

LONE WOLF
GROUNDWATER CONSERVATION
DISTRICT RULES

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November 5, 2001; May 5, 2003

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PREAMBLE

In accordance with the terms and provisions of Article XVI Section 59 of the Constitution of Texas, Chapter 36 of the Texas Water Code, and SB2 and HB 2529 as enacted by the 77th Texas Legislature, the following rules are hereby ratified and adopted by the Lone Wolf Groundwater Conservation District. Nothing in these rules shall be construed as depriving or divesting the right of ownership as recognized by Section 36.002 of the Texas Water Code.

The rules, regulations and modes of procedure herein contained are and have been adopted for the purpose of simplifying procedure, avoiding delays, saving expense, and facilitating the administration of the groundwater laws of the State by the District.

These rules may be used as guides in the exercise of discretion, where discretion is vested. However, under no circumstances, and in no particular case shall they, or any of them, be construed as a limitation or restriction upon the exercise of any discretion, where such exists; nor shall they in any event be construed to deprive the Board of an exercise of powers, duties, and jurisdiction conferred by law, nor to limit or restrict the amount and character of data or information which may be required for the proper administration of the law.

HISTORY OF THE LONE WOLF GROUNDWATER CONSERVATION DISTRICT

The Lone Wolf Groundwater Conservation District (LWGCD) was created as a temporary district with the passage SB 1911 by the 76th Texas Legislature. The District, as described in Section 4 of the LWGCD Rules, enrolled or “grandfathered” all existing wells into the District for which landowners or well operators completed and returned enrollment forms to the District during the specified 3-month enrollment period. The District mailed information to all Mitchell County property owners to notify them of the enrollment period. The District received more than 2,000 water well enrollment forms during the enrollment period.

The passage of SB2 and HB 2529 by the 77th Texas Legislature allowed for the permanent creation of the District. The voters within the District formally authorized the LWGCD on February 2, 2002 through the required confirmation election. The voters also approved a property tax rate not to exceed 3 cents per \$100 valuation to fund the activities of the District.

SECTION 1. DEFINITIONS AND CONCEPTS

RULE 1.1 DEFINITIONS:

- (a) **“Abandoned Well”** — shall mean a well that has not been in use for six consecutive months. A well is considered to be in use in the following cases: (1) a non-deteriorated well which contains the casing, pump, and pump column in good condition; or (2) a non-deteriorated well which has been capped.
- (b) **“Acre”** — shall mean unit of land measurement equaling 43,560 square feet.
- (c) **“Acre-foot”** shall mean, the volume of water that will cover an area of one acre to a depth of one foot (approximately 325,829 gallons).
- (d) **“Applicant”** — shall mean the owner of the land on which a well(s) or proposed well(s) is/are located, unless the landowner authorizes another person to submit the permit or registration.
- (e) **“Aquifer”** — shall mean a formation or group of saturated geologic units capable of storing and yielding water in usable quantities.
- (f) **“Beneficial Use or Beneficial Purpose”** —shall mean a use as described in Rule 12.3 herein.
- (g) **“Board”** — shall mean the Board of Directors of the Lone Wolf Groundwater Conservation District.
- (h) **“Casing”** — shall mean a tubular watertight structure installed in an excavated or drilled hole to maintain the well opening.
- (i) **“Commercial Irrigation System”** — shall mean any water distribution device, installed above ground or below ground that applies water to the surface or subsurface of the earth and is used to irrigate land intended for commercial use. Water delivery devices used to water lawns and for non-commercial use are not considered commercial irrigation systems.
- (j) **“Conservation”**—shall mean practices, techniques and technologies that will reduce the consumption of water, reduce the loss or waste of water, improve efficiency in the use of water, or increase the use of recycled water.
- (k) **“Deteriorated Well”** — shall mean a well, the condition of which will cause, or is likely to cause, pollution of groundwater in the District.
- (l) **“District”** — shall mean Lone Wolf Groundwater Conservation District
- (m) **“District Act”**—shall mean Acts of the 77th Legislature (2001), HB2529 and SB2 and the non-conflicting provisions of Chapter 36, Water Code.
- (n) **“Gallons per minute”(GPM)** — shall mean the amount of water in U.S. gallons that a well or well system is capable of delivering or is actually delivering per minute.

