Panola County Groundwater Conservation District

DISTRICT RULES

Approved April 2017

TABLE OF CONTENTS

Page

SECTION 1. DEFINITION, CONCEPTS, AND GENERAL PROVISIONS 2
Rule 1.1 Definition of Terms 2
Rule 1.2 Authority of District 10
Rule 1.3 Authority of General Manager 10
Rule 1.4 Purpose of Rules 10
Rule 1.5 Purpose of District 11
Rule 1.6 Use and Effect of Rules 11
Rule 1.7 Construction of Rules 11
Rule 1.8 Ownership of Groundwater 12
Rule 1.9 Methods of Service Under the Rules 12
Rule 1.10 Computing Time 12
Rule 1.11 Severability 12
Rule 1.12 Regulatory Compliance; Other Governmental Entities 13
Rule 1.13 Time Limits 13
Rule 1.15 Amending of Rules 13
Rule 1.16 Requests for Reconsideration and Appeal 13

SECTION 2. OTHER DISTRICT MANAGEMENT ACTIONS AND DUTIES 14
Rule 2.1 District Management Plan 14

SECTION 3. WELL REGISTRATION AND PERMITTING 14
Rule 3.1 Registration Required 14
Rule 3.2 Purpose and Policy 14
Rule 3.3 General Registration Procedures 15
Rule 3.4 Application Timelines and Well Report Requirments 17
Rule 3.5 Wells Exempt from Permitting Requirements 17
Rule 3.6 Well Closure and Transfer of Water Wells used for Oil and Gas Operations 19
Rule 3.7 General Permitting Procedures; Drilling and Operating Permits Required for Certain Wells 20
Rule 3.8 Grandfathered Use Permits 21
Rule 3.9 Application Requirements for All Permits 22
Rule 3.10 Completion of Permit Application Required ..... 25~~24~~
Rule 3.11 Permits Subject to Conditions and Restrictions 25
Rule 3.12 Considerations for Granting or Denying a Permit Application 25
Rule 3.13 Permit Amendment 26
Rule 3.14 Replacement Wells 27
Rule 3.15 Emergency Authorization by General Manager or Board 27
Rule 3.16 Permits Issued by District; Duration of Permit; Renewal 28
Rule 3.17 Hydrogeologic Report Requirements 28
Rule 3.18 Aquifer Storage and Recovery Projects 28

SECTION 4. WELL REPORTING REQUIREMENTS 33
Rule 4.1 Drilling or Recompletion Records and Reports 33
Rule 4.2 Groundwater Production Reports 34
Rule 4.3 Groundwater Transportation Reports 36

SECTION 5. SPACING AND LOCATION OF WELLS; WELL COMPLETION 36
Rule 5.1 Spacing and Location of Existing Wells 36
Rule 5.2 Spacing Requirements for New Wells ..... 37~~36~~
Rule 5.3 Exceptions to Spacing Requirements 37

SECTION 6. WATER METER REQUIREMENTS ..... 38~~37~~
Rule 6.1 Meter Required for Certain Wells ..... 38~~37~~

SECTION 7. PRODUCTION LIMITATIONS ..... 39~~38~~
Rule 7.1 Production Limits for Grandfathered Use Permits ..... 39~~38~~
Rule 7.2 Production Limits for Operating Permits ..... 39~~38~~

SECTION 8. PROHIBITION AGAINST WASTE 39
Rule 8.1 Waste or Pollution of Groundwater Prohibited 39
Rule 8.2 Orders to Prevent Waste or Pollution ..... 40~~39~~
Rule 8.3 Authority to Investigate Violation of District Rules ..... 40~~39~~

SECTION 9. CAPPING AND PLUGGING OF WELLS 40
Rule 9.1 Capping of Wells 40
Rule 9.2 Plugging of Wells 40
Rule 9.3 Expenses Incurred by the District ..... 42~~41~~

SECTION 10. HEARINGS ..... 42~~41~~
Rule 10.1 Hearings Generally ..... 42~~41~~
Rule 10.2 Rulemaking Hearings 43
Rule 10.3 Permit Hearings 44
Rule 10.4 Contested Case Permit Hearings and Designation of Parties 46
Rule 10.5 Contested Case Hearings Conducted by the State Office of Administrative Hearings 48
Rule 10.6 Procedures for Permit Hearings Conducted by the District 49
Rule 10.7 Recording 51
Rule 10.8 Proposal for Decision ..... 52~~51~~
Rule 10.9 Board Action 52
Rule 10.10 Request for Rehearing or Findings and Conclusions 52
Rule 10.11 Decision; When Final 53
Rule 10.12 Consolidated Notice and Hearing on Permit Applications ..... 54~~53~~
Rule 10.13 Hearings on Adoption of Desired Future Conditions 54
Rule 10.14 Appeal of Desired Future Conditions 53

SECTION 11. TRANSPORTATION OF GROUNDWATER OUT OF THE DISTRICT 58
Rule 11.1 General Transportation Provisions 58
Rule 11.2 Considerations for Transportation of Groundwater 59

SECTION 12. AUTHORITY TO DEFINE MANAGEMENT ZONES AND PRODUCTION-BASED LIMITATIONS 6059
Rule 12.1 Management Zones 6059
Rule 12.2 Proportional Adjustment 60
Rule 12.3 Issuance of New Operating Permits 61

SECTION 13. ENFORCEMENT PROVISIONS 61
Rule 13.1 Purpose and Policy 61
Rule 13.2 Rules Enforcement 6261
Rule 13.3 Civil Penalty Schedule 6261
Rule 13.4 District Inspections 6261
Rule 13.5 Notice of Violation 62
Rule 13.6 Show Cause Hearing. 63

SECTION 14. FEES AND PAYMENT OF FEES 6463
Rule 14.1 Groundwater Transport Fee. 6463
Rule 14.2 Failure to Make Fee Payments. 64
Rule 14.3 Enforcement 64
Rule 14.4 Returned Check Fee 6564
Rule 14.5 Administrative Fees 6564

Panola County Groundwater Conservation District

District Rules

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PREAMBLE

The Panola County Groundwater Conservation District ("District") was created in 2007 by the 80th Texas Legislature with a directive to conserve, protect and enhance the groundwater resources of Panola County. The District's boundaries are coextensive with the boundaries of Panola County and all lands and other property within these boundaries will benefit from the works and projects that will be accomplished by the District. On November 6, 2007, the citizens of Panola County approved the formation of the District to protect and monitor the aquifer resources within the District.

The mission of the Panola County Groundwater Conservation District is to develop rules to provide protection to existing wells, prevent waste, promote conservation, and to preserve and protect the groundwater resources of Panola County. The District will accomplish this mission by working to minimize the drawdown of the groundwater levels, prevent the waste of groundwater and reduce the degradation of the quality of the groundwater located in the Panola County area. The District will also use the authority granted by state law to protect and maintain the economic vitality of the communities within Panola County. The District believes the economy, environment, and quality of life in Panola County will be benefitted by the work of the District to accomplish this mission.

The District is committed to managing and protecting the groundwater resources within its jurisdiction and to work with other stakeholders to ensure a sustainable, high quality and cost effective supply of water for future generations. The District will strive to develop, promote, and implement water conservation and management strategies to protect water resources for the benefit of the citizens, economy and environment of the District. The preservation of this most valuable resource can be managed in a prudent and cost effective manner through conservation, education, management, and through rule implementation. Any action taken by the District shall be upon full consideration and deference to the individual property rights of the citizens residing in the District.

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SECTION 1.

DEFINITION, CONCEPTS, AND GENERAL PROVISIONS

Rule 1.1 Definition of Terms

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

(a) "Acre-foot" means the amount of water necessary to cover one acre of land to the depth of one foot, or 325,851 U.S. gallons of water.

(b) "Affected person" means, for any application, a person who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. An interest common to members of the general public does not qualify as a personal justiciable interest.

(c) "Agent" means a person or company operating under the authority of the well owner, property owner, or driller to complete an application and/or drill a water well.

(d) "Agricultural irrigation use" means applying groundwater to soil to produce crops for human food, animal feed, or planting seed or for the production of fibers.

(e) "Animal Feeding Operation" means a lot or facility (other than an aquatic animal production facility) where animals have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and the animal confinement areas do not sustain crops, vegetation, forage growth, or postharvest residues in the normal growing season over any portion of the lot or facility.

(f) "Aquifer" means a water bearing geologic formation located in whole or in part within the boundaries of the District.

(g) "Aquifer storage and recovery project" means a project involving the injection of water into a geologic formation for the purpose of subsequent recovery and beneficial use by the project operator.

(h) "ASR injection well" means a Class V injection well used for the injection of water into a geologic formation as part of an aquifer storage and recovery project.

(i) "ASR recovery well" means a well used for the recovery of water from a geologic formation as part of an aquifer storage and recovery project.

(j) "Beneficial use" or "beneficial purpose" means use of groundwater for:

1. agricultural, gardening, domestic, stock raising, municipal, mining, manufacturing, industrial, commercial, or recreational purposes;

2. exploring for, producing, handling, or treating oil, gas, sulfur, lignite, or other minerals; or

3. any other purpose that is useful and beneficial to the user that does not constitute waste.

(k) "Best available science" means conclusions that are logically and reasonably derived using statistical or quantitative data, techniques, analyses, and studies that are publicly available to reviewing scientists and can be employed to address a specific scientific question.

(l) "Board" means the Board of Directors of the District.

(m) "Completed well" or a well that has been "completed," means a well, the construction of which has been completed, with sealed off access of undesirable water or constituents to the well bore by utilizing proper casing and annular space positive displacement or pressure tremie tube grouting or cementing (sealing) methods.

(n) "Concentrated animal feeding operation" means any animal feeding operation with the number of animals established in the Texas Commission on Environmental Quality ("TCEQ") Rules, including at least 37,500 chickens (other than laying hens), or that has been designated by the TCEQ Executive Director as a CAFO because it is a significant contributor of pollutants into or adjacent to water in the state.

(o) "Desired Future Conditions" means a quantitative description, adopted in accordance with Section 36.108, Texas Water Code, of the desired condition of the groundwater resources in a Groundwater Management Area ("GMA") at one or more specified future times.

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

(q) "Development board" means the Texas Water Development Board.

(r) "Dewatering well" means a well used to produce groundwater for the purpose of lowering the water table or potentiometric surface, removing water from a construction site or excavation, mining, or relieving hydrostatic uplift on permanent structures.

(s) "District" means the Panola County Groundwater Conservation District created in accordance with Section 59, Article XVI, Texas Constitution, Chapter 36, Texas Water Code, and the District Act.

(t) "District Act" means the Act of May 26, 2007, 80th Leg., R.S., ch. 867, 2007 Tex. Gen. Laws 1838, codified at SPEC. DIST. LOC. LAWS CODE ANN. ch. 8819 ("the District Act"), as may be amended from time to time.

(u) "District Office" means the office of the District located in Carthage, Panola County, Texas. The location of the District office may be changed from time to time by the Board.

(v) "Domestic use" means the use of groundwater by an individual or a household to support domestic activity. Such use may include water for drinking, washing, or culinary purposes; for irrigation of lawns, or of a family garden and/or family orchard; for watering of domestic animals. Domestic use does not include the following types of use: water used to support activities for which consideration is given or received or for which the product of the activity is sold, use by or for a public water system, irrigation of crops in fields or pastures. Domestic use does not include water used for open-loop residential geothermal heating and cooling systems, but does include water used for closed-loop residential geothermal systems. Domestic use does not include pumping groundwater into a pond or other surface water impoundment unless the impoundment is fully lined with an impervious artificial liner and has a surface area equal to or smaller than one-third of a surface acre (14,520 square feet).

(w) "Drilling Permit" means a permit for a non-exempt water well to be drilled or constructed, including test wells.

(x) "Effective date" means October 26, 2010, which was the date of adoption of these Rules.

(y) "Emergency Permit" means a permit issued by the District for emergency purposes, as set forth under Rule 3.15.

(z) "Evidence of Historic and Existing Use" means evidence that is material and relevant to a determination of the amount of groundwater beneficially used without waste by a permit applicant during the relevant time period set by district rule that regulates groundwater based on historic use. Evidence in the form of oral or written testimony shall be subject to cross-examination. The Texas Rules of Evidence govern the admissibility and introduction of evidence of historic or existing use, except that evidence not admissible under the Texas Rules of Evidence may be admitted if it is of the type commonly relied upon by reasonably prudent persons in the conduct of their affairs.

(aa) "Exempt well" means a new or an existing well that is exempt from permitting under the laws of this State or these Rules, including but not limited to Rule 3.5, and is not required to have an Operating or Grandfathered Use Permit to withdraw water from the aquifer.

(bb) "Existing well" means a well that was in existence or for which drilling commenced on or before December 31, 2010.

(cc) "General Manager" means the person employed by the Board to manage employees and day-to-day operations and affairs of the District and whose title is "General Manager".

(dd) "Grandfathered Use Period" means the period from January 1, 2005 through October 26, 2010, the Effective Date of these Rules, in which water produced from a well or well system was put to beneficial use at any point during the duration of the period.

(ee) "Grandfathered Use Permit" means a permit required by the District for a non-exempt, existing well or well system that produced water during the Grandfathered Use Period and has not been abandoned.

(ff) "Grandfathered Use Verification Period" means the period from October 26, 2010, the Effective Date of these Rules, to December 31, 2011 by which well owners may seek Grandfathered Use Permit status for a well or well system within the District.

(gg) "Groundwater" means water percolating below the surface of the earth.

(hh) "Groundwater reservoir" means a specific subsurface water-bearing stratum.

(ii) "Groundwater Management Area" means an area designated and delineated by the Texas Water Development Board as suitable for the management of groundwater resources.

(jj) "Hearing Examiner" means a person appointed in writing by the Board to conduct a hearing or other proceeding and who has the authority granted to a Presiding Officer under these rules, except as that authority may be limited by the Board or pursuant to the appointment.

(kk) "Landowner" means the person who holds possessory rights to the land surface or to the withdrawal of groundwater from wells located on the land surface.

(ll) "Leachate well" means a well used to remove contamination from soil or groundwater. The term does not include a dewatering well.

(mm) "Livestock" means, in the singular or plural, grass or plant-eating, single- or cloven-hooved mammals raised in an agricultural setting for subsistence, profit or for its labor, or to make produce such as food or fiber, including cattle, horses, mules, asses, sheep, goats, llamas, alpacas, and hogs, as well as species known as ungulates that are not indigenous to this state from the swine, horse, tapir, rhinoceros, elephant, deer, and antelope families, but does not mean a mammal defined as a game animal in section 63.001, Parks and Wildlife Code, or as a fur-bearing animal in section 71.001, Parks and Wildlife Code, or any other indigenous mammal regulated by the Texas Department of Parks and Wildlife as an endangered or threatened species. The term does not include any animal that is stabled, confined, or fed at a facility that is defined by Texas Commission on Environmental Quality rules as an Animal Feeding Operation or a Concentrated Animal Feeding Operation.

