the first and second occurrence per diems remaining. If during the third occurrence the violator becomes compliant then the third occurrence per diem will be waived, however the first and second occurrence per diem may or may not be waived by the Board.

A repeat violation of the same nature occurring anytime after the initial violation has been rectified will automatically be categorized as a second occurrence.

### **OTHER MAJOR VIOLATIONS**

#### **Violations for Projects without Proper Permits.**

- An aquifer storage and recovery project: Up to \$10,000.00 per day
- Transportation of water from District: Up to \$10,000.00 per day

#### **Sealed Well Violations.**

- Unsealing a well sealed by Court Order: Up to \$5,000.00 per day