- (o) **“Groundwater”** — shall mean water percolating below the surface of the earth but does not include water produced with oil in the production of oil and gas.
- (p) **“Hearing Body”** — shall mean the Board, any committee of the Board, or a Hearing Examiner at any hearing held by the District in accordance with Section 14 of the District rules.
- (q) **“Hearing Examiner”** — shall mean a person appointed by the Board to conduct a hearing or other proceeding.
- (r) **“Interim Period”**—shall mean the period between adoption of these rules and a positive district confirmation election, subject to the terms of the District Act and Chapter 36, Water Code.
- (s) **“Lechate Well”** — shall mean a well used to remove contamination from soil or groundwater.
- (t) **“Livestock Watering Well”** — shall mean a well of any type, used to provide drinking water for commercial farm and ranch animals ranging in normal concentrations for the species. This definition of livestock watering well does not include wells used in confined animal operations (i.e. confined swine, beef cattle, dairy cattle, sheep and goats, poultry or any other types of Livestock production units and/or feedlots for swine, beef cattle, dairy cattle, sheep and goats, poultry or other types of livestock).
- (u) **“Monitoring Well”** — shall mean an artificial excavation constructed to measure or monitor the quantity or movement of substances below the surface of the ground. The term does not include any monitoring well used in conjunction with the production of oil, gas, or other minerals.
- (v) **“Open or Uncovered Wells”**—shall mean an excavation at least ten feet in depth dug for the purpose of producing groundwater that is not covered or capped as required by the Texas Water Code.
- (w) **“Owner”** — shall mean without limitation any person, partnership, firm, corporation, municipal corporation, governmental or proprietary body, association of such persons or agent of such entity that has the right to produce water from the land, where the water well or proposed water well is located, either by contract, lease, easement or any other estate in the land.
- (x) **“Permitted Well”**—shall mean a well that: (1) is permitted with the District in accordance with Section 4 or 5 of the District Rules; (2) is capable of producing 25,000 gallons or more per day; and (3) a) was drilled prior to December 1, 1999 and for which a well enrollment was filed with the district prior to February 1, 2000 ~~or~~ b) was drilled after December 1, 1999 and was permitted by the district or c) was drilled prior to December 1, 1999 and not enrolled with the District but the landowner or well operator has since submitted the required forms and received permit approval by the Board in accordance with the rules of the District.
- (y) **“Person”** — shall mean any individual, partnership, firm, governmental agency, political subdivision, corporation, or other legal entity.

- (z) **“Pollution”**—shall mean the alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water in the District that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or to public health, safety or welfare, or impairs the usefulness of the water for any lawful or reasonable purpose.
- (aa) **“Presiding Officer”**—shall mean President, Vice-President, Secretary or other Board member presiding at any hearing or other proceeding, or a Hearing Examiner conducting any hearing or other proceeding.
- (bb) **“Reworking Wells”** – any work on an existing well that may or may not increase or reduce the well production including, but not limited to pump removal or installation, motor removal or installation and cleaning wells.
- (cc) **“Rules”**— shall mean the rules of the District compiled in this document and as may be supplemented or amended from time to time.
- (dd) **“Texas Open Meeting Law”** — shall mean Chapter 551, Government Code.
- (ee) **“Texas Open Records Law”** — shall mean Chapter 552, Government Code.
- (ff) **“Waste”**—shall be defined by Chapter 36.001 (8), Texas Water Code and Section 14 herein.
- (gg) **“Well”** — shall mean any facility, device, or method used to withdraw groundwater from the groundwater supply within the District.
- (hh) **“Well Owner or Well Operator”** — shall mean (1) the person who owns the land upon which a well is located or is to be located or (2) the person who operates a well or a water distribution system supplied by a well.
 - (ii) **“Well System”** — shall mean a well or group of wells tied to the same distribution system.

RULE 1.2 PURPOSE OF RULES: These rules are adopted to implement applicable provisions of the District Act and Ch. 36 of the Water Code, and accomplish the purposes set forth therein and in Section 59, Article XVI, Texas Constitution.

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

RULE 1.4 AMENDING OF RULES: The Board may, following notice and hearing, amend these rules or adopt new rules from time to time.

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

RULE 1.6 CONSTRUCTION: Construction of words and phrases are governed by the Code Construction Act, Chapter 311, Government Code.

RULE 1.7 METHODS OF SERVICE UNDER THESE RULES: Except as otherwise expressly provided in these rules, any notice or documents required by these rules to be served or delivered may be delivered to the recipient, or the recipient's authorized representative, (1) in person, 2) by agent, (3) by courier receipted delivery, (4) by certified mail sent to the recipient's last known address, or (5) by telephonic document transfer to the recipient's current telecopier number. Service by mail is complete upon deposit in a post office or other official depository of the United States Postal Service. Service by telephonic document transfer is complete upon transfer, except that any transfer occurring after 5:00 p.m. will be deemed complete on the following business day. If service or delivery is by mail, and the recipient is either required to act or respond or has the right to act or respond within a prescribed time after service, three days will be added to the prescribed time period, Where service by one or more methods has been attempted and failed, service is complete upon notice by publication in a generally circulated newspaper in Mitchell County.