(nn) "Livestock use" means the use of groundwater for the open-range watering of livestock.

(oo) "Management Plan" means the District Management Plan required under Section 36.1071, Texas Water Code, and as further described in these rules.

(pp) "Management Zone" means one or more of the zones into which the Board may divide the District following the completion of the District Management Plan as set forth under Section 12 of these Rules.

(qq) "Maximum Grandfathered Use" means the largest volume of groundwater produced from an aquifer and beneficially used by an applicant for a Grandfathered Use Permit for an existing well during a calendar year in the Grandfathered Use Period. For applicants seeking a Grandfathered Use Permit for an existing well who did not commence the beneficial use of water from an aquifer until less than one calendar year before the end of the Grandfathered Use Period, the term means the calculated amount of groundwater that the applicant would in all reasonable likelihood have beneficially used during the entire final calendar year of the Grandfathered Use Period for the applied-for purpose, had the applicant commenced the activities that required the groundwater production on the first day of the final calendar year of the Grandfathered Use Period.

(rr) "Meter" or "flow measurement device" means a water flow measuring device that can measure within +/- 5% of accuracy the instantaneous rate of flow and record the amount of groundwater produced or transported from a well or well system during a measure of time.

(ss) "Modeled Available Groundwater" means the amount of water that the Executive Administrator of the Texas Water Development Board determines may be produced on an average annual basis to achieve a Desired Future Condition established for the groundwater resources in the District.

(tt) "Monitoring well" means a well installed to measure some property of the groundwater or the aquifer that it penetrates, and does not produce more than 5,000 gallons per year.

(uu) "New well" means a well for which drilling commenced on or after January 1, 2011

(vv) "Non-exempt well" means an existing or a new well that does not qualify for exempt well status under the laws of this State or these Rules.

(ww) "Office" means the State Office of Administrative Hearings.

(xx) "Open Meetings Act" means Chapter 551, Texas Government Code, as it may be amended from time to time, also known as the "Texas Open Meetings Act".

(yy) "Operating Permit" means a permit required by the District for the following:

1. the equipping or completing of a non-exempt water well for production;

2. the operation, or production of groundwater from any non-exempt water well for which a Grandfathered Use Permit has not been issued; or

3. the substantial alteration of an existing well that has been granted a Grandfathered Use Permit as that term is defined in Rule 1.1(y).

(zz) "Party" means a person who is an automatic participant in a proceeding before the District as set forth under Rule 10.4(f) or a person who has been determined to be an affected person as defined by these Rules and Chapter 36 of the Texas Water Code.

(aaa) "Penalty" means a reasonable civil penalty set by rule under the express authority delegated to the District through Section 36.102(b) of the Texas Water Code.

(bbb) "Person" means an individual, corporation, limited liability company, organization, government, governmental subdivision, agency, business trust, estate, trust, partnership, association, or other legal entity.

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

(ddd) "Poultry" means chickens, turkeys, non-migratory game birds, and other domestic non-migratory fowl, but does not include any other bird regulated by the Parks and Wildlife as an endangered or threatened species. For purposes of qualifying for the exemption from the permitting requirements under Rule 3.5, the term "poultry" does not include any animal that is housed at a facility that is used to raise, grow, feed, or otherwise produce poultry for commercial purposes or is a commercial poultry hatchery that is used to produce chicks or ducklings and that qualifies as an Animal Feeding Operation or Concentrated Animal Feeding Operation under TCEQ Rules and as defined by these rules. .

(eee) "Poultry use" means the use of groundwater for the watering of poultry.

(fff) "Presiding Officer" means the President of the Board, or other Board member presiding at any hearing or other proceeding or a Hearing Examiner appointed by the Board to conduct or preside over any hearing or other District proceeding.

(ggg) "Production" or "producing" means the act of extracting groundwater from an aquifer by a pump or other method.

(hhh) ""Project operator" means a person holding an authorization under this subchapter to undertake an aquifer storage and recovery project.

(iii) “Public Information Act” means Chapter 552, Texas Government Code, as it may be amended from time to time.

(jjj) “Public water supply well” means a well that produces the majority of its water for use by a public water system.

(kkk) “Public Water System” means a system for the provision to the public of water for human consumption through pipes or other constructed conveyances, which includes all uses described under the definition for "drinking water" in 30 Texas Administrative Code, Section 290.38. Such a system must have at least 15 service connections or serve at least 25 individuals at least 60 days out of the year. This term includes any collection, treatment, storage, and distribution facilities under the control of the operator of such system and used primarily in connection with such system, and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Two or more systems with each having a potential to serve less than 15 connections or less than 25 individuals but owned by the same person, firm, or corporation and located on adjacent land will be considered a public water system when the total potential service connections in the combined systems are 15 or greater or if the total number of individuals served by the combined systems total 25 or greater at least 60 days out of the year. Without excluding other meanings of the terms "individual" or "served," an individual shall be deemed to be served by a water system if he lives in, uses as his place of employment, or works in a place to which drinking water is supplied from the system.

(lll) “Pump” means any facility, device, equipment, materials, or method used to obtain water from a well.

(mmm) “Registrant” means a person required to submit a registration.

(nnn) “Registration” means a well owner providing certain information about a well to the District, as more particularly described under Section 3.

(ooo) “Remediation well” means a water well that used solely to remediate contaminated water.

(ppp) “Retail Public Utility” means 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 sewer service, or both, for compensation, as defined by Section 13.002 of the Texas Water Code.

(qqq) “Rule” or “Rules” means these Rules of the District regulating water wells, which shall continue to be effective until amended or repealed. The Temporary Rules adopted by the District on January 20, 2009 are replaced and superseded by these Rules.

(rrr) “Subsidence” means the lowering in elevation of the surface of the land caused by the withdrawal of groundwater from the aquifer.

(sss) "Substantially alter" with respect to the size or capacity of a well means to increase the inside diameter of the pump discharge column pipe size of the well in any way or to alter or replace the pump to increase its designed production capacity in any way, or to otherwise increase the capacity of the well to produce groundwater so that the maximum production capacity is increased by a factor of five (5) percent or more over the pre-alteration capacity.

(ttt) "Transfer" means a change in a registration as follows, except that the term "transfer" shall have its ordinary meaning as read in context when used in other contexts:

1. ownership; or

2. the person authorized to exercise the right to make withdrawals and place the groundwater to beneficial use.

(uuu) "Waste" means one or more of the following:

1. Withdrawal of groundwater from the aquifer at a rate and in an amount that causes or threatens to cause an intrusion into the aquifer unsuitable for agriculture, gardening, domestic, stock raising, or other beneficial purposes;

2. The flowing or producing of water from the aquifer by artificial means if the water produced is not used for a beneficial purpose;

3. The escape of groundwater from the aquifer to any other underground reservoir or geologic stratum that does not contain groundwater;

4. Pollution or harmful alteration of groundwater in the aquifer by saltwater or by other deleterious matter admitted from another stratum or from the surface of the ground;

5. Willfully or negligently causing, suffering, or allowing groundwater to escape into any river, creek, natural watercourse, depression, lake, reservoir, drain, sewer, street, highway, road, or road ditch, or onto any land other than that of the owner of the well unless such discharge is authorized by permit, rule, or other order issued by the Texas Commission on Environmental Quality under Chapters 11 or 26 of the Texas Water Code;

6. Groundwater pumped for irrigation that escapes as irrigation tailwater onto land other than that of the owner of the well unless permission has been granted by the occupant of the land receiving the discharge;

7. For water produced from an artesian well, "waste" has the meaning assigned by Section 11.205, Texas Water Code;

8. Operating a deteriorated well;

9. Producing groundwater in violation of Rule 8.1; or

10. Producing groundwater in violation of any rule governing the withdrawal of groundwater through production limits on wells, managed depletion, or both.

(vvv) "Well" means any artificial excavation located within the boundaries of the District dug or drilled for the purpose of exploring for or withdrawing groundwater from the aquifer.

(www) "Well owner" means the person who owns a possessory interest in: (1) the land upon which a well or well system is located or to be located; (2) the well or well system; or (3) the groundwater withdrawn from a well or well system.

(xxx) "Well system" means a well or group of wells tied to the same distribution system and where the groundwater production amount authorized by permit is aggregated and assigned to the entire well system.

(yyy) "Withdraw" means the act of extracting or producing groundwater by pumping or other method.

(zzz) "Year" means a calendar year (January 1 through December 31), except where the usage of the term clearly suggests otherwise.

Rule 1.2 Authority of District

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

Rule 1.3 Authority of General Manager

Unless otherwise provided by these Rules, Chapter 36 of the Texas Water Code, the laws of the State of Texas, or unless determined unsuitable by the Board, the General Manager of the District shall have the authority to carry out the purposes and conduct the necessary activities of the District promulgated by these Rules without action by the Board. The purpose of this authority is to allow the General Manager to properly conduct the daily and managerial activities of the District in order to allow the District to efficiently and effectively manage and preserve the groundwater resources of Panola County.

Rule 1.4 Purpose of Rules

These Rules are adopted under the authority of Sections 36.101 and 36.1071(f), Texas Water Code, and the District Act for the purpose of conserving, preserving, protecting, and recharging

groundwater in the District in order to prevent the degradation of water quality, prevent waste of groundwater, and to carry out the powers and duties of Chapter 36, Texas Water Code, and the District Act.

Rule 1.5 Purpose of District

The purpose of the District is to provide for the conservation, preservation, protection, recharging, and prevention of waste of groundwater, and of groundwater reservoirs or their subdivisions, consistent with the objectives of Section 59, Article XVI, Texas Constitution, Chapter 36 of the Texas Water Code, and the District Enabling Act.

Rule 1.6 Use and Effect of Rules

These Rules are used by the District in the exercise of the powers conferred on the District by law and in the accomplishment of the purposes of the law creating the District. These rules may be used as a guide in the exercise of discretion, where discretion is vested. These Rules shall not be construed as a limitation or restriction upon the District to exercise its powers, duties and jurisdiction conferred by law. These Rules create no vested rights or privileges in any person or water well, and shall not be construed to bind the Board in any manner in its promulgation of the amendments to these Rules. When adopting or amending these Rules, the District shall:

(1) consider all groundwater uses and needs;

(2) develop Rules that are fair and impartial;

(3) consider the groundwater ownership and rights described by Section 36.002, Texas Water Code;

(4) consider the public interest in conservation, preservation, protection, recharging, and prevention of waste of groundwater, and of groundwater reservoirs or their subdivisions, and in controlling subsidence caused by withdrawal of groundwater reservoirs or their subdivision, consistent with the objectives of Section 59, Article XVI, Texas Constitution;

(5) consider the goals developed as part of the District's Management Plan under Section 36.1071, Texas Water Code; and,

(6) not discriminate between land that is irrigated for production and land that was irrigated for production and enrolled or participating in a federal conservation program.

The Temporary Rules for the District adopted on January 20, 2009 are hereby replaced and revised by these Rules.

Rule 1.7 Construction of Rules

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

Rule 1.8 Ownership of Groundwater

Nothing in Chapter 36, Texas Water Code, or these Rules shall be construed as granting the authority to deprive or divest a landowner, including a landowner's lessees, heirs, or assigns, of the groundwater ownership and rights described by Section 36.002, Texas Water Code, recognizing, however, that Section 36.002 does not prohibit the District from limiting or prohibiting the drilling of a well for failure or inability to comply with minimum well spacing or tract size requirements adopted by the District; affect the ability of the District to regulate groundwater production as authorized under Section 36.113, 36.116, or 36.122 or otherwise under Chapter 36, Texas Water Code, or a special law governing the District; or require that a rule adopted by the District allocate to each landowner a proportionate share of available groundwater for production from the aquifer based on the number of acres owned by the landowner.

Rule 1.9 Methods of Service Under the Rules

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

Rule 1.10 Computing Time

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

Rule 1.11 Severability

If a provision contained in these Rules is for any reason held to be invalid or unenforceable in any respect, the invalidity or unenforceability does not affect any other rules or provisions of these Rules.

Rule 1.12 Regulatory Compliance; Other Governmental Entities

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

Rule 1.13 Time Limits

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

Rule 1.14 Headings and Captions

Section and rule headings and captions contained in these Rules are for reference purposes only and do not affect the meaning or interpretation of these Rules in any way.

Rule 1.15 Amending of Rules

The Board may, following notice and hearing, amend or repeal these rules or adopt new rules from time to time, in the Board's discretion.

Rule 1.16 Requests for Reconsideration and Appeal

To appeal a decision of the Board concerning any matter, a request for reconsideration must be filed with the District within 20 calendar days of the date of the Board's decision. Such request for reconsideration must be in writing and must state clear and concise grounds for the request. The Board's decision is final if no request for reconsideration is timely filed, upon the Board's denial of the request for reconsideration, or upon rendering a decision after rehearing the request for reconsideration. If the rehearing request is granted by the Board, the date of the rehearing will be within 45 calendar days thereafter. The failure of the Board to grant or deny the request for reconsideration within 90 calendar days of the date of submission shall constitute a denial of the request. After all administrative remedies are exhausted with the District and the Board's decision is final, suit may be filed in a court of competent jurisdiction to appeal the Board's decision. The deadline for filing this suit is 60 days after the Board's decision is final. A suit is prohibited if a request for reconsideration was not timely filed.

SECTION 2.

OTHER DISTRICT MANAGEMENT ACTIONS AND DUTIES

Rule 2.1 District Management Plan

Following notice and hearing, the District shall adopt a Management Plan. The District Management Plan shall specify the acts and procedures and performance and avoidance measures necessary to prevent waste, the reduction of artesian pressure, or the draw-down of the water table. The District shall use the Rules to implement the Management Plan. The Board will review the Management Plan at least every five years. Upon adoption of Desired Future Conditions under Section 36.108 Texas Water Code, the District shall update its Management Plan within two years of the date of the adoption of the Desired Future Conditions. The District shall thereafter update its rules to implement the Management Plan within one year of the date the Management Plan is updated to include the adopted Desired Future Conditions. If the Board considers a new Management Plan necessary or desirable based on evidence presented at a hearing, a new Management Plan will be developed and adopted. A Management Plan, once adopted, remains in effect until the subsequent adoption of another Management Plan.

SECTION 3.