RULE 1.8 TIME:
(a) **COMPUTING TIME:** In computing any period of time prescribed or allowed by these rules, by order of the Board, or by any applicable statute, the day of the act, event or default from which the designated period of time begins to run, is not to be included, but the last day of the period so computed is to be included, unless it be a Sunday or legal holiday, in which event the period runs until the end of the next day which is neither a Sunday nor a legal holiday.

(b) **TIME LIMIT:** Applications, requests, or other papers or documents required or permitted to be filed under these rules or by law must be received for filing at the Board's offices at Colorado City, Texas, or, in proper case, at the office of the proper county committee, within the time limit, if any, for such filing. The date of receipt and not the date of posting is determinative.

RULE 1.9 SEVERABILITY: If any one or more of the provisions contained in these rules are for any reason held to be invalid, illegal, or unenforceable in any respect, the invalidity, illegality, or unenforceability may not affect any other rules or provisions of these rules, and these rules must be construed as if such invalid, illegal or unenforceable rules or provision had never been contained in these rules.

SECTION 2. BOARD

- RULE 2.1 PURPOSE OF BOARD:** The Board was created to determine policy and regulate the withdrawal of groundwater within the boundaries of the District in order to conserve, preserve, and protect the groundwater within District, and to exercise its rights, powers, and duties in a way that will effectively and expeditiously accomplish the purposes of the District Act. The Board's responsibilities include, but are not limited to, the adoption and enforcement of reasonable rules and other orders.
- RULE 2.2 BOARD STRUCTURE, OFFICERS:** The Board consists of the members appointed or elected and qualified as required by the District Act. The Board will elect one of its members to serve as President to preside over Board meetings and proceedings: one to serve as Vice-President to preside in the absence of the President: and one to serve as Secretary to keep a true and complete account of all meetings and proceedings of the Board. The board will elect officers at its regular meeting in May or after the general election in May of each year. Members and officers serve until their successors are elected or appointed and sworn in accordance with the District Act and these rules.
- RULE 2.3 MEETINGS:** The Board will hold a regular meeting once every other month and as the Board may establish from time to time by resolution. At the request of the President, or by written request of at least two members, the Board may hold special meetings. All Board meetings will be held according to the Texas Open Meetings Law.
- RULE 2.4 COMMITTEES:** The President may establish committees for formulation of policy recommendations to the Board, and to research and study issues of importance to the district. The President may appoint the chair and membership of the committees. Committee members serve at the pleasure of the President.

SECTION 3. DISTRICT

- RULE 3.1 MINUTES AND RECORDS OF THE DISTRICT:** All documents, and reports, records and minutes of the District are available for public inspection and copying/certification under the provisions of Texas Open Records Law. Upon written application of any person, the District will furnish copies of its public records. A reasonable copying and certification charge, pursuant to policies established by the District, will be assessed. A list of the charges for copies and certification will be furnished by the District.
- RULE 3.2 DISTRICT MANAGEMENT PLAN:** The District will adopt a long-term management plan in accordance with Ch. 36.1071-36.1073. Additionally, the District will be available to the Region F planning group as a resource and may hold public hearings concerning appropriate goals for a long-term management plan.
- RULE 3.3 DISTRICT OFFICE:** The District will maintain its office at 131 West 5th Street, Colorado City, Texas 79512. The mailing address will be P O Box 1001, Colorado City, Texas 79512. The District's phone number is (325) 728-2027 and fax is (325) 728-3046.

SECTION 4. EXISTING WELL ENROLLMENT

RULE 4.1 EXISTING WELL INFORMATION

- (a) All Well Owners or well operators must enroll each well located within the District on December 1, 1999.
- (b) Each enrollment form must include all available information regarding the following:
 - (1) The name and address of the owner of the land upon which the well is located;
 - (2) The name and address of the operator of the well, if different than the owner;
 - (3) The location of the well including block and section number
 - (4) The well depth;
 - (5) The gallons per minute produced;
 - (6) The pump size and type (including brand);
 - (7) The casing size;
 - (8) The depth to which the casing is set, including any intervals;
 - (9) The depth interval at which the screen is set;
 - (10) The number of feet to each of two non-parallel survey lines;
 - (11) The number of feet to other existing wells on the property;
 - (12) Verification, of total contiguous acreage of land owned by the landowner on which the well is located;
 - (13) A record of the historical use of the well, including the date the well was drilled, the usual months of operation of the well, and the purposes for which the groundwater produced by the well is used; and
 - (14) A signed affidavit that all information given is true and correct and all wells owned or operated by the applicant are in compliance with District rules.
- (c) Each enrollment form must be signed and sworn to.
- (d) A separate enrollment form must be filed for each well.

RULE 4.2 FILING FEE: During the interim period established by these rules, there will be no filing fee for existing well enrollments. The Board expressly reserves the right to impose a filing fee for wells enrolled after the interim period as prescribed these rules.

RULE 4.3 EFFECT OF FILING WELL ENROLLMENT: For each well on which an enrollment form is filed in complete and proper form within 90 days of the effective date of these rules, the District shall grant a permit. For a well on which an enrollment form is filed after 90 days past the effective date of these rules, the District shall use standards contained in applicable sections of these rules in determining whether a permit shall be granted.

SECTION 5. PERMITTING OF WELLS - DETERMINATION OF PERMITTING APPLICABILITY

RULE 5.1 **APPLICABILITY:** Wells enrolled under Section 4 of these rules are not affected by the application of this section.

RULE 5.2 **PERMITTING OF WELL:** The Board shall permit or caused to be permitted all wells within the district. Permits of all new wells exempted or excluded from permitting requirements shall be sequentially numbered.

- (a) It is a violation of these rules for a well owner, well operator, water well driller or water well pump installer to drill or operate any well within the District without a Well Permit form and when applicable an Application for Temporary Water Well Permit form being filed with the District for the well being drilled or operated.
- (b) For all wells, except lechate wells, monitoring wells, and de-watering wells, an application for a temporary permit must be applied for by the well owner, well operator or water well driller prior to being drilled. The District staff will review the application and make a preliminary determination of whether the well meets the exemptions or exclusions provided in Rule 5.3. If the preliminary determination by District staff finds that the well is exempted or excluded from permitting requirements, the registrant may begin drilling immediately upon completing the application. If it is determined that the well being applied for is not excluded or exempted from permitting requirements, the well owner, well operator, or water well driller must apply for a Temporary Water Well Permit in accordance with procedures described in Section 8 of the District rules. Once the well is drilled and completed the well owner shall provide the District with a Drilled Well Affidavit as provided by the District.

RULE 5.3 **WELLS EXEMPTED OR EXCLUDED FROM PERMITTING REQUIREMENTS:** The District shall determine if a well is exempted, pursuant to board policy. For all exempt wells, well enrollment forms must be completed, regardless of the well completion date. The permitting requirements of Sections 6 and 7 of these rules do not apply to:

- (a) A well drilled or equipped such that it is incapable of producing more than 25,000 gallons of groundwater per day;
- (b) A well used to supply the domestic needs of 10 or fewer households if each of the households is for the well owner, a person related to the well owner within the second degree on consanguinity or an employee of the well owner;
- (c) Livestock watering wells as defined in Rule 1.1 (t); or
- (d) A well used to supply water for hydrocarbon production activities associated with any oil or gas well permitted by the Railroad Commission of Texas drilled before 1985.

SECTION 6. DEPOSITS FOR PERMITS

- RULE 6.1** **APPLICABILITY:** Wells enrolled under Section 4 or Section 5.3 of these rules are not affected by the application of this section.
- RULE 6.2** **DEPOSITS:** For all other wells, a temporary water well permit must be obtained prior to drilling. In order to receive a temporary water well permit, an application must be filed with the District, a \$100 deposit must be paid to the District, and the District must find that the proposed well is in accordance with the specifications set out in Section 7.
- RULE 6.3** **RETURN:** Upon completion of a well for which a Temporary Water Well Permit was obtained, an applicant may receive a refund of the deposit by delivering to the District office the drilling log and a Drilled Well Affidavit for the well.

SECTION 7. LWGCD WELL SPACING REQUIREMENTS

RULE 7.1 APPLICABILITY: Wells enrolled under Section 4 or 5.3 of these rules are not affected by the application of this section.

RULE 7.2 SPACING RULES: In order to prevent waste, protect correlative rights, and ensure the beneficial use of groundwater, the District finds wells drilled within the boundaries of the District should be spaced as follows:

Maximum Production Rate	Minimum Well Spacing From Other Wells on the Property (Feet)	Minimum Well Spacing From Property Lines (Feet)
Up To:		
25 GPM or 36,000 GPD	500	250
50 GPM or 72,000 GPD	700	350
75 GPM or 108,000 GPD	850	425
100 GPM or 144,000 GPD	900	450
150 GPM or 216,000 GPD	1000	500
200 GPM or 288,000 GPD	1500	750
Over 300 GPM or Over 432,000 GPD	2000	1000

RULE 7.3 SETBACK: No well shall be drilled closer to a property line than a distance equal to one-half (1/2) the well spacing required by Rule 7.2.