WELL REGISTRATION AND PERMITTING

Rule 3.1 Registration Required

(a) All water wells, both existing and new, must be registered with the District and are required to comply with the District's registration requirements in these rules. No well may be drilled, modified, altered, or operated unless the well is registered with the District, or unless otherwise expressly authorized in these Rules.

(b) A violation of this Section occurs on the first day that the drilling, alteration, modification, or operation occurs, and continues each day thereafter as a separate violation until cessation of the prohibited conduct, or until the well is registered with the District.

(c) Existing wells that are not registered prior to December 31, 2010 will be presumed to be wells not in existence prior to December 31, 2010. After December 31, 2010, existing well owners must submit additional evidence that the well existed before December 31, 2010 for purposes of grandfathering the well from the requirement to comply with any well location or spacing requirements of the District and any other entitlements that existing wells may receive under these Rules.

Rule 3.2 Purpose and Policy

The registration of all wells is necessary in order for the District to be able to protect the use of groundwater in the District. The purpose of this Section is to require the submission of

complete, accurate, and timely records, reports, and logs as required throughout these Rules. Because of the important role that accurate and timely reporting plays in the District's understanding of past, current and anticipated groundwater conditions and use within the District, the failure to comply with these rules may result in the assessment of additional fees, civil penalties, or any combination of the same.

Rule 3.3 General Registration Procedures

(a) Each application for well registration must be certified in writing and sworn-to and must include the following on a form provided by the District:

(1) the name, telephone number, fax number, and mailing address of the registrant and the owner of the land on which the well is or will be located;

(2) if the applicant is a person other than the owner of the property, documentation establishing the authority of the applicant to file the application for well registration, to serve as the registrant in lieu of the property owner, and to construct and operate the well for the proposed use;

(3) a statement of the nature and purpose of the existing or proposed use and the amount of water used or to be used for each purpose;

(4) the location of the well;

(5) a water well closure plan or a declaration that the applicant will comply with well plugging guidelines and report closure to the District;

(6) a statement that the water withdrawn from the well will be put to beneficial use at all times;

(7) the location of the use of the water from the well;

(8) the maximum production capacity of the well as equipped for a 24-hour period;

(9) the estimated rate at which water is or will be withdrawn from the well; and

(10) any other information~~: deemed necessary by the Board~~.

(A) included in a rule of the district in effect on the date the application is submitted that specifies what information must be included in an application for a determination of administrative completeness; and

(B) reasonably related to an issue that the district by law is authorized to consider.

(b) Well registration applications meeting any of the criteria in Rule 3.17(a) shall submit a Hydrogeologic Report to the District that meets the requirements in Rule 3.17.

(c) An administratively complete registration application contains the information set forth in subsections (a) and (b), any applicable administrative fees for the processing of the registration application as provided in the District's schedule of fees described in Rule 14.5, and, if the registration is for a new well, is accompanied by a well report deposit. If accelerated processing is requested by the applicant or their agent, a nonrefundable rush fee of $200 is due to the District in addition to the well report deposit. District staff will process the application as soon as possible once the application is administratively complete, including receipt of all deposits and fees by the District.

(d) For purposes of determining applicable well spacing and permitting requirements, the information included in a timely filed, administratively complete application for well registration may be used as evidence that the well existed before December 31, 2010.

(e) Upon receipt of the well report and well log required by Rule 3.4, a registration shall be perpetual in nature, subject to enforcement and/or cancellation for violation of these Rules.

(f) Prior to recompleting, altering, or modifying a well that is registered with the District, whether an exempt or non-exempt well, the well owner must obtain a registration amendment on a form prescribed by the District before any changes can be made to recomplete, alter, or modify the well.

(g) A determination of administrative completeness of a registration application shall be made by the General Manager. If an application is not administratively complete, the District shall notify the applicant in writing and request the applicant to complete the pending application. The application will expire and be returned to the applicant if not completed within 90 days of the date of the District's initial request to complete the pending application. An application will be considered administratively complete if it ~~substantially~~ complies with all requirements set forth in these Rules and in Sections 36.113 and 36.1131 of the Water Code, including all information required to be included in the application that may be obtained through reasonable diligence.

(h) District staff shall review the registration application submitted under this Section and shall determine whether the proposed well must obtain a Drilling Permit and an Operating Permit under these Rules or if the well must obtain a Grandfathered Use Permit under these Rules. Staff shall inform the applicant of this determination within ten business days of the District's receipt of the completed registration form.

(i) Registration forms may be submitted to the District in person, by mail, or by telephonic document transfer, using the registration form provided by the District. The District registration form can be downloaded from the District's website at www.pcgcd.org or can be obtained at the District office.

(j) An application pursuant to which a registration has been issued is incorporated in the registration, and the registration is valid contingent upon the accuracy of the information supplied in the application. A finding that false information has been supplied in the application may be grounds to deny approval of the registration or to revoke, suspend, or postpone the registration.

(k) Submission of a registration application constitutes an acknowledgment by the registrant of notice and receipt of the rules and regulations of the District and agreement that the registrant will comply with all District Rules and regulations, as they may be amended from time to time. The District may amend any registration, in accordance with these Rules, to accomplish the purposes of the District Rules, Management Plan, the District Act, or Chapter 36 of the Texas Water Code.

Rule 3.4 Registration Application Timelines and Well Report Requirements

(a) A registrant for a new well has 120 days from the date of approval by the District to drill and complete the new well, and must file a well report and well log with the District within 60 days of well completion. The driller shall also file geophysical logs with the District, if available. A registrant may apply for one extension before the expiration of 120 days from the date of filing a registration application to drill and complete the new well, and must file the well report and well log with the District within 60 days of completion. A request for an extension may be approved by the General Manager.

(b) The Board, by resolution, may establish a well report deposit to be held by the District as part of well registration. The well report deposit can only be submitted by the licensed well driller or their water well drilling company. The District shall return the deposit if all relevant well reports and well logs are timely submitted to the District. If the District does not timely receive all relevant well reports and/or logs, or if rights granted within the registration are not utilized in a timely manner, the deposit shall become the property of the District. The Board may also establish a schedule of forfeiture, whereby the depositor forfeits an established amount upon the well report being seven (7) days late, and may increase as the District sees fit depending on the number of days the depositor is late.

(c) If the well report and well log for a new well is timely submitted to the District, the District shall return the well report deposit to the well driller. In the event that the well report and well log required under this rule are not filed within 60 days after the date the well is completed, the well driller shall forfeit the well report deposit and shall be subject to enforcement.

(d) All new wells must be drilled within 30 feet (10 yards) of the location specified in the registration or permit application.

Rule 3.5 Wells Exempt from Permitting Requirements

(a) The permitting requirements of these Rules do not apply to:

(1) drilling or operating a well used solely for domestic use purposes.

(2) a well which meets all of the following requirements:

(A) provides water for livestock use or poultry use, as those terms are defined in Rule 1.1;

(B) located or to be located on a tract of land larger than 10 acres; and

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

(1) For purposes of an exemption under this subsection, the terms "livestock use" and "poultry use" do not include livestock or poultry operations that fall under the definition of "animal feeding operation" or "concentrated animal feeding operation" provided in Rule 1.1.

(3) a well which meets all of the following requirements:

(A) provides water for agricultural irrigation use, as that term is defined in Rule 1.1;

(B) that is located or to be located on a tract of land of 5 acres or less; and

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

(4) a well which meets the following requirements:

(A) used solely to supply water for a rig that is actively engaged in drilling or exploration operations for an oil or gas well permitted by the Railroad Commission of Texas;

(B) the person holding the permit issued by the Railroad Commission of Texas is responsible for drilling and operating the water well; and

(C) the water well is located on the same lease or field associated with the drilling rig.

(5) drilling a water well authorized under a permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code, or for production from the well to the extent the withdrawals are required for mining activities regardless of any subsequent use of the water.

(6) monitoring wells.

(7) remediation wells.

(8) a water well used for an aquifer storage and recovery project, except as provided under District Rule 3.18.

(b) A well exempted under subsection (a) will lose its exempt status if the well is subsequently used for a purpose or in a manner that is not exempt under subsection (a). To the extent groundwater is produced by a well exempted under Subsection (a)(4) in excess of Railroad Commission of Texas ("RCT") authorization, the holder of the RCT permit shall obtain the appropriate permit from the District for the excess production. Further, a well exempted under Subsections (a)(4) and (a)(5) of this Rule must be permitted and comply with all District rules, except as provided in Rule 11.1(d), if:

(1) the groundwater withdrawals that were exempted under Subsection (a)(4) are no longer used solely to supply water for a rig that is actively engaged in drilling or exploration operations for an oil or gas well permitted by the Railroad Commission of Texas; or

(2) the groundwater withdrawals that were exempted under Subsection (a)(5) are no longer necessary for mining activities or are greater than the amount necessary for mining activities specified in the permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code.

(c) A water well exempted under Subsections (a)(1) through (8) of this Rule shall:

(1) be registered in accordance with rules promulgated by the District;

(2) 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 of harmful alteration of the character of the water in any groundwater reservoir; and

(3) comply with the requirements of Rule 5.2 regarding the spacing and location of wells.

Rule 3.6 Well Closure and Transfer of Water Wells used for Oil and Gas Operations

(a) Any water well described by Rule 3.5(a)(4) shall be plugged within 180 days of the rig being removed from the unit where the well is located. The well owner may obtain an extension to plug the well if the well owner submits a written request to the District prior to the expiration of the 180 days. The written request must establish good cause for the extension. The District's Board has the discretion to grant the extension. Before the water well is plugged, and while the well is not in use, the well must be capped. All capped and plugged wells must meet regulatory standards adopted by the Texas Department of

Licensing and Regulations ("TDLR"). The licensed well driller will submit a copy of the state plugging report to the District once it is plugged. The District employees or agents may inspect any well to insure compliance with District rules.

(b) If the land owner wishes to keep the rig water supply well for a beneficial use, the following actions must take place before the transfer of the well can be completed:

(1) the pump must be removed from the well casing;

(2) the District will be notified in writing with the appropriate form provided by the District that the land owner desires to take control of the water well;

(3) the District will inspect the well for indications of commingling of aquifers or zones down hole and other defects or signs of deterioration.

(4) payment of a fee set by the Board in the District's schedule of fees as provided in Rule 14.5.

(c) If the well fails inspection, transfer of the water well will not be permitted and the well must be plugged as described above. If the well passes inspection, the land owner will be provided an approved registration for the water well. Use of water from the well must comply with all rules and regulations of the TDLR, Chapter 36 of the Texas Water Code, and these Rules.

Rule 3.7 General Permitting Procedures; Drilling and Operating Permits Required for Certain Wells

(a) In addition to the well registration and well report deposit requirements in Rules 3.1 and 3.4, the owner of a new well or well system not exempt from the permitting requirements under Rule 3.5 must obtain a Drilling Permit from the District prior to the drilling, construction of the well or well system. The owner of a new well or well system not exempt from the permitting requirements under Rule 3.5 must obtain an Operating Permit from the District prior to operating the new, non-exempt well or well system. The owner of a new or existing well that is exempt from the District's permitting requirements but is subsequently substantially altered in a manner which causes the well to lose its exempt status must obtain an Operating Permit. In addition, the owner of an existing well or well system that has obtained a Grandfathered Use Permit for the well must obtain an Operating Permit if the well or well system has been substantially altered in a manner that causes the well or well system to be capable of producing more groundwater than is authorized in the Grandfathered Use Permit for the well or well system.

(b) The right to produce groundwater from a well or well system permitted by the District may not be transferred to any other well or well system unless authorized by the District or in accordance with Rule 12.1(a)(3).

(c) A violation of any of the prohibitions in this Rule occurs on the first day that the prohibited drilling, alteration, operation or production begins and continues each day thereafter as a separate violation until appropriate authorization from the District is formally granted by the Board.

(d) A permit confers only the right to use the permit under the provisions of these Rules and according to its terms. A permit's terms may be modified or amended pursuant to the provisions of these Rules. A permit does not become a vested right of the permit holder. The Board may revoke or amend a permit in accordance with these Rules when reasonably necessary to accomplish the purposes of the District, the District's Rules, Management Plan, the Desired Future Conditions established for the aquifers located in whole or in part within the boundaries of the District, or Chapter 36, Texas Water Code.

(e) An application pursuant to which a permit or registration has been issued is incorporated in the permit or registration, and the permit or registration is granted on the basis of and contingent upon the accuracy of the information supplied in that application. A finding that false information has been supplied in the application may be grounds to refuse or deny the application or for immediate revocation of the permit or registration.

(f) Violation of a permit's terms, conditions, requirements, or special provisions is a violation of these Rules and shall be grounds for enforcement.

(g) For any applications submitted to the District and for which the applicant has requested in writing that such applications be processed concurrently, the District will process and the Board will consider such applications concurrently according to the standards and Rules applicable to each.

(h) All permits issued by the District are subject to the District's Rules, proportional adjustment regulations, if any, and District Management Plan.

Rule 3.8 Grandfathered Use Permits

(a) An owner of an existing, non-exempt water well or well system that was completed and operational prior to December 31, 2010 and that produced groundwater at any time during the Grandfathered Use Period shall apply to the District for a Grandfathered Use Permit during the Grandfathered Verification Period on or before December 31, 2011. Failure of an owner of such a well or well system to apply for a Grandfathered Use Permit during the Grandfathered Use Verification Period on or before December 31, 2011 shall preclude the owner from making any future claim or application to the District for historic or grandfathered use under these Rules. All wells or well systems that are not exempt from the District's permitting requirements as provided in Rule 3.5 that do not obtain a Grandfathered Use Permit in accordance with these Rules must obtain an Operating Permit in order to be able to produce groundwater from the well or well system. Grandfathered Use Permit applications shall be on forms prescribed by the District.

(b) An application for a Grandfathered Use Permit, in addition to the information required under Rule 3.9(a), shall include the following information to the extent that the information exists and is available to the applicant through the exercise of reasonable and diligent efforts:

(1) year in which the well was drilled or the year in which each well in a well system was drilled;

(2) purpose for which the well or well system was drilled and any type of subsequent use of the water;

(3) Maximum Grandfathered Use of the well or well system;

(4) evidence of historic and existing use to support the Maximum Grandfathered Use of the well or well system;

(5) legal description of the tract of land on which the well or well system is located; and

(6) any other information determined necessary by the Board.