SECTION 8 PERMITTING PROCEDURES

RULE 8.1 **APPLICABILITY:** Wells enrolled under Section 4 of these rules are not affected by the application of this section.

RULE 8.2 **PERMITTING PROCESS:** All wells drilled after December 1, 1999, regardless of size or type of well, must be permitted by the district. In order to begin drilling, the well owner or well operator must first obtain a temporary water well permit from the District.

RULE 8.3 **ISSUANCE OF TEMPORARY WATER WELL PERMITS**

- (a) The Board shall issue or cause to be issued sequentially numbered temporary water well permits for the purposes of drilling a water well determined to require said permit in accordance with Section 5 of the District rules.
- (b) An application for a Temporary Water Well Permit shall be considered filed when properly filled out on District forms, signed, tendered and accompanied by the required deposit at the District office.
- (c) The signatures of three Directors of the District on a permit shall constitute a recommendation that the permit be issued. The refusal of three or more Directors to sign the application shall constitute a recommendation for rejecting of the application.
- (d) If three or more Directors recommend the issuance of the permit, and if there be no contest thereon, and the applicant is in compliance with all District rules on all properties within the District's jurisdiction, the application may be issued and the applicant may proceed at his own risk to drill the permitted well.
- (e) The application shall not be officially granted until the same have been passed upon and granted by the Board during its regular course of business.
- (f) If, before the Board officially grants a permitted well location, a contest shall arise over the application, or if another owner shall within such time file an application for a well permit within less than a minimum spacing distance for such well, then the Board may conduct a hearing in accordance with Section 14 of these rules, upon due notice to both parties, to hear and determine the contest or to determine which of the applications should, in its judgment, be granted. In the event of a contest, or such conflicting application, the drilling of a well shall not be commenced until the matter is passed upon by the Board. A contest shall be deemed filed when written notification is filed with the Board at its office with authorized personnel. Thereafter, both applicants, or the applicant and the contestant, or contestant, after due notice, shall be entitled to a hearing before the Board. At such hearing all parties may introduce pertinent evidence as to why the particular application should be granted or denied, including evidence as to the protection of property rights, and other pertinent matters, which evidence shall be taken into consideration by the Board. The Board shall also take into consideration which of the applicants duly filed his application first.

- (g) If any application is not favorably recommended by three of the Directors, the applicant shall have the right to appeal to the Board. Such appeal must be delivered by registered mail within fifteen (15) business days from the time that the third Director declined to sign the application. If no such appeal is filed, the application shall be deemed to have been abandoned by the applicant. Upon receipt of such appeal the Board shall conduct a hearing in accordance with Section 16 of these Rules.

RULE 8.4 ELEMENTS OF AN APPLICATION FOR TEMPORARY WATER WELL PERMIT

- (a) An applicant must qualify himself in one of the following ways:
 - (1) If the applicant is an individual, the application shall be signed by the applicant or his duly appointed agent. The agent shall present satisfactory evidence of his authority to represent the applicant.
 - (2) If the application is by partnership, the applicant shall be designated by its legal firm name and the application shall be signed by at least one of the general partners who is duly authorized to bind all of the partners.
 - (3) In the case of a corporation, public district, county or municipality, the application shall be signed by a duly authorized official. A copy of the resolution or other authorization to make the application may be required by the officer of agent receiving the application.
 - (4) In, the case of an estate or guardianship, the application shall be signed by the duly appointed guardian or representative of the estate.
- (b) Information required on the application is as follows:
 - (1) The name and address of the owner of the land upon which the application is made.
 - (2) The proposed location of the well to be drilled as provided in the application including Block and Section and:
 - (A) The number of feet to each of two non-parallel survey lines and the number of feet to existing wells on the property, or
 - (B) The location of all existing wells measured in feet from the nearest two non-parallel survey lines, and a signed agreement that the well drilled under the authority of the permit will be located such feet it is not in conflict with District Rules 8.1 and 8.2; and
 - (C) The proposed well's casing size, pump column size, pump capacity and anticipated well production in gallons per minute.
 - (3) Verification of total contiguous acreage of and owned by landowner on which the well is to be drilled, and
 - (4) Signed affidavit that all wells owned or operated by applicant and/or landowner are in compliance with the District rules.

- (c) The application must be signed and sworn to.

RULE 8.5 TIME DURING WHICH PERMIT SHALL REMAIN VALID: Any permit granted hereunder shall be valid if the work permitted shall have been completed within two (2) months from the filing date of the application. It shall thereafter be void. Provided, however, that the Board, for good cause, may extend the life of such permit for an additional two (2) months if an application for such extension shall have been made known to the District during the first two (2) month period. Provided further, that when it is made known to the Board that a proposed project will take more time to complete, the Board, upon receiving the written application may grant or cause to be granted such time as is reasonably necessary to complete such project.

RULE 8.6 PROOF OF REGISTRATION OR PERMIT REQUIRED

- (a) Any person actively engaged in the drilling of a well must have in their possession, while at the drilling site:
 - (1) The completed and approved Application for Temporary Water Well Permit or,
 - (2) The official number of the appropriate completed and approved Application for Temporary Water Well Permit.
- (b) Any person actively engaged in the drilling of a well must provide proof of 8.6(a)(1) or 8.6(a)(2) if requested by any District director, employee or other legally authorized agent who presents his official credentials.

SECTION 9. RECORDS OF DRILLING ACTIVITIES

RULE 9.1 **APPLICABILITY:** Wells enrolled under Section 4 of these rules are not affected by the application of this section,

RULE 9.2 **DRILLING LOGS**

- (a) Accurate records shall be kept and reports thereof made to the District of all wells drilled.

- (b) No person shall produce water from any well, except that necessary for drilling and testing, until the District has been furnished with a completed driller's log (Form TCEQ - O199 State of Texas Well Report or its successors) and Drilled Well Affidavit for said well.

SECTION 10. WELL LOCATION AND COMPLETION/PLUGGING

RULE 10.1 RESPONSIBILITY: After an Application for Temporary Water Well Permit has been issued, the well, if drilled, must be drilled within 30 feet of the location specified on the permit, not closer to property lines or existing wells that would cause the well location to be in violation of Section 7 of these rules, and not elsewhere.

RULE 10.2 COMPLETION/PLUGGING OF WELLS

- (a) All water wells drilled within the District shall be completed or plugged in accordance with the Administrative Rules of the Texas Department of Licensing and Regulation, 16 Texas Administrative Code, Chapter 76, Water Well Drillers and Pump Installers (Appendix A of these rules).
- (b) A violation of the Administrative Rules of the Texas Department of Licensing and Regulation, 16 Texas Administrative Code, Chapter 76, Water Well Drillers and Pump Installers shall be considered a violation of District Rules and disposition of such violations shall be in accordance with Section 15 of the District rules.

SECTION 11. REWORKING, REDRILLING OR REPLACING A PERMITTED WELL

RULE 11.1 REWORKING AND REDRILLING: Reworking and/or redrilling operations that do not increase the production capacity of a permitted or enrolled well do not require an additional permit. Reworking and/or redrilling operations that may increase the production capacity of a permitted or enrolled well must be permitted under these rules.

RULE 11.2 REPLACING A PERMITTED WELL: A replacement well does not require a new permit if:

- (a) Construction of the replacement well is generally the same size as or smaller than the well being replaced such that the production capacity will be the same or less than the well being replaced; and
- (b) The replacement well is located within thirty (30) feet of the well being replaced; and
- (c) The well being replaced is plugged with concrete in accordance with the relevant provisions of the Water Well Driller's Regulations; and
- (d) The well being replaced was permitted or enrolled under these rules.
- (e) Notwithstanding any other provisions of these rules, replacement wells are subject to Rules 6.2 and 6.3.

All other replacement wells must be permitted under these rules.

SECTION 12. WASTE, WASTE PREVENTION, AND BENEFICIAL USE/PURPOSE

RULE 12.1 WASTE MEANS ANY ONE OR MORE OF THE FOLLOWING:

- (a) Withdrawal of groundwater from a groundwater reservoir at a rate and in an amount that causes or threatens to cause intrusion into the reservoir of water unsuitable for agricultural, gardening, domestic, or stock raising purposes.
- (b) The flowing or producing of wells from a groundwater reservoir if the water produced is not used for a beneficial purpose.
- (c) Escape of groundwater from a groundwater reservoir to any other reservoir that does not contain groundwater.
- (d) Pollution or harmful alteration of groundwater in a groundwater reservoir by saltwater, other deleterious matter admitted from another stratum or from the surface of the ground.
- (e) Willfully or negligently causing, suffering or permitting 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.
- (f) Groundwater pumped for irrigation that escapes as irrigation tailwater onto land other than that of the owner of the well, unless permission has been granted by the occupant of the land receiving the discharge.
- (g) Groundwater pumped for industrial use or application in excess of that quantity, if any, recognized by the industry according to its Standard Industrial Code (SIC) classification as being the maximum amount of water necessary to efficiently meet the demands for the particular use or application to which the groundwater is being made.
- (h) Groundwater used for heating or cooling that is allowed to drain on the land surface as tailwater and not re-circulated back to the aquifer.