Rule 3.9 Application Requirements for All Permits

(a) Each original application for a Drilling Permit, Operating Permit, or Grandfathered Use Permit must contain information as set forth below. Application forms will be provided on the District's website at www.pcgcd.org and can be furnished to the applicant upon request. For well systems, the applicant shall provide the information required in this subsection for each well that is part of the well system. All applications for a permit shall be in writing and sworn to, and shall include the following:

(1) name, telephone number, fax number, and mailing address of the applicant and the owner of the land on which the well will be located;

(2) if the applicant is other than the owner of the property, documentation establishing the applicable authority to construct and operate a well for the proposed use;

(3) a location map showing the proposed well location and an alternative well location that meets, if applicable, the District's minimum spacing and location requirements, and showing all wells in existence on the date of application within a quarter (1/4) mile radius of the location(s) of the proposed well or well to be modified, which the General Manager may require to be shown on a 7.5 minute United States Department of Interior Topographic Map and/or by latitude and longitude coordinates as measured by a calibrated GPS instrument;

(4) a statement of the nature and purpose of the proposed use and the amount of water to be used for each purpose;

(5) a requirement that the water withdrawn under the permit be put to beneficial use at all times;

(6) location of the use of the water from the well;

(7) the estimated rate at which water will be withdrawn from the well, the maximum pumping capacity of the well, method of withdrawal, size of well (inside diameter of the pump [discharge] column pipe and diameter of the well casing), size of well pump, and estimated depth of each well;

(8) a declaration that the applicant will comply with the District's Rules and all groundwater use permits and plans promulgated pursuant to the District's Rules;

(9) a water conservation plan or a declaration that the applicant will comply with the District's management plan;

(10) drought contingency plan, if the applicant is required to prepare a Drought Contingency Plan by other law;

(11) a declaration that the applicant will comply with all District well plugging and capping guidelines and report closure to the District and the appropriate state agencies;

(12) duration the permit is proposed to be in effect;

(13) if the groundwater is to be resold, leased, or otherwise transferred to others, whether inside or outside of the District, provide the location to which the groundwater will be delivered, the purpose for which the groundwater will be used, and a copy of the legal documents establishing the right for the groundwater to be sold, leased, or otherwise transferred, including but not limited to any contract for the sale, lease, or transfer of groundwater; and

(14) if groundwater is proposed to be transported out of the District, the applicant shall describe the following issues and provide documents relevant to these issues:

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

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

(iii) how the proposed transport is consistent with the approved regional water plan and certified district management plan.

(b) Permit applications meeting any of the criteria in Rule 3.17(a) shall submit a Hydrogeologic Report to the District that meets the requirements in Rule 3.17.

(c) All permit applicants must provide notice to landowners and well owners in one of the following methods:

(1) by certified mail, return receipt requested;

(2) by first class mail by a certificate of mailing; or

(3) by providing the District with a document(s) signed by all well owners and land owners within the designated radius that indicates well owners and land owners received notice of the application.

This permit application notice shall be provided to all property owners and to all well owners of existing registered or permitted wells that are located within a one-fourth (1/4) mile radius of the existing well or proposed well that is the subject of the application. If any one permit application results in required notifications that exceed fifty (50) entities or individuals or that results in $100.00 or more of postal expense, the District may allow for notification by public notice in a local newspaper of general circulation in Panola County. Proof of publication in the local newspaper must be provided to the District before an application is deemed administratively complete.

The notice must be approved by the District prior to mailing or publishing in the local paper and shall contain:

(i) the name and address of the applicant;

(ii) the date the application was filed;

(iii) the location and a description of the well that is the subject of the application; and

(iv) a brief summary of the information in the application, including requested annual production amounts from the proposed well.

(d) The applicant must provide the District with the following information for the District to declare that the application is administratively complete:

(1) Information contained in this section, and if the application is for a Grandfathered Use Permit, the information contained in Rule 3.8(b);

(2) Proof by certificate of mailing that notice was provided by first class mail or proof by certified mail receipt that notice was sent by certified mail to the property owners and well owners to whom notice is required under this Section (proof of actual receipt by the owner is not required of the applicant), or by a copy of the

newspaper or a publisher's affidavit if the notice requirement was satisfied by publishing notice in a local newspaper of general circulation in Panola County;

(3) a list of the names and addresses of the property owners notified by mail; and

(4) A Hydrogeologic Report, if required by Rule 3.17(a).

Rule 3.10 Completion of Permit Application Required

The District shall promptly consider and act on each administratively complete application for a permit. If an application is not administratively complete, the District may request the applicant to complete the application. The application will expire if the applicant does not complete the application within 90 (ninety) days of the date of the District's request or upon conclusion of an extension granted by the General Manager of the District.

Rule 3.11 Permits Subject to Conditions and Restrictions

Permits issued by the District for permitted wells may be subject to conditions and restrictions placed on the rate and amount of withdrawal, the Rules promulgated by the District, and terms and provisions with reference to the equipping of wells or pumps that may be necessary to prevent waste and achieve water conservation, minimize as far as practicable the drawdown of the water table or the reduction of artesian pressure, lessen interference between wells, or to achieve the Desired Future Conditions established for the aquifers in whole or in part within the boundaries of the District.

Rule 3.12 Considerations for Granting or Denying a Permit Application

(a) Before granting or denying a permit application, the District General Manager or Board must consider whether:

(1) the application contains accurate information, all the information requested and is accompanied by the subscribed administrative fees;

(2) the water well(s) complies with Chapter 36 of the Texas Water Code, and these Rules, including but not limited to the spacing and production limitations identified in these rules;

(3) the proposed use of water does or does not unreasonably affect existing groundwater and surface water resources or existing permit holders;

(4) the proposed use of water is dedicated to a beneficial use;

(5) the proposed use of water is consistent with the District's Management Plan;

(6) the applicant agrees to avoid waste and achieve water conservation;

(7) the applicant has agreed that reasonable diligence will be used to protect groundwater quality and that the applicant will follow well plugging guidelines at the time of well closure; and

(8) for those hearings conducted by the State Office of Administrative Hearings under Rule 10.5, the Board shall consider the proposal for decision issued by the State Office of Administrative Hearings.

(b) The District, to the extent possible, shall issue permits up to the point the total volume of exempt and permitted groundwater production will achieve the applicable Desired Future Conditions established for the aquifers in the District. In issuing permits, the District shall manage total groundwater production on a long-term basis to achieve the applicable Desired Future Conditions and shall consider:

(1) the Modeled Available Groundwater calculations determined by the Executive Administrator of the Texas Water Development Board;

(2) the Executive Administrator of the Texas Water Development Board's estimate of the current and projected amount of groundwater produced under the exemptions in District Rule 3.5;

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

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

(5) yearly precipitation and production patterns.

Rule 3.13 Permit Amendment

(a) Prior to undertaking any action that would exceed the maximum amount of groundwater authorized to be produced under a permit issued by the District, or change the ownership of a well or permit, the location of a proposed well, the purpose of or location of use of the groundwater produced, or any other applicable term, condition or restriction of an existing permit, the permit holder must first apply for and obtain a permit amendment.

(b) A major amendment to a permit includes, but is not limited to, a change that would substantially alter the size or capacity of a well, an increase in the annual quantity of groundwater authorized to be withdrawn, a change in the purpose or place of use of the water produced, or a change of location of groundwater withdrawal, except for a replacement well, and any other change that is not a minor amendment. A major amendment to a permit shall not be made prior to notice and hearing.

(c) All applications for major amendments to any permit issued by the District shall be subject to the considerations in Rule 3.12.

(d) Amendments that are not major, such as a change in ownership of the land the well or well system is located on or an amendment sought by the permit holder for a decrease in the quantity of groundwater authorized for withdrawal and beneficial use, are minor amendments that may be reviewed and approved by the General Manager. The General Manager is authorized to approve minor permit amendments and may approve such minor amendments without notice and hearing. Such decision by the General Manager must be administratively appealed to the Board of Directors prior to filing suit against the District to overturn the General Manager's decision. The General Manager may also send an application for a minor permit amendment to the Board for consideration, and must do so if the General Manager proposes to deny the application. Any minor amendment sent to the Board for consideration shall be set on the Board's agenda and shall comply with the notice requirements of the Texas Open Meetings Act.

(e) A permit amendment is not required for any well, well pump, or pump motor repair or maintenance if such repair or maintenance does not substantially alter the well, well pump, or pump motor.

(f) Changes in the purpose of use from wells authorized under Grandfathered Use Permits require an application for Operating Permit to authorize the new purpose of use from the well(s).

Rule 3.14 Replacement Wells

(a) No person may replace a well, without first having obtained authorization for such work from the District. Authorization for substantial alterations or replacement wells may only be granted following the submission of an application for such a request with the District.

(b) Applications for replacement wells may be granted by the General Manager without notice or hearing if the replacement well complies with each of the following conditions:

(1) The replacement well must be drilled within 50 feet of the location of the well being replaced;

(2) The replacement well or pump shall not be larger in size or capacity than the well being replaced so as to substantially alter the size or capacity of the well; and

(3) Immediately upon commencing operation of the replacement well, the well owner will cease production from the well being replaced and will immediately plug the well to be replaced.

Rule 3.15 Emergency Authorization by General Manager or Board

(a) The General Manager or Board may grant an Emergency Permit authorizing the drilling, equipping, completion, substantial altering with respect to size or capacity, or operation of a well.

(b) The General Manager or Board shall only issue an Emergency Permit upon a finding that:

(1) No suitable surface water or permitted groundwater is immediately available to the applicant; and

(2) An emergency need for the groundwater exists such that issuance of the permit is necessary to prevent the loss of life or to prevent severe, imminent threats to the public health or safety.

(c) An Emergency Permit may be granted without notice, hearing, or further action by the Board, or with such notice and hearing as the General Manager deems practical and necessary under the circumstances.

(d) Emergency Permits may be issued for a term determined by the General Manager based upon the nature and extent of the emergency, such term not to exceed 60 days. Upon expiration of the term, the permit automatically expires and is cancelled.

Rule 3.16 Permits Issued by District; Duration of Permit; Renewal

(a) Grandfathered Use Permits and Operating Permits are issued will be valid only for the term set by the District, not to exceed five years from the date of issuance for Grandfathered Use Permits and not to exceed two years from the date of issuance for Operating Permits, or until revoked or amended.

(b) At least 90 days prior to the date of expiration of a permit, the District shall provide the permit holder notice that an application for renewal is due, along with a renewal application. Renewal applications shall be submitted to the District no later than 60 days prior to the date of expiration of the permit. Renewal applications shall be reviewed and determinations on renewal shall be made by the General Manager, unless the General Manager determines that a hearing is necessary on a renewal application.

(c) The District shall, without a hearing, renew or approve an application to renew an operating permit before the date on which the permit expires, provided that:

(1) The application is submitted in a timely manner and accompanied by any required fees in accordance with District rules; and

(2) The permit holder is not requesting a change related to the renewal that would require a permit amendment under District rules.

(d) The District is not required to renew a permit under District Rule 3.16(c) if the applicant:

(1) Is delinquent in paying a fee required by the District;

(2) Is subject to a pending enforcement action for a substantive violation of a District permit, order, or rule that has not been settled by agreement with the District or a final adjudication; or

(3) Has not paid a civil penalty or has otherwise failed to comply with an order resulting from a final adjudication of a violation of a District permit, order, or rule.

(e) If the District is not required to renew a permit under District Rule 3.16(d), the permit remains in effect until the final settlement or adjudication on the matter of the substantive violation.

(f) If the holder of an operating permit, in connection with the renewal of a permit or otherwise, requests a change that requires an amendment to the permit under District Rule 3.13, the permit as it existed before the permit amendment process remains in effect until the later of:

(1) The conclusion of the permit amendment or renewal process, as applicable; or

(2) A final settlement or adjudication on the matter of whether the change to the permit requires a permit amendment.

(g) If the permit amendment process results in the denial of an amendment, the permit as it existed before the permit amendment process shall be renewed under District Rule 3.16(c) without penalty, unless subsection (d) of District Rule 3.16 applies to the applicant.

(h) The district may initiate an amendment to an operating permit, in connection with the renewal of a permit or otherwise, in accordance with District Rule 3.13. If the District initiates an amendment to an operating permit, the permit as it existed before the permit amendment process shall remain in effect until the conclusion of the permit amendment or renewal process, as applicable.

(i) All permits issued by the District shall state the following:

(1) The name of the person to whom the permit is issued.

(2) The date the permit is issued.

(3) The date the permit is to expire.

(4) The conditions and restrictions, if any, placed on the rate and amount of withdrawal of groundwater.

(5) This permit is granted in accordance with the provisions of the District Rules, and acceptance of this permit constitutes an acknowledgment and agreement that the permittee will comply with the Rules of the District.

(6) This permit confers only the right to operate under the terms and conditions of the permit, and its terms may be modified or amended pursuant to the District Rules or Chapter 36 of the Texas Water Code, as they exist or may be amended, and the directives of the Texas Legislature, or if necessary to achieve the goals and objectives of the District Management Plan. Within 60 calendar days after the date of sale, the Grandfathered Use Permit or Operating Permit holder should notify the District in writing of the name of the new owner of a permitted well. In order for the District to have the most accurate information possible, any person who becomes the owner of a currently permitted well should, within 60 calendar days from the date of the change in ownership, file an application for a permit amendment to effect a transfer of the permit.

(7) The operation of the well for the authorized withdrawal must be conducted in a non-wasteful manner.

(8) The permitted well site must be accessible to District representatives for inspection or to perform water level monitoring, water quality testing, and well investigations in accordance with Rules 13.4 and 8.3, and the permittee agrees to cooperate fully in any reasonable inspection of the well and well site by the District representatives.

(9) The application pursuant to which this permit has been issued is incorporated in the permit, and the permit is granted on the basis of, and contingent upon, the accuracy of the information supplied in that application. A finding that false information has been supplied is grounds for immediate revocation of the permit.

(10) Violation of a permit's terms, conditions, requirements, or special provisions is punishable by permit revocation, civil penalties, and other enforcement as provided by Section 13 of the District Rules.

(11) Any other conditions or restrictions the District prescribes; and

(12) Any other information the District determines necessary.

Rule 3.17 Hydrogeologic Report Requirements

(a) Any permit application or well registration application that meets the following conditions shall be required to submit a Hydrogeologic Report to the District prior to operating the well(s):

(1) an application or registration that requests to operate a well that is equipped to produce 150 gallons per minute or more;

(2) an application or registration that requests to transport groundwater produced within the District's boundaries to a location of use outside of the District's boundaries;

(3) an application that requests to modify or increase production capacity of a well if such increase would equip the well to produce 150 gallons per minute or more; or

(4) an application(s) or registration(s) for two or more wells that request:

(i) a combined total production capacity from the wells of 150 gallons per minute or more; and

(ii) approval to drill and produce from wells that are owned or operated by the same person or entity and that would be located within a ¼ mile from one another.