RULE 12.2 WASTE PREVENTION:

- (a) Groundwater shall not be produced within, or used within or without the District, in such a manner as to constitute waste as defined in Rule 12.1 hereof.
- (b) No person shall pollute or harmfully alter the character of the groundwater reservoir of the District by means of salt water or other deleterious matter admitted from some other stratum or strata or from the surface of the ground.
- (c) No person shall commit waste as that term is defined in Rule 1 .1(ee).

RULE 12.3 CATEGORIES OF BENEFICIAL USE OR BENEFICIAL PURPOSE:

- (a) Agricultural, gardening, domestic, stock raising, municipal, mining, manufacturing, industrial, commercial, recreational, or pleasure purposes;
- (b) Exploring for, producing, handling, or treating oil, gas, sulphur, or other minerals; or
- (c) Any other purpose that is useful and beneficial to the user.

**SECTION 13. REGISTRATION OF PERSONS AUTHORIZED TO DRILL
WELLS AND INSTALL PUMPS**

RULE 13.1 REGISTRATION OF WATER WELL DRILLERS

- (a) It is a violation of District rules for any person to be actively engaged in the commercial drilling of a well in the District without first having been registered with the District.
- (b) Only persons who are licensed water well drillers, in good standing with the Texas Department of Licensing and Regulation and whose license validity is verified with the District, are allowed to commercially drill water wells within the District.
- (c) Registration with the District shall be on forms provided by the District and be in accordance with and contain information called for on the form.

RULE 13.2 REGISTRATION OF WATER WELL PUMP INSTALLERS

- (a) It is a violation of District rules for any person to be actively engaged in the commercial installation of a water well pump in the District without first having been registered with the District.
- (b) Only persons who are licensed water well pump installers, in good standing with the Texas Department of Licensing and Regulation and whose license validity is verified with the District are allowed to commercially install water well pumps within the District.
- (c) Registration shall be on forms provided by the District and shall be in accordance with the information called for on the form.

SECTION 14. HEARINGS

- RULE 14.1 NATURE OF HEARING:** Hearings will be conducted in such manner as the Board deems most suitable to the particular case, and technical rules of legal and court procedure need not be applied. It is the purpose of the Board to obtain all the relevant information and testimony pertaining to the issue before it as conveniently inexpensively and expeditiously as possible without prejudicing the rights of either applicant or protestants.
- RULE 14.2 HEARING OFFICER:** The Board may authorize the President, a Director, or any individual acting on the Board's behalf to serve as a hearing officer and to conduct hearings for the Board. If a hearing is conducted by an officer, this officer shall present a written report of the hearing and recommendation to the Board. The hearing officer shall have the authority to administer oaths and to make all rulings necessary and appropriate to conduct the hearing.
- RULE 14.3 WHO MAY APPEAR:** Any party at interest in a proceeding, may appear either in person or by attorney or both, in such proceeding. A party at interest is any land or permit owner within the bounds of the District who is, or may be, affected by such proceeding. At the discretion of the Board, anyone not a party at interest in a proceeding may appear.
- RULE 14.4 ADMISSIBILITY:** Evidence will be admitted if it is of that quality upon which reasonable persons are accustomed to rely in the conduct of serious affairs. It is intended that needful and proper evidence shall be conveniently, inexpensively and speedily produced while preserving the substantial rights of the parties to the proceeding.
- RULE 14.5 TESTIMONY SHALL BE PERTINENT:** The testimony shall be confined to the subject matter contained in the application or contest. In the event that any party at a hearing shall pursue a line of testimony or interrogation of a witness that is clearly irrelevant, incompetent, or immaterial, the person conducting the hearing may forthwith terminate such line of interrogation.
- RULE 14.6 A STIPULATION:** Evidence may be stipulated by agreement of all parties of interest.
- RULE 14.7 LIMITING THE NUMBER OF WITNESSES:** The right is reserved to the Board in any proceeding to limit the number of witnesses appearing whose testimony may be merely cumulative.