(b) Hydrogeologic Reports completed under these Rules shall:

(1) describe the results of a pumping test of the well for which a permit is being requested;

(2) address the area of influence of the well for which a permit is being requested;

(3) include an assessment of the geology at the site of the well for which a permit is being requested and a description of the aquifer that will supply water to the well;

(5) provide detailed diagrams of the well construction and copies of water well driller logs and geophysical logs;

(6) initial analysis of water quality before and after pumping; and

(7) be completed in a manner that complies with the guidelines adopted by the District for this purpose.

(c) Applicants required to complete a Hydrogeologic Report must publish notice in a newspaper of general circulation within Panola County. The newspaper notice must be published within 14 days of the date an applicable well registration or permit application is submitted to the District. All notifications must be approved by the District prior to publication in the newspaper. The newspaper notice shall contain:

(1) the name and address of the applicant;

(2) the date the application was filed;

(3) the location and a description of the well that is the subject of the application;

(4) a brief summary of the information in the application, including requested annual production from the proposed well and that the applicant will conduct a hydrogeologic report in accordance with the District's Rules; and,

(6) the applicant's contact information and/or the District's contact information for questions relating to the permit application.

Rule 3.18 Aquifer Storage and Recovery Projects

(a) The provisions of District Rule 3.18 apply to an ASR recovery well that also functions as an ASR injection well.

(b) A project operator shall:

(1) Register the ASR injection wells and ASR recovery wells associated with the aquifer storage and recovery project with any district in which the wells are located;

(2) Each calendar month by the deadline established by the commission for reporting to the commission, provide the District with a copy of the written or electronic report required to be provided to the commission under Section 27.155, Water Code; and

(3) Annually by the deadline established by the commission for reporting to the commission, provide the District with a copy of the written or electronic report required to be provided to the commission under Section 27.156, Water Code.

(c) If an aquifer storage and recovery project recovers an amount of groundwater that exceeds the volume authorized by the commission to be recovered under the project, the project operator shall report to the District the volume of groundwater recovered that exceeds the volume authorized to be recovered in addition to providing the report required by District Rule 3.18(b)(2).

(d) Except as provided by District Rule 3.18(e), the District may not require a permit for the drilling, equipping, operation, or completion of an ASR injection well or an ASR recovery well that is authorized by the commission.

(e) The ASR recovery wells that are associated with an aquifer storage and recovery project are subject to the permitting, spacing, and production requirements of the District if the amount of groundwater recovered from the wells exceeds the volume authorized by the commission to be recovered under the project. The requirements of the District apply only to the portion of the volume of groundwater recovered from the ASR recovery wells that exceeds the volume authorized by the commission to be recovered.

(f) A project operator may not recover groundwater by an aquifer storage and recovery project in an amount that exceeds the volume authorized by the commission to be

recovered under the project unless the project operator complies with the applicable requirements of the District as described by this Rule.

(g) The District may not assess a production fee or a transportation or export fee or surcharge for groundwater recovered from an ASR recovery well, except to the extent that the amount of groundwater recovered under the aquifer storage and recovery project exceeds the volume authorized by the commission to be recovered.

(h) The District may assess a well registration fee or other administrative fee for an ASR recovery well in the same manner that the District assesses those fees under District Rules 3 and 14.

(i) The District may consider hydrogeologic conditions related to the injection and recovery of groundwater as part of an aquifer storage and recovery project in the planning for and monitoring of the achievement of a Desired Future Condition for the aquifer in which the wells associated with the project are located.

SECTION 4.

WELL REPORTING REQUIREMENTS

Rule 4.1 Drilling or Recompletion Records and Reports

(a) Each person who drills, deepens, completes or otherwise alters a well shall make, at the time of drilling, deepening, completing or otherwise altering the well, a legible and accurate well report recorded on forms prescribed by the District or by the Texas Department of Licensing and Regulation ("TDLR"). Each person who drills a water well within the District boundaries shall adhere to the Texas Water Well Drillers and Pump Installers Administrative Rules, Title 16, Part 4, Chapter 76, Texas Administrative Code.

(b) Each well report required by subsection (a) of this Rule shall contain:

(1) the name and physical address of the well owner;

(2) the location of the drilled, deepened, completed or otherwise altered well, including the physical address of the property on which the well will be located, and the coordinates of the wellhead location, as determined by a properly functioning and calibrated global positioning system (GPS) unit;

(3) the type of work being commenced on the well;

(4) the proposed use of water from the well;

(5) the diameter of the well bore;

(6) the date that drilling was commenced and completed, along with a description of the depth, thickness, and nature of each strata penetrated;

(7) the drilling method used;

(8) the borehole completion method performed on the well, including the depth, size and nature of the casing installed;

(9) a description of the annular seals installed in the well;

(10) the surface completion method performed on the well;

(11) the location of water bearing strata, including the static level and the date the level was encountered, as well as the measured rate of any artesian flow encountered;

(12) the type and depth of any packers installed;

(13) a description of the plugging methods used, if applicable;

(14) the type of pump installed on the well, including the horsepower rating of the pump, as assigned by the pump manufacturer;

(15) the type and results of water tests conducted on the well, including the yield, in gallons per minute, of the pump operated under optimal conditions in a pump test of the well; and

(16) a brief description of the water quality found in the well;

(c) As set forth in Rule 3.4, the person who drilled, deepened, completed or otherwise altered a well pursuant to this rule shall, within 60 days after the date the well is completed, file a well report described in Subsections (a) and (b) of this Rule with the District along with well log(s) for the well. Geophysical logs shall also be filed with the District, if available. Failure to submit a well report and well log within 60 days may result in forfeiture of the Well Report Deposit described in Rule 3.4.

Rule 4.2 Groundwater Production Reports

(a) The holder of any permit issued by the District or the owner of a well which is exempt from the District's permitting requirements under Rule 3.5(a)(4) and (a)(5) must submit a groundwater production report to the District on a form prescribed by the District. The following types of wells are required to record groundwater production on a quarterly basis and submit production reports as set forth in Subsection (b) of this rule.

(1) Water wells operating under an Operating Permit: The holder of an Operating Permit shall submit a report quarterly describing groundwater production from the well(s) identified in the permit for the previous quarter.

(2) Water wells used for Oil and Gas Operations: A owner of a water well which is exempt from the District's permitting requirements under Rule 3.5(a)(4) shall submit a report describing groundwater production from the well(s) identified in the well registration for the previous quarter.

(3) Water wells operating under a Grandfathered Use Permit: The holder of a Grandfathered Use Permit must submit a report quarterly describing groundwater production from the well identified in the permit for the previous quarter.

(4) Water wells used for Mining Operations: The owner of a well used for mining operations under a permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code and which is exempt from the District's permitting requirements under Rule 3.5(a)(5) must submit a report quarterly to the District describing groundwater production from the well identified in the well registration for the previous quarter.

(5) Water wells used for monitoring or remediation: The holder of a water well used for monitoring or remediation must submit a report quarterly groundwater production from the well identified in the application for the previous quarter.

(b) Groundwater production reports that are required to be submitted under this rule shall include the total amount of groundwater produced during the previous quarter and shall be submitted according to the following schedule:

(1) for groundwater production recorded from January 1st through March 31st of each calendar year, the production report must be submitted to the District no later than April 30th of the same calendar year;

(2) for groundwater production recorded from April 1st through June 30th of each calendar year, the production report must be submitted to the District no later than July 31st of the same calendar year;

(3) for groundwater production recorded from July 1st through September 30th of each calendar year, the production report must be submitted to the District no later than October 31st of the same calendar year; and

(4) for groundwater production recorded from October 1st through December 31st of each calendar year, the production report must be submitted to the District no later than January 31st of the following calendar year.

(c) Each report required to be submitted under this rule shall include the following information:

(1) the name of the permit holder or well registrant;

(2) the well numbers of each well;

(3) the total amount of groundwater produced during the time periods specified in Rule 4.2(b).

(4) all purposes for which the water was used;

(5) the amount and source of surface water used by the permit holder; and

(6) any other information requested by the District.

Rule 4.3 Groundwater Transportation Reports

(a) Not later than the last day of the following quarter, the holder of any permit issued by the District that authorizes the transport of groundwater for use outside of the District or the registrant of a well registered with the District that produces groundwater which is transported outside the District shall submit to the District a Groundwater Transport Report describing the amount of water transported and used pursuant to the terms of the applicable permit for the previous quarter.

(b) Each Groundwater Transport Report required by Subsection (a) above shall be submitted on a form prescribed by the District, at a minimum, the following information:

(1) The name of the permit holder;

(2) The well numbers of each well permitted by the District;

(3) The total amount of groundwater transported outside of the district from each well or well system during the previous quarter;

(4) The purposes for which the water was transported;

(5) The amount and source of surface water transported; and

(6) Any other information reasonably requested by the District.

SECTION 5.

SPACING AND LOCATION OF WELLS; WELL COMPLETION

Rule 5.1 Spacing and Location of Existing Wells

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

Rule 5.2 Spacing Requirements for New Wells

Subject to the exceptions provided in District Rule 5.3, all new wells drilled in the District on or after December 31, 2010 shall observe the spacing and tract size requirements as follows:

Casing Size	Spacing from Other Well Sites	Spacing from Property Line
The inside diameter, measured in inches, at the screened interval of the casing or well screen installed within the borehole of a well for the purpose of preventing collapse of the borehole, protecting water quality or for any other purpose.	The minimum distance, in feet, that a new well or proposed well site may be located from an existing registered well or approved well site.	The minimum distance, in feet, that a new well or proposed well site may be located from the nearest property line of the tract of land on which it is to be located.
5-inch or less	150 feet	50 feet
More than 5-inch but less than 8-inch	1,200 feet	100 feet
8-inch or larger but less than 10-inch	1,800 feet	200 feet
10-inch or larger	2,400 feet	400 feet

Rule 5.3 Exceptions to Spacing Requirements

The exemptions to the District's spacing requirements are as follows:

(a) If the applicant presents waivers signed by all landowners and water well owners whose property or wells would be located within the applicable minimum distance established under these Rules from the proposed well site stating that they have no objection to the proposed location of the well site, the General Manager, may waive certain spacing requirements for the proposed well location and notify the Board at the next scheduled Board meeting. The General Manager reserves the right to present any exception application at the next scheduled Board Meeting that the General Manager determines to need Board approval.

(b) Any water well drilled, completed, and equipped for only domestic use and that is incapable of producing more than 25,000 gallons groundwater a day is not required to meet the spacing requirements in District Rule 5.2.

All water wells drilled within the District are still required to comply with all requirements provided in the rules of the Texas Department of Licensing and Regulation, including the spacing requirements located in 16 Texas Administrative Code Section 76.1000.

SECTION 6.

WATER METER REQUIREMENTS

Rule 6.1 Meter Required for Certain Wells

(a) The owner of the following wells shall equip the well with a meter or a flow measurement device meeting the specifications of these Rules and shall operate the meter or flow meter on the well to measure the flow rate and cumulative amount of groundwater withdrawn from the well:

(1) a well which produces water that is sold or leased to another person or entity;

(2) all new, non-exempt wells and existing wells that have been substantially altered, as that term is defined in Rule 1.1; and

(3) a well described by Rules 3.5(a)(4) through 3.5(a)(8).

(b) Any water meter used by a well owner must be installed according to the manufacturer's published specifications in effect at the time of the meter installation. If no specifications are published, there must be a minimum length of five pipe diameters of straight pipe upstream of the water meter and one pipe diameter of straight pipe downstream of the water meter. These lengths of straight pipe must contain no check valves, tees, gate valves, back flow preventers, blow-off valves, or any other fixture other than those flanges or welds necessary to connect the straight pipe to the meter. In addition, the pipe must be completely full of water throughout the region. All installed meters must measure only groundwater.

(c) Each meter shall be installed, operated, maintained, and repaired in accordance with the manufacturer's standards, instructions, or recommendations, and shall be calibrated to ensure an accuracy reading range of ninety-five percent (95%) to one hundred-five percent (105%) of actual flow.

(d) The owner of a well that is required to be metered is responsible for the installation, operation, maintenance, and repair of the meter associated with the well.

(e) Bypasses, which include any device or feature located between the wellhead and the meter that would allow water to be diverted for use before it passes through the meter, are prohibited unless they are also metered, with exception to temporary flushing outlets.

SECTION 7.

PRODUCTION LIMITATIONS

Rule 7.1 Production Limits for Grandfathered Use Permits

The District shall designate the quantity of groundwater authorized to be produced on an annual basis under a Grandfathered Use Permit issued by the District pursuant to the conditions of the District Act, Chapter 36 of the Texas Water Code, the Desired Future Conditions established by the Groundwater Management Area ("GMA") in which the District is located for the aquifers located in whole or in part within the boundaries of the District, and these Rules, provided, however, that the quantity that may be withdrawn shall not exceed the Maximum Grandfathered Use demonstrated by the applicant and set forth in the permit issued by the District, and determined by the Board.

Rule 7.2 Production Limits for Operating Permits

The District shall designate the quantity of groundwater authorized to be produced on an annual basis under an Operating Permit issued by the District pursuant to the conditions of the District Act, Chapter 36 of the Texas Water Code, the Desired Future Conditions established by the Groundwater Management Area ("GMA") in which the District is located for the aquifers located in whole or in part within the boundaries of the District, and these Rules, provided, however, that the quantity shall not exceed an amount demonstrated by the applicant and determined by the Board to be necessary for beneficial use during the permit term as set forth in the permit issued by the District.

SECTION 8.

PROHIBITION AGAINST WASTE

Rule 8.1 Waste or Pollution of Groundwater Prohibited

(a) Groundwater shall not be produced within and used within the District, or produced within the District and used outside the District, in such a manner as to constitute waste or in such a manner that will pollute the groundwater resources of the District.

(b) A person producing or using groundwater within the District shall use every possible precaution to stop and prevent the waste and pollution of water.

(c) A person shall not pollute or harmfully alter the character of the aquifer within the boundaries of the District by means of saltwater or other deleterious matter admit ted to the aquifer from some other stratum or strata or from the surface of the ground.

(d) A person under the jurisdiction of the District shall not commit waste as defined in Chapter 36 of the Texas Water Code and these Rules.

Rule 8.2 Orders to Prevent Waste or Pollution

Upon notice to any affected parties and opportunity for a hearing, the Board may adopt orders to prohibit, prevent, or remedy waste or pollution. If the factual basis for the order is disputed, the Board shall direct that an evidentiary hearing be conducted prior to entry of the order. If the Board determines that an emergency exists, requiring the immediate entry of an order to prohibit waste or pollution and protect the public health, safety, and/or welfare, the Board may enter a temporary order without notice and hearing. Such a temporary order shall continue in effect for the lesser of fifteen (15) days or until notice can be provided and a hearing can be conducted by the District.

Rule 8.3 Authority to Investigate Violation of District Rules

The District has the authority to investigate violations of the District's Rules, including but not limited to suspected waste or pollution violations prohibited under this Section. Pursuant to Rule 13.4, no person shall interfere with the District's efforts to conduct inspections.

SECTION 9.

CAPPING AND PLUGGING OF WELLS

Rule 9.1 Capping of Wells

The District may require a well to be capped to prevent waste, prevent pollution, or prevent further deterioration of a well casing. The well must 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 must be capped, provided however that the casing is not in a deteriorated condition that would permit comingling of water strata, in which case the well must be plugged. The cap must be capable of sustaining a weight of at least four hundred (400) pounds and must be constructed with a water tight seal to prevent entrance of surface pollutants into the well itself, either through the well bore or well casing.

Rule 9.2 Plugging of Wells

(a) In this Rule, "abandoned well" means a well that is not in use for a period of at least one year. A well is considered to be in use if:

(1) the well is not a deteriorated well and contains the casing, pump, and pump column in good condition;

(2) the well is not a deteriorated well and has been capped;

(3) the water from the well has been put to an authorized beneficial use, as defined by the Texas Water Code and these Rules;

(4) the well is used in the normal course and scope and with the intensity and frequency of other similar users in the general community; or

(5) the owner is participating in a federal conservation program as defined by Chapter 36, Texas Water Code or a similar governmental program.

(b) A deteriorated or abandoned well must be plugged in accordance with the Texas Department of License and Regulation, Water Well Drillers and Pump Installers Rules (16 TAC Chapter 76). It is the responsibility of the landowner to see that such a well is plugged to prevent pollution of groundwater and to prevent injury to persons and animals. Registration of the well is required prior to, or in conjunction with, well plugging.

(c) Prior to plugging a well, casing, liner, or bore hole, an application to plug the well shall be submitted to the District. Each application to plug a well shall be sworn-to and certified in writing. Written authorization shall be obtained from the District prior to initiating any plugging operation. Once written authorization has been granted by the District, the District shall be notified at least 24 hours prior to initiation of the plugging operation by telephone, electronic mail, mail, or in person at the District Office and the well must be plugged in accordance with the Texas Department of License and Regulation, Water Well Drillers and Pump Installers Rules (16 TAC Chapter 76). A registrant for a plugging application has 120 days from the date of approval by the District to plug the water well. A well plugging report must be filed with the District within 60 days of well plugging.

(d) The Board, by resolution, may establish a well plugging report deposit to be held by the District as part of the plugging application. The District shall return the deposit if all relevant plugging reports are timely submitted to the District. If the District does not timely receive all relevant plugging reports, or if terms and conditions provided in the application are not complied with in a timely manner, the deposit shall be forfeited to the District and applicant shall be subject to enforcement. The Board may also establish a schedule of forfeiture, whereby the depositor forfeits an established amount upon the well report being seven (7) days late, and may increase as the District sees fit depending on the number of days the depositor is late.

(e) The application pursuant to which District authorization to plug a well has been granted in writing is incorporated into such written authorization, and the authorization to plug a well is granted on the basis of, and contingent upon, the accuracy of the information supplied in the application to plug the well. A finding that false information has been supplied is grounds for revocation of the authorization to plug the well and the applicant may be subject to enforcement in accordance with Rule 13.2.

(f) Any person that plugs a well in the District after receiving District authorization must submit a copy of the plugging report to the District and the Texas Department of License and Regulation within thirty (30) days of plugging completion.

(g) If the owner or lessee fails or refuses to plug or cap the well in compliance with this rule

and District standards within thirty (30) days after being requested to do so in writing by an officer, agent, or employee of the District, then, upon Board approval, any person, firm, or corporation employed by the District may go on the land and plug or cap the well safely and securely, pursuant to Section 36.118 of the Texas Water Code.

Rule 9.3 Expenses Incurred by the District

Reasonable expenses incurred by the District in plugging or capping a well constitutes a lien on the land on which the well is located.

SECTION 10.

HEARINGS

Rule 10.1 Hearings Generally

(a) A public hearing may be held on any matter within the jurisdiction of the Board, if the Board deems a hearing to be in the public interest or necessary to effectively carry out the duties and responsibilities of the District. The District conducts four general types of hearings under this Section:

(1) hearings involving the issuance of permits or permit amendments, in which the rights, duties, or privileges of a party are determined after an opportunity for an adjudicative hearing;

(2) rulemaking hearings involving matters of general applicability that implement, interpret, or prescribe the law or District policy, or that describe the procedure or practice requirements of the District;

(3) show cause hearings, in which the obligation and authority of the District to impose civil penalties is considered under specific relevant circumstances, as set forth in Rule 13.6; and

(4) hearings on the Desired Future Conditions proposed for the District, as set forth in Rule 10.13.

(b) Any matter designated for hearing before the Board may be heard by a quorum of the Board, referred by the Board for a hearing before a Hearing Examiner, by a quorum of the Board along with an appointed Hearing Examiner who officiates during the hearing, or the State Office of Administrative Hearings if required under Rule 10.5.

(c) Any hearing may or may not be scheduled during the District's regular business hours, Monday through Friday of each week, except District holidays. All hearings shall be held at the location set forth in the notice. Any hearing may be continued from time to time and date to date without notice after providing the initial notice.

(d) The District may continue hearings or other proceedings from time to time and from place to place without the necessity of publishing, serving, mailing, or otherwise issuing a new notice. If a hearing or other proceeding is continued and a time and place for the hearing or other proceeding to reconvene are not publicly announced at the hearing or other proceeding before it is recessed, a notice of any further setting of the hearing or other proceeding will be delivered at a reasonable time to persons who request notice at the initial hearing, and any other person deemed appropriate, but it is not necessary to post or publish a notice of the new setting.

(e) Permit Hearings:

(1) Permit Applications and Amendments: The District shall hold a hearing for each activity for which a permit or permit amendment is required pursuant to Section 3 of these Rules, subject to the exception in Rule 3.15. A hearing involving permit matters may be scheduled before a Hearing Examiner.

(2) The District shall hold a permit hearing on major permit amendments and may hold a hearing on minor permit amendments, permit revocations, and permit renewals.

(f) Rulemaking Hearings:

(1) District Management Plan: The Board shall hold a hearing to consider adoption of a new District Management Plan.

(2) Rules: The Board shall hold a hearing to consider adoption of rules or any revisions to the District's rules.

(3) Other Matters: A public hearing may be held on any matter within the jurisdiction of the Board if the Board determines that a hearing is in the public interest or necessary to effectively carry out the duties and responsibilities of the District.

Rule 10.2 Rulemaking Hearings

(a) Rulemaking hearing notice shall include a brief explanation of the subject matter of the hearing, the time, date, and place of the hearing, location or Internet site at which a copy of the proposed rules may be reviewed or copied, if the District has a functioning Internet site, and any other information deemed relevant by the General Manager or the Board.

(b) Not less than 20 calendar days prior to the date of the hearing, the General Manager shall:

(1) Post notice in a place readily accessible to the public at the district office;

(2) Provide notice to the county clerk of Panola County;

(3) Publish notice in one or more newspapers of general circulation in the District;

(4) Provide notice by mail, facsimile, or electronic mail to any person who has requested notice; and

(5) Make available a copy of all proposed rules at a place accessible to the public during normal business hours, and post an electronic copy on the District's Internet site, if the District has a functioning Internet site.

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

(d) Failure to provide notice under Subsection (c) does not invalidate an action taken by the District at a rulemaking hearing.

(e) A person participating in a rulemaking hearing shall complete a hearing registration form stating the person's name, address, and whom the person represents, if applicable.

(f) The Presiding Officer shall prepare and keep a record of each rulemaking hearing in the form of an audio or video recording or a court reporter transcription.

(g) The District may use an informal conference or consultation to obtain the opinions and advice of interested persons about contemplated rules and may appoint advisory committees of experts, interested persons, or public representatives to advise the District about contemplated rules.

Rule 10.3 Permit Hearings

(a) If the General Manager or Board schedules a hearing on an application for a permit or permit amendment, the General Manager shall give notice of the hearing as provided in this Section.

(b) Notice may be provided under this rule for permit renewals minor amendments, and revocations, if the General Manager determines that a hearing is required.

(c) The General Manager or Board may schedule more than one permit application for consideration at a hearing.

(d) Not later than the 10th day before the date of a permit hearing, the General Manager shall:

(1) post notice at a place readily accessible to the public in the District office;

(2) notice of the hearing shall be provided to the county clerk in Panola County, whereupon the county clerk shall post the notice on a bulletin board at a place convenient to the public in the county courthouse;

(3) provide notice by regular mail to the applicant; and

(4) provide notice by mail, facsimile, or electronic mail to any person who has requested notice under this Section.

(e) The notice provided under Subsection (d) must include:

(1) name and address of the applicant;

(2) the address or approximate location of the well or proposed well;

(3) a brief explanation, including any requested amount of groundwater, the purpose of the proposed use, and any change in use, if applicable;

(4) a general explanation of the manner by which a person may contest the permit, permit amendment, or permit renewal, including information regarding the need to appear at the hearing or submit a motion for continuance on good cause;

(5) the time, date, and location of the hearing; and

(6) any other information the Board or General Manager deems relevant and appropriate to include in the notice.

(f) Any person having an interest in the subject matter of a hearing may receive written notice of the hearing if the person submits to the District a written request to receive notice of the hearing. The request remains valid for a period of one year from the date of the request, after which time a new request must be submitted. An affidavit of an officer or employee of the District establishing attempted service by first class mail, facsimile, or email to the person in accordance with the information provided by the person is proof that notice was provided by the District. Failure by the District to provide written notice to a person under this Subsection does not invalidate any action taken by the Board.

(g) An administratively complete application shall be set for a hearing on a specific date within 60 days after the date it is administratively complete. A hearing shall be held within 35 days after the setting of the date, and the District shall act on the application within 60 days after the date the final hearing on the application is concluded.

(h) The board may take action on any uncontested application at a properly noticed public meeting held at any time after the public hearing at which the application is scheduled to be heard. The board may issue a written order to:

(1) grant the permit application;

(2) grant the permit application with special conditions; or

(3) deny the permit application.

(i) An applicant may, not later than the 20th day after the date the board issues an order granting the application, demand a contested case hearing if the order:

(1) includes special conditions that were not part of the application as finally submitted; or

(2) grants a maximum amount of groundwater production that is less than the amount requested in the application.

Rule 10.4 Contested Case Permit Hearings and Designation of Parties

(a) The following may request a contested case hearing on an application for a permit or permit amendment:

(1) the General Manager;

(2) the applicant; or

(3) an affected person.

(b) A request for a contested case hearing must substantially comply with the following:

(1) give the name, address, and daytime telephone number of the person who files the request. If the request is made by a group or association, the request must identify one person by name, address, daytime telephone number, and, where possible, fax number, who shall be responsible for receiving all official communications and documents for the group;

(2) identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language how and why the requestor believes he or she will be affected by the activity in a manner not common to members of the general public;

(3) set forth the grounds on which the person is protesting the application;

(4) request a contested case hearing;

(5) be timely under Subsection (d); and

(6) provide any other information required by the public notice of application.

(c) If a person or entity is requesting a contested case hearing on more than one application, a separate request must be filed in connection with each application.

(d) A hearing request is considered timely if it complies with Subsection (b)(2) and:

(1) is submitted in writing to and received by the District prior to the date of the hearing and action by the Board on the application; or

(2) the person appears before the Board at the hearing and opposes the application.

Requests for contested case hearings to be conducted by the State Office of Administrative Hearings made under Rule 10.5 shall be made in writing and submitted to the District by facsimile, mail, hand delivery, or electronic mail no later than five days prior to the date the hearing on the application is scheduled to begin.

(e) The written or oral submittal of a hearing request does not, in itself, mean that a hearing will be declared to be a contested case. The Presiding Officer will evaluate the contested case hearing request at the hearing and may:

(1) determine that a hearing request does not meet the requirements of Subsection (b) and deny the request;

(2) determine that the person requesting the hearing is not an affected person related to the application and deny the hearing request;

(3) determine that a hearing request meets the requirements of Subsection (b), and designate the matter as a contested hearing upon determining that the person is an affected person; or

(4) refer the case to an evidentiary hearing. The Presiding Officer may hold a hearing on any issue related to the determination of whether to declare a matter as a contested case.

(f) A matter is considered to be contested if a hearing request is made pursuant to Subsection (b), made in a timely manner pursuant to Subsection (d), and declared as such by the Presiding Officer. Any case not declared a contested case under this Rule is an uncontested case.

(g) Preliminary Hearing to Designate Parties:

(1) Parties to a contested permit hearing shall be designated as determined by the Presiding Officer. The Presiding Officer shall make a decision on party status at a preliminary hearing held prior to the commencement of the evidentiary hearing on the application. Unless the District is required to contract with the State Office of Administrative Hearings under Rule 10.5, the District may conduct the preliminary hearing to determine party status on the same day and immediately before the evidentiary hearing on the application is scheduled to begin.

(2) The General Manager and the applicant are automatically designated as parties.

(3) In order to be admitted as a party, persons other than the automatic parties must appear at the hearing in person or by representation and seek to be designated as a party.

(4) A person requesting a contested case hearing that is unable to attend the first day of the proceeding must submit a continuance request to the Board, in writing, stating good cause for his inability to appear at the proceeding. The Presiding Officer may grant or deny the request, at his discretion.

(5) If the board determines that no person who requested a contested case hearing has standing or that no justiciable issues are raised, the board may take any action authorized under District Rule 10.3(h).

(h) After parties are designated, no other person may be admitted as a party unless, in the judgment of the Presiding Officer, there exists good cause and the hearing will not be unreasonably delayed.

(i) All testimony presented in a contested case hearing shall be subject to cross-examination.

(j) Neither the Presiding Officer nor a Board member may communicate, directly or indirectly, in connection with any issue of fact or law in a contested case with any agency, person, party, or representative, except with notice and an opportunity for all parties to participate. This provision does not prevent communication with District staff.

(k) If, during a contested case hearing, all parties contesting the application withdraw their protests or the parties reach a negotiated or agreed settlement which, in the judgment of the Presiding Officer, settles the facts or issue in controversy, the proceeding will be deemed an uncontested case.

Rule 10.5 Contested Case Hearings Conducted by the State Office of Administrative Hearings

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

(b) The Board shall determine whether the hearing held by the State Office of Administrative Hearings will be held in Travis County or at the District office or other regular meeting place of the Board.