SECTION 15 INVESTIGATIONS AND ENFORCEMENT

RULE 15.1 ENFORCEMENT OF RULES: If the Board determines that it appears a person has violated, is violating, or is threatening to violate any provision of Chapter 36 of The Texas Water Code, or any rule, regulation, permit, or order of the District, the Board may institute and conduct a suit in the name of the District for injunctive relief, for recovery of a civil penalty or for both injunctive relief and penalty.

- (a) The Board may set reasonable civil penalties for breach of any rule of the District that shall not exceed \$5,000.00 or the jurisdiction of a justice court as provided by Section 27.031, Government Code, whichever is higher, for each violation and for each day of violation.
- (b) A penalty under this section is in addition to any other provided by law of this state and may be enforced by complaints filed in the appropriate court of jurisdiction in the county in which the District's principal office or meeting place is located.
- (c) If the District prevails in any suit to enforce its rules, it may, in the same action, recover reasonable fees for attorneys, expert witnesses, and other costs incurred by the District before the court. The amount of the attorney's fees shall be fixed by the court.

RULE 15.2 SEALING/CAPPING OF WELLS:

- (a) Sealing of Wells: Following due process, the District may, upon orders from a judge of competent jurisdiction, seal wells that are prohibited from withdrawing groundwater within the district, to ensure that a well is not operated in violation of the District Rules. A well may be sealed when:
 - (1) No application has been made for a permit to drill a new water well which is not excluded or exempted; or
 - (2) The Board has denied, canceled or revoked a drilling permit.

The well may be sealed by physical means, and tagged to indicate that the well has been sealed by the District, and other appropriate action may be taken as necessary to preclude operation of the well or to identify unauthorized operation of the well. Tampering with, altering, damaging, or removing the seal of a sealed well, or in any other way violating the integrity of the seal, or pumping groundwater from a well that has been sealed constitutes a violation of these rules and subjects the person performing that action, as well as any well owner or primary operator who authorizes or allows that action, to such penalties as provided by the District Rules.

- (b) Capping Well: 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 commingling 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 when installed on/in the well.

SECTION 16. TRANSFER OF GROUNDWATER OUT OF DISTRICT

RULE 16.1 PERMIT REQUIRED: This Rule requires a person to obtain a permit from the District for the transfer of groundwater out of the District to: (1) increase the amount of groundwater to be transferred under a continuing arrangement in effect before the effective date of this Rule, or (2) transfer groundwater out of the District after the effective date of this Rule under a new arrangement.

RULE 16.2 PERMIT APPLICATION FEE: The filing fee for a permit application under this Section is the greater of: (1) \$10,000 or (2) an amount equal to \$10.00 multiplied by the largest number of acre feet proposed to be transferred in any one calendar year.

RULE 16.3 HEARING REQUIRED: Before issuing a permit under this Section, the District must give notice of the application and hold a public hearing.

RULE 16.4 ELEMENTS OF THE APPLICATION: In determining whether to issue a permit under this Section, the District shall consider the following information, to be provided by the applicant:

- (a) The availability of water in the District and in the proposed receiving area during the period for which the water supply is requested;
- (b) The availability of feasible and practicable alternative supplies to the applicant;
- (b) The amount and purposes of use in the proposed receiving area for which water is needed;
- (d) The projected effect of the proposed transfer on aquifer conditions, depletion, subsidence, or effects on existing permit holders or other groundwater users within the District; and
- (e) The approved regional water plan and certified district management plan.

The District may limit a permit if the above conditions warrant the limitation.

RULE 16.5 TIME FOR CONSIDERATION: After a permit application is filed with the District, the District may consider the application for a period not to exceed 90 days during which time the District may evaluate the application and obtain additional independent information regarding the application criteria. At the end of this 90-day period, the District shall hold a public hearing pursuant to Rule 16.3. After the public hearing, the District shall act on the application within 30 days.

RULE 16.6 PERMIT REQUIREMENTS: In addition to the requirements of Section 36.1131, Texas Water Code, the permit shall specify the amount of water that may be transferred out of the district and the period for which water may be transferred.

RULE 16.7 EFFECTIVE DATE: This Rule applies only to a transfer of water that is initiated or increased after the effective date of this Rule. This rule is effective upon its adoption. February 7, 2000.

RULE 16.8 NOT A PROHIBITION: This Rule shall in no event operate a prohibition on transfers of groundwater out of the District.

APPENDIX A

TEXAS DEPARTMENT OF LICENSING AND REGULATION

16 TEXAS ADMINISTRATIVE CODE

CHAPTER 76

WATER WELL DRILLERS AND PUMP INSTALLERS