(c) The party requesting that the hearing be conducted by the State Office of Administrative Hearings shall pay all costs associated with the contract for the hearing and shall make a deposit with the District in an amount that is sufficient to pay the estimated contract amount before the hearing begins. If the total cost for the contract exceeds the amount deposited by the paying party at the conclusion of the hearing, the party that requested the hearing shall pay the remaining amount due to pay the final price of the contract. If there are unused funds remaining from the deposit at the conclusion of the hearing, the unused funds shall be refunded to the paying party. The District may assess other costs related to hearings conducted under this rule as authorized under Chapter 36, Texas Water Code, or the District Rules.

(d) An administrative law judge who conducts a contested case hearing shall consider applicable district rules or policies in conducting the hearing, but the District may not supervise the administrative law judge.

(e) The District shall provide the administrative law judge with a written statement of applicable rules or policies.

(f) The District may not attempt to influence the finding of facts or the administrative law judge's application of the law in a contested case except by proper evidence and legal argument.

(g) The board may change a finding of fact or conclusion of law made by the administrative law judge, or may vacate or modify an order issued by the administrative judge, only if the board determines:

(1) that the administrative law judge did not properly apply or interpret applicable law, District rules, written policies provided under Section 36.416(e), or prior administrative decisions;

(2) that a prior administrative decision on which the administrative law judge relied is incorrect or should be changed; or

(3) that a technical error in a finding of fact should be changed.

Rule 10.6 Procedures for Permit Hearings Conducted by the District

(a) Authority of Presiding Officer: The Presiding Officer may conduct the hearing or other proceeding in the manner the Presiding Officer deems most appropriate for the particular hearing. The Presiding Officer has the authority to:

(1) set hearing dates, other than the hearing date set by the General Manager or Board under Rule 10.3;

(2) convene the hearing at the time and place specified in the notice for public hearing;

(3) designate the parties to a hearing;

(4) admit evidence that is relevant to an issue at the hearing, exclude evidence that is irrelevant, immaterial, or unduly repetitious, and rule on motions and on the admissibility of evidence;

(5) establish the order for presentation of evidence;

(6) administer oaths to all persons presenting testimony;

(7) examine witnesses;

(8) ensure that information and testimony are introduced as conveniently and expeditiously as possible, without prejudicing the rights of any person participating in the proceeding;

(9) Conduct public hearings in an orderly manner in accordance with these rules;

(10) recess any hearing from time to time and place to place; and

(11) exercise any other appropriate powers necessary or convenient to effectively carry out the responsibilities of Presiding Officer.

(b) Hearing Registration Forms: Each person attending and participating in a hearing of the District must submit on a form provided by the District the following information: the person's name; the person's address; who the person represents if other than himself; whether the person wishes to testify; and any other information relevant to the hearing.

(c) Public Comment: Documents that are filed with the Board that comment on an application but that do not request a hearing will be treated as public comment. The Presiding Officer may allow any person, including the General Manager or a District employee, to provide comments at a hearing on an uncontested application.

(d) Any interested person may appear at a hearing in person or may appear by representative provided the representative is fully authorized to speak and act for the principal. Such person or representative may present evidence, exhibits, or testimony, or make an oral presentation as determined by the Board. Any partner may appear on behalf of a partnership. A duly authorized officer or agent of a public or private corporation, political subdivision, governmental agency, municipality, association, firm, or other entity may appear on behalf of the entity. A fiduciary may appear for a ward, trust, or estate. A person appearing in a representative capacity may be required to prove proper authority.

(e) After the Presiding Officer calls a hearing to order, the Presiding Officer shall announce the subject matter of the hearing and the order and procedure for presentation.

(f) The Presiding Officer may prescribe reasonable time limits for the presentation of evidence and oral argument.

(g) If the Board has not acted on the application, in the discretion of the Presiding Officer, any person who testifies at a hearing may supplement that testimony by filing additional written material with the Presiding Officer within 10 days after the date of conclusion of the hearing. A person who files additional written material with the Presiding Officer must also provide the material, not later than the 10th day after the date of the hearing, to any person who provided comments on an uncontested application or any party to a contested hearing. A person who receives additional written material under this Subsection may file a response to the material with the Presiding Officer not later than the 10th day after the date the material was received. Cumulative, repetitive, and unduly burdensome evidence filed under this Subsection will not be considered by the Board.

(h) Every person, representative, witness, and other participant in a proceeding must conform to ethical standards of conduct and must exhibit courtesy and respect for all other participants. No person may engage in any activity during a proceeding that interferes with the orderly conduct of District business. If in the judgment of the Presiding Officer, a person is acting in violation of this provision, the Presiding Officer will first warn the person to refrain from engaging in such conduct. Upon further violation by the same person, the Presiding Officer may exclude that person from the proceeding for such time and under such conditions as the Presiding Officer deems necessary.

(i) Written testimony: When a proceeding will be expedited and the interest of the persons participating in the hearing will not be prejudiced substantially, testimony may be received in written form. The written testimony of a witness, either in narrative or question and answer form, may be admitted into evidence upon the witness being sworn and identifying the testimony as a true and accurate record of what the testimony would be if given orally. On the motion of a party to the hearing, the Presiding Officer may exclude written testimony if the person who submits the testimony is not available for cross-examination by phone, a deposition before the hearing, or other reasonable means.

(j) No person will be allowed to appear in any hearing or other proceeding whose appearance, in the opinion of the Presiding Officer, is for the sole purpose of unduly broadening the issues to be considered in the hearing or other proceeding.

Rule 10.7 Recording

(a) A record of a hearing in the form of an audio or video recording or a court reporter transcription shall be prepared and kept by the Presiding Officer in a contested hearing. The Presiding Officer shall have the hearing transcribed by a court reporter upon a request by a party to a contested hearing. The Presiding Officer may assess court reporter transcription costs against the party requesting the transcription or among the parties to the hearing. The Presiding Officer may exclude a party from further participation in a hearing for failure to pay in a timely manner costs assessed against that party under this rule, unless the parties have agreed that the costs assessed against such party will be paid by another party.

(b) Uncontested Hearings: In an uncontested hearing, the Presiding Officer may use the means available in Subsection (a) to record a proceeding or may substitute meeting minutes or the report required under Rule 10.8 for a method of recording the hearing.

Rule 10.8 Proposal for Decision

(a) The Presiding Officer shall determine whether to submit a Proposal for Decision ("PFD") to the Board under this Rule. If the Presiding Officer determines to submit a PFD, it must:

(1) be submitted within 30 days after the date the hearing is finally concluded; and

(2) include a summary of the subject matter of the hearing, a summary of the evidence or public comments received, and the Presiding Officer's recommendations for Board action on the subject matter of the hearing. A copy of the report shall be provided by the Presiding Officer or General Manager to the applicant, each designated party, and each person who provided comments. A person who receives a copy of the report may submit written exceptions to the report to the Board.

(b) The Presiding Officer may direct the General Manager or another District representative to prepare the PFD and recommendations under this Rule.
The board shall consider the PFD at a final hearing. Additional evidence may not be presented during a final hearing. The parties may present oral argument at a final hearing to summarize the evidence, present legal argument, or argue an exception to the proposal for decision.

Rule 10.9 Board Action

The Board shall act on a permit or permit amendment application not later than the 60th day after the date the final hearing on the application is concluded. For hearings conducted by the State Office of Administrative Hearings, the Board shall make the final decision on the application within 60 days after the issuance of the proposal for decision by the State Office of Administrative Hearings. In a hearing in which the District has contracted with the State Office of Administrative Hearings to conduct the contested case hearing, the Board has the authority to make a final decision on consideration of a proposal for decision issued by the State Office of Administrative Hearings administrative law judge consistent with Section 2001.058, Government Code.

Rule 10.10 Request for Rehearing or Findings and Conclusions

(a) An applicant in a contested or uncontested hearing on an application or a party to a contested hearing may appeal a decision of the Board by requesting written findings of fact and conclusions of law within 20 calendar days of the date of the Board's decision. On receipt of a timely written request, the Board shall make written findings of fact and conclusions of law regarding a decision of the Board on a permit or permit amendment application. The Board shall provide certified copies of the findings and conclusions to

the party who requested them, and to each designated party, not later than the 35th day after the date the Board receives the request.

(b) A party who receives a certified copy of the findings and conclusions from the board may request a rehearing before the Board not later than the 20th day after the date the Board issues the findings and conclusions. In a contested case, a party must first make a request for written findings and conclusions under District Rule 10.10(a) before any party to the contested case may submit a request for rehearing under this rule.

(c) A rehearing request must be filed with the District in writing and must state clear and concise grounds for the request. The person requesting a rehearing must provide copies of the request to all parties to the hearing. With respect to any decision or action of the Board in a contested case, such a request for rehearing is mandatory before any appeal to District Court may be brought. Any appeal to District Court shall be limited to the issues and grounds raised in the motion for rehearing.

(d) If the hearing on the application was considered uncontested and the decision of the Board on the application is materially inconsistent with the relief sought in the application, the applicant shall be afforded an opportunity to submit a request for a contested case in conjunction with the request for rehearing. If the request for rehearing is timely filed, the accompanying request for a contested case hearing shall be deemed timely filed for all purposes under these Rules. On receipt of a timely written request, the Board shall make written findings and conclusions regarding a decision of the board on an uncontested permit or permit amendment application.

(e) The Board's decision is final if no request for rehearing is made within the specified time, upon the Board's denial of the request for rehearing, or upon rendering a decision after rehearing. If the rehearing request is granted by the Board, the date of the rehearing will be within 45 calendar days thereafter. The failure of the Board to grant or deny the request for rehearing within 90 calendar days of the date of submission shall constitute a denial of the request.

Rule 10.11 Decision; When Final

(a) A decision by the Board on a permit or permit amendment application is final:

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

(2) If a request for rehearing is filed on time, on the date:

(A) the Board denies the request for rehearing; or

(B) the Board renders a written decision after rehearing.

(b) Except as provided by Subsection (c), an applicant or a party to a contested hearing may file suit against the district under Section 36.251, Texas Water Code, to appeal a decision on a permit or permit amendment application not later than the 60th day after the date on which the decision becomes final.

(c) An applicant or a party to a contested hearing may not file suit against the District under Section 36.251, Texas Water Code, if a request for rehearing was not filed on time.

Rule 10.12 Consolidated Notice and Hearing on Permit Applications

(a) Except as provided by Subsection (b), the Board shall process applications from a single applicant under consolidated notice and hearing procedures on written request by the applicant.

(b) The Board is not required to use consolidated notice and hearing procedures to process separate permit or permit amendment applications from a single applicant if the Board cannot adequately evaluate one application until it has acted on another application.

Rule 10.13 Hearings on Adoption of Desired Future Conditions

For hearings that the District is required to hold for the adoption of its Desired Future Conditions, not less than 20 days prior to the date of the hearing, the District shall post notice that includes the following information:

(1) the proposed Desired Future Condition(s) and a list of any other agenda items;

(2) the date, time, and location of the meeting or hearing;

(3) the name, telephone number, and address of the person to whom questions or requests for additional information may be submitted;

(4) the name of the other groundwater districts in the same Groundwater Management Area as the District; and

(5) information on how the public may submit comments.

The notice required under this subsection shall be provided in the same manner as that for rulemaking hearings under Rule 10.2(b).

Rule 10.14 Appeal of Desired Future Conditions

(a) Not later than the 120th day after the date on which the District adopts a Desired Future Condition under Section 36.108(d-4), Texas Water Code, an "affected person" may file a petition with the District requiring that the District contract with the office to conduct a hearing appealing the reasonableness of the Desired Future Condition. The petition must

provide evidence that the District did not establish a reasonable Desired Future Condition of the groundwater resources in the groundwater management area.

(b) Not later than the 10th day after receiving a petition described by Subsection (b), the District shall submit a copy of the petition to the development board. On receipt of the petition, the development board shall conduct:

(1) An administrative review to determine whether the desired future condition established by the district meets the criteria in Section 36.108(d); and

(2) A study containing scientific and technical analysis of the desired future condition, including consideration of:

(A) The hydrogeology of the aquifer;

(B) The explanatory report provided to the development board under Section 36.108(d-3);

(C) The factors described under Section 36.108(d); and

(D) Any relevant:

(i). Groundwater availability models;

(ii). Published studies;

(iii). Estimates of total recoverable storage capacity;

(iv). Average annual amounts of recharge, inflows, and discharge of groundwater; or

(v). Information provided in the petition or available to the development board.

(c) The development board must complete and deliver to the office a study described by District Rule 10.14(b)(2) not later than the 120th day after the date the development board receives a copy of the petition.

(d) For the purposes of a hearing conducted under District Rule 10.14;

(1) The office shall consider the study described by District Rule 10.14(b)(2) and the Desired Future Conditions explanatory report submitted to the development board under Section 36.108(d-3), Texas Water Code, to be part of the administrative record; and

(2) The development board shall make available relevant staff as expert witnesses if requested by the office or a party to the hearing.

(e) Not later than the 60th day after receiving a petition under District Rule 10.14(a), the District shall:

(1) Contract with the office to conduct the contested case hearing requested under District Rule 10.14; and

(2) Submit to the office a copy of any petitions related to the hearing requested under District Rule 10.14(a) and received by the district.

(f) A hearing under District Rule 10.14 must be held:

(1) At the District office or regular meeting location of the board; and

(2) In accordance with Chapter 2001, Government Code, and the rules of the office.

(g) During the period between the filing of the petition and the delivery of the study described by District Rule 10.14(b)(2), the District may seek the assistance of the Center for Public Policy Dispute Resolution, the development board, or another alternative dispute resolution system to mediate the issues raised in the petition. If the District and the petitioner cannot resolve the issues raised in the petition, the office will proceed with a hearing as described by this section.

(h) The district shall provide:

(1) General notice of the hearing; and

(2) Individual notice of the hearing to:

(A) The petitioner;

(B) Any person who has requested notice;

(C) Each nonparty district and regional water planning group located in the same management area as a district named in the petition;

(D) The development board; and

(E) The Commission.

(i) Before a hearing conducted under this section, the office shall hold a prehearing conference to determine preliminary matters, including:

(1) Whether the petition should be dismissed for failure to state a claim on which relief can be granted;

(2) Whether a person seeking to participate in the hearing is an affected person who is eligible to participate; and

(3) Which affected persons shall be named as parties to the hearing.

(j) The petitioner shall pay the costs associated with the contract for the hearing under this section. The petitioner shall deposit with the District an amount sufficient to pay the contract amount before the hearing begins. After the hearing, the office may assess costs to one or more of the parties participating in the hearing and the District shall refund any excess money to the petitioner. The office shall consider the following in apportioning costs of the hearing:

(1) The party who requested the hearing;

(2) The party who prevailed in the hearing;

(3) The financial ability of the party to pay the costs;

(4) The extent to which the party participated in the hearing; and

(5) Any other factor relevant to a just and reasonable assessment of costs.

(k) On receipt of the administrative law judge's findings of fact and conclusions of law in a proposal for decision, including a dismissal of a petition, the District shall issue a final order stating the District's decision on the contested matter and the District's findings of fact and conclusions of law. The District may change a finding of fact or conclusion of law made by the administrative law judge, or may vacate or modify an order issued by the administrative law judge, as provided by Section 2001.058(e), Government Code.

(1) If the District vacates or modifies the proposal for decision, the District shall issue a report describing in detail the District's reasons for disagreement with the administrative law judge's findings of fact and conclusions of law. The report shall provide the policy, scientific, and technical justifications for the District's decision.

(l) If the District in its final order finds that a Desired Future Condition is unreasonable, not later than the 60th day after the date of the final order, all districts in GMA 11 shall reconvene in a joint planning meeting for the purpose of revising the Desired Future Condition found to be unreasonable. The districts in GMA 11 shall follow the procedures in Section 36.108, Water Code, to adopt new Desired Future Conditions applicable to the district that received the petition.

(m) A final order by the District finding that a Desired Future Condition is unreasonable does not invalidate the adoption of a Desired Future Condition by a district that did not participate as a party in the hearing conducted under this section.

(n) The administrative law judge may consolidate hearings requested under this section that affect two or more districts. The administrative law judge shall prepare separate findings of fact and conclusions of law for each district included as a party in a multidistrict hearing.

(o) A final District order issued under District Rule 10.14 may be appealed to a district court with jurisdiction over any part of Panola County. An appeal under this subsection must be filed with the district court not later than the 45th day after the date the District issues the final order. The case shall be decided under the substantial evidence standard of review as provided by Section 2001.174, Government Code.

(1) If the court finds that a Desired Future Condition is unreasonable, the court shall strike the Desired Future Condition and order the districts in GMA 11 to reconvene not later than the 60th day after the date of the court order in a joint planning meeting for the purpose of revising the applicable Desired Future Condition. The districts in the management area shall follow the procedures in Section 36.108, Water Code, to adopt new Desired Future Conditions applicable to the district that received the petition.

(2) A court's finding under District Rule 10.14(o) does not apply to a Desired Future Condition that is not a matter before the court.

SECTION 11.

TRANSPORTATION OF GROUNDWATER OUT OF THE DISTRICT

Rule 11.1 General Transportation Provisions

(a) Except as provided in Subsection (d), a person who produces or wishes to produce water from a well located or to be located within the District and transport such water for use outside of the District must take the following action:

(1) register the well with the District;

(2) obtain an Operating Permit or Grandfathered Use Permit from the District or an amendment to such a permit; and

(3) submit timely payment of the Groundwater Transportation Fee to the District for any water transported out of the District.

The holder of a permit authorized to transport water outside the boundaries of the District shall, on a quarterly basis, report the total amount of groundwater transported outside of the District for reporting purposes and for purposes of calculating the Groundwater Transportation Fee.

(b) The District may not regulate production of groundwater or assess fees against the transport of water produced in an area of a retail public utility that is located inside the District boundaries and transported for use to an area that is within the same retail public utility but that is located outside the District boundaries if the majority of the geographic area of the retail public utility's boundaries or defined service area is within the boundaries of the District and the majority of the groundwater produced is used within the boundaries of the District. If conditions change over time such that the majority of such geographic area or use is not within the boundaries of the District, the groundwater transported for use outside of the District shall be assessed the Groundwater Transportation Fee.

(c) Applications that request authorization to transport water outside the boundaries of the District shall automatically be considered by the District after notice and hearing.

(d) In accordance with the District's enabling act (Section 8819.102 of the Texas Special District Local Laws Code), groundwater produced in an amount authorized by a Railroad Commission of Texas (RCT) permit may be exported from the District without a permit issued by the District. To the extent groundwater is produced in excess of the RCT authorization, the holder of the RCT permit:

(1) shall apply to the District for the appropriate permit for the excess production; and

(2) is subject to the applicable transportation fees.

Rule 11.2 Considerations for Transportation of Groundwater

(a) In reviewing a proposed transportation of groundwater out of the District, the District shall consider the following:

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

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

(3) the approved regional water plan and certified District management plan.

(b) The District may not impose more restrictive permit conditions on transporters than the District imposes on in-district users.

SECTION 12.

AUTHORITY TO DEFINE MANAGEMENT ZONES AND PRODUCTION-BASED LIMITATIONS

Rule 12.1 Management Zones

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

(1) assess water availability;

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

(3) allow for the transfer of permits; and

(4) otherwise undertake efforts to manage the groundwater resources in a manner that is consistent with the District Act, Chapter 36, Texas Water Code, and that aids in the attainment of all applicable Desired Future Conditions established for the aquifers located in whole or in part within the boundaries of the District.

(b) In creating management zones, the Board shall attempt to establish zone boundaries that will promote fairness and efficiency by the District in its management of groundwater, while considering hydrogeologic conditions and the Desired Future Conditions established for the aquifers located in whole or in part within the boundaries of the District.

(c) Where practicable, the Board may consider the ability of the public to readily identify the boundaries of designated zones based on features on the land surface.

Rule 12.2 Proportional Adjustment

(a) The Board, by resolution, may establish proportional adjustment reductions to alter the amount of production allowed from an aquifer within the District if reductions are required under these rules, and/or if reductions are required within one or more management zones, if necessary to avoid impairment of and to achieve the applicable Desired Future Conditions established for the aquifers located in whole or in part within the boundaries of the District.

(b) When establishing proportional adjustment restrictions, the Board shall first set aside an amount of groundwater equal to an estimate of total exempt use for each aquifer. If the proportional adjustment restrictions are to be imposed for a particular aquifer in a particular management zone, the Board shall first set aside an amount of groundwater

equal to an estimate of total exempt use for each aquifer within that particular management zone.

(c) After setting aside an amount of groundwater for exempt use for each aquifer, to the extent of remaining groundwater availability, the Board shall allocate groundwater to Grandfathered Use Permits according to the permitted or claimed Grandfathered use in each, depending upon whether the Grandfathered Use Permit applied for has yet been issued.

(d) If there is sufficient groundwater to satisfy all Grandfathered Use Permits and exempt use for a particular aquifer within a management zone, the Board shall then allocate remaining water availability among existing Operating Permits, based on their previously permitted amounts.

(e) If there is sufficient groundwater to satisfy exempt use and all Grandfathered Use Permits, and existing Operating Permits authorizing withdrawal from a particular aquifer, the Board may then allocate remaining groundwater availability to applications for new or amended Operating Permits.

(f) When establishing proportional adjustment restrictions that contemplate the reduction of authorized production or a prohibition on authorization for new or increased production from one or more aquifers, the Board may also choose to proportionately reduce any existing Operating Permits on a pro rata basis in order to make groundwater available for new applications for Operating Permits.

Rule 12.3 Issuance of New Operating Permits

In a management zone where the Board has already established proportional adjustment regulations, new Operating Permits may be issued by the District for production in the management zone only if the management zone contains groundwater available for permitting after the District has made any and all proportional adjustments to existing permits in a manner that is consistent with the achievement of the Desired Future Conditions established for the aquifers located in whole or in part within the boundaries of the District.

SECTION 13.

ENFORCEMENT PROVISIONS

Rule 13.1 Purpose and Policy

The District's ability to effectively manage and preserve the limited groundwater resources within the District relies entirely upon adherence to the rules promulgated by the Board to carry out the District's authorized duties and purposes. Those purposes include providing for the conservation, preservation, protection and recharge of the groundwater resources within the District, to protect against degradation of water quality and to prevent waste of those resources. The ability to enforce these rules in a reasonable, uniform, and effective manner will make it

possible for the District to accomplish its purposes. The inspection and enforcement rules and procedures provided in this Section are in accordance with the responsibilities delegated to the District by the Texas Legislature through the District Act and through Chapter 36 of the Texas Water Code.

Rule 13.2 Rules Enforcement

If it appears that a person has violated, or is violating any provision of the District Rules, the Board of Directors may institute and conduct a suit in the name of the District for injunctive relief, recovery of a civil penalty of not more than $10,000 per violation, or both injunctive relief and a civil penalty. Each day that a violation continues shall be considered a separate violation.

Rule 13.3 Civil Penalty Schedule

The civil penalty for a violation of any District rule is hereby set at the lower of: (1) $10,000.00 per violation; or (2) a lesser amount based on the severity of the violation set forth in a civil penalty schedule which the Board of Directors may adopt from time to time via resolution in a properly noticed meeting, which civil penalty schedule is incorporated by reference into these Rules and shall constitute a Rule of the District for all purposes. Each day that a violation continues shall be considered a separate violation.

Rule 13.4 District Inspections

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

Rule 13.5 Notice of Violation

(a) Upon determination by the District that a person has violated or is violation of any provision of the District's Rules, including the terms of any rule or order issued by the District, it may employ any of the following means, or a combination thereof, in providing notice of the violation:

(1) Informal Notice: The officers, staff or agents of the District acting on behalf of the District or the Board may inform the person of the violation via telephone by informing, or attempting to inform, the appropriate person to explain the violation and the steps necessary to cure the violation. The information received by the District through this informal notice concerning the violation and the date and time of the telephone call will be documented and will remain in the District's files. Nothing in this subsection shall limit the authority of the District to take action, including emergency actions or any other appropriate enforcement action, without prior notice provided under this subsection.

(2) Written Notice of Violation: The District may inform the person of the violation through written notice of violation. Each notice of violation issued herein shall

explain the basis of the violation, identify the rule or order that has been violated or is currently being violated, and list specific required actions that must be satisfactorily completed to cure a past or present violation to address each violation raised, and may include the payment of applicable civil penalties. Notice of a violation issued herein shall be provided through a delivery method in compliance with these Rules. Nothing in this Subsection shall limit the authority of the District to take action, including emergency actions or any other appropriate enforcement action, without prior notice provided under this subsection.

(3) Compliance Meeting: The District may hold a meeting with any person whom the District believes to have violated, or to be violating, a District Rule or District order to discuss each such violation and the steps necessary to satisfactorily remedy each such violation. The General Manager may conduct a compliance meeting without the Board, unless otherwise determined by the Board or General Manager. The information received in any meeting conducted pursuant to this rule subsection concerning the violation will be documented, along with the date and time of the meeting, and will be kept on file with the District. Nothing in this subsection shall limit the authority of the District to take action, including emergency actions or any other appropriate enforcement action, without prior notice provided under this subsection.

Rule 13.6 Show Cause Hearing.

(a) Upon recommendation of the General Manger to the Board or upon the Board's own motion, the Board may order any person that it believes has violated or is violating any provision of the District's Rules a District order to appear before the Board at a public meeting, and held in accordance with the Texas Open Meetings Act, and called for such purpose and to show cause of the reasons an enforcement action, including the initiation of a suit in a court of competent jurisdiction, should not be pursued against the person(s) made the subject of the show cause hearing. The person or entity that is subject to the Show Cause Hearing shall not receive less than seventy two (72) hours' notice of the hearing and the Board's order that the person or entity appear before it.

(b) No show cause hearing under subsection (a) of this Rule may be conducted unless the District serves, on each person made the subject of the show cause hearing, a written notice 30 days prior to the date of the hearing. Such notice shall include all of the following information:

(1) the time, date, and place for the hearing; and

(2) the basis of each asserted violation; and

(3) the rule or order that the District believes has been violated or is currently being violated; and

(4) a request that the person duly appear and show cause of the reasons an enforcement action should not be pursued.

(c) The District may pursue immediate enforcement action against the person cited to appear in any show cause order issued by the District where the person cited fails to appear and show cause of the reasons an enforcement action should not be pursued.

(c) Nothing in this rule shall constrain the authority of the District to take action, including emergency actions or any other enforcement action, against a person at any time, regardless of whether the District decides to hold a hearing under this Section.

SECTION 14.

FEES AND PAYMENT OF FEES

Rule 14.1 Groundwater Transport Fee.

The District shall impose a groundwater transportation fee, as determined by resolution of the Board, for the groundwater produced within the District's boundaries that is transported for use outside of the District, unless exempt under Rule 11.1(b).

Rule 14.2 Failure to Make Fee Payments.

(a) Fee payments determined to be greater than 30 days late from the date due and owed to the District will be subject to a late payment fee as determined by the Board and provided in the District's civil penalty fee schedule described in Rule 13.3.

(b) Fee payments determined to be greater than 60 days late of the date from the date due and owed to the District shall be subject to a civil penalty as determined by the Board and provided in the District's civil penalty fee schedule described in Rule 13.3, in addition to any late fee penalty provided for in Subsection (a) of this Rule, and may be subject to additional enforcement measures provided for by these Rules or by order of the District Board.

Rule 14.3 Enforcement

After a well is determined to be in violation of these rules for failure to make payment of water use fees or groundwater transport fees on or before the 60th day following the date such fees are due, all enforcement mechanisms provided by law and these Rules shall be available to prevent unauthorized use of the well and may be initiated by the General Manager.

Rule 14.4 Returned Check Fee

The Board may establish a fee for checks returned to the District for insufficient funds, account closed, signature missing, or any other reason causing a check to be returned by the District's depository and shall include such a fee in the District's schedule of fees for administrative acts of the District, as provided in Rule 14.5.

Rule 14.5 Administrative Fees and Application Processing

(a) The Board, by resolution, may establish a schedule of fees for administrative acts of the District, including but not limited to the cost of reviewing and processing applications, renewal applications, and the cost of permit hearings, and such administrative fees shall not unreasonably exceed the cost to the District for performing such administrative acts. If adopted by the Board, the schedule of fees shall be incorporated as a rule of the District.

(b) A person is not allowed to have any interaction with the District, District Board Members, or District staff regarding well registration or well permitting matters and applications shall not be accepted for filing or processing or hearings scheduled until receipt by the District of all applicable fees established by Board resolution; nor will any application be accepted for filing or processing if the applicant, driller, employee of a driller, driller's apprentice, pump installer, agent, operator, or owner of the well:

(1) Is delinquent in paying any fee required or outstanding judgement obtained by the District;

(2) has been properly notified of a pending enforcement action for a substantive violation of a District permit, order, or rule that has not been settled by agreement with the District or a final adjudication; or

(3) has not paid a civil penalty, has otherwise failed to comply with an order resulting from a final adjudication of a violation of a District permit, order, or rule or a judgment from a court of proper jurisdiction.